



Friday, May 14, 2021

Citizens Union 2021 Candidate Questionnaire - Manhattan District Attorney

Dear Candidate,

Congratulations on your decision to run for Manhattan District Attorney! Citizens Union appreciates your commitment to serve the public.

In the following pages, you will find questions regarding your positions on various reform issues and your plans for office. The form includes the following sections: (1) the functions of the district attorney's office; (2) ethics, corruption, police misconduct; (3) prisons and incarcerated individuals; (4) miscellaneous.

Responses to these questions will be one of several factors Citizens Union uses to evaluate candidates running for office, and to issue our preference for the June primary. Read more about the method, principles, and criteria of the candidate evaluation process [here](#).

**

If you wish to be considered, please submit the questionnaire no later than 48 before your interview.

If you seek our support, we will also need to schedule an interview with you as part of the evaluation process.

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If you cannot complete the questionnaire in one sitting, you can click Save and Continue Later at the bottom of every page.

Once you submit the questionnaire, you will receive a confirmation email with a PDF file containing your responses. Citizens Union will not be able to see your answers unless you submit the form. We plan to make responses to this questionnaire public on our website, printed voters directory, and other appropriate venues (your contact information will not be published).

For any questions, please email candidates@citizensunion.org

We thank you very much for your response.

GENERAL INFORMATION

Your Info

Name

Eliza Orlins

Seeking office:

Manhattan District Attorney

In which primary

Democratic

Age

38

Education

JD, Fordham

Occupation/Employer

Legal Aid

**Previous Offices, Campaigns and
Community/Civic Involvement****Website**

ElizaOrlins.com

Twitter

@ElizaOrlins

Facebook

Eliza Orlins

Affirmations**Have you completed the required campaign
finance filings?**

Yes

**Are you willing to be interviewed by Citizens
Union's Local Candidates Committee?**

Yes

(Please note: interviews are prerequisites for Citizens Union's endorsements)

Signature

THE OFFICE OF THE DISTRICT ATTORNEY

1. As a district attorney, you will be managing hundreds of attorneys and other staff members. Is there anything in the structure and function of the office of district attorney that you would like to see improved in order to be better positioned to prosecute criminal offenses and promote justice in your borough?

I believe we need to reduce the footprint of the DA's office. We should be putting additional funding into our communities, not into prosecution and law enforcement. By declining to prosecute the majority of misdemeanors, including all consensual sex work charges, I will free up significant funding to be reallocated to external organizations and city agencies. When my office does pursue prosecution, I will ensure that diversion and treatment will become the norm, and substantially increase funding for those programs. Diversion programs need to be centered around increasing a person's opportunities for success, not forcing them into a restrictive way of life. Instead of saddling those trying to improve their life with strict probation schedules and onerous requirements, I will pursue diversion programs that get people into mental health and medical programs where professionals can help close the system's revolving door. Manhattan courts should be used for serious offenses, and I propose funding alternative rehabilitation and drug courts to unclog the system of low-level, poverty-based offenses.

2. Are there any statewide legislative reforms that would be necessary for you to accomplish your goals as district attorney? How would you work with the legislature in Albany, especially in cases of potential disagreements?

As a District Attorney candidate, I will not be directly involved in the legislative process. However, I will use the bully pulpit of the office to advocate for significant legislative changes in Albany, including the full decriminalization of sex work, abolishing cash bail, decriminalizing poverty, increasing resources for mental health and substance abuse disorder treatment programs, and much more.

3. Do you think there should be term limits for

district attorneys?

The Manhattan District Attorney's Office should have term limits. Manhattan District Attorney should not be a lifetime job. In my lifetime there have only been two Manhattan District Attorneys and we need to change that. I would support term limits for every office, including that of the District Attorney. I support a two term limit.

ETHICS, CORRUPTION, AND POLICE MISCONDUCT

4. What role do you think the district attorney plays in anti-corruption efforts? If have any concrete plans, we would love to hear them.

I believe the Manhattan District Attorney has the power to put New York on course to begin restoring people's faith in our judicial system and our public officials, through implementing robust anti-corruption reforms in the office and reemphasizing the need to investigate and prosecute these offenses.

5. To what extent would your office use the district attorney's existing authority to investigate and monitor elected officials' conduct in relation to issues like campaign finance compliance and proper use of government resources and influence?

As I work toward redirecting the prosecutorial priorities of the Manhattan District Attorney's office away from focusing on crimes of poverty, I will be devoting significant resources to investigating and charging cases of fraud and the misuse of election and government funds. I plan to reinvest in the Public Corruption Unit and ensure that there is appropriate scrutiny and accountability in areas ripe for abuse, such as the allocation of COVID relief funds, the government contract bidding process, and other crimes such as bribery.

6. We recognize that district attorneys are in a difficult position regarding overseeing police misconduct, as district attorneys' offices work closely with, and rely upon, the police. How do you see the role of the district attorney in the city's response to instances and patterns of police misconduct? What is your vision for oversight of police misconduct, and what data

do you have to support your point of view?

Upon assuming office, I will establish a dedicated unit to prosecute police misconduct. Because the District Attorney's office is dependent on the work of the New York Police Department to conduct its day-to-day business, this unit will be entirely independent, and assistant district attorneys, investigators, and unit chiefs that are removed from the normal chain of operation of the office. This will ensure that no investigation of police misconduct is compromised by necessary relationships between traditional assistant district attorneys and staff, and members of the NYPD. However, I will ensure that there is enough communication between the unit and the rest of the office to make sure that the police who are being prosecuted and investigated are known to all. There is substantial data supporting the positions I take and you can find my detailed policy here:

<https://elizaorlins.com/policies/holding-the-police-accountable/>

7. During the summer of 2020, BLM protests against police brutality were repeatedly faced with a harsh response, particularly in the form of mass arrests of protesters. What is your approach in responding to mass protests and prosecuting those arrested while attending protests?

I have attended more demonstrations, protests, and rallies than I can count. As a public defender, we regularly protested, whether it be fighting for bail reform, discovery reform, parole reform, and for clemency. Women's March, March for Our Lives, Black Lives Matter, Millions March, Resist Trump, Abortion Access, post-Supreme Court decisions, sex worker rallies, Black trans sex worker lives matter, Queer Liberation March, Stonewall, Black Trans Lives Matter, opposing walking while trans, BLM to public defenders, and more. I believe strongly in the right to protest, and will always protect that right.

That said, those who engage in protests that cross the line from protected speech under the First Amendment and veer towards harassment, attempted assault, and other menacing or threatening behavior will be held accountable. Anyone who engages in violent behavior under the guise of protest will be held accountable for the harm that they cause.

It's also important to point out that the NYPD's tactics at recent social justice protests were deeply upsetting. Police officers should never escalate a peaceful protest to violence, and should never interfere in any way with the right to protest. As District Attorney, I will hold police officers accountable for use of force cases and for assaulting, brutalizing, and terrorizing members of the community.

PRISONS AND INCARCERATED INDIVIDUALS

8. As the city prepares to close Rikers Island and replace the complex with smaller neighborhood jails, what do you see as the potential benefits and pitfalls of the plan? Do you believe that the city should consider incarceration alternatives such as community jails?

No new jails. No new prisons. They are not necessary now or in the future if we put the proper focus on decarceration, both before and after trial. That means never asking for cash bail, and only seeking pre-trial detention in the most rare of cases, and instead utilizing all other forms of less-restrictive bail options provided for in the Criminal Procedure Law, or simply asking for no conditions at all, recognizing that bail's purpose is to assure people's return to court, and over 80% of all people never miss a court date after release. Also, changing our practice at the resolution of a case, away from the lock-em-up attitude of Cy Vance's office, and instead focusing on alternatives to incarceration, and programs and treatment that address underlying issues that led person to criminal court in the first place, such as substance abuse treatment, mental health treatment, stable housing. Sentences involving incarceration will be the exception, not the rule, and every effort will be made to avoid them, recognizing that incarceration never serves a rehabilitation outcome or purpose, but only further destabilizes individuals and communities, and makes recidivism much more likely upon release. Through these two changes in Manhattan DA policy, we can reduce the number of incarcerated folks by such an extent, we don't need more jails, and we won't even need the ones we have.

9. What would you take consideration when recommending sentencing of a person with a felony conviction? (e.g. past history, availability of alternatives)

First of all, I do not believe we should be sentencing anyone to death by incarceration. I will avoid charging crimes that result in mandatory life sentences and will never seek discretionary life sentences.

Secondly, I think that there is a strong case to be made that the discretionary persistent felony offender statute is unconstitutional.

The Apprendi line of Supreme Court cases says that any fact that increases the allowed penalty for a crime, other than the fact of a prior conviction, has to be proven to a jury beyond a reasonable doubt. The discretionary persistent felony offender (DPFO) statute relies on prior convictions, but not solely on those: the judge also has to find that "the history and character of the people charged and the nature and circumstances of his criminal conduct indicate that extended incarceration and life-time supervision will best serve the public interest," which seems to bring in a lot of facts about the people charged beyond their criminal history. The statute says people charged can contest facts about their background at a hearing. And of course a DPFO designation increases the sentencing range.

There's a clear Apprendi challenge here, and it was presented to the Court of Appeals in *People v. Quinones*, 12 N.Y.3d 116 (2009). While the majority upheld the DPFO statute, in doing so it misconstrued the statute. The majority held that once the prosecution proves the predicate convictions, the person charged is "eligible to be sentenced as a discretionary persistent felony offender and the court may consider the person's 'history and character' to determine whether a discretionary persistent felony offender sentence is warranted." That interpretation, however, is not in keeping with that way that statute is written: past convictions aren't enough to make you eligible for the higher sentencing range because the judge also has to make those findings about your history and character.

The Second Circuit actually held that Quinones was

not only wrong but an unreasonable application of Supreme Court precedent in *Besser v. Walsh*, 601 F.3d 163, 188 (2d Cir. 2010), though that got reversed en banc by *Portatatin v. Graham*, 624 F.3d 69 (2d Cir. 2010). But the fact remains that Quinones is pretty shaky on 6th Amendment grounds, and it may be only a matter of time before the Court of Appeals is asked to overturn it.

I have personally seen how the habitual felony statute can destroy lives. A colleague of mine at the Legal Aid Society once had a client given a life sentence for pickpocketing under the habitual felony statute. That case showed how undeniably inhumane this statute is.

10. What is your opinion on pretrial detention?

I oppose using pre-trial detention, except in the absolute rarest of circumstances. As a consequence, I am willing to consider using electronic monitoring in the rarest cases. Electronic monitoring is extremely intrusive, but preferable to many people when compared to pretrial incarceration. My pretrial fairness policy is available at: <https://elizaorlins.com/policies/pretrial-fairness-abolishing-money-bail/>.

11. How do you see the work of the Conviction Integrity Program under the current DA? What would be your approach and plan for this unit?

I believe the current Conviction Integrity Program at the Manhattan District Attorney's office is not robust enough. That is why I have the most robust Conviction Review Unit policy of any candidate in this race. Many prosecutor's offices around the nation have created dedicated units to manage and seek reversals of wrongful convictions. However, these units quickly become no more than cold-case units who only work on times where the person convicted is believed to be innocent. Instead, my Conviction Review Unit will work to review all practices and policies by my office. The Conviction Review Unit will examine cases previously charged by the Manhattan DA as well as monitor ongoing cases and incoming charges. This unit will not simply correct past wrongs, but also will steer the Manhattan DA's office toward better future outcomes.

Importantly, this unit will report directly to the District Attorney. We believe that complete

independence is required to maintain the impartial nature of the Conviction Review Unit as well as to prevent any possibility of or accusations of bias in favor of law enforcement. In this spirit, the Conviction Review Unit will charge external organizations to corroborate or challenge the Unit's findings by sharing data openly and freely wherever allowed by law.

Please see my full plan here:

<https://elizaorlins.com/policies/conviction-review-unit/>

MISCELLANEOUS

12. How would you handle the various investigations related to former President Trump, currently conducted by the Manhattan DA office?

For decades now – and especially in the past four years – Americans have watched helplessly as experienced prosecutors and elected officials with all the "right" credentials try and fail to hold Donald Trump and his family accountable in numerous ways. Another thing we've seen in the past four years is that the people who are actually effective and do the best job holding the wealthy and well-connected accountable often have different backgrounds than the people we're used to seeing in positions of power.

Our current district attorney is a career prosecutor who let Donald Trump and his friends off the hook again and again. Why would we want someone with that same experience to take over the role? We can't now afford to trust them to take action. And as a public defender, I know that the only person we can trust to prosecute people like Trump is someone with courage, motivated not by their friendships with the powerful, but by helping the people of New York City – and someone who has experience with high-profile cases covered extensively in the media, who won't bow to pressure from any external source. That's the experience I will bring to this role.

While it would be irresponsible for me to say with certainty how I would or would not prosecute any case before seeing the evidence, I will most certainly continue these investigations. Unlike our current DA, if Donald Trump has broken the law, I will prosecute him.

13. In light of everything we have discussed above, why do you want to be a district attorney?

I am the only public defender running for Manhattan District Attorney. Over the past nearly dozen years, I've represented thousands of New Yorkers who couldn't afford to pay an attorney. In that time, I've gone toe-to-toe with a DA's office that has given special privileges to the rich and well-connected; a DA's office that subjects lower-income and middle-class Manhattanites — particularly people of color — to a cruel and overly punitive system of incarceration that doesn't make anyone safer.

Some say this is evidence that the system isn't working. I believe the reality is far worse: the system is working exactly the way it was designed to work — by protecting the wealthy, connected, powerful, and white, while disenfranchising already-marginalized communities of color.

14. Have you ever been disciplined or had a complaint against you by an agency charged with lawyer discipline?

No

If so, please describe the situation and the punishment meted out.

15. What experience have you had, if any, with good government and reform issues? (e.g. voting and elections, campaign finance, ethics, police accountability, government transparency and oversight). If you've worked to advance these goals, we'd love to hear about it.

I have been a public defender for nearly a decade, and during that time I have worked tirelessly to hold corrupt police officers, prosecutors, and other bad actors accountable within our criminal legal system. It's been part and parcel of my job.

I've volunteered my time as an attorney for election protection and worked with the group Lawyers for Good Government. These are issues I've dedicated both my career and my free time to throughout my life.

16. What are the top three campaign promises or goals, and what action will you take to achieve them if elected? Feel free to reference an answer above rather than restate it.

First: Reducing the footprint of the DA's office. We should be putting additional funding into our communities, not into prosecution and law enforcement. By declining to prosecute the majority of misdemeanors, I will free up significant funding to be reallocated to external organizations and city agencies. My full policy statement on declining to prosecute the majority of misdemeanors is available at this link. When my office does pursue prosecution, I will ensure that diversion and treatment will become the norm, and substantially increase funding for those programs. Diversion programs need to be centered around increasing a person's opportunities for success, not forcing them into a restrictive way of life. Instead of saddling those trying to improve their life with strict probation schedules and onerous requirements, I will pursue diversion programs that get people into mental health and medical programs where professionals can help close the system's revolving door. The Manhattan courts should be used for serious offences, and I propose funding alternative rehabilitation and drug courts to unclog the system of low-level, poverty-based offenses.

Second: I have proposed a new Conviction Review Unit. Wrongful convictions are estimated to account for up to 40% of convictions for some crimes and disproportionately affect marginalized communities. The Manhattan DA has a responsibility to eliminate prosecutorial mistakes and misconduct that lead to most wrongful convictions. As opposed to waiting for independent researchers and advocacy groups to address the problem, the Conviction Review Unit will proactively suss out wrongful cases before they become cold cases. Attorneys, working in coordination with statisticians and data analysts, will perform in-depth assessments of policy and prosecutorial practices, legal review of cases, and on-going data analysis to flag instances of potential prosecutorial error. The core of this new unit will be robust data management and collection systems for all cases and operations. To ensure independent oversight, the unit will be overseen directly by the DA and data will be made readily available to the public through daily statistics, dashboards, and reports. The full policy is posted on my website.

Third: I will create and fund several new units to protect New Yorkers and prosecute people and corporations that perpetrate harm on a large scale. For instance, I will create and direct funding toward an environmental justice unit, which will protect New Yorkers from harm caused by corporations who damage the environment, thereby putting us all at risk. We need to be putting more resources into prosecuting wealthy individuals and corporations, who do immense damage to New Yorkers and believe that they are too powerful to be held accountable.

What else would you like us to know about yourself?

Please feel free to attach any additional information such as resume, campaign brochures, or issues statements.

Please review your answers by clicking PREVIEW ANSWERS below. You can submit the questionnaire at the bottom of the preview page by clicking SUBMIT.

Once you click SUBMIT, you will receive a confirmation email with a PDF file containing your responses. If you don't see the email, please check your spam box.

If you have any further questions, you may contact us at candidates@citizensunion.org.