



The What A Difference a DA Makes (WADADAM) voter education campaign is a network of more than 600 Massachusetts organizations and individuals dedicated to highlighting the life-changing impact district attorneys (DAs) have on our communities and our entire Commonwealth.

Voters have spoken loud and clear: our criminal legal system is not working. Instead of focusing on rehabilitation and helping our neighbors become productive members of our communities, our criminal legal system measures success by how many people are behind bars.

As a network, we are committed to ensuring that all Massachusetts voters have the information they need to decide which DA candidate will best help build a criminal legal system that promotes safety, fairness, and justice.

## **Candidate Name: Mike Maloney**

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# GENERAL

## **1.) Please describe your qualifications and experience that make you the best candidate to reform the role of district attorney.**

I grew up in Plainville, Massachusetts and built my legal and business career in the Commonwealth. I am 2002 graduate of Providence College and a 2006 graduate of New England Law.

I built and continue to run a very successful criminal defense law firm, Maloney Law, and have tried dozens of life-sentence felony cases and hundreds of misdemeanors throughout Massachusetts.

I have a multi-faceted career managing many priorities. I built a chain of medical marijuana evaluation facilities from the ground up and sold the 180+ employee company in December 2017. I also own an alternative wellness company, CBD Thera.

I manage a large staff for my businesses which include many former addicts who have broken the vice-grip of addiction and add substantial value to my companies' successes, a model I believe can be replicated across many spectrums.

I value pragmatic problem solving and will implement an extremely aggressive approach to criminal justice reform and the addiction epidemic. As the one independent in the race, my approach is about practical solutions and less bureaucracy, not beholden to any party platform.

## **2.) What is your current assessment of your local District Attorney's Office? What are the issues that need the most improvement or transformation?**

There are enormous opportunities for improvement in the criminal justice system. Recent legislation is a step forward but falls short of the bold criminal justice reform required to lead the county in ensuring fairness, equity, and safer neighborhoods.

## **3.) Since the 1980s, the population of incarcerated people in Massachusetts has quadrupled. While the incarcerated population is decreasing, the Commonwealth still faces over-incarceration and a high recidivism rate. If elected, what policies or initiatives do you plan to introduce to further decrease the number of people who are incarcerated and reduce recidivism while keeping the public safe?**

Cease prosecuting non-violent drug crimes, which are consistent with addiction. Ensure that defendants who are addicts/mentally ill receive medical care in lieu of incarceration.

## **4.) Recent Massachusetts data shows that people who suffer from substance use disorder are 120 times more likely to die of an overdose upon release from incarceration than others who are not incarcerated. How do you plan to deal with defendants living with substance use disorder?**

I will institute, with the guidance of medical, faith, community, and law enforcement leadership, ‘harm reduction zones’ and will triage all defendants to ensure addicts receive treatment rather than incarceration, which only perpetuates the vicious cycle. I will also use the larger microphone afforded via the DA office to expand and improve rehabilitation options.

**5) With the decline in funding and placements for mental health services, our jails and prisons have become de facto treatment facilities for people living with mental health issues and mental illness. What is your understanding of how district attorneys can improve public safety through mental health treatment? What would you do to increase opportunities for treatment?**

Money is being wasted prosecuting non-violent drug possession, which can be repurposed to achieve better community outcomes. There are many defendants charged with trafficking who are actually merely in guilty of possession, an amount that can be totally allocated to their own personal use.

**6) Public safety has historically relied on outdated language and “tough-on-crime” policies. There is, however, significant research and examples that show restorative justice, diversion, education, and treatment increase public safety. As district attorney, how will you work to change the public’s understanding of how public safety can be achieved?**

I will incorporate harm reduction zones and implement restorative justice approaches wherever possible.

## RACIAL JUSTICE

**1) Despite having the lowest incarceration rate in the nation, Massachusetts has one of the highest racial disparities in incarceration rates. Do you believe the District Attorney’s Office contributes to racial disparities in the criminal legal system?**

Yes  No

**If yes, please identify the ways in which the policies and practices have contributed, and what you would do as DA to reduce or eliminate them.**

The office, although well intentioned, has incorporated a policy that penalizes and stigmatizes individuals who are often the most vulnerable— minorities who are more susceptible to the vice grip of addiction and the resulting consequences. My administration will incorporate an extremely bold criminal justice reform including harm reduction zones and restorative justice techniques.

**If no, why not?**

**2) People of color and language minorities are significantly underrepresented in district attorneys' offices. What do you plan to do to increase the diversity of the staff to better reflect the demographics of the community?**

I will work toward having the District Attorney office be reflective of the demographics of the community it protects.

**3) Will you commit to collecting, analyzing and reporting data on the race of the people your office prosecutes or advocates for including but not limited to: bail request, recommendations for diversion, charging decisions, sentencing recommendations, motions for civil asset forfeiture, and victim witness assistance funds?**

Yes  No

**If no, why not?**

## TRANSPARENCY

**1) The annual reports from the Massachusetts District Attorneys Association (MDAA) to the Legislature have been quite low in substance, suggesting differing data collection across Massachusetts and a lack of attention on data quality. What would you do to improve data collection?**

We will identify and mirror best practices from across the United States and possibly outside the United States to develop policies on data collection, data sharing, and metrics to measure the District Attorney's office performance.

**2) Will you agree to consistently collect and make charge and disposition data publicly available - including demographic data such as race, age, and gender?**

Yes  No

**If no, why not?**

**3) Will you regularly share and make available reports on the collection, retention and use of civil asset forfeiture funds?**

Yes  No

**If no, why not?**

## ACCOUNTABILITY

**1) From signing police overtime slips for court appearances to investigating police-involved shootings, district attorneys have an important role to play with respect to police accountability. What will you do to ensure that the District Attorney's Office holds police accountable for misconduct?**

I support law enforcement but when a police officer is suspected of misconduct, I will bring in special prosecutors from outside the county to conduct a thorough investigation and, if appropriate, initiate criminal charges. I also support law enforcement body cameras to both protect police and hold them accountable.

**2) According to the National Registry of Exonerations, more than 50 percent of known wrongful convictions involve official misconduct, including the withholding of exculpatory evidence from people charged with crimes. What steps will you take to reform current discovery practices so that people charged with crimes actually have all the information they need to defend themselves?**

I am a career defense attorney and, resultantly, have a thorough understanding of this problem. I've fought prosecutors and argued with judges countless times regarding missing CAD sheets, turret tapes, and cell phone pictures/videos referenced in criminal complaints yet mysteriously lost when demanded via discovery. First and foremost, since we won't be prosecuting non-violent drug possession cases, there will be an immediate drop in frivolous prosecutions. If discovery is missing, however, the case will not be prosecuted.

## COMMUNITY ENGAGEMENT

**1) Do you support the creation of a community advisory board that would regularly engage with the District Attorney's Office on prosecution priorities, victim needs, community based alternatives to incarceration and other training and office policies?**

Yes  No

**If no, why not?**

**2) Please list five community based organizations that you have worked with and/or plan to work with to increase diversion, lower recidivism and/or provide education, training, and treatment as an alternative to incarceration.**

I will work with Boys & Girls Clubs, ROCA, and other similar organizations.

I will implement and expand the Angel initiative, as done in Gloucester, MA, and 200 other communities in 28 states. This initiative will enable addicts to turn their drugs/paraphernalia at select locations without being charged.

I will also work with Suffolk County probation departments to ensure testing positive for THC does not yield a defendant in violation of their probation as cannabis is an exit drug and lowers recidivism rates.

**3) Reform movements tend to make lofty assertions about how society or a particular institution must change. Those leading the move for reform, however, often leave out the people most directly impacted. What role do you see formerly incarcerated people playing in your administration and any reforms it will make?**

Actions speak louder than words... I currently employ many individuals who have broken the vice-grip of addiction and significantly contribute to my companies successes. Upon taking office, I will immediately develop an advisory panel, which will include former addicts, to seek additional alternative methods to incarceration.

## IMMIGRATION

**1) Recently, low-level criminal offenses have been used as the basis for deportation proceedings against individuals who, in most instances, have made meaningful contributions to their communities and families. These offenses, which could be dealt with through non-criminal proceedings or diversion, result in disrupted lives and families being torn apart. If elected, what will you do to interrupt the use of the criminal justice system to deport people charged with minor offenses?**

I have been practicing law as a defense attorney for 10 years and always explain potential immigration consequences to my clients. It is the job of the defense attorney to deal with immigration issues of their clients, not of the district attorney's office.

## PRIVACY

**1) Electronic surveillance techniques give law enforcement significant power to obtain extremely sensitive information about people. In a free society, people must know what their government is doing behind closed doors. If elected, will you release annual transparency reports, detailing how many times your office issued surveillance demands on companies or applied for warrants or other court orders to conduct electronic surveillance? Will you disclose the type of investigation (e.g. drugs, assault, larceny, etc.) and the type of legal demand (e.g. subpoena, court order, warrant, wiretap order) your office sought?**

Yes  No

**If no, why not?**

**2) Technology moves much faster than the law – and historically, prosecutors in Massachusetts have pushed back against efforts to update privacy law. Other states have passed privacy laws dealing with license plate readers, drones, stingrays, and demands to companies like Google and Facebook for user information, but Massachusetts has not. If elected, will you support privacy legislation to require warrants for electronic surveillance?**

Yes  No

**If no, why not?**

**3) Law enforcement can obtain huge quantities of information about people in Massachusetts without obtaining a court order, using an administrative subpoena that merely requires the signature of a district attorney. The state of California has passed privacy legislation to require a warrant for law enforcement access to sensitive metadata like call records, IP addresses, and credit card and banking information. If elected, will you support similar legislation in Massachusetts?**

Yes  No

**If no, why not?**

**4) In the last several legislative sessions, DAs have pushed for a broad expansion of Massachusetts' wiretap statute. The justification for some of this expansion has been to solve gang-related homicides; currently, gang activity is not considered organized crime for purposes of the statute. Would you support an expansion limited to homicide only?**

Yes  No

**If no, why not?**

**BAIL**

**1) In light of the recent Commonwealth v. Brangan decision, the practice of requesting bail out of concern for public safety - but not pursuant to a 58A dangerousness hearing under - should no longer happen. Will you commit to ensuring that assistant district attorneys will not misuse the dangerousness hearing?**

I've seen 58a's used countless times as a mechanism to hold someone while the prosecution builds their case. 58a's will only be used when an individual is a danger and there are no less restrictive means to ensure the safety and well-being of the public.

**2) We know that, too often, innocent people plead guilty to crimes they did not commit. One reason for this: they cannot afford bail amounts and would rather plead guilty than suffer pre-trial detention to fight the charges against them. What are the top three policies you would implement to change bail practices so that they do not force people to plead guilty to crimes they did not commit?**

Not implementing bail on non-violent possession cases. Incorporate restorative justice options to defendants with no history of violence. Ensure 58a's are not employed as a mechanism to bypass Brangan and are only used when absolutely necessary and are the less restrictive means available.

## PAROLE

**1) The Massachusetts Parole Board has a reputation of granting relatively low rate of parole. The DA plays an important role in parole hearings, including in new juvenile life without parole cases now constitutionally required to go in front of the board. If elected, would you consider an individual review of cases coming in front of parole such that your office would only ask the parole board to deny parole in cases where remorse is clearly not shown?**

I would review and decide on a case by case basis

## JUVENILE JUSTICE

**1) DAs have a major gatekeeper role in who enters and who is excluded from the justice system. Most DAs have diversion programs for young people, but there is no information available to show if these diversionary programs are offered fairly and do not contribute to racial and ethnic disparities. Will you commit to publicly releasing non-identifying prosecution and diversion data to address this gap in transparency?**

Yes  No

**If no, why not?**

**2) Young adults, including those in their late teens, have the worst outcomes of any age group in the criminal justice system. What reforms do you support that would improve how young people are better situated to mature into more positive adults?**

I will address on a case by case scenario.

"It is easier to build strong children than to repair broken men" – Frederick Douglas.

## MANDATORY MINIMUMS

**1) An overwhelming number of cases are resolved by guilty plea, driving the rates of incarceration and racial disparities in sentencing. Too often, guilty pleas are leveraged through the threat of facing lengthy mandatory minimum sentences. If elected, will you reform this practice?**

Yes  No

**If yes, how so?**

Minimum mandatories are out for drug crimes.

**If no, why not?**

## CRIMINAL LAW REFORM

**1) As a member of the MDAA, will you advocate for the support of policies that will reduce mass incarceration and racial disparity in the criminal legal system?**

Yes  No

**If no, why not?**

**2) Although some mandatory minimum offenses were repealed, new ones were created and others stayed on the books. Do you support the repeal of all mandatory minimum sentences for any drug offense?**

Yes  No

**If no, why not?**

**3) The Commonwealth v. Brangan decision and the recent bill changing the bail statute will hopefully reduce the number of people being detained pre-trial merely because they are too poor to afford bail. Despite these recent reforms, there are still significant numbers of people held on cash bail. Do you support ending cash bail?**

I fully support the Brangan decision but having bail as an option remains a necessary prosecutorial tool to ensure defendants' presence at court proceedings. That said, an individual's ability to pay will be a significant factor that my office will consider before making any bail request.