

TOP 10 HOPES & CONCERNS

CourtWatch MA responds to The **Rollins** Memo

Rachael Rollins won the District Attorney election with a mandate for change. CourtWatch MA and our community have consistently demanded policies that address and prevent racial disparities; treat all our neighbors with equity and dignity; and reduce prosecutions and incarceration in Suffolk County. On March 25th, DA Rollins released [The Rollins Memo](#), a set of policies to translate her campaign pledges into office policy.

DA Rollins has received pushback on the memo from “Law and Order” and “Tough on Crime” types who use racist stereotypes about “crime” and “criminals” to make people afraid while pushing prison as a solution to social problems. We believe the policy memo is a major step in the right direction, because real public safety means communities where all people have what they need to live and where health and wellbeing are prioritized over punishment.

Here is CourtWatch MA’s breakdown of our hopes and concerns related to The Rollins Memo.

FIVE HOPES

1

Prosecutors will file fewer charges, pursue fewer cases, and send fewer people to jail and prison.

2

Prosecutors will affirmatively recommend release on recognizance.

3

Prosecutors will decline or dismiss charges related to addiction, poverty, and mental illness *before* arraignment, *without* conditions.

4

DA Rollins will meet with people most impacted by the decisions she makes: prisoners.

5

The Rollins administration will collect & review data that will allow the community to hold DA Rollins accountable.

FIVE CONCERNS

1

There is no plan for how to review cases arraigned before the policy memo was issued.

2

There is no announced plan to train prosecutors on the new policies.

3

ADAs are still requesting bench warrants when people miss arraignments, even for charges on the list to decline.

4

Imposing conditions will continue to criminalize people for poverty, mental illness, and addiction.

5

The SCDAO is not a social service agency and prosecutors are not social workers.

HOPE 1: Prosecutors will file fewer charges, pursue fewer cases, and send fewer people to jail and prison.

Big picture vision of the policy acknowledges that incarceration is harmful and negatively impacts people's abilities to get jobs, education, and housing. In fact, ADAs are instructed to consider collateral consequences **before** making any case decisions. The policy also rightly names the harms of incarceration and clearly states incarceration should be a last resort in all cases.

DA Rollins also committed to reviewing the cases of anybody held on less than \$25,000 bail. She must honor that promise ASAP by formalizing and publishing the case review process. The community must be informed how many people are released on recognizance, how many bails are otherwise reduced, and how many cases are dismissed after they're reviewed.

HOPE 2: Prosecutors will affirmatively recommend release on recognizance.

In compliance with state law and the Supreme Judicial Court, DA Rollins instructs her ADAs to recommend release on recognizance in almost every case **and** to talk with defense attorneys about any defaults to understand them better **before** using them against people. The Rollins memo acknowledges that people often miss court dates due to issues related to health, work, childcare, or transportation and **not** because they are fleeing prosecution.

ADAs are required to obtain supervisor permission before requesting cash bail, to "consider the individual's financial resources" if they are

requesting cash bail, **and** to obtain supervisor permission before requesting “detention-like” conditions, such as a GPS ankle monitor or a stay away order. ADAs are told to only request bail when there’s evidence a person is a flight risk **in this case** or if there is a pattern of defaults that were attempts to evade criminal process (not needs-based missed court appearances) within the last 3 years.

HOPE 3: Prosecutors will decline or dismiss charges related to addiction, poverty, and mental illness *before* arraignment, *without* conditions.

Declining and dismissing these charges will mean fewer people are dealing with open criminal cases that cause financial and emotional stress and make it harder to work, parent, go to school, get housing, and stay in treatment.

Outcries that this policy will have negative public safety outcomes are really rooted in discrediting Rollins personally, not in the data. The recent ACLU report “[Facts Over Fear](#)” revealed that previous DA Conley’s ADAs dismissed or acquitted **nearly 60% of these same cases**. We hope that DA Rollins will **decline or dismiss many more cases than DA Conley did and much sooner**.

ADAs should proactively file “nulle pros” motions when they intend to decline charges to prevent judges denying motions to dismiss.

The Rollins Memo emphasizes the grave consequences of prosecuting people for drugs and especially subjecting them to pre-trial detention, citing the Massachusetts Department of Public Health finding that **the opioid overdose death rate was 120 times higher for those**

recently released from incarceration compared to the rest of the adult population. Rollins was right to build her policy around this evidence-based, harm-reduction framework: *“Arrest and incarceration are not effective solutions for substance use disorders.”*

HOPE 4: DA Rollins will meet with people most impacted by the decisions she makes: prisoners.

During her campaign, DA Rollins met with the African American Coalition Committee at MCI Norfolk and committed to regular meetings with prisoners. Grassroots organizers are working with Rollins to develop a sustainable schedule for meeting with incarcerated men and women from Suffolk County. Prisoners are our family members and neighbors who deserve to have a voice in the process of reshaping what justice looks like in their communities.

Grassroots organizers continue to demand that Unit Chiefs in the Suffolk County District Attorney’s Office meet with the most impacted people, community leaders, and advocates on a monthly basis. DA Rollins identifies a goal of “relationship building” with the community in her policy memo. The proposed quarterly town halls are a good start, but real relationship building requires regular opportunities for community members to give feedback, critique, insight and to receive data and updates from decisionmakers.

HOPE 5: The Rollins administration will collect and review data that will allow the community to hold DA Rollins accountable for reducing racial disparities and incarceration rates.

CourtWatch MA was a necessary project because constituents of the Suffolk County District Attorney's Office do not have access to key information about how prosecutors are treating people.

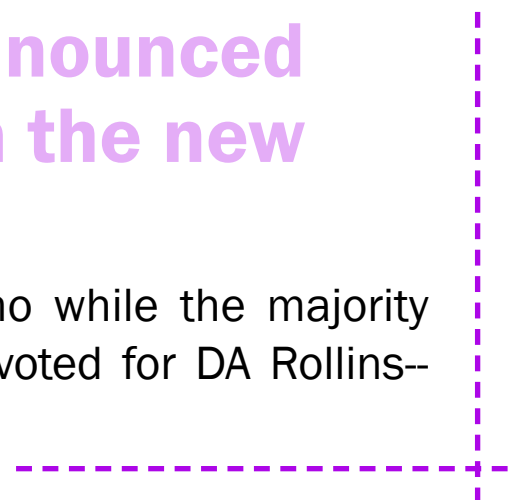
DA Rollins instructs her ADAs to document an unprecedented amount of information including race of people charged, bail amount **requested** and imposed, and all dispositions (including plea bargains) offered by the office - because you can't manage what you don't measure! Capturing data in real time is only a first step: this policy only matters if the public gets consistent, transparent access to the data!

CONCERN 1: There is no plan for how to review cases arraigned before the policy memo was issued.

In order to live up to her commitment of creating a system in Suffolk County that "works for everyone" DA Rollins should design and implement a process for reviewing cases so the changes can benefit everyone with an open case. Right now, there are people held in jail on bail they can't afford, some of whom are charged with offenses that DA Rollins pledged to decline or dismiss. These people must be freed immediately. There are also people who already paid a cash bail who would have been released on personal recognizance under the new policy. DA Rollins should also review those cases and prosecutors should support defense attorneys' motions to reduce bail.

CONCERN 2: There is no announced plan to train prosecutors on the new policies.

A few people have criticized The Rollins Memo while the majority of Suffolk County--the 185,000+ people who voted for DA Rollins--



celebrated this milestone. But without a training plan to educate ADAs on the changes and to provide clear expectations for how the policy will be enforced, the memo is just words on paper. **ADAs are still requesting bails people can't afford to pay and prosecuting cases instead of dismissing them.**

Implementing these changes will require a massive cultural shift in the office, one that won't happen without uncompromising leadership and rigorous re-training. ADAs must also be given specific directives about how they will handle cases differently moving forward as well as clear consequences when they don't follow office policy. Until then, our neighbors will continue to suffer the harm caused by being prosecuted and held in pre-trial detention even though they should be released and the charges they face dismissed or diverted according to the policy.

CONCERN 3: ADAs are still requesting bench warrants when people miss arraignments, even for charges on the list to decline.

There are some major gaps in the policy memo. For example, ADAs have been given no instructions about what to do when people accused of charges on the "Decline to Prosecute" list don't appear at arraignment. **Most people in Suffolk County come to court;** statewide, only 13.7% of people released pre-trial miss a court date. As The Rollins Memo recognizes, when people miss court, there's usually a good reason: they never received a summons because they don't have stable housing; they're sick and hospitalized; they can't afford transportation; they don't have childcare. Sometimes the barrier isn't a needs-based impediment but a problem the state created, like the

person is held somewhere else and that jail didn't transport them or the person was in immigration detention. Even though the policy memo specifies that ADAs should scrutinize defaults when requesting conditions for pre-trial release, we have observed ADAs continue to request bench warrants when people don't show up in court.

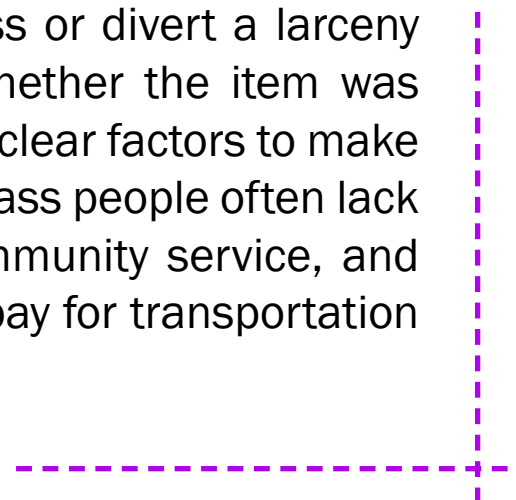
Warrants lead to arrests and arrests lead to jail - disrupting people's lives and causing trauma, even for charges the DA committed to dismiss. DA Rollins should immediately amend the policy and instruct prosecutors to dismiss charges without requiring a person to appear in court. If a person is being charged with other offenses, ADAs should be instructed to request an address check and a second summons rather than a warrant.

CONCERN 4: Imposing conditions will continue to criminalize people for poverty, mental illness, and addiction.

The Rollins Memo makes too many exceptions that allows ADAs to request unreasonable conditions that will set people up to fail.

The policy also requires ADAs to make too many subjective judgment calls that will result in inequitable treatment and inevitable class and racial bias.

When an ADA is considering whether to dismiss or divert a larceny charge, the policy requires ADAs to assess whether the item was taken out of "necessity" without a plan or set of clear factors to make that determination. Further, poor and working class people often lack the resources to pay restitution, complete community service, and attend programming that may require them to pay for transportation and childcare or miss work.



The policy **doesn't go far enough** to prevent the prosecution of drug use, despite clearly stating:

“Using traditional public safety resources to address complex public health problems hasn't just deprived individuals of the appropriate rehabilitative services. It's relegated too many people with untreated mental illness and substance use disorders to the criminal justice system, contributed to mass incarceration, and destabilized communities by incarcerating caregivers and wage-earners.”

Imposing conditions before cases are dismissed will result in people who use drugs getting caught up, violating their conditions of release, and being exposed to the dangers of pre-trial detention.

The policy allows ADAs to request drug or alcohol testing as a condition of release when *“there is credible and sufficient evidence that drug or alcohol use itself creates a significant risk of future harm to themselves, a specific victim, or the community”* but **does not require that the charges be related to drugs or alcohol** in order to impose testing. The memo also doesn't define what “harm” means or quantify the standard of “sufficient evidence.”

The Rollins Memo asks ADAs to assess whether an individual's use of drugs or alcohol creates a risk of self-harm and to then recommend testing by the probation department. **CourtWatch MA wonders:**

- Are ADAs equipped to make this **medical assessment**?
- How will mandated drug testing **reduce harm**?
- And what about the **harm caused** by keeping the case open (i.e. all of the collateral consequences of an open criminal case that DA Rollins has identified)?

The policy also states “*Violations tied to drug or alcohol tests should not be used to **criminalize addiction.***” Why require testing at all, then? Public health research shows us that people are much less likely to be successful in mandated treatment under the threat of punishment.

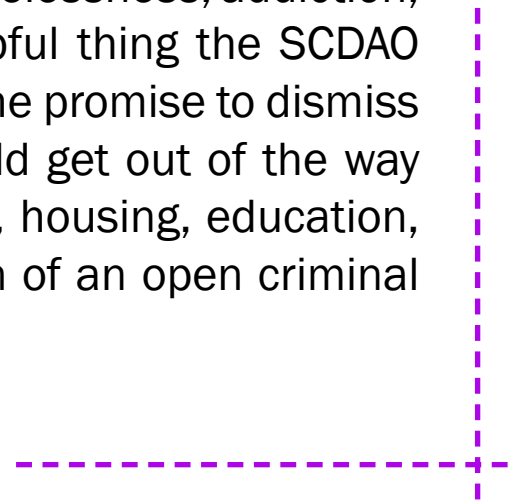
Charges on the list of 15 should be dismissed outright.

CONCERN 5: The SCDAO is not a social service agency and prosecutors are not social workers.

CourtWatch fully supports DA Rollins’ mission to make the SCDAO less punitive, aligned with public health research, and more compassionate. Building strong relationships with community-based agencies where people can be diverted or serve alternative sentences is critical for our county’s safety and well-being.

DA Rollins has also proposed hiring social workers and even giving Department of Children and Families caseworkers offices so that 1 Bulfinch Place could be a “one stop shop.” This would set an extremely dangerous precedent. The District Attorney’s Office must not be the gateway to services and support in Suffolk County, nor should people have their criminal cases connected to their DCF or housing cases.

We cannot prosecute our way out of poverty, homelessness, addiction, and mental illness. The most healing and helpful thing the SCDAO can do for communities is to follow through on the promise to dismiss all charges on the list of 15. Prosecutors should get out of the way so people who need it are free to seek healing, housing, education, employment, and treatment without the burden of an open criminal case.



According to CourtWatch data, these minor offenses make up almost 50% of the business of Suffolk County courts where we observe.

Imagine the energy and creativity we could put into responding to more serious harm in our communities if these thousands of cases were simply not prosecuted every year.

Imagine how much safer and more successful Suffolk County residents could be.

Imagine what else Suffolk County could do with the resources we're wasting on prosecuting people for poverty, mental illness, and addiction.