

#KnowYourDA



info@KnowYourDA.nyc

A guide to electing a Brooklyn District Attorney

based on their
commitment to ending
mass incarceration

   @5Boro
Defenders

Contents

Contents

Pg. 1

Introduction: Our
Platform

Pgs. 2-3

Candidate Profiles

Ama Dwimoh

Pg. 4

Marc Fliedner

Pg. 5

Patricia Gatling

Pg. 6

Vincent Gentile

Pg. 7

Eric Gonzalez

Pg. 8

Anne Swern

Pg. 9

Candidate Report Card

Pg. 10

INTRODUCTION: OUR PLATFORM

New Yorkers are demanding a change because for too long, Black & Brown communities have been over-policed & over-prosecuted. The upcoming Brooklyn DA election is an opportunity for us to shift the landscape of criminal justice in New York City. The DA is the most powerful actor in the criminal legal system, with the power to decide how & when crimes are charged, how much bail is requested, whether to lock someone up or instead offer alternatives to incarceration. It's time that DAs do their part to end mass incarceration & help communities heal from decades of over-policing.

Below is a condensed version of the platform we asked Brooklyn DA candidates to endorse (a full version is available at medium.com/@5borodefenders). Based on candidates' responses to questionnaires & community forums, we compiled & graded each person's public promises on the issue areas in the platform. While we are using a report card format to make it easier for voters to digest, we are not endorsing any particular candidate. Our grades are based on candidates' promises & not their ability to deliver. All candidates are former prosecutors that followed many of the practices they are now renouncing as candidates. It will take more than words to implement their vision for change. Nonetheless, there are differences between the candidates' positions that are worth highlighting.

Please Note: This zine has been created by the #KnowYourDA working group of Five Borough Defenders (5BD), but does not reflect the opinions of all 5BD members.

ISSUE AREAS

1. ENDING BROKEN WINDOWS: Thousands of New Yorkers are arrested, prosecuted & monitored for low-level "broken windows" offenses based on a model of policing that is outdated. These prosecutions do NOT make us safer while disproportionately targeting poor communities of color, specifically Black people. Many of these prosecutions are ultimately dismissed, after creating tremendous waste, distress & disruption of lives. **DAs have discretion to decline to prosecute these cases.**

2. BAIL: End the practice of requesting cash bail - which locks up poor people before they have been convicted of any crime. A person should be able to fight the charges against them while not locked in a cage based on how much money they have. **DAs have full discretion to decide when to request bail & how much; judges rely on DA requests.**

3. IMMIGRATION: Criminal cases disproportionately impact immigrant communities (especially undocumented people & those with open/pending immigration cases). The DA's office MUST take these consequences into account by making immigration-safe plea offers, & limit court interaction due to the presence of ICE in courthouses & courtrooms. **DA's can make offers that don't make people deportable & limit court contact to prevent ICE from taking them.**

4. CHARGING REFORM: DAs must stop charging the highest possible crime or apply a charge that doesn't fit the facts. This practice increases the maximum penalty DAs can threaten if the accused doesn't take a plea "offer" to a lesser charge. **DA's have total discretion to stop overcharging & coercing pleas.**

5. JAIL/PRISON ALTERNATIVES: To work towards ending mass incarceration, we must provide access to meaningful services like case management, therapy & treatment (especially for mental illness & substance abuse) as opposed to incarceration. **DA's have full control over making non-jail/prison offers & can offer alternatives to incarceration instead.**

6. GANG POLICY: Gang/crew policing is the surveillance of young men of color in poor communities in bulk. NYPD compiles a database of suspected gang members based merely on who they know, what they wear & where they hang out, subsequently conducting sweeps of neighborhoods. The DA then treats these groups more harshly by charging them as gang members. **DA's have discretion to stop validating NYPD practices & being overly punitive in these cases.**

7. POLICE ACCOUNTABILITY: Where NYPD engages in misconduct & brutality, it is the DA's job to hold those officers accountable without giving special treatment or protecting them by blaming the accused. **DAs must stop pretending they have no power or authority to hold such officers accountable & mete out equal justice.**

8. PROSECUTORIAL MISCONDUCT: The current culture to let prosecutorial misconduct go unchecked is unethical & unacceptable. Misconduct ranges from trial delays, not dismissing unjust cases, using uncooperative/unreliable/incentivized witnesses, to not disclosing favorable information like additional suspects & using suggestive ID procedures. **DA offices can create a culture where misconduct isn't the norm.**

9. DISCOVERY REFORM: New York has one of the most antiquated laws regarding when prosecutors must turn over evidence to the defense. Although there is legislative reform in the works, DAs can & should abolish their practice of withholding this evidence until the morning of trial. **DA offices can disclose evidence earlier in the case in the interests of justice.**

10. TRANSPARENCY: The DA's office should release data publicly on ongoing disparities in plea offers, charging decisions & ultimate disposition based on race, gender, & income. **DA's are accountable to the communities they represent, & must be transparent about office practices.**



AMA DWIMOH C+

Ama Dwimoh is currently special counsel for Brooklyn Borough President Eric Adams. A former prosecutor from the Brooklyn DA's office, she started the Crimes Against Children Bureau. She was suspended while at the DA's office because of mistreatment of interns & those she supervised, as well as being unavailable/absent from work.

- 1. ENDING BROKEN WINDOWS:** Won't end broken windows prosecutions, just ask that there be no bail (pre-trial supervision instead). Might dismiss or divert some low level misdemeanor cases. **D**
- 2. BAIL:** Says cash bail is something we just don't need. Would send home all misdemeanor defendants awaiting trial under an expanded pretrial supervision program. Will create indigent bail fund at DA's office & funding for transportation costs to court. **B-**
- 3. IMMIGRATION:** Will direct staff to help prevent unnecessary deportations & other penalties for low level immigrant offenders. Will fight to make free legal services available to any Brooklyn resident, regardless of immigration status. Promises to create special unit that would protect & advocate for immigrants. **B+**
- 4. CHARGING REFORM:** Will put seasoned prosecutors into ECAB (where DA's decide what to charge) to review cases. **D**
- 5. JAIL/PRISON ALTERNATIVES:** Says alternatives to incarceration have been largely successful for reducing the numbers in jail. New goal will be crime prevention—not just prosecution. **B**
- 6. GANG POLICY:** Says she's unfamiliar, surprised & troubled by gang policies & sweeps. **D+**
- 7. POLICE ACCOUNTABILITY:** Will ask for a special prosecutor for police misconduct cases. **B+**
- 8. PROSECUTORIAL MISCONDUCT:** Promises accountability for prosecutors responsible for wrongful convictions & misconduct. Supports creating independent state commission to review wrongful convictions to examine conduct of those prosecutors. Promises internal oversight to prevent wrongful convictions. **A-**
- 9. DISCOVERY REFORM:** No public commitment. **F**
- 10. TRANSPARENCY:** Says public has a right to know what's going on in the BK DA office. Will modernize systems to better track cases & publicize regular reports on who is being prosecuted where. **A-**



MARC FLIEDNER (A-)

Former Assistant DA in Brooklyn & NJ. Specialized in narcotics, sex crimes & police misconduct. Prosecuted Peter Liang for killing Akai Gurley. Involved in double homicide conviction of Dwayne Martin. After conviction, 2 eyewitness statements pointing to another suspect were discovered & never turned over to the defense. Fliedner says he turned everything he had over to the defense, & was unaware of these statements because of discrepancies between police & prosecutor paperwork.

- 1. ENDING BROKEN WINDOWS:** Will decline to prosecute all broken windows offenses, including criminal possession of hypodermic instrument & all sex work offenses. Can't commit to blank policy of declining to prosecute all resisting arrest cases, although these will be carefully screened. **A-**
- 2. BAIL:** Promises cash bail will not be requested in the majority of misdemeanors & felonies. Bail will only be requested if jail is deemed appropriate after screening. **A-**
- 3. IMMIGRATION:** Will dismiss low-level cases in which consequences of convictions will disproportionately harm immigration status. Promises to consent to excusing a client from appearing in court if there is fear that ICE will be in court, & making offer early on to limit criminal court appearances in case of ICE presence. **A-**
- 4. CHARGING REFORM:** Will charge least punitive crime supported by facts (no higher than plea offered). Agrees overcharging for strategic purposes is unethical & ADA's will be held accountable. **A-**
- 5. JAIL/PRISON ALTERNATIVES:** Will adopt a presumption against incarceration. No jail time requests for people w/ mental illness who are cycling through the system. Will offer diversion at arraignment stage. **A-**
- 6. GANG POLICY:** Public health approach to youth violence. Will end en masse approach to gang prosecutions & reliance on NYPD gang databases. **A-**
- 7. POLICE ACCOUNTABILITY:** Promises to create, maintain & publicly disclose database of Police Officers investigated for misconduct. Will end practice of charging people with crimes to coverup police misconduct & bring officers to justice to higher a extent than civilians. **A-**
- 8. PROSECUTORIAL MISCONDUCT:** Promises prosecutorial integrity unit to assess systemic problems & root out patterns of misconduct (e.g. DA's falsely stating ready to stop the speedy trial clock). Will immediately dismiss case if necessary witness is unwilling to testify (provided no witness intimidation was used). Wants independent conviction review unit. **A-**
- 9. DISCOVERY REFORM:** Will disclose evidence within 15 days of arraignment (witness names, witness statements & police reports). Will consent to routine pre-trial hearings. **A-**
- 10. TRANSPARENCY:** Will release data (re: initial arrest charges, arraignment charges, bail request, bail set, plea offer & ultimate disposition) w/ info about race & gender. Will detail all efforts to ensure equal justice, including disparate racial impact. **A-**



PATRICIA GATLING

Brooklyn Assistant District Attorney for 33 years including narcotics prosecutor. Human rights commissioner under Bloomberg, criticized for not taking stance against stop and frisk.



- 1. ENDING BROKEN WINDOWS:** Says she would stop prosecuting broken windows offenses & tell police to stop making those arrests, but has not specified which offenses. **B+**
- 2. BAIL:** Says she would find ways to get people out of pre-trial detention but seems focused on ankle monitoring & using technology to supervise people. **D**
- 3. IMMIGRATION:** Won't commit to defending immigrants charged with crimes even when deportation is on the table, but would support undocumented crime victims & witnesses **F**
- 4. CHARGING REFORM:** Wants to send DA's office social workers to NYPD precincts to divert low-level cases. **B**
- 5. JAIL/PRISON ALTERNATIVES:** Wants to expand ComALERT ("Community and Law Enforcement Resources Together"), a reentry program for parolees she helped spearhead. **C**
- 6. GANG POLICY:** No public commitment. **F**
- 7. POLICE ACCOUNTABILITY:** No public commitment. **F**
- 8. PROSECUTORIAL MISCONDUCT:** Promises to establish a Prosecutors' Integrity Bureau to hold accountable any prosecutors that violate integrity. Says she will fire unethical prosecutors & go after their law licenses. **A-**
- 9. DISCOVERY REFORM:** No public commitment. **F**
- 10. TRANSPARENCY:** Promises to bring transparency to system to make sure DAs are "fair, just & straightforward with the constituents they serve." Will invite community members, senior ADA's & investigators to audit how they are treating cases to ensure equal treatment. **A-**



VINCENT GENTILE

Former Assistant District Attorney in Queens & State Senator. City Council member representing the 43rd District (Bath Beach, Bay Ridge, Bensonhurst, & Dyker Heights in Brooklyn), for the past 14 years. Opposes removing statue of Christopher Columbus, defending him as a "warrior." "There were Native Americans that weren't welcoming to him," Gentile said, "so he had to be not only an explorer but a warrior too."



1. ENDING BROKEN WINDOWS: Will not decline to prosecute all broken window offenses in criminal court. Supports civil summons as alternatives to criminal charges.

D

2. BAIL: Primary bail reform proposal consists of giving judges at arraignment information about the defendant's financial status. Supports legislation that would allow criminal court to also consider defendant's harm to the community when setting bail.

D

3. IMMIGRATION: Promises to prevent plea offers that would tear apart families, but has not detailed how. Supports change in law that would reduce the maximum jail sentence for misdemeanors from 365 to 364 days to avoid negative immigration penalties.

D

4. CHARGING REFORM: No public commitment.

F

5. JAIL/PRISON ALTERNATIVES: Supports alternative sentencing in criminal cases involving non-violent behavior. Opposes mandatory minimums for gun cases.

B

6. GANG POLICY: Does not support current gang policing. Promises to launch employment drives to divert youth from the criminal legal system.

B+

7. POLICE ACCOUNTABILITY: Supports disclosing transcripts of the grand jury proceedings against Police Officer Daniel Pantaleo for his killing of Eric Garner.

B

8. PROSECUTORIAL MISCONDUCT: Supports creating an independent commission to examine the conduct of the prosecutors involved in wrongful convictions.

B+

9. DISCOVERY REFORM: No public commitment.

F

10. TRANSPARENCY: No public commitment.

F



ERIC GONZALEZ (C+)

Began working as Assistant DA in Brooklyn in 1995, focusing on DV & sex crimes. Took Ken Thompson's place as Acting District Attorney upon his death. Stands by non-jail sentence for Peter Liang - the officer convicted of killing Akai Gurley. Under Gonzalez the Wrongful Conviction Unit has not held any police or prosecutors accountable.

1. ENDING BROKEN WINDOWS: Will stop prosecuting park trespass, minor drug possession, jumping the turnstile but not all broken windows offenses. Supports vacating all summons warrants.

C

2. BAIL: Says DA's should never ask for bail if not asking for jail. Will focus on asking for bail where defendant is on parole or has a recent history of violence, but largely no bail requests on misdemeanors. Supports expansion of supervised release.

B

3. IMMIGRATION: Has instructed all the ADAs to consider potential immigration consequences in their cases, & hired immigration attorneys to consult on cases + provide training to ADAs to ensure that no Brooklyn resident is subjected to unfair deportation as a consequence of a conviction in a low-level case.

A-

4. CHARGING REFORM: Will divert some individuals who get arrested on low-level offenses out of the criminal justice system before they are charged with a crime.

B

5. JAIL/PRISON ALTERNATIVES: Will help young people w/ their first criminal justice involvement to get services they need to get their lives back on track "avoiding lifelong cycle of arrest, imprisonment & lost opportunity." Would eliminate mandatory minimums for gun cases. His office has a practice of diverting youth in gun cases.

B+

6. GANG POLICY: No mass arrests or widespread conspiracies; will indict people involved in shootings - those he calls "the drivers of crime." Has not interfered with the police department's en masse approach to gang policing.

C+

7. POLICE ACCOUNTABILITY: No public commitment.

F

8. PROSECUTORIAL MISCONDUCT: Supports creating an independent state commission to review wrongful convictions to examine the conduct of those prosecutors involved in wrongful convictions. Would install an ethics officer in the office.

B+

9. DISCOVERY REFORM: Refuses to back legislation that would force prosecutors to turn over evidence much sooner, citing fears that witnesses won't be properly protected. Practices Open File Discovery.

C

10. TRANSPARENCY: In touch with researchers from Harvard to design & implement a study of possible racial disparities in office practices.

C+









ANNE SWERN

(B+)

Worked in Brooklyn District Attorney's office for 33 years, including as first Assistant District Attorney under Charles Hynes. Served as managing counsel at Brooklyn Defender Services for 2 years. Also teaches at Brooklyn Law School on "problem-solving courts."

- 1. ENDING BROKEN WINDOWS:** Won't prosecute broken windows offenses. Says referring these offenses to civil courts is not the answer. **A-**
- 2. BAIL:** Won't ask for bail for misdemeanors "when there are other means to assure a person's return to court." Wants to raise current \$2000 limit for community bail funds. Supports expansion of Supervised Release. Also supports use of ankle monitors & other strategies as long as no money required. **B+**
- 3. IMMIGRATION:** Promises discretion when prosecuting undocumented immigrant defendants who could face deportation. Supports legislation to provide legal representation to immigrants. **B+**
- 4. CHARGING REFORM:** Will staff Early Case Assessment Bureau Complaint Room with experienced & sufficient staff to make decide when to divert cases from criminal justice system. Promises truth-in-charging (charging individuals with criminal behavior they actually engage in vs. overcharging as a negotiating tool/to coerce pleas). **A-**
- 5. JAIL/PRISON ALTERNATIVES:** Created drug & mental health treatment courts under Charles Hynes & intends to use them to fullest capacity. Believes in incarceration for gun cases. **B**
- 6. GANG POLICY:** Acknowledges current policy is not individualized justice. Promises to be "discerning" re: how to charge gang members. **B+**
- 7. POLICE ACCOUNTABILITY:** Promises to hold police officers accountable the same as anyone else who commits a crime & hurts people. Committed to having a bureau that specifically investigates those cases. Promises better communication with victims families. **B+**
- 8. PROSECUTORIAL MISCONDUCT:** Supports commission to hold prosecutors accountable for misconduct. Supports stripping law licenses, firing them, holding paralegals & investigators accountable. **A-**
- 9. DISCOVERY REFORM:** Supports policies & programs which provide timely & complete discovery materials to enable defense lawyers to speak to accused about plea bargaining options in a meaningful way. **A-**
- 10. TRANSPARENCY:** Will hire a statistician to track any disproportionate impact on people of color. **B**

WHERE DO THESE BROOKLYN DA CANDIDATES STAND ON ENDING MASS INCARCERATION?

	Ending Broken Windows	Bail	Immigration	Charging Reform	Jail/Prison Alternatives	Gang Policy	Police Accountability	Prosecutor Misconduct	Discovery Reform	Transparency	FINAL GRADE
 DWIMOH	D	B-	B+	D	B	D	B+	A-	F	A-	C+
 FLIEDNER	A-	A-	A-	A-	A-	A-	A-	A-	A-	A-	A-
 GATLING	B+	D	F	B	C	F	F	A-	F	A-	C-
 GENTILE	D	D	D	F	B	B+	B	B+	F	F	D+
 GONZALEZ	C	B	A-	B	B+	C+	F	B+	C	B	C+
 SWERN	A-	B+	B+	A-	B	B+	B+	A-	A-	B	B+