



Travis County Criminal Justice Reform

A REFORM PLATFORM FOR TRAVIS COUNTY ATTORNEY

December 9, 2019

As prosecutors, our statutory and ethical duty is to ensure that justice is done. Travis County has made significant reforms, such as reducing its reliance on cash bail, and not prosecuting for possession of small amounts of marijuana.

But there's much more to do.

As County Attorney, I will initiate a series of reforms that will fight bias in the system. Systemic bias starts long before cases reach the County Attorney's office, and we must do everything we can to stem the results.

Crucial reforms include restructuring the intake process so that prosecutors can reject cases at the outset, where there are evidentiary problems or where it appears that police bias was the motivation for the arrest. My vision for reform also includes making more treatment options and counseling available, and making it known that free, and low cost services, are available to help people get records their expunged and/or sealed.

We also have to protect victims of serious crimes, such as domestic violence. My office will use evidence-based practices to achieve fair and just outcomes. Victim safety is a top priority.

My plan also includes retaining a data expert who can review whether our office is meeting its goals and to make that information easily available to the public.

PROBLEM

1. In Travis County, the police can file charges directly into the system

Travis County is unusual among large counties because at intake, the police file charges directly into the criminal justice system. This leads to too many misdemeanors, too many open cases, and too many lives impacted by criminal charges. It also allows potential police bias to enter the courthouse. This is unacceptable.

2. Insufficient representation for arrestees at Magistration

Soon after being arrested and transported to Central Booking, arrestees are brought in front of a Magistrate (an official of the court), where critical decisions are made related to their case.

3. Continued reliance on cash bail

Judges set bonds for detainees. According to a recent review, in Travis County, about 71 percent of detainees are released on personal recognizance bond – their personal promise to return to court. Of the remaining 29 percent, some of those are on holds from other agencies, but some are being held on cash bail. This system discriminates against the poor, who often do not have enough money to pay for bail.

EISERLOH REFORM

Reform the intake procedure; reject cases with police bias or poor evidentiary support

I will enhance the intake process by assigning experienced prosecutors to review cases and I will provide training to prosecutors on recognizing inherent bias.

24-Hour representation for arrestees

I support funding for defense attorneys to be present at Magistration at all times, to represent the interests of arrestees.

Reform Cash Bail practices; Harris County Consent Decree as guideline

While being ever mindful of victim safety, I support continued reductions in the use of cash bail in Travis County. Regarding cash bail, I support using key elements of the Harris County Consent Decree as a guideline, whereby most detainees are released pending their hearing dates, *excluding* those arrested for serious offenses such as family violence and serious or repeat DWI.

PROBLEM

4. Bond Review can pressure arrestees into pleading to lesser offenses

When a detainee being held on cash bail is brought from jail into the courtroom for a bond review hearing, they are often terrified to return to jail, fearful of losing a job, or panicked about their family. Frantic to be released, a detainee may plead to lesser included offense(s), even something they did not do, regardless of evidentiary support, in order to be released.

5. Financial discrimination in expunction and sealing of records

A criminal record can affect someone for life – in areas such as housing, employment, professional certification, and immigration status. Some arrestees are able to hire attorneys to have their records expunged (removed) or sealed (closed to public disclosure). These are powerful tools that allow people to go on with their lives as if their arrest never occurred. However, hiring a lawyer to help with these services is expensive and out of reach for many people.

6. Excessive arrest and detention for Class C misdemeanors

Research shows that in recent years, one in six bookings into the Travis County Jail have been for Class C misdemeanors. In 2017, for example, Class C misdemeanors constituted 7279 bookings. These are typically “fine only” offenses.

EISERLOH REFORM

Separate bond review from plea agreements

Where possible, I believe the Bond Review should be focused on the bond amount, not possible plea agreements.

Notifications regarding expunction and sealing of records

I will work with the courts to provide notice in a communication format that is understandable to all about: (1) the importance of expunction services and the sealing of records; (2) free and low costs services provided by the UT law school expunction clinic located in the Travis County law library.

Citation rather than arrest and detention

I support issuance of citations for stand-alone Class C misdemeanors rather than arrest and detention. As your County Attorney, I will encourage the police to adopt this policy.

PROBLEM

7. Backlog in the Family Violence Court

Currently, the County Court at Law 4 has a tremendous backlog of cases, causing victims of domestic abuse to “wait in line” for justice. This is unacceptable. These delays cause ongoing pain and risk for victims as well as danger to the community.

8. The Jail is too often the mental hospital of last resort

There are people in jail because they are suffering from mental illness and cannot get treatment anywhere else. This creates unnecessary criminal records which can negatively impact people for life and contribute to an already difficult downward spiral.

9. Low level marijuana warrants

The current policy of the Travis County Attorney’s office is no prosecution for possession of small amounts of marijuana.

EISERLOH REFORM

Distribute cases and end backlog!

As your next County Attorney I will fight to distribute these cases to an additional trained court with proper staffing by trained family violence prosecutors and end the backlog.

Mental Health Crisis Center

All across the nation people with mental illness are being warehoused in jails. It is unacceptable for the jail to be the mental hospital of last resort. We need a Mental Health Crisis Center, like the Sobering Center. And we need more mental health facilities that are not the jail. No one should be in jail because they are suffering from an illness and can’t get the treatment they need.

I will continue this policy.

Moreover, I support dismissal of remaining misdemeanor marijuana warrants.

PROGRAM

A. Pre-Booking Diversion

For certain low-level crimes such as graffiti or low-level shoplifting, I support pre-booking diversion whereby arrestees are assigned to counseling programs and released before being fingerprinted and booked into the jail. Booking someone for a crime of moral turpitude such as shoplifting can ruin a person's record for life. It is key that that criminal justice system provide a second chance before it's too late.

B. Specialty and Diversion Courts

Travis County's Diversion Courts, such as mental health, and Specialty Courts, such as DWI, help people to move past interactions with the criminal justice system.

C. Use Technology and Data

Too often victims are forced to re-live traumatic events by filling out rounds and rounds of paperwork.

EISERLOH IMPROVEMENT

I support expanding the current Specialty Courts and Diversion Programs, as well as pre-booking diversion.

I will review all fees associated with diversion and specialty programs and advocate for fees to be flexible and fair regardless of a person's financial status.

I fully support these programs and will ensure that there are no undue impediments placed upon those who wish to participate.

As County Attorney, I will ensure that our office is using best practices to keep victims safe, informed and up-to-date.

Also, I will review all family violence and protective order intake forms to ensure that victims are not being re-victimized by unnecessary and repetitive retellings of traumatic events.