

VOTE PAM FOR PACIFIC COUNTY PROSECUTOR

PAM NOGUEIRA MANEMAN (INDEP)

September 22, 2018

To The Great Organizations Concerned About Washington Voters And Residents:

First, I would like to thank you for the work you do, separately and together.

I am currently running for Pacific County Prosecuting Attorney against the incumbent, Mark McClain. He first came to office in January of 2015. The numbers mentioned in my responses are based on my personal review of all felony cases filed by him for the years of 2015, 2016, and 2017.

Please find enclosed my responses.

Please do not hesitate to contact me if you have additional questions or if any clarifications are needed.

Thank you again,

Pam Nogueira Maneman

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METRICS FOR SUCCESS

What metrics do you believe should be used to determine whether the Office of the Prosecuting Attorney is succeeding in its mission and improving the criminal justice system? How would you realign local, state, and federal budget appropriations to support your vision of how we could most effectively accomplish the following:

1. Prevent crime in the first place;
2. Provide crime victims what they need;
3. Hold people accountable for the harms they cause; and
4. Bring recidivism rates down as close as possible to zero?

I believe the success of a prosecutor should be measured by the progress he/she makes in his/her county. Progress to me should be measured by the reduction of recidivism, reduction of violence, and the success rate of alternative dispute resolution programs.

Fortunately, there are many available federal grants at the moment for alternative dispute resolution programs, such as mental health diversions (*Trueblood*) and Drug Court. If elected, I would ensure these programs are run according to national standards (Best Practices) so that my county qualifies/is eligible for these grants. Unfortunately, our currently elected Prosecutor refuses to follow Best Practices (Please listen to minute 18 of his radio interview: <https://soundcloud.com/kxronews/6-15-18-mark-mcclain>). This affects greatly how we are funded and what programs (quantity & quality) are available to our residents).

Practicing in a rural county, any elected official should have a deep understanding of our limited resources and budget. Our currently elected Prosecutor has multiple times estimated for income in our county budget that were never received. This creates serious consequences to our local administration. The primary way our County Commissioners have found to save money is to lay off employees, as they cannot afford pay roll. Accordingly, when any elected official has to request additional money, the entire county suffers. With that in mind, I plan to restructure the Prosecutor's Office to ensure we do not go above budget.

Beyond better administration, I think there's much more we can do routinely in our community. I am currently involved in a coalition involved with alcohol & drugs prevention in one of our local high schools. We are lucky to have many of these coalitions and organizations working throughout the county. Yet, we could have more involvement from our local elected officials to support and encourage their work.

In our small county, the majority of crimes are drug crimes. About 36-41% of all felony charges filed in 2015, 2016 & 2017 were drug charges. This does not account for drug-related or drug-caused crimes, which would encompass the great majority of our property crimes. Of all felony cases filed in these 3 years, 132 individuals respond to 2 or more cases. This is an extreme rapid level of re-offending. With that said, I believe prevention work as well as alternative dispute resolutions would greatly reduce these numbers.

For our victims of crimes, we also currently have one organization, Crisis Support Network, that currently assists victims in both ends of the county (north & south). After meeting with its Director, I believe we see ways in which we could collaborate to continue to help our community.

Further, to reduce recidivism, we need to have a long-term goal for our county. I would strengthen Drug Court and our *Trueblood* diversion, as explained above. I would also address sentencing much differently, when cases arrive at convictions. The currently elected Prosecutor has chosen to focus on getting people out of county jail. This generally means individuals receiving little time (credit for time served) or the year and a day sentence (just enough to sent the individual to prison). This is so, I believe, less of our local money is spent on jail.

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For the years of 2015, 2016, 2017, 46%, 58%, and 50% of sentencing recommendations, respectively, were for 3 months or less; 13%, 13%, and 9%, respectively, were for 12 months and 1 day. The Prosecutor is able to do this by using two strategies. First, he often ignores standard sentence ranges. With plea agreements, he files *Apprendi* Waivers to allow the Court to sentence individuals below the legislature-created standard range. Second, he frequently has defendants plea guilty to crimes they did not commit so that the standard range is different. For instance, we had 8 convictions for Criminal Mischief, Riot, in those 3 years. These were resolutions offered to other, more serious crimes in which this unranked felony allowed for credit for time served to be recommended.

BIAS

What training, supervision, and review policies and practices would you implement to identify and eliminate explicit and implicit biases in the screening, filing, and prosecution of cases by your office, and to promote equity and inclusion in your workplace?

Pacific County has one predominant issue in this area. Close to all felony defendants qualify for public defense. This means we are targeting the low-income portion of our community, either consciously or unconsciously. On the other hand, most individuals fail to file a financial statement with the Court to prove they are in fact deserving of such counsel.

I would like to implement forms that would be available for defendants to fill out in their first appearance or sooner, if in custody. One would be an Application for Release (discussed below under *Bail*) & the other would be a Financial Statement. This Statement would allow for the Court to make a fair determination as to who is actually eligible for public defense. It would also allow for a better account as to what portions of our community are being prosecuted and at what rates.

I believe facts tell best. Because of that, I believe in accurate evidence gathering. This also means internal facts. Along with case software, I would introduce a system in which we may input specific elements about defendants so that we can learn whom we are prosecuting and address any potential unwanted results.

As for training opportunities, there is an ample amount of resources online now-a-days addressing explicit and implicit biases. I would most definitely make these available to my staff. Also, even mandated CLEs and trainings can be done in different regions in order to expose deputy prosecutors to different perspectives and cultures.

BAIL

In Washington, up to 70% of those in our county jails are being held pretrial because they cannot afford bail. Pretrial detention is a leading cause of mass incarceration and racial disparity in Washington's criminal legal system. What specific steps have you taken or will you take, if elected, to reduce or eliminate the imposition of cash bail and reduce the pretrial detention rate in the county jail?

Bail is a hot topic in Pacific County at the moment. Our currently elected Prosecutor uses bail as a bargain for plea deals. He asks for high amounts in order to retain individuals incarcerated so that they feel overly stimulated to plea and resolve their matters. This has been confirmed by several staff members & deputy prosecutors.

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As mentioned above, one of the forms I would suggest implementing would be an Application for Release. This would be provided at the jail to all defendants. This is extremely important because Pacific County does not have an Office of Public Defense. For incarcerated defendants, attorneys are appointed, when they are first seen by the judge and bail is set. Bail generally stays at whatever amount the prosecutor recommended. Then, these individuals are not seen again until the following Friday (Court docket days), if their attorney is available.

With an Application for Release, the Defendant may establish how long they've resided in the County and where they would reside if released. This would allow the Court to determine whether this individual is a flight risk.

In addition, this Application may provide notice to defendants that if they have a family member or friend, with limited to no criminal history, that is clean and sober, and willing to supervise them, they should be in Court at a specific date and time. This supervision is an extra guarantee to the Court that defendants will appear to the Court when ordered and follow any other conditions the Court may set.

This would not only ensure an earlier release from custody, but it would also provide for a safe pre-trial release to most non-violent defendants.

DISABILITIES & MENTAL HEALTH

People with intellectual disabilities have a 4 to 10 times higher risk of becoming victims of crime when compared to those without disabilities. They are also over-represented in the prison population: while they comprise just 2 to 3 percent of the general population, they represent 4 to 10 percent of the prison population, with even greater disparities in juvenile detention facilities and jails. Would you support cross-training and coordination among schools, police departments, victim service providers, and judges and courtroom staff to promote a comprehensive community-based response to situations involving people with intellectual and other developmental disabilities so they can experience equitable justice? If so, how?

According to the Washington State Department of Social and Health Services – “demand for all forms of mental health services far outweighs what is currently available including competency evaluation and restoration services.” What specific steps will you take as prosecutor to keep people with mental illness out of the criminal justice system and to get them into community treatment?

I would most definitely support cross training and coordination among other organizations and agencies to promote a comprehensive community-based response to situations involving people with intellectual & developmental disabilities as well as mental health disorders. I will address these together because I believe so many of the solutions are the same.

First, I believe Prosecutors must focus in long-term solutions. If an individual's actions are based on a disability or disorder, then addressing the same should be the focus. In addition, I do not think that Washington's competency evaluations (& restoration) address the issues of our disabled and mentally ill population, partially because of its heightened burden and partially because of its short-term involvement.

The priority in the criminal system should be to understand the human behind the crime. Once we understand what led the individual to such actions, we may be able to fix the problem. If we only focus on the actions we have at issue, we will only participate in the revolving door our criminal justice system has evolved to be.

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Prosecutors should work directly with our local health departments for help. These departments may offer guidance and connect us to resources. Through these departments we may also have access to many grants that may assist us all. Beyond this department, it takes bringing specific education to our community – schools & law enforcement, especially – as to how to react to specific disabilities and disorders so that we cannot only react to crimes but we can prevent them.

With regards to criminal cases resolution, I am a big advocate for the *Trueblood* diversion. Pacific County does not currently run it to its actual potential. But that would most definitely be different if I am elected. These programs offer a longer term of stability and assistance, with a focus in health and development.

DRUG POLICY

Drug arrests have risen in Washington over the last few years – more than 12,000 in 2016. Do you believe that people with substance use disorders should face criminal penalties? Do you believe people who use drugs and do not have substance use disorders should face criminal penalties? What types of charging practices, diversion programs, and treatment programs do you support?

I believe I have answered most of these questions throughout this document. For practicality here it goes: drug addiction is an illness and should be treated as such. I am a strong advocate of alternative dispute resolutions, such as drug court and diversion programs. I am in the panel for Pacific County and Grays Harbor Drug Courts. The latter is run in compliance with Best Practices, has a great success rate, and is one of the best experiences of my career. The former is the reason why I am running for office – or at least the spark to the reason.

We see addicts returning to court over and over again. We continue to do the same mistakes over and over again. I am ready to be the change this county needs.

If elected, I would completely reshape Drug Court. It would comply with Best Practices and serve the “high risk/high need” population it is supposed to target. We would accept Medically Assisted Treatment, as Best Practices recommend. We would be able to assist with basic human needs, such as housing. We would assist our participants with case management. We would have an officer to perform house searches and do random UAs. These are some of the benefits and requirements that come with complying with national standards and being eligible for federal grants.

For the lower risk individuals, I would create a Diversion program that has much less court interference and much more Health Department interference. A similar diversion program to what I speak of exists in our neighboring county, Grays Harbor.

PROSTITUTION

In 2011, King County and the City of Seattle launched Law Enforcement Assisted Diversion (LEAD), the first known pre-booking diversion program for people arrested for narcotics or prostitution offenses in the United States. In prostitution cases, offering people diversion to services at the first point of police contact, before any formal charges have been filed by a prosecutor, is intended to reduce the harms experienced by individuals who are trafficked or are engaging in the sex trades due to complex economic, mental health, and substance use reasons. What are your thoughts on this approach?

I think King County followed evidence-based research. I hope the program is successful. I hope to do something similar with first time offenders following narcotics arrests (as mentioned above).

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AUTOMATED DECISION MAKING

Increasingly, judges are turning to risk-assessment tools created by private companies to make bail, sentencing, and supervision decisions. The private vendors do not disclose the calculation formulas and processes that produce the tools' recommendations. Significant evidence suggests the recommendations produced by these tools amplify existing racial biases in our criminal justice system. What recommendations would you make about whether and how the county should use such tools, and how the county should monitor and evaluate their reliability and effectiveness?

Pacific County currently does not use any form of risk-assessment. I would be skeptical and would relay such skepticism with regards to any automated decision-making in our criminal justice system. As mentioned above, we need to stop treating individuals as numbers (and more of the same) and look at specific circumstances, when allowed under the law, such as bail determinations.

In reality, I don't think this will be an issue in our county anytime soon as it would be financially unfeasible for us to contract with such companies.

JUVENILE JUSTICE

In 2018, the Washington Legislature passed SB 6550, which expands the ability of prosecutors to divert most juvenile offenders, including those who have committed felony offenses or who have prior history. If you are elected, how will your office use the expanded authority granted by SB 6550 to implement diversion programs that are responsive to the needs of youth and prevent prosecution and incarceration?

I would like to work directly with the Juvenile's Office to help our youth. I would like to use similar alternative dispute resolutions as discussed above, modified to the specific needs with our juvenile population.

Currently, we do not have any alternative dispute resolution for juveniles in our county. I would like to implement not only a diversion program but also a Therapeutic Court (pre-plea).

This is the time we can make the biggest change in our society. It is a waste of opportunity (people, money & time) to not do something about our troubled youth.

REENTRY

The Washington State Institute for Public Policy released a 2017 report detailing the effectiveness of several existing programs in combatting recidivism and aiding reentry. If elected, how will you evaluate and utilize current programs to aid reentering individuals in your community? If elected, how will you and your office consider new and innovative ways to ensure successful reentry?

This will be one of the most difficult tasks in hand. Being a rural, nearly isolated county, we have very limited resources. Reentry programs generally do not serve us. Even agencies that are supposed to serve us, such as Costal Community Action Program (C-CAP), fail to often do so. When even housing is unavailable, it is near impossible to keep someone doing well.

With that said, we are currently working on getting these agencies to the table and seeing how we can better serve our community. For instance, our Drug Court Judge has recently subpoenaed a C-CAP representative to appear at our Drug Court hearing (9/27) and explain to us exactly what their duties are, how they can serve us,

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why they have failed to do so in the past. This is absolutely unheard of. Yet, that's how badly our participants are being disserved.

If elected, I understand I will not only have to be the biggest advocate in Olympia, but will also have to reach out to many different organizations, continue to partner with our local agencies & likely come up with very innovative ways to address this problem.

Even though I can't tell you now exactly what these solutions will be, I can tell you I will be the first one attempting to address this problem.

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HATE CRIMES

According to Uniform Crime Reporting (UCR) data compiled by the FBI, hate crimes have been on the rise in the U.S. since 2014. What instructions would you provide deputy prosecuting attorneys and support staff about the investigation, charging, and prosecution of hate crimes by your office? What actions would you take as a public official to discourage hate crimes in your county?

We have not had a conviction addressed as a hate crime in recent years.

This is where you need to trust your staff to recognize the motive behind the chargeable actions. This trust can only exist if the staff is prepared to recognize and discuss these matters. This is why training and on-going communication within staff are paramount.

This should also be addressed at the community level – especially law enforcement and schools. This is something that we hopefully can address at the prevention level and not reaction.

IMMIGRATION

For immigrants, being convicted of a crime can result in double punishment. They may go to jail, but unlike citizens, they may also face the devastating punishment of deportation - even for a simple misdemeanor. These severe consequences happen even if they have a green card, a U.S. citizen spouse and children, or longstanding community ties. In the case of *Padilla v. Kentucky*, the U.S. Supreme Court made clear that prosecutors have the power to consider immigration consequences when they are making decisions about how to resolve a case, resulting in more just outcomes for everyone. When a conviction can lead to such disproportionate consequences even for a low-level offense, how do you plan to ensure just outcomes for immigrant defendants and their families?

As an immigrant myself (now U.S. citizen), I am very familiar with potential immigration consequences. I am thankful that prosecutors have the discretion in situations involving immigration and that they are allowed to take into account these potential consequences when offering plea deals.

I also think prosecutors can do more in educating law enforcement and our community in how to address immigration issues. In a small county such as this, we have little resources available. Even great organizations, such as the NWIRP, do little for our county (not for lack of desire). Yet, our immigrant population does not often know where to find needed resources. I have in the past connected local employers and HR supervisors with specific attorneys at NWIRP as well as NJP. With more recent ICE raids, even passing a list of rights in English and Spanish has been beneficial.