



**The Massachusetts District Attorneys'
2010 White Paper
On Public Safety and Criminal Justice Policy**

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Introduction

Public safety - - ensuring safe, secure and just communities - - is the core function of government and is articulated as such in both our federal and state constitutions¹. As public prosecutors, we, the Commonwealth's eleven elected District Attorneys, are an essential component of the public safety and criminal justice system. We have been elected from our eleven districts with a core public mandate to seek Justice² - to hold the guilty accountable, to protect the innocent, and to provide dignity for victims and their families.

¹ The Preamble to the United States Constitution begins with these words:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

The Preamble of the Constitution of Massachusetts, in its first sentence, announces that the "end" of government is "to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquility their natural rights . . ."

² "A district attorney's professional responsibility is to seek justice - to protect the innocent as well as to convict the guilty." *Commonwealth v. Tabor*, 376 Mass. 811, 817 n.10 (1978).

In the last ten years, we have overseen the prosecution of three million criminal cases in the courts of the Commonwealth. It is fitting, at this turn of a new decade, that we tell the public where we stand on the issues, especially those that are the subject of pending legislation and where the legislative and executive branches have solicited our views. We proffer this white paper outlining our recommendations for systemic improvements to the Commonwealth's criminal justice system. Almost ninety years ago the Supreme Judicial Court commented on the powers vested in us by the laws of the Commonwealth:

"The powers of a district attorney under our laws are very extensive. They affect to a high degree the liberty of the individual, the good order of society, and the safety of the community. . . . A district attorney cannot treat that office as his selfish affair. It is a public trust. The office is not private property, but is to be held and administered wholly in the interests of the people at large and with an eye single to their welfare." *Attorney General v. Tufts*, 239 Mass. 458, 488 (1921). (emphasis supplied)

It is this public trust that compels us to offer suggestions to improve the Commonwealth's criminal justice system. We make these recommendations unanimously and intentionally state them broadly, as we welcome the opportunity to work with the

administration, the legislature, the courts and our partners in law enforcement, public safety and the criminal justice system to implement systemic reform.

1. Investigations and Charging

a. Interrogations: Video Record the Entire Suspect Interview

In *Commonwealth v. DiGiambattista*, 442 Mass. 423 (2004), the Supreme Judicial Court held that if the prosecution introduces a confession or statement that the police obtained during an interrogation of a defendant who was in custody or at a place of detention, and the police did not electronically record the statement, the defendant would be entitled to a cautionary jury instruction that “the State’s highest court has expressed a preference that such interrogations be recorded whenever practicable and . . . that, in light of the absence of any recording of the interrogation in the case before them, they should weigh evidence of the defendant’s alleged statement with great caution and care.”

In 2006, in our Report of the Justice Initiative³, we clearly recognized the value added to the quality and accuracy of police

³ *Report of the Justice Initiative: Recommendations of the Massachusetts Attorney General and District Attorneys to Improve the Investigation and Prosecution of Cases in the Criminal Justice System, September 2006.*

investigation by the taping of suspect interviews, and made these recommendations:

- Law enforcement officers shall, whenever it is practical and with the suspect's knowledge, electronically record all custodial interrogations of suspects and interrogations of suspects conducted in places of detention.
- DA offices shall assist police departments to develop procedures to implement this policy.
- The Attorney General and DAs shall encourage the Executive Office of Public Safety to provide planning and funding for local and state police departments to acquire professional quality recording equipment to implement this policy.

In December 2009, the Boston Bar Association published *Getting It Right: Improving the Accuracy and Reliability of the Criminal Justice System in Massachusetts*. One of the report's core recommendations is that "[a]ll law enforcement agencies should video-record the entirety of all custodial interrogations of suspects in serious felony cases commonly prosecuted in Superior Court, unless strong countervailing considerations make such recording impractical or the suspect refuses to be recorded."

Having seen the benefits of the *DiGiambattista* ruling over the last six years, we agree that video recording poses significant

benefits to both the accuracy of the investigation and the persuasiveness of the evidence at trial, and accordingly endorse this BBA recommendation. We well recognize the fiscal plight of our local police departments and acknowledge that the only realistic source of funding for video equipment will come through public safety grants. We urge the Executive Office of Public Safety and Security to use its grant resources and purchasing leverage to fund video recording equipment for local police departments.

b. Restructure the Commonwealth's Impaired Driving Laws

Every day, in every district court in the Commonwealth, judges, prosecutors and defense attorneys struggle to comprehend the terms of the Commonwealth's impaired driving laws, M.G.L. ch. 90, secs. 23 and 24. These laws originated in the early 20th Century with the introduction of the first automobiles to our public roads and have been amended more than 60 times over the last 100 years. As every practitioner knows, the piling-on of amendments has gradually obliterated any rational flow to the statute and made its provisions garbled and difficult to understand, even to court experts.

The Massachusetts District Attorneys Association, in partnership with the Registry of Motor Vehicles and in collaboration with numerous stakeholders, has rewritten the entire

body of impaired driving legislation to restructure and streamline the law's provisions without changing the substance of any of its provisions. In this new draft of the law, the elements, penalties and criminal sentences remain the same. The draft starts with a definitional section, which is followed by each crime presented in the same format: (1) elements, (2) criminal sentences, (3) civil fines and (4) RMV consequences. Because the new draft imposes a standardized format on the law and eliminates repetitive text, it has reduced sections 23 and 24 from 22,000 to 14,000 words.

This language has been filed in the legislature under the sponsorship of House Judiciary Chair Eugene O'Flaherty. It has the support and sponsorship of the Boston Bar Association and the Massachusetts Bar Association. Simply stated, this is a no-cost, good government bill with broad-based support in the criminal justice and public safety communities.

2. Arraignment and Trial

There are a number of simple, commonsense, cost-effective steps that can be taken to expedite the movement of criminal cases in the courts and to improve the quality of justice.

a. Streamline the Bail Review Process

When a defendant is arraigned on new charges in the district court, the Commonwealth has the opportunity, depending on the facts of the case and the defendant's record, to ask that bail be imposed. Both the prosecutor and defense attorney have the police report, and the parties are fully heard. If the judge decides to hold the defendant on bail, he must, as required by law, fill out a form that identifies all of the reasons that support his bail decision.

As our law now stands, the defendant then gets a "second bite at the apple." On the same day, or at any time in the future of his choosing, he may seek a review of his bail in the superior court. A different prosecutor in the superior court must obtain the file (which is usually located in a different courthouse), determine the facts of the case, try to contact the prosecutor who originally argued bail, try to reach the victim, and argue the same case that has already been decided by the district court judge. That new

judge will often dramatically change the order of the district court, by changing or creating new terms and conditions of release, reducing the bail or releasing the defendant outright, without assigning any reason for his/her actions.

The costs of this duplicative process are considerable: bail review petitions consume the better part of the morning in many superior court sessions, with the taxpayer footing the bill for the judge, prosecutor, most defense counsel⁴, court officers and probation officers.

The District Attorneys suggest that there is a better way to allow for review in the bail-setting process. Instead of providing full hearings on the same issue in both district and superior court, we suggest that defendants retain the right to seek a review of their district court bail in superior court, but that the issues for review in superior court be limited to clear errors of fact or law. If the superior court judge is inclined to change the district court bail based on this limited review, he must put his reasons for doing so in writing. This proposal does not compromise the quality of

⁴ Approximately two-thirds of all criminal defendants are represented by court-appointed attorneys, at a total cost to the taxpayer in FY 2010 of approximately \$150M; contrast the combined cost of all prosecutor offices and MDAA operations for FY 2010 at \$94M.

justice; it achieves significant economies in the use of limited resources, will save on the costs of appointed counsel, and - - most significantly - - should help over time to weed out frivolous bail reviews.

b. Improve Management of the Superior Court Trial List

The vast majority - - about 98% - - of the 300,000 criminal cases brought annually in the Commonwealth are tried in the district courts. The remaining 2% - - about 6,000 cases - - are brought in the superior courts. Of those, perhaps one-third actually go to trial. These are the most prominent cases to the public's view - - the murders, child sexual assaults, robberies and major drug trafficking cases.

We have suggestions to improve the manner in which the trials of these major cases are prioritized and managed in superior court criminal cases. Because the District Attorneys initiate all superior court cases and bear the responsibility for moving those cases to trial, the law (M.G.L. Ch. 278, section 1)⁵ requires us to

⁵ Section 1. At each session of the superior court for criminal business, the district attorney, before trials begin, shall make and deposit with the clerk, for the inspection of parties, a list of all cases to be tried at that session, and the cases shall be tried in the order of such trial list, unless otherwise ordered by the court for cause shown. Cases may be added to such list by direction of the court, on its own motion or upon motion of the district attorney or of the defendant.

submit to the superior court clerk a list of all cases to be tried during each monthly court session, and specifies that the cases shall be tried in the order specified by the District Attorney, unless the court orders otherwise.

The authority to prioritize cases is critical to our responsibilities: it is the District Attorneys who initiate the Grand Jury process that leads to superior court indictments; we must marshal the evidence to prove each element of the case beyond a reasonable doubt; we must manage the availability and expectations of victims and witnesses; we must make sure police witnesses are available without running up excessive overtime; we must ensure that defendants, who are constantly rotated among the various jails, are located and brought into court in a timely fashion; and we must constantly evaluate which cases must be prioritized for trial, based on reasons of public safety (e.g., where witnesses are being threatened) and witness availability (e.g., where a child witness is fragile, or a witness is terminally ill or about to move out of the country.)⁶

However, judicial interpretation of the current law

⁶ By law, cases involving defendants held on bail and those involving child victims of sexual assault take priority over other cases.

undermines the intent of the statute by allowing judges to unilaterally change the priority of cases, or advancing new, lesser priority cases to the top of the list. We firmly believe that, whenever possible, it is the litigants - - the prosecutor and defense counsel - - who should control the sequence and priority of criminal trials. It is only when the litigants cannot agree that the court should step in to resolve the issue. The judiciary has a legitimate interest in making sure that limited judicial resources (courtrooms, juries, court personnel) are fully and efficiently used. However, just as umpires make the rulings but do not dictate the order of play, so too our judges play a neutral role in hearing cases and should not determine which cases are a priority for public safety; *the District Attorneys are elected to make those difficult decisions.* We especially urge that, when the prosecution and defense agree as to the priority and sequence of trials, the judiciary should honor those agreements and not substitute other trials that it prefers to hear instead.

It is important to understand that, every time a decision is made to advance a case for trial, it is at the expense of every other case in the queue. Those decisions affect the victims who are waiting for justice, the schedule of the attorneys for both the Commonwealth and the defense who must juggle heavy caseloads, and the schedules of the police and civilian witnesses involved. We thus suggest amending the current law to provide that courts may

not *sua sponte* change the priority of cases, or add new cases to the trial list, unless both parties agree or one of them specifically requests a judge to change the priority or add a new case.

3. Sentencing and Post-Release Supervision

a. Retain the Uniformity and Clarity of Minimum Mandatory Sentences, Particularly for Drug Dealers

We unanimously and strongly support retaining the Commonwealth's structure of minimum mandatory sentences, especially for certain drug offenders - - traffickers in drugs and repeat-offender dealers. Minimum mandatory sentences provide penalties that are uniform and predictable, and promote truth in sentencing – the offender actually serves the sentence that is pronounced in court, and the public can rest assured that “what you see is what you get” when the judge imposes sentence.

We would like to address several public misperceptions regarding minimum mandatory sentences.⁷ The first erroneous

⁷ It is important to remember the genesis of the minimum mandatory sentencing laws that were enacted across the country several decades ago. That legislation was in response to the courts releasing repeat drug dealers to the streets faster than the police could arrest them, and, upon conviction, imposing widely divergent sentences for essentially identical crimes. In any debate on whether to modify these sentences in Massachusetts, it is

perception is that minimum mandatory sentences are only applied to drug cases. In fact, our legislature has specified minimum mandatory penalties for dozens of crimes, including first and second degree murder; armed robbery of a person over 60; stalking in violation of a restraining order; leaving the scene of a motor vehicle accident causing death; armed assault in a dwelling; inducing a minor into prostitution; possession of a stolen motor vehicle; multiple-offense OUI; and unlicensed carrying of a firearm.

The second misconception is that minimum mandatory terms apply to those who possess or use, but do not sell, drugs; this is incorrect. The minimum mandatory terms apply only to those who deal drugs, with the lengthier of those penalties applying to those who deal in quantities that are defined in the law as “trafficking” weight.

A third misconception is that minimum mandatory drug cases are clogging our courts. Yet of all the drug convictions in the district and superior courts of the Commonwealth, only one in ten involves a minimum mandatory sentence. And in looking at the total court caseload, there were 52,100 defendants convicted in the

important to determine whether the residents of the communities most affected by drug dealing in fact support changes to the law.

district and superior courts in FY 2008, only 949 (less than 2%) of whom were convicted of a drug crime that carried a minimum mandatory sentence.⁸

Finally, there are those who blame minimum mandatory drug cases for jail and prison overcrowding. In fact, the data shows that less than 1% of the 17,000 annual commitments to the Houses of Correction are for mandatory drug sentences, with about 500 of the 3,100 (16%) commitments to the Department of Correction attributed to mandatory drug crimes.⁹

b. Require a "Spread" between Minimum and Maximum State Prison Sentences so that Inmates Can Receive Parole Supervision Upon Release

In sentencing those convicted of drug dealing, as in sentencing for all other crimes, our principal concern is public safety. The public is the most at risk, and the offender is the most likely to recidivate, if the offender is released "cold" to the street following incarceration, without participation in institutional and

⁸ Massachusetts Sentencing Commission, *Survey of Sentencing Practices*, FY 2008, p. v. and 29.

⁹ Massachusetts Sentencing Commission, *Survey of Sentencing Practices*, FY 2005, 2006, 2007.

pre-release programs, and without any parole or post-release supervision.

The District Attorneys strongly believe in the value of parole and the benefits to both the inmate and society from a gradual and closely supervised reentry into the community. To that end, we support changes in the law that promote public safety by guaranteeing that all incarcerated offenders receive some period of supervision - - either parole or mandatory post-release supervision overseen by the Department of Parole - - upon their release to society.

One of the biggest obstacles to parole is the so-called “year-to-a-year-and-a-day” sentence to state prison. Massachusetts law requires judges, when imposing indeterminate sentences to state prison, to set both a minimum and maximum term of incarceration. However, the law imposes no requirement as to the distance, or “spread”, between the minimum and maximum terms. There has consequently developed a widespread practice where some judges sentence offenders to a minimum term (e.g. “5 years”) and to a maximum term that is one day longer (e.g., “5 years and one day”). This practice is especially prevalent in drug minimum mandatory cases, where the courts routinely sentence offenders to the minimum mandatory term (e.g., “3 years”) as the

minimum number, and that same number plus one day (“3 years and one day”) as the maximum sentence.¹⁰

With only a one-day spread between the date that the inmate becomes eligible for parole consideration and the date he actually concludes his sentence, these sentences endanger public safety by precluding the possibility of parole supervision when the inmate is released to the street. We support changes in the law to require that all sentences to state prison contain a “spread” of at least one-third, so that the court must set the minimum sentence at two-thirds of the maximum sentence. In the case of minimum mandatory drug crimes, this means that an offender convicted of, e.g., trafficking in 90 grams of heroin, which carries a minimum mandatory sentence of seven years and a maximum sentence of twenty years, would receive a sentence of 7 to 11 years. Building a spread into every sentence will encourage state prison inmates to earn parole by participating in institutional programs.

¹⁰ In FY 2008, 53.8% of sentences imposed for mandatory drug offenses to state prison, and 41.0% of all state prison sentences, had a difference of one day between the minimum and maximum terms. See Massachusetts Sentencing Commission, *Survey of Sentencing Practices*, FY 2008, p. 14.

c. Require a Period of Post-Release Supervision for Inmates Who “Wrap Up” Their Sentences

A significant number of inmates are released from custody each year having “wrapped up” their sentences. There are several reasons for this. First, the court may have imposed a sentence that precluded the possibility of parole (see discussion above regarding the “spread” issue.) Second, the Parole Board may have denied the inmate’s application for parole because of chronic misbehavior within the institution. Lastly, the inmate - - especially those in the House of Correction serving relatively short sentences - - may have chosen to serve out his entire sentence so as to avoid parole supervision when released.¹¹

In the interests of public safety, all of these inmates, especially those whose record is riddled with institutional misbehavior, need a supervised re-entry into the community. The District Attorneys support legislation establishing a system of mandatory post-release supervision, with the proviso that any such legislation must contain additional resources for the Parole Board,

¹¹ In 2008, the Department of Correction released 2,719 inmates to the street. Of those, 40% had no post-release supervision of any kind. See MA Department of Correction, “2008 Releases to the Street”, published June 2009.

which will be significantly affected by any legislation that mandates a spread between minimum and mandatory terms and establishes mandatory post-release supervision for those who “wrap up.”

d. Promote Institutional Programs and Work Release for Drug Offenders

The District Attorneys strongly support maximum inmate participation in educational and therapeutic programs within our penal institutions. An inmate’s successful participation in education, training and counseling programs demonstrates his suitability for parole and likelihood of successful reintegration into the community. The funding required for these remedial rehabilitative programs constitutes a cost-effective investment in public safety.

We have long been on record supporting legislation that removes obstacles to inmates being able to participate in work release programs in the community after they have served two-thirds of their minimum mandatory term for drug offenses.¹² The

¹² See, e.g., The District Attorneys’ report to the Governor’s Anti-Crime Council, July 2007: “[T]he District Attorneys support modifying the present minimum mandatory sentencing scheme for drug offenses to permit inmates serving such sentences to participate in supervised institutional programs, such as work release, if the sheriff or DOC custodian determines that such release would not jeopardize public safety. With this change, inmates serving mandatory drug sentences would be eligible for institutional step-down and other institutional

sheriffs should have the discretion to release appropriate inmates - especially those who have successfully completed institutional programs - - during the day to work release programs. We support this work release provision if, and only if, the inmate remains under the actual physical custody of the sheriff until he has served his full minimum mandatory sentence and become eligible for parole.

e. Permit Parole Only when the Offender has Served the Minimum Mandatory Term

The District Attorneys are well aware of the advocacy, in some quarters, to permit those convicted of drug offenses to become parole eligible after serving two-thirds of the minimum mandatory sentence. We are mindful of the high costs of incarceration and the economic downturn that has affected the entire economy. But we keep returning to certain core truths.

The whole purpose of the minimum mandatory sentencing structure is to promote uniformity, truth and certainty in sentencing: those who have committed similar crimes will receive

programs designed to prepare them for re-entry, in the discretion of their custodians. However, they would not be eligible for parole until they have served the minimum mandatory sentence.”

similar sentences, and the amount of time the offender will serve is the same amount of time pronounced by the court at sentencing.

In considering whether to grant parole to drug offenders sentenced to mandatory terms, we should consider Massachusetts legislative history on an analogous issue. Twenty years ago, offenders sentenced to the state prison were, like today, given an indeterminate sentence with a minimum and maximum term. However, under the rules of parole in effect at the time, those offenders qualified for parole when they had served either one-third (in non-violent crimes) or two-thirds (in violent crimes) of the minimum sentences. Thus, a victim sitting in court who heard the judge pronounce a sentence of, e.g., “15 to 20 years” had every reasonable expectation that the defendant would serve at least fifteen years in prison, but in fact the defendant would be eligible for parole at either five or ten years. This deceptive sentencing practice misled, confused and angered the public. In response, the legislature passed a law in 1993 that changed sentencing practices to make sure that the minimum sentence number reflected the actual term an inmate would serve before becoming parole eligible.¹³

¹³ See Chapter 432 of the Acts of 1993, *An Act to Promote the Effective Management of the Criminal Justice System through Truth-In-Sentencing*, codified at M.G.L. c. 127, sec. 133.

Current proposals to permit parole at 2/3 of the minimum mandatory term would replicate the same deceptive sentencing practice that the legislature rejected 17 years ago. Furthermore, when the legislature has designated a sentence as a “minimum mandatory”, it is all the more important that the sentence mean exactly what it says. As District Attorneys, we are less concerned with the length of an inmate’s mandatory sentence than with the certainty that the minimum sentence will in fact be served, and with an equal certainty that the inmate will receive parole supervision when he is released to the community. Accordingly, we adhere to our long-held view that inmates serving minimum mandatory sentences should not be eligible for parole until they have served the minimum mandatory term as specified by law, and should be granted parole when they successfully complete their pre-release and/or work release programs.

f. Create a One-Year Minimum Mandatory Charging Option for Distribution of Heroin

We support updating the Commonwealth’s drug sentencing laws to include a one-year minimum mandatory charging option for the crime of distributing, or possessing with the intent to distribute, heroin (Class A). (Such a provision already exists for distributing, or possessing with intent to distribute cocaine in Class B. See G.L. c. 94C, sec. 32A (c)).

g. The Massachusetts Sheriffs Should Not be Permitted to Release from Custody Any Inmate Ordered Held by the Court

The doctrine of separation of legislative, executive and judicial powers plays a fundamental role in the criminal justice system. We each have important and collaborative roles to play. The police, through their investigations and arrests, enforce the laws passed by the legislature. Prosecutors ultimately decide which cases should be brought in the courts. The courts determine questions of bail, deciding who poses a risk of flight and should be held on bail; and the courts preside over trials and impose sentence, including making the critical decision of who should be incarcerated and for how long. The sheriffs are responsible for the custody, care and control of inmates, and receive from the courts those persons being held by a court order of bail, and those committed to custody following conviction.

We have the highest regard for the important work the sheriffs do, and the many challenges they face, including dwindling fiscal resources. However, we are deeply concerned about proposals that would enable the sheriffs to unilaterally take actions that directly impugn the separation of powers. For example, at criminal arraignments, prosecutors routinely ask the court to impose bail where a defendant - - because of his record, his history of defaults, and the facts of the crime - - poses a risk that he will fail

to appear if released. Both parties (the Commonwealth and the defendant) argue their positions and then the judge makes his decision.

If the court orders a defendant be held on bail, the sheriff - - who is not a party to the case and is simply the custodian of the inmate pending trial - - should not have the authority to unilaterally override that judicial decision by releasing the inmate to the street, without input from the judge who sentenced him, the District Attorney who prosecuted him, and the persons who were victimized by him. If the sheriffs are given this power, then there is no reason for prosecutors to request bail or for judges to order it, as the ultimate decision will be vested in the sheriff.

We have similar concerns with proposals that empower sheriffs to unilaterally decide whether convicted inmates may serve their sentences of incarceration on the street with electronic monitoring. While technology is an important tool in monitoring those who pose a risk to public safety, it is in the courtroom - - with the judge and the parties to the case - - that issues of whether, and how, GPS monitoring should be employed in any given case must be decided.

4. **Post-Conviction Matters**

a. Allow Inmates Access to Post-Conviction DNA Where Actual Innocence Is in Question

The District Attorneys support DNA testing at any phase of a proceeding, including post-conviction, if that testing will establish the actual innocence of the defendant. We are keenly mindful of the tremendous toll on victims when cases, long since resolved, are reopened in the courts for additional litigation. We also know that for an innocent man to be convicted is an intolerable personal and social injustice; during the last decade prosecutors have combed case files to identify defendants who were still incarcerated for crimes where, at the time of the investigation and trial, biological evidence was available but DNA was not yet an available forensic tool. It is our hope and expectation that such cases are, and will increasingly be, exceedingly rare. Where convicted defendants petition the courts for post-conviction DNA testing, the burden must be on them to establish how such evidence would establish their actual innocence. The District Attorneys will give careful consideration to thoughtfully crafted legislation to that end.

b. Provide the Commonwealth the Right to Trial By Jury in Sexually Dangerous Persons Cases

Every year, as required by law, the Commonwealth's houses of correction and prisons notify the District Attorneys when a convicted sex offender is about to be released on parole. The District Attorneys receive approximately 1600 such referrals annually. Using highly skilled and experienced prosecutors who are trained in Sexually Dangerous Persons proceedings under M.G.L. c. 123A, each DA office carefully examines the offenders' entire criminal history, looking for factors that suggest a high degree of dangerousness and significant risk of reoffending. The DA offices then file civil petitions on about 6% of these referrals under M.G.L. c. 123A to determine if the inmate qualifies as a sexually dangerous person (SDP).

Ultimately only about 1% of all the sex offenders referred to the DA offices will actually go to trial and be found SDP. For these cases, the costs are great¹⁴ and the stakes are high. Presently, it is the convicted sex offender who chooses whether to have a judge or jury comprised of members of the community determine whether he is a sexually dangerous person (as that term

¹⁴ The District Attorneys collectively spend over \$500,000 annually on expert consultations and witnesses to help with identifying risk factors in sex offender case files, as well as testifying at trial.

is defined by the law) and should thus be required to receive treatment for their inability to control their sexual impulses, or whether they are not sexually dangerous and should be released to the community. The District Attorneys support expanding the right to trial by jury to both the Commonwealth and the defendant in these cases, to ensure that the community is empowered with a voice in determining whether a defendant poses a significant risk of reoffending.

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**The Massachusetts District Attorneys Association (MDAA)
is an independent state agency that supports the District
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