

2020 Endorsement Questionnaire - Judges and Prosecutors

Candidate Information

- Candidate's Name: Eli Savit



- You are a candidate for what office in what district?
Washtenaw County Prosecutor; map attached as Appendix
- Website Link: <http://eli2020.com>

Political Ideology

- Please introduce yourself by providing a short biography.

I was born and raised in Washtenaw County and graduated from Ann Arbor Pioneer High School and Kalamazoo College. Following college graduation, I worked as an 8th-grade US history teacher in a New York City public school, teaching general-education and special-education classes. I then returned home to Michigan, and graduated from the University of Michigan Law School.

I began my legal career in private practice in Washington DC, where I represented criminal defendants; victims of domestic violence; asylum applicants; victims of consumer fraud; and special-needs students. I then worked as a law clerk for Justice Ruth Bader Ginsburg on the U.S. Supreme Court.

Following my clerkship with Justice Ginsburg, I returned home to Michigan, accepting an appointment as senior legal counsel at the City of Detroit. In that capacity, I lead our

criminal-justice reform work. I worked to craft legislation that will enable hundreds of thousands of Michiganders to expunge old criminal records. I also lead the City's public-interest litigation program, overseeing thousands of cases. Among those are suits against the opioid industry, banks, and slumlords. I also coordinate our participation in legal challenges against the Trump Administration.

In addition to my work at the City of Detroit, I am a lecturer at the University of Michigan Law School, and serve as special counsel to the governments of New Jersey, Maryland, and Puerto Rico in lawsuits against corporate polluters that are polluting state waters. I also regularly work, pro bono, for civil-rights groups in Michigan such as the ACLU.

- Why are you running for office?

I'm running because our criminal-justice system desperately needs reform. We are living in the shameful era of mass incarceration. The United States currently incarcerates more people, per capita, than any country in the world. And mass incarceration has been fueled largely by the decisions of local prosecutors and district attorneys—from charging decisions, to sentencing recommendations, to bail determinations, to plea-bargaining conduct.

The cascading consequences of mass incarceration radiate outwards. Those who are caught up in the system often lose their jobs and housing, at great detriment to families. Perhaps worst of all, our criminal-justice system is marked by tremendous racial and socioeconomic inequities.

I saw this system playing out in my home county—and I decided to run to change it. I got into this race to challenge our 28-year incumbent prosecutor, who has presided over a system marked by overcriminalization and racial and socioeconomic inequity. I have laid out a 16-point plan for reform. Among other things, I propose eliminating the criminalization of poverty, seeking out and eliminate racial inequity; and ending our two-track system of justice in which wealthy people and corporations are able to evade consequences.

- Many progressives feel that the United States of America has a serious problem with wealth inequality and social/racial injustice. It is our ideology that a political revolution is needed in this country, one that changes our current law system from only benefiting the millionaires and billionaires and makes America an equal and just society for all. Other than the Progressive Caucus, organizations such as Justice Democrats and Democratic Socialists of America share this ideology. Do you?

Yes No Please explain

I fully share this ideology. We have a system that is slanted towards the rich and powerful, who are able to effectively purchase elections and maintain their grip on power.

That inequity is reflected, and perpetuated, in the criminal-justice system. Our system of cash bail, for example, allows wealthy people to purchase their freedom pre-trial—whereas poorer people who pose no threat to the community are held. What is more, prosecutors often decline to bring charges against wealthy, well-connected individuals, or against corporations that engage in economic and other crimes. Wage theft, for example, is rarely prosecuted in Washtenaw County, despite charges being referred to the prosecutor's office on many occasions. At the same time, the prosecutor's office has been willing to charge time-card fraud (in other words, charging *employees* for time-theft, but never *employers* for wage theft). That is a clear inequity, and one I am committed to eliminating.

- When necessary, are you willing to publicly oppose your own party to stand up for progressive issues?

Yes No Please explain

I consider myself a committed Democrat, but Democrats don't always get it right. In the past, I have publicly broken with the party establishment regarding, for example, the rules that are operative at party conventions, as well as on specific issues like military intervention abroad and failure to adequately address the urgent threat of climate change.

- How would you define the difference between equity and equality?

"Equality" can mean that everyone gets the same resources, regardless of their socioeconomic status, the legacy of historic discrimination, or their lived experience. Equality, unfortunately, can be used to mask—and exacerbate—historic inequities, and to reify past discrimination and injustice. For example: an "equality" based school funding system would provide all schools with equal resources, regardless of the population that they serve.

Equity, on the other hand, gives everyone the tools that they need to be successful. Unlike "equality," equity takes account of the full universe of circumstances that can hold somebody back. An equity-based system meets people where they are, and provides them the resources they need to succeed.

To continue the previous example, an "equity" based school finance system would recognize that many children are suffering from poverty, trauma, food insecurity, homelessness, the legacy of past discrimination, and so forth—all barriers to obtaining an adequate education, and all expensive barriers to overcome. An equity-based funding

system would take stock of these challenges, and provide funding to schools based on the population they serve.

Policy Questions on the Issues

Poverty and Attorney access

- Poor defendants often lack the means to hire adequate defense. How can we assure that everyone gets effective representation in court?

As an initial matter, we need better funding for public defenders' offices. Far too frequently, public defenders are overworked and underpaid, and lack the resources to truly engage with a client's case before representing that client in court.

In addition, we need to ensure that defense counsel's representation begins at the earliest stages of the case (pre-arraignment). When a criminal defendant lacks representation at the early stages of a case, it gives the prosecutor's office an unfair advantage—and often leads to coercive, unfair plea agreements.

- Bail is often too expensive for poor defendants to pay: What bail policies do you support?

I support the total elimination of cash bail. People should be held pending trial only if (1) they pose a threat to the community; or (2) there is no other way to ensure that they will appear for trial. But whether someone is held pending trial should never be dependent on how much money they have.

As prosecutor, I will work to eliminate—entirely—the use of cash bail in Washtenaw County. Instead of cash bail, my office will rely on the following tools: (1) release on personal recognizance; and (2) unsecured bonds (i.e., a person need not put up money to gain release, but may be fined in the event they fail to appear for trial).

We will seek to hold people pre-trial *only* if they pose a demonstrable threat to the community, or if they are a demonstrable flight risk. But the same standards will apply to everyone—wealthy, middle-class, and poor. One's freedom should never depend on the size of their bank account.

- The financial burdens of the justice system (bail, court costs, fines, etc.) fall heaviest on those without jobs or savings. Bankruptcies and foreclosures can become part of a cycle of poverty. How would you address ways the justice system reinforces poverty?

There are at least three major ways in which the prosecutor's office can work to end the criminalization of poverty.

First: we will decline to bring criminal charges for offenses (like driving with a suspended license due to inability to pay fines) that directly criminalize poverty. Instead, we will opt for pre-charge diversion, civil infractions, or other, less restrictive tools.

Second: as outlined above, we will not seek cash bail. Often, people have to borrow money to make bail, trapping them in a cycle of poverty. Elimination of cash bail is crucial to ending the criminalization of poverty.

Third: we need probation and parole reform. People who are on probation and parole are often asked to comply with unrealistic demands around payment of court costs, drug testing, and so forth—which can prevent them from getting and keeping a job, or making rent. We need to ensure that we are not setting up trip-wires for people who are on probation and parole. We also need to stop re-incarcerating people for technical probation/parole violations (e.g., failure to check in with a probation officer; or missing a court-ordered payment). Re-incarceration for technical violations prevents people from maintaining jobs—it's both inequitable and deeply counterproductive.

Mass Incarceration

- Recent studies say the US has the highest rate of incarceration in the world. What policies might change this while finding adequate punishments for actual criminal activity?

Incarceration should be a last resort—never a first option. As prosecutor, I plan to make deflection and diversion the rule, not the exception, and get people struggling with addiction; mental-health issues; and trauma the help that they need. In particular, I do not favor treating addiction as a criminal-justice issue. It is a health issue, and should be treated as such.

When criminal charges are appropriate, we will seek to imprison people only if those people pose a danger to society. I do believe that those who have demonstrated that they pose a threat to others (e.g., murderers, rapists) need to be separated from society. But we shouldn't be using prison as the de facto punishment for things like property crimes. In many cases, restorative-justice approaches—in which the offender takes responsibility for the offense, and works to make amends to the victim—are far preferable (and have been shown to reduce recidivism).

We also need to ensure that the sentences we do seek are no longer than necessary to ensure public-safety and rehabilitation. The truth of the matter is that people tend to age out of crime—meaning that many of the sentences we impose are far longer than they need to be. As prosecutor, the sentences my office seeks will be informed by evidence regarding brain-development, and aging out of crime. When separation from society is needed, we will seek to hold people for no longer than is necessary.

Plea Bargaining

- Plea bargaining today is rampant and often leads to innocent people accepting guilty pleas in order to get out of jail. When is plea bargaining appropriate? What would it take to end reliance on this way of resolving cases?

Plea bargaining has a place in our justice system—it can conserve resources and let defendants avoid a lengthy trial and get on with their lives.

That said, I categorically oppose *coercive* plea bargaining, and I have made elimination of coercive plea bargaining a centerpiece of my platform. It starts with the elimination of cash bail. As the question notes, people often feel like they need to plead guilty simply so they can get out of jail. If we stop holding people pre-trial, that particular point of coercion won't be present, leading to fairer plea-bargaining negotiations.

In addition, in an attempt to gain leverage, prosecutors often threaten to “stack” charges—or threaten additional charges or aggravators that they can't actually prove up at trial—if defendants don't agree to their terms. I will end that practice. We will not threaten to “stack” charges, or to bring charges that we can't prove at trial, as a means of gaining leverage over defendants.

Finally, defendants are often asked to forfeit their rights to an appeal as part of a plea bargain. I generally oppose such conditions. If a defendant has an argument that (for example) her arrest was unconstitutional, or the initial police stop was tinged with racial bias, that defendant should be able to present those arguments on appeal. That is key both to ensuring fairness, and to rooting out unlawful behavior by police and prosecutors.

Institutional Racism/Hate Crimes

- People of color have a far higher chance of being arrested and incarcerated. To what extent is this a result of discrimination and poverty? Cite at least two policies that could effectively address this problem.

Racial disparities in our justice system are a result of both discrimination and poverty. Both implicit and explicit racial bias play a role. For one, communities of color are overpoliced. In addition, racial disparities in the justice system reflect socioeconomic inequity more broadly. In Washtenaw, for example, black people are *8.5 times* more likely than white people to be held in jail because they can't afford to make bail. That figure tracks the economic racial disparities in our county, in which white residents tend to be wealthier than black residents.

Two aspects of my racial-equity plan bear emphasis:

First, we will decline to prosecute cases that are tinged by racial bias. If a charge is referred to our office that stems from racial profiling, or overpolicing of black communities, we will decline to prosecute.

Second, we will undertake a systemic study to identify where racial disparities are most pronounced. Currently, the prosecutor's office does nothing to track disparate racial treatment in the justice system. That is unacceptable. One of my first acts as prosecutor will be to partner with an impartial outside organization to identify where racial disparities in the justice system are most pronounced.

Once we identify the types of charges that drive racial disparities, we will eliminate them. After conducting a similar study, for example, the Milwaukee prosecutor decided to stop charging drug paraphernalia crimes, because the study concluded black people were being treated more harshly than white people for such crimes.

- Is restorative justice a fruitful way to reduce crime and violence more generally? How would you promote such approaches to social conflict?

I am a proponent of restorative justice, including as an alternative to incarceration. The phrase "restorative justice" has a specific meaning: It involves a survivor, and the person who committed harm, working together with a trained mediator to reach an individualized solution for how the survivor can be made whole. As part of that process, the person who committed harm takes responsibility for his or her actions.

I support giving those who have experienced harm the option to pursue restorative justice. And crucially, I want to use restorative justice as *an alternative* to the traditional, adversarial criminal-justice system (and the carceral consequences that arise from that system). In my view, listening to survivors means respecting their autonomy, and giving them a choice as to how they want to proceed.

As prosecutor, I will work with restorative-justice practitioners to create a program similar to the program Common Justice runs in Brooklyn and the Bronx, which I consider to be national best practice. (For more on Common Justice, see https://www.commonjustice.org/common_justice_model). To be clear, like Common Justice, I support using restorative justice to mend the harms done by a whole host of offenses. Of course, restorative justice should only be used if a survivor wishes to use it: it is, at its core, a survivor-centered approach. But if a survivor wishes to use restorative justice I think that survivor's views should be respected.

- Hate crimes are on the rise. Do we need new laws or policies to respond to this trend?

Yes. For one, the Michigan Court of Appeals recently ruled that Michigan's hate crimes law does not cover crimes against transgender people—which is a population that is

particularly likely to be the subject of hate crimes. The court's logic, though limited to transgender people, also suggests that the law does not cover crimes committed on the basis of sexual orientation.

The court's opinion was legally wrong (and I am hopeful it will be corrected by the Michigan Supreme Court). Nevertheless, Michigan's hate-crimes law should be amended to *expressly* cover hate crimes that are based on the victim's sexual orientation or gender identity.

In addition, prosecutors generally need to treat hate crimes more seriously. Here in Washtenaw, for example, the prosecutor's office declined to press ethnic intimidation charges after a black doll was hung by a noose in a black Eastern Michigan University student's shower. The prosecutor concluded that the student—though targeted because of his race—was not placed in reasonable fear of harm. The failure to engage with our country's history of lynching (and the fear associated with lynching imagery) was, in my view, unacceptable.

Drugs Related Crimes and Rehabilitation Services

- Drug laws, enforcement, and sentencing are presently in flux. What directions do you favor regarding drug crime policies?

Addiction needs to be treated like a health issue, not a criminal matter. In general, I do not support charging or imprisoning people who are suffering from addiction. As prosecutor, I will treat addiction like the health issue it is, and I will advocate for state and national policies to move in the same direction.

- Some courts have instituted programs that address problems associated with crime, e.g., drug abuse, alcoholism, gambling, PTSD. Do you support developing such programs? How should they be funded?

Yes, I strongly support the development of such programs. Programs like these address the root causes of crime—and have been proven to promote rehabilitation, reduce recidivism, and avoid long-term costs associated with incarceration.

In general, I think such programs should be state-funded, through legislative appropriations. They are, fundamentally, state investments that—if successful—will pay long-term dividends by reducing the expenses associated with cyclical incarceration.

I am not opposed, however, to pursuing outside grant opportunities (federal or philanthropic) to get such programs off the ground.

Domestic/Sex Violence

- Domestic violence is a major form of violence against women in our society. To what extent does sexism in the criminal justice system limit its response to this violence?

Sexism plays a major role in limiting our response to domestic violence. Too frequently, women are not taken seriously when they report domestic violence—while their abusers' excuses and denials are credited. That is a direct result of sexism.

What is more, the effects of this sexism are often highly correlated with race and socioeconomic status. Women of color, and women who lack access to monetary resources, are most likely to have prosecutors decline to pursue their cases when they report domestic violence. Correspondingly, wealthy and well-connected men often are not prosecuted when they are accused of abuse.

As prosecutor, I will eliminate this inequity. I am committed to ending the two-track system of justice in Washtenaw County, which means taking seriously complaints about domestic violence from *everybody*—and, when the evidence dictates, pursuing charges, including against wealthy and well-connected men who engage in domestic violence.

- How do you assess the criminal justice system's response when individuals file complaints about sexual violence? What directions do you propose for responding to such accusations and for combatting sexual violence more generally?

As with domestic violence, the criminal-justice system is failing to adequately respond to complaints about sexual violence. Again, this is particularly true for women of color, and women of lower socioeconomic status. In Washtenaw County, for example, the prosecutor's office has, on multiple occasions, declined to pursue credible rape allegations that were reported by young black women—with victims reporting that they were told (by the prosecutor!) "you should have known better," and "a jury will not empathize with you."

These are textbook instances of racial and gender bias, and I will eliminate them as prosecutor.

More broadly, we need to act quickly to provide protection to women who may be in a sexually or physically abusive relationship. I support the use of lethality assessments, following any domestic or sexual violence report, to quickly assess whether a woman or her children are in physical danger. Furthermore, we need to make it easier for women to obtain personal protection orders. Currently, obtaining a PPO requires a survivor to physically go to the courthouse. This can be very difficult in abusive relationships, as an abuser may well deny a survivor access to transportation. I support modernizing our systems to allow for online applications for PPOs.

Juvenile Crime

- How well do our courts deal with juvenile crime? Is racism a factor in how youthful offenders (and defendants generally) are treated today?

We do not deal with juvenile crime well. Too frequently, we use the criminal-justice system to deal with children and adolescents who are dealing with trauma or other issues. What's more, our juvenile detention centers are not rehabilitative. To the contrary, they are criminogenic, and make it more likely that youthful offenders will re-offend.

Kids are kids, not mini-adults, and they should be treated as such. The human brain is still developing through one's early 20s, which means that when young people get into trouble, we should treat that as an opportunity to teach, not just to punish. Specifically, we should be partnering with community organizations and schools to (1) divert and deflect charges away from the court system; (2) provide wrap-around and counseling services; (3) use restorative practices; and (4) avoid perpetuating the school-to-prison pipeline.

Racism is absolutely a factor in how juvenile offenders are treated. Far too frequently, we treat the behavior of young men and women of color as criminal—but not similar behavior by young white men and women. As prosecutor, I will eliminate that racial disparity, and ensure that young people of all races are treated fairly and are appropriately engaged in the diversion and deflection programs outlined above.

Police Brutality

- Do you think police violence is an important problem? What is the best way to respond to accusations of police brutality?

Yes, police violence is an important problem. Perhaps nothing is more harmful to the community than police officers breaching the public trust—and using violence against the people that they are sworn to protect.

As an initial matter, I believe in strong civilian oversight of the police (through, for example, independent police commissions). And when accusations of police brutality are made, the investigation and charging decisions must be conducted by an impartial investigator, without close ties to the police.

The best way to ensure that police brutality is appropriately investigated and charged is to have an independent agency—one that *does not* work with law enforcement on a daily basis—conduct the investigation and make the charging decision. In some larger jurisdictions, a standalone unit for investigating police brutality may be feasible. In most Michigan counties, however, the county prosecutor's office should, pursuant to MCL 49.160, refer such investigations to the Attorney General, and seek the appointment of a special prosecutor—either in the AG's office or one designated by the AG.

Prosecutors and police work hand-in-glove. Accordingly, it is institutionally difficult for local prosecutors to make charging decisions in police-brutality cases that are (and appear) impartial. For that reason, I favor appointment of special prosecutors who do not work with local law enforcement in any way.

Environmental Justice

- The environmental crisis is a true emergency: are there ways the criminal justice system can respond?

Yes. Michigan has dozens of statutes which criminalize the knowing (or reckless) pollution of air and water. I am committed to charging polluters—including corporate polluters—wherever appropriate. Knowingly poisoning our air and water is a crime, and it should be treated as such.

As an aside, this is an issue in which I have deep professional and personal involvement. In addition to my day job at the City of Detroit, I work, part-time, for the Dema Law Firm—a firm which exclusively represents states and sovereign territories in suits against corporate polluters. I currently serve as Special Counsel for the State of New Jersey; the State of Maryland, and the Commonwealth of Puerto Rico. In that capacity, I am litigating cases against such corporate polluters as Shell, Exxon, and Dupont, seeking to hold those corporations responsible for (among other things) PFAS and MTBE water pollution.

In my academic capacity, I have also written extensively about environmental law, and the authority of states and local units of government to hold corporate polluters accountable.

Campaign Structure

- Contact with voters
 - a. Describe the different ways you are connecting with voters. Be as specific as possible.

For the past seven months, since declaring my candidacy, I have been personally present at more than 100 community events across the county—from Democratic Party meetings, to youth-focused events (such as Washtenaw My Brother's Keeper events), to university-sponsored events, to township council meetings, to community organizing meetings, and many, many more. Our campaign has been featured on multiple local radio shows, podcasts, and blogs. We have had more than 30 house parties across the county. We have been active on social media to convey our message.

We plan to engage in a robust door-to-door canvassing operation in the spring and summer, across the county. We are focused on expanding the voter base. We want to canvass not just the traditional voters for a primary election, but also to ensure outreach to communities of color on the east side of the county, to more rural (and rarely canvassed) communities on the west side of the county, and to college and university students at the University of Michigan, Eastern Michigan University, and Washtenaw Community College.

- Finance

- a. How are you funding your campaign? Please be as specific as possible and provide links to campaign finance records.

I am funding my campaign primarily via individual contributions. Since I launched my campaign, we have received donations from over 800 individual donors—the most ever, by far, for a county-wide race in Washtenaw.

I am the only candidate in the race to have taken the “Clean Campaign Pledge” (the pledge that has been taken by progressive candidates for district attorney across nationwide). Pursuant to that pledge, I have promised to eschew any contributions from corporate PACs; any contributions from individuals associated with the cash-bail industry; and any contributions from current employees of the Prosecutor’s Office.

My campaign-finance reports can be found at <https://secure.ewashtenaw.org/campaignfinance/>.

- Staff/Volunteers

- a. How many individuals do you have as paid staff, and how many volunteers do you have?

I currently have three paid employees (a campaign manager, a deputy campaign manager, and a finance director). We have approximately 140 people who have committed to volunteering for our campaign.

- b. What is the nature of employment for your campaign staff? Union, hourly, salary, wages, benefits?

My paid employees are independent contractors, who are paid a monthly salary.

Appendix:
Washtenaw County
Map

