

November 6, 2019

Melinda Katz
Queens District Attorney-Elect
C/O Queens Borough President's Office
120-55 Queens Blvd
Kew Gardens, NY 11424

Re: Fulfilling Your Commitment To The Queens Community

Dear District Attorney-Elect Katz:

We write to you as the institutional legal provider in New York City, serving low-income communities in Queens for decades. We handle thousands of cases in the borough each year through our Criminal Defense Practice and see firsthand how the lives of Queens residents are affected by their contact with the criminal justice system and, specifically, by the manner in which their cases are prosecuted.

We witness the severely disproportionate conviction rates of Black and Latinx men and women and the impact these prosecutions have in fueling mass incarceration and exacerbating inequality within our communities.

During your campaign for District Attorney, you made it clear that you, too, understand that “Justice must always look the same, [yet] all too often, it does not.”¹ You acknowledged the high stakes, declaring that “this is not politics, this is life and death. And this is a situation where we need to take it very seriously as to how we reform this office, and most importantly, we need to get it right the first time.”²

We implore you to fulfill the progressive reform promises you made on the campaign trail to ensure equity and fairness in the Queens criminal justice system, regardless of race, ethnicity, immigration status, gender identify, sexual orientation, economic means, or any other marginalized status. The Queens District Attorney's office has long held the title of the most punitive in New York City, and the need for reform is critical. In fact, the office sent more offenders to jail on misdemeanor charges than any other borough last year.³

¹ Melinda Katz for DA Campaign; <https://katz4da.com/>

² The City, *After Primary That Veered Left, Dem Stalwart Katz Lands In Progressive Camp*, September 5, 2019; <https://thecity.nyc/2019/09/katz-says-shes-ready-to-take-a-left-turn-as-queens-da.html>

³ City & State, *Where the Queens DA candidates stand on the issues*, May 6, 2019; <https://www.cityandstateny.com/articles/politics/new-york-city/queens-district-attorney-candidates-policy-differences.html>

Among the campaign reform pledges that are most consequential to our clients and all Queens residents who have been adversely affected by the office's past punitive policies, are:

- **End cash bail completely.** No one should have to sit in jail awaiting trial because they simply cannot afford bail.⁴
- **(The Waiver Policy) End the current practice of refusing to consider plea bargains** once an indictment has been made, so that no one is unfairly coerced into accepting a plea deal for a crime they didn't commit or before seeing the evidence against them.⁵
- **Require that any case** that has gone over 6 months without a trial date being set will immediately be reviewed for appropriate disposition.⁶
- **Implement discovery reform** aggressively and deliver discovery to the defense as soon as possible to give the accused the right to know the evidence against them.⁷
- **Decline to prosecute low-level marijuana arrests.** With the well-documented racial disparity of marijuana arrests, you have pledged that you will refuse to prosecute low-level marijuana arrests within Queens and will instead urge the Legislature to legalize adult recreational cannabis and expunge all convictions for past arrests.⁸
- **Decline to prosecute fare evasion and other low-level crimes.** As you're well aware, Black and Latinx communities overwhelmingly bear the brunt of fare evasion and other low-level arrests. At a debate in June hosted by the Brian Lehrer Show, you pledged to "stop prosecuting low-level crimes..."⁹
- **Support efforts to ban ICE from patrolling in and around courthouses.** You posted on Facebook that "courthouses should be treated as sensitive locations, similar to schools, hospitals and places of worship. However, both inside and the immediate vicinity should be off-limits to immigration agents."¹⁰

⁴ Melinda Katz for DA, *Arrest, Bail And Sentencing Reforms*; <https://katz4da.com/platform-sentencing-reform>

⁵ Melinda Katz for DA, *Arrest, Bail And Sentencing Reforms*;; <https://katz4da.com/platform-sentencing-reform>

⁶ Melinda Katz for DA, *Arrest, Bail And Sentencing Reforms*; <https://katz4da.com/platform-sentencing-reform>

⁷ Melinda Katz for DA, *Arrest, Bail And Sentencing Reforms*; <https://katz4da.com/platform-sentencing-reform>

⁸ Melinda Katz for DA, *Ending Prosecution Of Marijuana Arrests*; <https://katz4da.com/platform-end-marijuana-prosecution>

⁹The Brian Lehrer Show - Queens' District Attorney Hopefuls Debate the Issues (33:00 / 56:34)

<https://www.wnyc.org/story/queens-district-attorney-hopefuls-debate-issues/>

¹⁰ Queens Borough President Melinda Katz Facebook Post;

<https://www.facebook.com/queensbpkatz/posts/2241201672603906>

- **Establish a Conviction Integrity Unit** for wrongful convictions. Working with defense attorneys and community leaders to determine what cases may demand further review, the Unit will examine cases and make recommendations for exoneration.¹¹
- **Decline prosecuting victims of human trafficking.** You have stated that "We are not going to arrest people for sex working. We are not going to convict people for sex working."¹²
- **Establish a "immigration hardship" plea policy** that would direct prosecutors to consider how various charges could adversely affect a noncitizen's immigration status. You acknowledged that the collateral consequences of a criminal conviction can be devastating and that you "will seek immigrant-neutral pleas when compatible with public safety to prevent those collateral consequences and review cases that were adjudicated before I took office and are now causing immigrant consequences."¹³
- **Develop new protocols for when people with mental illness** are accused of crimes by determining the appropriate course of action from a prosecutorial and/or treatment perspective. You also said you would advocate for mental health services in our prisons.¹⁴
- **Create an internal committee** charged with implementing the aforementioned reforms. Working with advocacy and community groups, the committee should methodically monitor the outcomes and needs of the court system in order to keep working towards equity.¹⁵

Other reforms that we urge you to support include:

- **End genetic stop-and-frisk** by refusing to add people who have not been convicted of crimes to the City's unregulated DNA index, and not accepting or testing DNA taken surreptitiously from water bottles, cigarettes, and the like, during police interrogations. If a person is in police custody, their DNA should be taken only through valid, fully informed consent or a with a warrant.
- **Discontinue the Use of Appeal Waivers in Suppression Hearing Cases.** By statute, the Criminal Procedure Law guarantees to people who plead guilty the right to challenge an adverse suppression ruling on appeal. Demanding appeal waivers in such cases as the "price" of a plea offer undermines this legislative policy and serves to insulate from appellate review instances of racial profiling, unreliable identification procedures, unlawful

¹¹ Melinda Katz for DA, *Conviction Integrity Unit For Wrongful Convictions*; <https://katz4da.com/platform-wrongful-convictions>

¹² NY1, Katz, *Murray Go Face to Face in Only Televised Queens DA Debate*; <https://www.ny1.com/nyc/all-boroughs/decision-2019/2019/10/24/katz--murray-go-face-to-face-in-only-televised-queens-da-debate>

¹³ Queens Daily Eagle, *All Three Queens DA Candidates Call for Immigration Hardship Plea Policy*, December 10, 2018; <https://queenseagle.com/all/2018/12/10/all-three-queens-da-candidates-call-for-immigration-hardship-plea-policy>

¹⁴ Melinda Katz for DA, *Protecting Vulnerable Residents*; <https://katz4da.com/platform-protecting-vulnerable-residents>

¹⁵ Melinda Katz for DA, *Arrest, Bail And Sentencing Reforms*; <https://katz4da.com/platform-sentencing-reform>;

interrogation tactics and other police misconduct. The QCDA should stop seeking appeal waivers in all such cases.

- **End the current policy of automatically charging an additional criminal charge of bail jumping** simply because a defendant has been absent on a warrant just after the 30 day statutory limitation. This is done automatically without any consideration of an individual defendant's circumstance.

The Queens District Attorney's Office has lagged behind other boroughs in implementing progressive policies to address the racial disparities in prosecutions. This is an opportunity for you, as a progressive prosecutor, to redress the prosecutorial mistakes of the past that have exacerbated inequality in the borough, and to create an enduring positive impact on the lives of Queens residents.

As you have said, "when elected officials listen and work with the community, real progress is made." Please listen to the millions of Queens residents whose lives will be affected by your policies as District Attorney.

We implore you to reaffirm your commitment now to all of Queens on these fundamental issues, and we would also like to meet with you at your convenience to discuss the above.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tina Luongo', with a long horizontal flourish extending to the right.

Tina Luongo
Attorney-In-Charge
Criminal Defense Practice