








2019 QUEENS DISTRICT ATTORNEY ELECTION GUIDE

FIVE BOROUGH DEFENDERS

WHERE DO THE QUEENS DA CANDIDATES STAND?

	Ending Broken Windows	Ending Cash Bail	Community Accountability	Access to Evidence	Police and DA Misconduct	Protecting Immigrants	Mental Health and Drug Treatment	End Mass Incarceration	Past Record on Progressive Values	Overall Grade
 Cabán	A	A	A	A-	A	A	A	A	B+	A-
 Katz	F	B-	B-	A-	B-	B	C	C	C	C
 Lancman	B+	A	A-	A-	A-	A-	A-	A-	B	B+
 Lasak	D	D	C	F	D	D	C	F	F	F
 Lugo	F	D	C	D	D	D	D	F	D	F
 Malik	B+	A-	B-	A-	B+	A-	B+	A-	C	B-
 Nieves	A-	B-	B-	A-	B	A-	B	A-	C	B

For more information about the candidates and these grades, please visit 5bd.org.



WHO ARE WE?

5 Boro Defenders (5BD) is a group of New York City public defenders, civil rights attorneys and advocates working to end the systemic injustices and racism of the criminal legal system.

This report card was created by the Queens Working Group of 5BD. It does not represent the opinions of 5BD as a whole. The Queens Working Group consists of public defenders who represent poor and working class people in Queens County Criminal Court.

As public defenders in Queens, we have an inside view of the policies of the Queens District Attorney. Every day, we stand with our clients in court and see the power that prosecutors wield. Prosecutors have the power to end cash bail, stop mass incarceration, keep communities safe, help heal the wounds inflicted by Broken Windows policing, and to set the innocent free.

The upcoming election for Queens District Attorney is the first real opportunity Queens residents have had to elect their District Attorney in nearly three decades. For too long, the Queens District Attorney's Office has promoted regressive policies that target Queens residents of color and harm our immigrant communities. As the most diverse county in the country, Queens deserves a progressive District Attorney who actually represents the people they claim to serve.

HOW DID WE GRADE THIS REPORT CARD?

The Queens Working Group reviewed each candidate's policy positions, their statements to the press, their social media, their stated positions at public forums and their prior career(s). **Please visit our website at www.5bd.org for an in-depth view of the material we gathered to build this report card.**

Our grades are based on candidates' promises and not on their ability to implement their stated proposals. Election season isn't the only time to push for progressive change; true change relies on the hard work of holding prosecutors accountable. We invite you to stay involved by joining us and our community partners in the Queens For DA Accountability Coalition at www.queens4da.org.

ENDORSEMENTS

The goal of this report card is to inform voters; it is not an endorsement of any candidate. As public defenders, we believe true justice must come from a community-led transformation of the criminal legal system. We will continue to fight for this vision no matter who wins the upcoming election.

NOTE ON 2020 CRIMINAL JUSTICE REFORM: New York State recently passed new discovery, speedy trial, and bail reform laws. While these reforms will mandate some of the changes that the next Queens DA must enact, including greatly limiting cash bail, we believe that candidates' statements pre-legislation remain relevant, and reveal their commitment to change. The next Queens DA must be pushing progressive change, not resisting it. For that reason, we have continued to include and grade on these areas.

Report Card Grading Guide:

What does each category mean?



Ending Broken Windows:

Thousands of New Yorkers are arrested, prosecuted, and monitored for low-level “broken windows” offenses. These prosecutions do NOT make our communities safer and disproportionately target poor communities of color, especially Black and Latinx people. Offenses include jumping a turnstile, possessing marijuana, or selling untaxed cigarettes. Most of these prosecutions are ultimately dismissed or end in non-criminal violations — a tremendous waste of resources. These arrests can also lead to serious consequences like deportation, job loss or suspension. **The next Queens DA must use his or her power to stop prosecuting these cases and focus on real harms in our community.**



Ending Cash Bail:

Today there are two criminal justice systems — one for the rich and one for the poor. Despite being presumed innocent, if a person cannot pay bail they are forced to stay in jail while they wait for a trial or to take a plea to get out of jail. In 2017, 75% of people on Rikers Island were awaiting trial. There are many ways to ensure a person returns to court without this unequal and discriminatory system, and prosecutors around the country are already using them. **The next Queens DA must use his or her power to end this two tiered system of justice by not asking for cash bail.**



Community Accountability:

The current DA's office does not hold itself accountable to our communities. In one of the most diverse counties in the world, the DA's office employs few non-white staff, and many employees live in Long Island, not Queens. The children of current judges fill the ranks of the DA's office, and family trees often extend deep within the office as well. Today, the current office belongs to the District Attorneys Association of the State of New York (DAASNY), a conservative lobbying group of prosecutors that opposes reform measures. **The next Queens DA must commit to releasing data, hiring employees who live in Queens and reflect the diversity of the borough, and meeting regularly with members of the community.**



Access to Evidence:

Everyone charged with a crime deserves to see the evidence against them. Currently, Queens County operates under a regressive policy known as the “the waiver.” Unlike any other borough in the city, the Queens DA forces people to give up their rights to have their cases quickly presented to a Grand Jury and to see the evidence against them in order to negotiate for any plea. This policy, and the choice to withhold evidence, means that many people decide to take years in prison without ever seeing a police report, or spend months on Rikers Island before seeing the evidence in their case. **The next Queens DA must end the waiver policy and turn over evidence swiftly so that people charged with crimes can make an informed decision about what to do in their case.**

POLICE AND DA MISCONDUCT:



When the NYPD engages in misconduct and brutality, the DA must hold officers accountable without giving them special treatment or protecting them by blaming the accused. DAs must stop pretending they have no power or authority to hold officers accountable and deal out equal justice. When it comes to prosecutors, the current culture allows their misconduct to go unchecked. Misconduct ranges from trial delays, not dismissing unjust cases, using unreliable witnesses or not disclosing favorable information like additional suspects. It also includes a culture of giving favorable pleas to the wealthy and connected while imprisoning the poor and the marginalized. **The next Queens DA must create a culture in which possible misconduct is investigated and possible bias is addressed.**

PROTECTING IMMIGRANTS:



Deporting members of our communities serves no one. It separates families and makes survivors of violence reluctant to call the police for fear that either they or a family member will be deported. DAs can offer pleas that hold people accountable but are immigration safe. They can also advocate to keep immigration agents out of our courthouse. **The next Queens DA must protect immigrants and prioritize keeping families together.**

TREATMENT FOR MENTAL HEALTH AND DRUG ADDICTION:



One of the driving forces behind mass incarceration has been the criminalization of mental health and drug addiction. More than 40% of people at Rikers Island are mentally ill. Treatment Courts, while a step in the right direction, often come with barriers to participation, such as prohibitive treatments costs, and the requirement of up-front criminal pleas that come with lengthy jail alternatives in the case of failure. **The next Queens DA must use their power to allow all Queens residents to access services and make our communities safer by treating the real causes of crime.**

END MASS INCARCERATION:



Mass incarceration dehumanizes poor people and people of color, disrupts communities, does not enhance public safety or reduce recidivism, and represents a tremendous drain on public resources with no benefit to society. Problems like mental illness, poverty, and homelessness cannot be incarcerated away, but NYC spends billions of dollars every year trying to do just that. In 2017, the Independent Commission on New York City Criminal Justice and Incarceration Reform found that it costs \$247,000 to detain a single person on Rikers Island for a year. In grading this category, we considered candidates' stated positions on closing Rikers Island, charging and plea negotiation policies, prosecuting incidents in schools, and other factors that contribute to the problem of mass incarceration. **The next Queens DA must commit to ending mass incarceration and resolve cases in ways that reduce and prevent harm.**

PAST RECORD:



The candidates running for Queens DA come from diverse backgrounds. We looked at their track records of implementing progressive policies and management experience. Key in our considerations was whether they have chosen in the past to solve problems by putting people in jail or whether they have fought to end mass incarceration.

Tiffany Cabán



A-

Tiffany Cabán is a lifelong Queens resident, Queer Latina, and career public defender. She has represented indigent people accused of crimes for the past seven years in Manhattan Criminal Court. As a public defender, Cabán says she has focused on bringing stability to her clients' lives in addition to helping them resolve their criminal cases. She has put forth bold

proposals on increasing transparency, ending nepotism, and increasing access to evidence. Cabán has taken aggressive stances on immigration, promoting mental health and addiction treatment, and ending broken windows.

Out of all of the candidates, Cabán has the least amount of professional and managerial experience, creating questions about her ability to lead a large office and deliver on the bold reforms she promises. Nevertheless, Cabán has pushed forward a progressive platform that reimagines much of the criminal legal system. Her election as an outsider would mark a dramatic change in the relationship between prosecutors and the community.

Issue	Grade	Stance
Ending Broken Windows	A	Will not prosecute broken windows offenses and will decline to prosecute crimes of poverty.
Ending Cash Bail	A	Will not ask for bail on most cases. Will rely on non-monetary bail alternatives instead of cash bail.
Community Accountability	A	Commits to hiring a diverse staff with at least 80% from Queens. Will not employ prosecutors who have relatives in the Queens Judiciary. Commits to town halls with the community. Will provide data about prosecutions. Will leave the DAASNY.
Access to Evidence	A-	Will end the Queens Waiver Policy and provide all discovery evidence to the defense.
Police and DA Accountability	A	Will establish an extensive wrongful conviction unit. Will have an independent unit to investigate ethical violations and prosecutorial misconduct. Supports public disclosure of police misconduct records. In favor of establishing an elected civilian review board for police accountability.
Protecting Immigrants	A	Supports keeping ICE out of court and will prosecute abusive conduct by ICE. Supports immigrant-friendly plea negotiations.
Mental Health and Drug Treatment	A	Believes access to mental health and drug treatment should be the rule not exception. Will make treatment financially accessible to everyone.
Ending Mass Incarceration	A	Supports closing Rikers. Will work with people who are on probation and parole to avoid needless incarceration.
Past Record on Progressive Values	B+	Worked for the past seven years as a public defender in Manhattan. Has very little management experience.

Melinda Katz



C

Melinda Katz is a lifelong Queens resident and the current Queens Borough President. Katz has extensive political experience as a member of the New York State Assembly and New York City Council. Katz has committed to end the prosecution of most marijuana offenses. However, she will continue to prosecute low level arrests that target communities of color, such as turnstile jumping and minor driving offenses. Katz's biggest departure from the current DA's office is her

commitment to turn over evidence to defendants as soon as possible and to end the Queens Waiver Policy.

Katz has no criminal courtroom experience. She describes losing her mother to a drunk driver as one of the reasons she's running for DA. Her history as a politician reveals a pro-incarceration mentality, tending to address problems by increasing penalties and creating crimes. More recently, as Borough President, Katz has promoted sealing closed cases, clearing summons warrants and protecting immigrant communities. Katz's platform promises moderate changes from the current DA office.

Issue	Grade	Stance
Ending Broken Windows	F	Will decline to prosecute marijuana possession, otherwise will continue charging many broken windows offenses.
Ending Cash Bail	B-	Won't ask for cash bail on misdemeanors, but will still seek bail for felonies.
Community Accountability	B-	Pledges to release all data, require implicit bias trainings, and hire a diverse staff with regular town halls, but provides few details on how to do so. Will continue to hire prosecutors with family in Queens Judiciary. Will join the DAASNY.
Access to Evidence	A-	Will end the Queens Waiver Policy and provide all discovery to the defense as soon as possible.
Police and DA Accountability	B-	Pledges to establish wrongful conviction unit and ethics review unit.
Protecting Immigrants	B	Supports keeping ICE out of courts and immigration friendly pleas when "compatible with public safety" to prevent deportation.
Mental Health and Drug Treatment	C	Claims that she will prioritize rehabilitation, but has not given details on implementation, i.e., whether treatment would be accessible to those who cannot afford to pay for it.
Ending Mass Incarceration	C	Wants to close Rikers but wants borough-based jails; no commitment to working with people on probation or parole to avoid needless incarceration.
Past Record on Progressive Values	C	No experience in criminal law or trial work; extensive management experience as a politician. Legislative history reveals tendency to enhance penalties, create crimes and create harmful registries. Has done work to help people clear old warrants.

Rory Lancman



B+

Councilman Rory Lancman is a Queens native and a longtime politician. Currently, he chairs the Committee on the Justice System, which oversees district attorneys, public defenders, and courts in all five boroughs. He is a fierce critic of mass incarceration, police misconduct, and the current district attorney in Queens.

Lancman has pledged to stop prosecuting marijuana and turnstile jumping due to the

disproportionate targeting of communities of color.

While he is running a progressive campaign, Lancman has historically supported spending hundreds of millions of dollars to add more police officers to the NYPD. Most recently, in 2018, Lancman voted to increase the District Attorneys offices' budgets in all five boroughs without including any increased funding for public defenders offices. Nevertheless, Lancman has fully adopted the platform and principles of a progressive prosecutor and has put forth a strong vision for racial justice.

Issue	Grade	Stance
Ending Broken Windows	B+	Will decline to prosecute marijuana offenses and other "victimless offenses." Will consider the harm caused and the circumstances for certain crimes, such as shoplifting and sex work.
Ending Cash Bail	A	Has agreed to end all cash bail.
Community Accountability	A-	Pledges to release all office data. Commits to town halls and a dedicated community outreach team. Will conduct implicit bias training and will not employ prosecutors who have relatives in the Queens Judiciary. Will leave the DAASNY.
Access to Evidence	A-	Will end the Queens Waiver Policy and provide all discovery evidence to the defense.
Police and DA Accountability	A-	Will establish a wrongful conviction unit and comprehensive code of ethics for prosecutors enforced by an independent ethics officer. Will not prosecute any cases where the officers involved have a history of perjury or dishonesty.
Protecting Immigrants	A-	Supports keeping ICE out of courts. Commits to engaging in immigrant-friendly charging decisions and plea negotiations.
Mental Health and Drug Treatment	A-	Supports treatment courts as an alternative to incarceration. Will ensure that financial costs of treatment programs are not a barrier for people.
Ending Mass Incarceration	A-	At the forefront of the Close Rikers movement. Will work with people who are on probation and parole.
Past Record on Progressive Values	B	Former city council member who is an advocate for reform and racial justice but has no courtroom experience. Has supported increased funding for police and the current district attorney's office without commitments to reform or giving equal funding to public defenders.

Greg Lasak



F

Judge Gregory Lasak is a lifelong Queens resident. Last fall, he resigned as a Queens County Supreme Court Judge to enter the DA's race. Of all the candidates in this race, Lasak has the most experience in the Queens legal system; before becoming a judge, Lasak was a career prosecutor in the Queens DA's Office, heading the Homicide Bureau at the age of 30. Lasak supports continuing the Queens waiver policy and prosecuting low-level offenses. Lasak does not support establishing an ethics review unit within the DA's office, which is particularly alarming given

the fact that his son, Gregory Lasak, Jr. is a Queens ADA and there are numerous other familial connections between the Queens DA's office and the Queens judiciary.

In making the case for himself as a "reformer," Lasak touts his work in the Queens DA's office to identify and overturn wrongful convictions. However, since 2010, Judge Lasak has had more than a dozen decisions reversed by higher courts. Recently, an appeals court overturned a case where Judge Lasak allowed a prosecutor, whose father is a Queens judge, to use racial bias in the courtroom. Out of all the candidates in this election, Lasak's policies as a DA would closely mirror those of current district attorney, Richard Brown.

Issue	Grade	Stance
Ending Broken Windows	D	Will continue to prosecute the majority of broken window offenses. Will decline to prosecute some petty crimes, such as marijuana possession and offer diversion as an alternative to incarceration.
Ending Cash Bail	D	Has only committed to ending cash bail on low-level, non-violent misdemeanors.
Community Accountability	C	Pledges to release office data, hire a diverse office, hold implicit bias trainings, and hold regular meetings. Will not bar ADAs whose relatives are Queens judges from working in the Queens office, but will publish disclosure forms. His son is an ADA in Queens.
Access to Evidence	F	Supports the Queens Waiver Policy. Commits to providing limited discovery to defendants in misdemeanors only.
Police and DA Accountability	D	Will establish a wrongful conviction unit, but will not establish ethics review unit.
Protecting Immigrants	D	Supports keeping ICE out of court, but will only support immigrant-friendly pleas for low-level, non-violent offenses.
Mental Health and Drug Treatment	C	Has vaguely indicated that he supports treatment as an alternative to incarceration, but has provided no details.
Ending Mass Incarceration	F	Wants to renovate Rikers facilities, but not close it; will work with people on parole or probation supervision to avoid needless incarceration on a case-by-case basis.
Past Record on Progressive Values	F	Former prosecutor who worked in the Queens DA's office from 1978 to 2003 where he supervised the investigation of approximately 2,500 murders. Helped exonerate almost two dozen people while in the Queens DA office. Since becoming a judge, Lasak's rulings have been overturned by higher courts more than a dozen times.

Betty Lugo



F

Betty Lugo is a lifelong New York City resident and active member of the legal community. Lugo broke barriers as the first Latina woman to serve as a Nassau County Assistant District Attorney. Since leaving the Nassau District Attorney's office, Lugo has managed her own law firm, representing clients in a variety of legal matters. Lugo has been highly involved in various bar associations and community

groups, and ran for a City Council position as a Republican candidate in 1997.

Lugo is running as an experienced prosecutor who cares about community safety and criminal justice reform. Lugo recalls seeing family and community members mistreated by law enforcement while growing up in Brooklyn. Despite this experience, Lugo went on to work in a District Attorney's office known for its harsh and incarceration-driven policies. While Lugo's commitment to diversity and inclusion is clear, her platform lacks clear direction, implementation details, and is at times contradictory.

Issue	Grade	Stance
Ending Broken Windows	F	Has committed to not prosecuting fare jumps, loitering, spitting on the sidewalk and open containers, and has indicated she will continue to prosecute some marijuana crimes, but not others. Has committed to both dismissing and also prosecuting nonviolent crimes.
Ending Cash Bail	D	Has said she would end cash bail, but also indicated that cash bail should exist on some cases, including violent crimes. Does not specify what cases her office would ask for cash bail or what alternatives she would use.
Community Accountability	C	Commits to increasing diversity in the office. Would require staff to volunteer in the community. Has not publicly made any concrete plans for community outreach or data release.
Access to Evidence	D	Has not committed to ending the Queens Waiver policy. Supports turning over evidence to the defense.
Police and DA Accountability	D	Supports starting a conviction review unit. Supports a special prosecutor for police in cases with serious injury. Supports training for police and DAs, but has not provided details on the types of trainings she envisions. Indicates support for public disclosure of police misconduct, but indicates that such disclosure would be done on a confidential basis.
Protecting Immigrants	D	Has indicated she would not allow ICE arrests in or near court, but indicates an undetailed exception for those accused of "violent" crimes. Would require immigration advice and interpreters for immigrants taking pleas, which is a current standard.
Mental Health and Drug Treatment	D	Expresses support for mental health courts, diversion, and veterans court, but has not indicated how this policy will differ from what is currently in place or provided policies and details for such programs.
Ending Mass Incarceration	F	Supports keeping Rikers Island open and refurbishing current facilities.
Past Record on Progressive Values	D	A career prosecutor who spent most of her career in the Nassau County District Attorney's Office and now manages her own law firm where she represents clients in both criminal and civil cases. Ran as a Republican for city council in 1997. Indicates she will consider running as a Republican in the general election if she does not win the Democratic Primary.

Mina Malik



B-

Mina Malik is a career prosecutor promising progressive change. She spent fifteen years as a prosecutor in the current Queens District Attorney's office, whose regressive policies have hurt our community for far too long. Malik later served as Kings County District Attorney Ken Thompson's special counsel and helped design Brooklyn's conviction review unit. Malik also worked for two years as the Executive Director of the Civilian Complaint Review Board (CCRB), which investigates

complaints against NYPD, and recently served as a Lecturer and Senior Advisor to Harvard Law's Fair Punishment Project. She most recently served as the Deputy Attorney General for the District of Columbia from August 2017 to February 2019.

Malik has laid out a bold agenda that would reverse many of her former boss's policies. Malik promises to stop prosecuting marijuana and end broken windows policing. She also wants to increase access to evidence, end the waiver policy, and create a wrongful conviction unit. Despite these strong progressive commitments, Malik has yet to truly explain how her perspective has changed after spending most of her career in the DA's office she now seeks to lead.

Issue	Grade	Stance
Ending Broken Windows	B+	Will decline to prosecute almost all broken windows offenses, but has not provided many specifics.
Ending Cash Bail	A-	Supports ending cash bail on all offenses. Wants to cut Queens jail population by 50% within 5 years.
Community Accountability	B-	Pledges to release all office data. Commits to implicit bias training, as well as regular community meetings. However, she will join the DAASNY.
Access to Evidence	A-	Commits to ending the Queens Waiver Policy and providing defendants with all discovery in their cases.
Police and DA Accountability	B+	Will create a wrongful conviction unit. Supports changing law to ensure public disclosure of police misconduct records. Has not indicated intention to create ethics review unit.
Protecting Immigrants	A-	Supports keeping ICE out of courts. Supports immigrant-friendly plea and charging decisions. Will work to limit ICE access to databases.
Mental Health and Drug Treatment	B+	States that diversion to treatment courts should be rule, incarceration the exception. Intends to create restorative justice programs in Queens.
Ending Mass Incarceration	A-	Supports closing Rikers. Will work with people on parole and probation to avoid needless incarceration. Will support efforts to waive or reduce fines and fees.
Past Record on Progressive Values	C	Career prosecutor, worked in the current Queens DA's office under Richard Brown for 15 years. Has extensive managerial and trial practice experience.

Jose Nieves



B

Jose Nieves is a lifelong New Yorker and career prosecutor. He spent eleven years as a prosecutor in the Kings County District Attorney's office before serving as a Captain in the U.S. Army Reserves for over 10 years with the U.S. Army Judge Advocate General's Corp. Nieves then shifted his career to prosecuting law enforcement, first working at the New York City Department of Corrections, where he prosecuted Corrections Officers on Rikers for misconduct, and later at the Office of the New

York State Attorney General, investigating and prosecuting police officers involved in deaths of unarmed civilians.

Nieves is running as an experienced prosecutor who has a proven record of holding police accountable for misconduct. He advocates increasing transparency, ending cash bail, and has committed to closing Rikers Island by focusing on diversion and public safety instead of low-level crime. While Nieves recalls being subjected to racial profiling and stop-and-frisk policies as a young, Latino man growing up in Queens, it remains to be seen if a career prosecutor like Nieves would deliver on promises of progressive change.

Issue	Grade	Stance
Ending Broken Windows	A-	Will decline to prosecute almost all broken window offenses.
Ending Cash Bail	B-	Expresses desire to curb cash bail, but has provided few details and carved out numerous exceptions.
Community Accountability	B-	Commits to releasing some but not all office data. Pledges to create a diverse office, hold implicit bias trainings and hold community meetings. Commits to 80% of the staff living in Queens. Would join the District Attorneys Association of the State of New York (DAASNY).
Access to Evidence	A-	Commits to ending the Queens Waiver policy and to providing discovery evidence to the defense.
Police and DA Accountability	B	Will establish a wrongful conviction unit, but has not committed to establishing an ethics review unit.
Protecting Immigrants	A-	Will hire advisors for immigrant-friendly plea decisions. Supports immigrant-friendly charging decisions.
Mental Health and Drug Treatment	B	Supports treatment programs, with possible exceptions for domestic violence. Wants to identify all possible mental health and drug diversion programs for low-level, nonviolent, or first time offenders.
Ending Mass Incarceration	A-	Supports closing Rikers; will work with people on parole or probation to end needless incarceration unless there is credible information that the person is a danger to the community.
Past Record on Progressive Values	C	Has spent his career as prosecutor, including 11 years in the Brooklyn DA's office. Has recently shifted his focus to prosecuting Corrections Officers on Rikers Island and prosecuting police misconduct and shootings at the Attorney General's Office. Nieves has trained and supervised other prosecutors and police.



GET OUT AND VOTE ON JUNE 25th!

The primary election is on Tuesday, June 25th and the general election is on Tuesday, November 5th.

This is likely to be a low turnout election so your vote counts!

If you are not a registered Democrat, you can register as a Democrat to vote in the primary election until May 31st.

If you have prior criminal convictions or are on probation or parole, you can probably still vote!

For more information on your rights as a voter, visit www.5bd.org.

5BD can be found online at: www.5bd.org

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Follow us for updates throughout the Queens DA race!

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