



Criminal Justice Reform Questionnaire: *Candidate Responses*  
April 2023

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**Ben Litchfield (D)** Candidate State Senate District 27

1. Describe what you consider to be the most pressing needs for reform in the Commonwealth's criminal justice system. Please be as specific as you can.

**De-felonizing Simple Drug Possession.** Possession of most drugs is a felony offense in Virginia resulting in prison time, loss of the right to vote, and loss of one's ability to earn a living. This approach, which dates to the flawed "War on Drugs," has not been working for Virginia. Substance use disorder is a disease and a public health problem that ought to be primarily treated with a combination of various support services. Eighteen states have already reduced punishment for simple possession of some drugs from a felony to a misdemeanor. Adopting this approach in Virginia, which still criminalizes drug possession but provides reduced sentences and greater opportunities for rehabilitation and does not give a "pass" to major drug dealers, will save the Commonwealth money and free up our criminal justice system to address the most pressing threats to our safety.

**Pretrial Detention Reform.** Pretrial detention is the time after arrest while someone is held in jail after being charged but before conviction. Depending on the jurisdiction, this period can last a few days to several weeks after the initial arrest. Meanwhile, their lives are upended by losing employment, housing, custody of children, and making them more likely to be arrested in the future. Getting people who are not flight risks or a threat to themselves or others out of pretrial detention as quickly as possible will make the criminal justice system fairer and prevent many people's lives (who are innocent until proven guilty) from being upended. We can do this in several ways including counsel at first appearance and requiring an "ability to pay" assessment when setting cash bail or eliminating cash bail entirely.

**Post-Conviction Relief.** Virginia eliminated parole in favor of "truth in sentencing" which guarantees that most inmates serve at least 85% of their sentences. This has led to an increase in sentences and the elimination of one of the strongest incentives for incarcerated Virginians to rehabilitate themselves – early release. Repealing Virginia's "truth in sentencing" laws and returning to a parole system will reduce the prison population, medical costs for aging inmates, and address inequities in sentencing that disproportionately impact people of color. Moreover, we must adopt a system that allows for greater compassionate release, especially for those who are terminally ill or incapacitated. Virginia currently has the second-most restrictive compassionate release policies in any state.

**Repeal of Mandatory Minimum Sentences.** The purpose of the criminal justice system is to do justice. Mandatory minimum sentences do not serve that purpose. They do not reduce crime rates, they do not address recidivism rates, they do not make court process more efficient, they are not better for victims, and

they do not hold people accountable for the crimes they have committed. Rather, they provide a tool for prosecutors to coerce defendants who are often not represented by counsel and who may be innocent to plead guilty. They also prevent judges from being fair in situations where justice may require a reduced sentence.

## **2. What are your thoughts on solitary confinement, the good time law, and creating a VADOC ombudsman?**

**Solitary Confinement.** Solitary confinement is considered at least 20 hours per day in isolation away from the rest of the prison population for adults and 17 hours per day for juvenile offenders. Incarcerated people who experience solitary confinement are more likely to develop mental health issues including bipolar disorder, post-traumatic stress disorder, manic depression, and schizophrenia. Moreover, the practice costs \$75,000 per incarcerated person in solitary confinement with little or no evidence showing that it makes prison safer. Therefore, I believe that solitary confinement should be prohibited except in rare cases, such as when an incarcerated person poses a real and imminent threat of physical harm, and only for the time necessary to reduce that threat of harm. States like New York and New Jersey have adopted laws restricting how long a person can remain in solitary confinement, including bans on solitary confinement for people who are pregnant, postpartum, or have serious medical and/or psychological conditions, that could serve as templates for reform here in the Commonwealth of Virginia.

**Good Time Law.** I support good time laws and believe that Virginia's earned sentence credit program should be expanded. Good time laws are an immediate and promising way to accelerate inmate release and alleviate prison overcrowding. Moreover, they reunite families sooner allowing mothers and fathers to come home to their children. I believe Virginia is headed in the wrong direction on good time laws. Recently, Governor Glenn Youngkin amended the budget to narrow a 2020 law that expanded our current good time laws allowing prisoners to earn up to 15 days of "good time" credit towards early release for every 30 days served to exclude inmates with "mixed" sentences that include violent and non-violent crimes. I echo the words of Delegate Don Scott, D-Portsmouth, in saying that we either believe in the promise of rehabilitation for all inmates and provide them with an opportunity to earn "good time" or we don't. Personally, I believe that "good time" should be available to all who seek it except in cases of the most severe crimes such as rape, murder, and armed robbery.

**VADOC Ombudsman.** I support creating a VADOC Ombudsman. An ombudsman would create a process for inmates and correctional officers to address concerns that may go unnoticed by high-ranking administrators and political appointees cutting down on the \$2 million the Commonwealth pays each year for outside counsel to settle lawsuits. It would advise inmates of their rights, ensure prisons are complying with laws meant to guarantee baseline living standards, issue regular inspection reports and develop a uniform system for fielding prison-related complaints. I believe this layer of oversight is needed and appropriate. I live by the adage of Supreme Court Justice Louis D. Brandeis that "sunlight is said to be the best of disinfectants" meaning that transparency about the workings of an organization prevents corruption. A VADOC Ombudsman would provide that transparency.

## **3. Returning citizens are sent back to prison for technical violations more than for any new crimes. What are your reactions or recommendations?**

I do not believe that we should be sending returning citizens back to prison for technical violations. Returning citizens face several challenges including finding gainful employment, housing, and obtaining post-release support including ongoing mental health and substance misuse treatment. While I believe that post-release monitoring of returning citizens has a role to play in ensuring that they successfully reenter society, I do not believe that post-release monitoring should create traps for the unwary or provide a pretext to deprive returning citizens of their freedom.