



Middlesex County District Attorney Voter Guide

Candidates on Issues related to
Sexual Violence

Dedicated to healing. Advocating for Change.
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Introduction

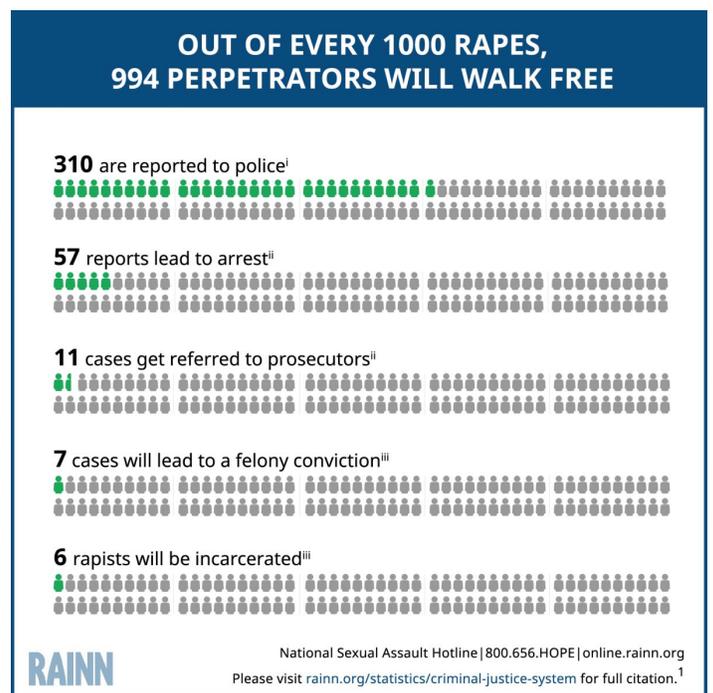
BARCC provides free, confidential support and services to survivors of sexual violence ages 12 and up, their loved ones, and professionals. We work with survivors of all genders from the immediate crisis to years and decades later. In our mission to end sexual violence, one of our goals is to empower survivors to heal and seek justice in ways that are meaningful to them. Many of the survivors we work with interact with the criminal legal system, and we recognize that the work provided by the District Attorney's Office can be critical. As part of our legislative and policy advocacy work, we want you to know where candidates running for election stand on one of the issues we know is important to you: supporting survivors.

We asked current district attorney candidates in Suffolk County to complete a questionnaire specific to this issue so that it may inform your voting decisions in the fall 2018 primary and general elections. As a 501(c)(3) nonprofit organization, BARCC is nonpartisan and is not endorsing any candidates. Read on for some background as well as the candidates' answers to our questions.

Sexual violence, the criminal justice system, and support

The Massachusetts criminal justice system—in particular the prosecution of sexual assaults—includes a wide range of activities, from the investigation of an assault by law enforcement and the district attorney's office to determining whether there is sufficient evidence to charge or prosecute an offender. BARCC works with survivors at any point in their healing process, and often that includes supporting survivors as they are exploring whether or not they want to report to the police.

Engaging with the criminal legal system can be long and overwhelming for many survivors. And national statistics show that out of every 1,000 rapes 994 perpetrators will walk free. At BARCC, we work with many survivors who



ultimately choose not to report to the police and also work with many survivors who do choose to make a report and have their case investigated and reviewed by the District Attorney's Office for possible prosecution.

Our [Legal Advocacy program](#) helps survivors understand their legal rights and options in the aftermath of sexual assault, sexual harassment, and other forms of sexual violence. We assist survivors as they navigate the civil and criminal justice systems, including campus processes. Our lawyers and advocates also assist with ongoing harassment or stalking. They advocate for survivors' privacy and safety in every aspect of their life. If survivors need legal representation, we connect them with an appropriate legal resource.

Our advocates can offer information, support, and advocacy related the following:

- Protecting your privacy
- Options for safety
- Reporting to the police
- The criminal justice system
- Pursuing a case in civil court
- Your school's policies
- Your employer's policies
- Your rights as an immigrant

What a Difference a DA Makes, a project from ACLU Massachusetts



Why are we focusing on district attorney candidates in this upcoming election? The ACLU Massachusetts says it well: "District attorneys are the most powerful people in the criminal justice system. They decide who gets charged with a crime – and determine how most criminal cases are resolved. This means these elected officials have tremendous impact on people's lives and our communities. It's time to use our voices – and our vote – to make our criminal legal system fairer for everyone." What a Difference a DA Makes is the ACLU's public education campaign to shine a light on the role of the district attorney and empower people to make informed decisions in these vital elections. Learn more about the project at dadifference.org.

Important Massachusetts election dates

State Primary: Tuesday, September 4, 2018

General Election Voter Registration Deadline: Wednesday, October 17, 2018

General Election: Tuesday, November 6, 2018

For more information and where to vote, please visit

wheredoivotema.com<https://championforda.com/>.

Meet the Middlesex County DA candidates

The following introductions to each candidate were drawn from their websites.



[Donna Patalano](#)

Patalano has served as a prosecutor in the Suffolk County District Attorney's Office, as a defense attorney in the state and federal justice system, and in the Suffolk County DA's Office as chief of professional integrity and ethics. More at donna4da.com.



[Marian Ryan](#)

Ryan currently serves as Middlesex County district attorney. She created a juvenile and young adult diversion program, a drug diversion option, and a restorative justice initiative and helped build a Conviction Integrity Unit. More at marianryan.org.

BARCC's DA questionnaire and candidate responses

Sexual assault

Non-stranger sexual assault prosecution rates are extremely low. Prosecutors often explain their inability to prosecute as a lack of evidence, characterizing them as a "he said/she said." In other jurisdictions across the country, prosecutors and law enforcement have undertaken training and protocols that have resulted in them being able to obtain sufficient evidence and successfully prosecute.

Will you make it a priority to ensure that police and prosecutors receive ongoing training on how to interview trauma survivors in a way that does not re-traumatize them? And will you also ensure that they are trained to understand that trauma survivors sometimes act in ways that do not make logical sense (such as interpreting a lack of emotion or depressed affect, which is common among sexual assault survivors, as evidence of “lying.”)

Donna Patalano:

Yes. As head of training at the Suffolk County District Attorney’s Office, I saw over and over how crucial frequent and in-depth training is. I will make it a priority to train prosecutors and police to conduct trauma-informed interviews and to lead survivors of sexual assault through the criminal justice process while taking care to keep the trial process from re-traumatizing survivors. One parallel training program that I created at the Suffolk County DA’s Office was a joint program for homicide detectives and prosecutors to develop interview techniques that mitigate implicit bias and result in fair treatment of suspects.

Victim-Witness Advocates in District Attorney’s Offices across Massachusetts do incredible work guiding victims and witnesses of crimes through the criminal justice process and providing them with support. As Middlesex District Attorney, I will support Victim-Witness Advocates and ensure that prosecutors are working together with Advocates to support survivors of sexual assault. Training prosecutors in trauma-informed interviewing and in the signs of trauma-induced behavior is imperative to make sure that not only are survivors given the best support possible throughout the trial process but also to make sure that prosecutors understand survivors’ experiences and behavior in a way that allows them to best make a case against their abuser.

Another critical component of supporting survivors is making sure they are able to access the resources available to keep them safe. The Witness Protection Program over the past four years has been funded at more than \$650,000 - these funds are available to all of the DA’s to do things like change locks or pay for a moving van for survivors and witnesses.

Too often, the current administration at the Middlesex DA’s Office has failed to prioritize the needs of victims. In the last four fiscal years, despite having more than \$650,000 available in funding from the Commonwealth’s Witness Protection Program, the current administration has made only two claims amounting to a shockingly low amount of \$1,900 each - less than one-half of one percent of the total funds available. This failure to procure resources on behalf of the most vulnerable members of our community, particularly for

those victims of domestic violence, must change.

As the Head of Training and Chief of Professional Integrity & Ethics in Suffolk, I noticed our claims dipped one year to just over \$20,000. We implemented a training program to be sure prosecutors understood the fund and how to access it, and the next year, our claims went up to nearly \$90,000. That is the difference a leader who prioritizes supporting survivors can make.

Marian Ryan:

Candidate declined to answer.

Do you believe that investigations and prosecutions of sexual assault cases could be improved? If so, how?

Donna Patalano:

Yes. Investigations and prosecutions of sexual assault cases can certainly be improved, particularly relating to the ways in which survivors experience these arduous processes. Investigators and prosecutors need to be better trained regarding trauma. District Attorney's Offices need to develop close ties to advocacy groups and counseling services to better support survivors after traumatic experiences.

In addition, there needs to be more support for those administering sexual assault evidence collection. DNA and forensic evidence is very important for prosecutions, but difficult for witnesses to provide. As District Attorney, I will advocate for increased public education around evidence collection and increased funding for Sexual Assault Nurse Examiners (SANEs).

Marian Ryan:

Candidate declined to answer.

Will you train and utilize expert witnesses to educate jurors about survivors' responses to non-stranger sexual assault, which are often misinterpreted, and will you conduct focused voir dires of potential jurors to screen out those who believe false myths about sexual assault?

Donna Patalano:

Yes. I will work with experts in the field and invite them to train prosecutors in conducting trauma-informed interviews and in how to best present a case of non-stranger sexual

assault to a jury and how to represent a survivor's experiences. My prosecutors will also be trained to conduct voir dieres with pointed questions about sexual assault and will screen those who are insistent in their beliefs of false myths of who blame survivors for assault.

Part of the education needs to be for grand jurors as well. In 2017, the Supreme Judicial Court appointed me to a committee to create best practices for grand jury presentations. As part of that working group, we identified the need to provide grand jurors with either recorded legal instructions related to sexual assault cases, or expert witnesses who could provide the appropriate context for jurors about sexual assault (particularly around delayed disclosure issues). Having the practices within the Commonwealth's grand juries is yet another step we have to take to make sure that cases are prosecuted as ethically as possible and that attained convictions have integrity the community can trust.

Marian Ryan:

Candidate declined to answer.

When closing a case without prosecution, will you commit for the ADA to inform to the survivor why it is not going forward?

Donna Patalano:

Yes. I advocate for transparency and accountability in every one of my policy initiatives. Meaningful criminal justice reform is only possible if the District Attorney's Office promotes transparency and integrity. This is critically important in cases involving survivors of sexual assault. Victims deserve to be as much a part of the trial process as they feel comfortable with, and my prosecutors will take care to keep survivors informed each step of the way and will take as much time as necessary to speak with survivors about why certain cases may not be moving forward in court.

Marian Ryan:

Candidate declined to answer.

What impact, if any, have you observed on the criminal justice system from the #MeToo movement?

Donna Patalano:

The greatest impact that I have seen from the #MeToo movement is the way that the

movement has empowered survivors to come forward and has validated survivors' experiences. We have seen a difference in the way the criminal justice system reacts to reports of sexual assault in certain cases. For example, prior to the #MeToo movement Bill Cosby's trial resulted in a hung jury, but with the forces of the movement his second trial resulted in a conviction. This is just one example of the strength that the movement has had, validating survivors' stories to the general public and to those involved in the criminal justice system as well.

However, there is still work to be done. Just because more survivors are coming forward with their stories does not mean that there are more successful prosecutions or that prosecutor's offices are better equipped to handle these cases in a trauma-informed way. We need additional training for law enforcement, more support for victims, and legislation to better support SANE nurses and others involved in the criminal justice system.

Marian Ryan:

Candidate declined to answer.

What are your thoughts on procedural justice? Would you incorporate a commitment to procedural justice into your response to survivors? How would you act on that commitment?

Donna Patalano:

I believe that procedural justice is a key part of promoting justice with integrity. Procedural justice focuses on how police and law enforcement interact with the public and how these interactions shapes trust in police, willingness to report crimes, and actual crime rates. Promoting a good relationship between law enforcement and the public is extremely important. As Middlesex District Attorney, I will establish a Public Integrity Bureau to build standards and procedures for investigating use of force incidents with independence, transparency, and professional competence. I aim for training and commitment to accountability to increase trust and communication between law enforcement and the public.

A better relationship between law enforcement and the public will make it easier for survivors to come forward and interact with prosecutors and the police as they report assault. As Middlesex District Attorney, I will make sure that law enforcement is better trained to respond to and develop trust with survivors in order to better support them throughout the trial process.

I will also maintain and expand existing programming to educate young people about healthy relationships, assist sexual assault and domestic violence service organizations in reaching more people, and work to ensure that victims receive the services they need to rebuild their lives.

Marian Ryan:

Candidate declined to answer.

Immigration

Sexual assault survivors who do not have legal immigration status are frequently threatened and coerced by offenders because of the vulnerability of their legal status. They are often afraid to report sexual assault.

How will you develop pathways to enhance access to law enforcement and prosecution for survivors without legal status?

Donna Patalano:

As Middlesex District Attorney, I will create an Immigration Counsel in the office to protect the rights of immigrants. Recently immigration authorities have stepped up their arrests at Massachusetts' courthouses, resulting in a chilling effect: preventing victims from seeking help from police and courts, and deterring witnesses from appearing and testifying in criminal cases. Federal Immigration and Customs Enforcement (ICE) arrests people on the steps of, or even inside, the courthouse halls.

In Massachusetts, 1 in 6 residents is foreign-born (1.1 million people), or 16% percent of the population. Additionally, 1 in 7 residents are U.S.-born but have at least one foreign-born parent. The Immigration Counsel will be dedicated building stronger relationships with immigrant communities, including direct collaboration and community engagement and will provide assistance to victims who meet the requirements for two types of special federal immigration relief, each of which allows non-citizens who are victims of a crime to remain in the country legally for a period of time.

Marian Ryan:

Candidate declined to answer.

Will you commit to provide certifications for survivors who need it to attain U and T visas in all cases where survivors report to police and meet the standards for

helpfulness to law enforcement?

Donna Patalano:

Yes, this is a priority. Middlesex County residents who are immigrants are afraid to come forward if they have been the victims or have witnessed a crime. This makes all of us less safe.

As Middlesex District Attorney, I will instruct the Immigration Counsel to train our assistant district attorneys in how to complete T Nonimmigrant Status and U Nonimmigrant Status applications, which are commonly referred to as a T Visa and U Visa. The T Visa provides immigration protection to a victim of human trafficking, and the U Visa provides immigration protection to a victim who has suffered mental or physical abuse due to a crime. With both visas, survivors are able to stay in the United States to assist with investigations.

The Immigration Counsel will develop partnerships with communities and organizations across Middlesex County to build trust, solicit feedback, and to raise awareness about these visas, so that survivors of sexual assault and other victims know how to access the protections available to them.

Marian Ryan:

Candidate declined to answer.

Cyber issues and privacy

Massachusetts is currently one of ten states that does not have legislation that addresses nonconsensual posting of sexually explicit images (more commonly referred to as “revenge porn.”) Do you see this as a problem and, if so, what will you do about it?

Donna Patalano:

Yes, this is certainly a problem. Until there is proper legislation addressing this issue, the District Attorney’s Office cannot prosecute cases of nonconsensual posting of sexually explicit images. I will use my position as District Attorney to advocate for legislation that would create a new felony and allow judges to issue injunctions and restraining orders based on this behavior.

Marian Ryan:

Candidate declined to answer.

Prison Rape Elimination Act (PREA)

PREA requires all prisons and jails to have a zero-tolerance policy for sexual violence.

How do you intend to address reports of sexual assault in correctional facilities, including reports against staff?

Donna Patalano:

I intend to take all reports of sexual assault in correctional facilities, even reports against staff, very seriously. There will be clear published policy and expectations regarding reporting and investigations of allegations of harassment and assault in correctional facilities. I will collect and release data on reports and investigations of assault within correctional facilities so that the public can hold law enforcement accountable.

Marian Ryan:

Candidate declined to answer.

Sexual assault evidence collection kits

What policies will you put in place to ensure that survivors are kept informed of the status of any evidence, including toxicology reports, collected from them after an assault?

Donna Patalano:

I will put in place a protocol for communication for prosecutors, Victim-Witness Advocates and survivors with Sexual Assault Nurse Examiners and Forensic Examiners so that survivors and law enforcement are kept entirely in the loop of any evidence collected and are involved throughout the whole pretrial process. Forensic evidence and DNA is extremely important in increasing the likelihood of prosecution. I will advocate for increased funding and support for Sexual Assault Nurse Examiners to increase access to sexual assault evidence collection and make the experience as accessible and supportive as possible for survivors. As I prosecutor, I worked with the New England Innocence Project and the CPCS Innocence Program, among others, to get federal grant money to pay for forensic testing. I anticipate pursuing similar funding opportunities as the District Attorney and will hire a grant writer to get the funding secured.

Marian Ryan:

Candidate declined to answer.

How will you ensure that ADAs communicate expeditiously with law enforcement to alert them that a case has stalled because of lack of information from other service providers?

Donna Patalano:

In order for effective processes to be implemented I will develop a strong relationship with individual city and town police departments. I will create protocols for prosecutors to use in communicating with local law enforcement and will set high expectations of everyone involved in the investigations and trial procedure to keep clear lines of communication open. I will insist on transparency and collaboration from all members of law enforcement. Part of the protocol will include discovery checklists so that with a brief glance at any case file, any member of the prosecution team will understand the current state of discovery requests and disclosures and what particular communications might need attention to move the case along.

Marian Ryan:

Candidate declined to answer.

People with disabilities

People with disabilities are victimized at higher rates than people without a disability. In particular, the rate of sexual violence against people with a disability is significantly higher, with a lower rate of prosecution.

Will you establish trauma-informed and accessible best practice policies to work with survivors of sexual violence who have a disability?

Donna Patalano:

Yes. In addition to providing training on trauma-informed interviewing practices and prosecutions I will emphasize specific training on how to best support survivors who have a disability. Training will include how survivors with disabilities may react differently to the trauma of assault and how to connect survivors with disabilities with proper counseling services. I will also partner with disability advocates to improve the

relationship between law enforcement and advocacy groups to make reporting to law enforcement a more accessible option for survivors with a disability who may have a more difficult time coming forward.

Marian Ryan:

Candidate declined to answer.

How do you plan to increase the rate of prosecution of cases where a survivor is a person with a disability?

Donna Patalano:

Training prosecutors on how survivors with a disability may react differently to a traumatic event or the barriers they have to coming forward is an important first step to increasing the rate of prosecution of sexual assault of a person with a disability. Those with intellectual disabilities may have a particularly difficult time describing their experiences or taking the stand before a jury. My office will work with experts in working with survivors with disabilities, like the MASS Collaborative (of which BARCC is a critical part) to train prosecutors and Victim Witness Advocates, and utilize expert witnesses to communicate these challenges in front of a judge and jury. We must be sure to provide ADAs and VWAs with every tool necessary.

Law enforcement has the important job of helping survivors express their stories and experiences before a court of law, and proper training and utilization of advocates and experts can come a long way in making the District Attorney's Office a more capable entity to help survivors with a disability.

Marian Ryan:

Candidate declined to answer.