



## OFFICE OF THE DISTRICT ATTORNEY

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To the Travis County Community,

When I asked for your vote, I promised you that I would work with you to reimagine our criminal justice system. I believe that together we can build a system that treats all people equally, where our resources are spent fighting violent crimes, and that treats victims with dignity and respect.

We are facing unprecedented times in our criminal justice system. COVID-19 has created a backlog that means victims and people accused may be waiting months, if not years, for justice. Our jail currently houses over 1800 people, many of whom have not been convicted of a crime and are in jail because they are too poor to pay their bail to get out. Due to COVID-19, incarceration has become a potential death sentence. It has also put our public servants who work in jails and prisons, and their families, at risk.

We have much work to do, and change does not come quickly. However, now is the time to roll-up our sleeves and divert as many resources as we can into keeping our community safe. To that end, as of February 1 I am announcing that the following policies will be implemented:

**Violent Crimes**. Since March, there have been limited grand jury proceedings in Travis County. We are grateful for a group of grand jurors who committed to extending their service through the end of 2020. We will be triaging the backlog of cases to focus on violent offenses that pose a threat to public safety. In the last two weeks, the grand jury has returned over 55 indictments on violent offenses, including charges of murder, kidnapping, sexual assault, aggravated assault, and violent crimes against children.

**Victim Services**. It is imperative that our victim-witness counselors, who currently have a caseload of up to 800 people each, are able to do their jobs effectively. We have hired an experienced and nationally recognized victim-witness counselor, Neva Fernandez, who will be leading the team and moved the team under the supervision of Erin Martinson. Ms. Fernandez will work to train the counselors and prosecutors on trauma-informed interviewing, implement policies to reduce the counselor caseload, and ensure that all victims are treated with dignity and respect regardless of the facts of their case.

**Diversion.** In the past, many people who were accepted into pre-trial diversion programs through the District Attorney's Office were accepted because they had hired an attorney and could afford to pay the fees associated with diversion. Many were also excluded based solely on their criminal history. However, pre-trial diversion should recognize that all people are capable of change, and that helping a person through treatment or counseling makes our community more safe than jail or prison.

We have greatly expanded our pre-trial diversion program so that more people will be eligible, and have structured the program so that our prosecutors can seek to find eligible people instead of waiting on defense counsel to ask. We will also be asking stakeholders to work with us to expand services that we can offer. At this moment, a team of experienced prosecutors is reviewing cases to determine if the person is eligible for diversion. In order to fulfill our promise of transparency to you, we will update the community regularly on the number of people who have been accepted for diversion, and the number of people who have successfully completed it.

**Bail.** Those who have committed heinous crimes and are a danger to the community should remain in custody pending trial. But we must work to ensure that it is not just the wealthy who are given an opportunity to be released when they are not a danger to the community.

While we cannot set bail ourselves, we will be using this analysis to recommend bail to the Judges who make the final determination:

- We will not consider a person who is an attendance risk, meaning they have missed court in the past but have not attempted to evade the police, a flight risk.
- For anyone charged with a State Jail Felony, there will be a presumption of release with no conditions if it is determined that the person poses no threat to community safety or risk of flight.
- For anyone charged with a higher level felony, there will be a presumption of release with the least restrictive condition necessary to ensure that the person is not a risk to the community or risk of flight.
- Anyone who poses a future risk of harm to our community or a risk of a flight that cannot be addressed by conditions other than pre-trial incarceration should remain in custody.

**Conviction Integrity.** Over the last two decades, our community has learned hard lessons about the factors that can lead to wrongful convictions. We have a duty to ensure that no person who is innocent or is entitled to a new trial due to a wrongful conviction is forgotten in prison. We have created a conviction integrity team lead, and our team of lawyers will create processes and begin a thorough and careful review of past convictions. To this end, our office has been working since January 4th to ensure that a judge could hear evidence of Ms. Rosa Jimenez's innocence and ensure her release.

Soon our office will have a public form for our community to fill out if they have a loved one who needs their case reviewed.

**Civil Rights.** One of our most important jobs is to work with law enforcement to keep our community safe. That means we must work together to ensure that cases we bring to the point of prosecution have been thoroughly investigated, and we are confident that we are bringing the right person to trial with the right charges. It also means that in order to rebuild community trust and ensure the safety of our community, we must hold law enforcement accountable when they break the law.

If we have evidence that an officer's conduct calls into question the integrity of any case they have previously handled, we will be conducting a review of those cases and we will place them on a "do not call to testify" list. Before the list is made public, the officer will have a right to present evidence that they should be allowed to continue to testify in criminal cases.

**Sentencing.** I promised you that our practice would not be to seek excessive sentences. This office believes that all people are capable of change, and that we must use data to ensure that we are asking for sentences consistent with when we know that a person's criminogenic risk has been greatly reduced. For that reason, any prosecutor who believes that a sentence longer than twenty years is appropriate must seek permission from the director of the division and our first assistant or myself. Make no mistake, there will be times when a long sentence will be appropriate.

**Powerful Actors.** We have shifted the focus of the unit formally known as "special prosecutions" to Public Integrity and Complex Crimes. We will be focusing not only on elected officials who have committed crimes that fall under our jurisdiction, but we will be asking community members to come forward and inform us when they have been victims of wage theft, unsafe work conditions that rise to the level of criminal conduct, or landlords who have criminally taken advantage of tenants. We will soon be publishing a form that can be used to report complaints of this nature. We will be actively working with the community to identify these cases, and work to ensure that justice is done and that powerful actors are held accountable.

**Drugs.** I committed to you that my office would not spend our scant resources prosecuting people who suffer from substance abuse issues instead of using those resources to prosecute crimes like sexual assault and family violence. To that end, we will continue the practice started by the last administration of not prosecuting people who are in possession of a state jail amount of drugs and we will be ending the prosecution of the sale of small amounts of drugs unless there is a threat to public safety. Instead, when someone is arrested for a drug crime, we will prioritize prosecuting only sellers who pose a danger to the community because they engage in violent conduct.

**Magistration.** Right now, it is the police who decide what charges to file and the magistrates who set the initial bail. This is done without the input of the prosecutor or defense counsel. Our office, along with the county attorney, intends to begin an arrest review process in magistration as soon as we can. This will save time and money for the county, and potentially wasted days in jail, if we can review cases before a person sees a magistrate, and I look forward to working with criminal justice stakeholders to make this happen.

A handwritten signature in black ink, appearing to read "José Garza". The signature is fluid and cursive, with the first name "José" written in a larger, more prominent script than the last name "Garza".

José Garza