

2018 Candidate Questionnaire on Criminal Justice Issues

Facing the District

The following questionnaire was developed by the ACLU-DC, CARECEN, HIPS, No Justice No Pride, Stop Police Terror Project DC, and Trans United Fund.

Please email your responses to [REDACTED] on or before May 31, 2018.

School-to-prison pipeline/Juvenile Justice

1. Black students in the District are 7.7. times more likely to receive an out-of-school suspension than their white peers. There is a wealth of evidence that the practice of suspensions and expulsions sets up students to fail by shutting them out of an education, decreasing their likelihood of graduating, and increasing their likelihood of interaction with the criminal justice system. This is the “school-to-prison pipeline.” What steps would you take to address the school-to-prison pipeline in the District?

I would support the creation of a suspension/expulsion court which school administrators would have to go through in order to expel a student or to impose suspensions of more than one day. This court would be staffed by a demographic cross section of child psychologists, educators, social workers and criminal justice experts and the burden of proof would be on the school administrator to show why the expulsion or suspension is justified.

2. According to “Beyond the Walls,” a recent report by the Georgetown Juvenile Justice Initiative and Rights4Girls, while overall youth involvement in the criminal justice system has declined, the rate of girls entering the juvenile justice system has steadily increased and, in D.C., black girls are significantly overrepresented. What are your recommendations for addressing the specific drivers of the increasing rates of girls in D.C.’s juvenile justice system?

I’m not sure the right approach is to determine how to keep the percentage of girls in the juvenile justice system down. I think we ought to focus on addressing the root causes that drive all children, girls and boys into the system. If the number of girls in the system begins to surpass the number of boys, then I would be concerned about the specific drivers. But as long as we are talking about a system which is drifting from almost exclusively boys to one that has is showing an increase in the percentage of girls, I believe we need to stay focused on keeping all of our children in school and out of the system, regardless of gender.

3. A driving factor in the school-to-prison pipeline is the increasing reliance on police rather than teachers, administrators, and counselors to maintain discipline in schools, increasing the likelihood that students are subjected to school-based arrests. Currently, there are over

100 “school resource officers” (SROs) working in District schools. In addition to SROs, the ratio of security staff to students in D.C. schools is 1:114, while the ratio of social workers/counselors is 1:283 students. Do you support shifting resources from security and police presence in schools to social workers? Why or why not?

Absolutely. This is a no brainer. The mission of police officers, whether we call them school resource officers or any other label, is law enforcement. The mission of social workers and counselors is addressing to underlying social disconnects that open the pathway to anti-social and illegal activity. We need to think in terms of prevention and intervention, not retribution and incarceration. Having more than twice as many SROs as there are social workers and counselors in our schools is unacceptable.

4. In FY 2016, D.C.’s Department of Youth Rehabilitative Services (DYRS) placed 26% of committed youth in facilities outside the District, not including New Beginnings Youth Development Center, the secure residential facility operated by DYRS in Laurel, Md. Many of these youth were committed to facilities as far flung as Texas and Illinois. How would you ensure all committed youth remain close to the District?

I believe we should open and maintain youth facilities in the District of Columbia. If necessary, we can rely on centers that are located “inside the beltway”. Placing our children in far flung locations deprives them of their best resource for rehabilitation; family contact. This ought to be a budget priority.

Police Practices

1. In D.C., decisions to acquire and use surveillance technologies and military equipment are made in secret by the police department without any input from the public or their elected officials. In addition to being acquired in secret, these technologies are used without any community input or oversight. To date, seven other jurisdictions, most recently Oakland, Calif., have passed legislation requiring city council approval before any law enforcement entity funds, acquires, or uses any military or surveillance equipment, and only after the public is given a full and fair opportunity to voice its opinions before the council. Do you support the District enacting such a law here?

Yes. I so support enacting such legislation.

2. A recent report by the Office of Police Complaints on Use of Force by the Metropolitan Police Department found that use of force complaints in FY2017 increased by 36% over the previous year, and that since 2013, 90% of all uses of force were against black residents,

even as black residents make up 48% of the population. How do you view the responsibility of elected officials in ensuring that local law enforcement operate in a manner that protects the rights of D.C. residents, and what would you do to address the significant racial disparity in MPD's use of force?

Equal justice under law is inscribed above the front doors of the United States Supreme Court. Police officers should have mandatory training on racial sensitivity. Any pattern of discriminatory decisions made by officers regarding the use of force should be addressed and, where appropriate, officers found to have violated the equal justice under law principle should be reassigned, removed from the police force and, in the most egregious circumstances, criminally prosecuted.

3. D.C. recently launched a pre-arrest diversion program through an interagency collaboration between the Department of Behavioral Health, the Metropolitan Police Department, and the Department of Human Services. Unfortunately, the agencies did not seek community input or guidance before developing the program. What role do you believe community stakeholders should play in the implementation of a pre-arrest diversion program?

I would suggest an oversight panel which includes community representatives, perhaps Advisory Neighborhood Commissioners and/or civic association presidents.

4. Trans communities of color are among the most likely to experience police violence and misconduct; however, the role of gender is rarely discussed in the context of police brutality. How will you use your position to promote public-health and community-led approaches to community safety that consider the role of race and gender discrimination?

I would include transgender representatives on review panels and civilian review boards and would hold periodic oversight hearings to ensure that these issues are being addressed.

Crimmigration

1. Do you support the Access to Justice for Immigrants Act of 2017, which would expand access to justice for D.C.'s documented and undocumented residents by creating a separate civil immigration legal services program?

Yes.

2. Many in the D.C. immigrant community face loss of their Temporary Protected Status in the coming 18 months, affecting, among other things, the validity of their official identification documents. Would you support the automatic transfer of a D.C. driver's license to a limited purpose driver's license upon the expiration of TPS status, without additional cost to the

immigrant individual? Or, how will you work to streamline this process to ensure that TPS holders immediately have some valid form of ID available to them?

Yes. I would support the automatic transfer of a D.C. driver's license to a limited purpose driver's license.

3. D.C. considers itself a "Sanctuary City." However, according to their policy and procedures, the D.C. Department of Corrections complies with U.S. Immigration and Customs Enforcement (ICE) notification requests. Specifically, when an inmate has an ICE detainer lodged against him/her, the DOC will notify ICE 48 hours prior to the expiration of their sentence, and in instances where an inmate is being released pursuant to a court order, DOC will notify ICE immediately to inform them that the inmate is being processed for release. Do you support closing the loopholes which allow for D.C. DOC to inform and notify ICE regarding the residency and release of inmates? Why or why not?

Yes. I do support closing the loopholes. In my view, a "sanctuary city" policy which is a policy in name only is not worth the paper it's written on.

D.C. Jail/Incarceration

1. D.C. eliminated money bail in 1992. However, a significant percentage of the people held in the D.C. jail are detained pretrial, often for lengthy periods of time. What would you do to reduce D.C.'s jail population?

I would push to add more judges and increase funding to pay more court appointed attorneys and speed up the process of moving people through the system.

2. The population makeup of the D.C. jail is over 90% black, even though black residents make up only 48% of D.C.'s population. What would you do to reduce this disparity?

I believe we have to address the issues alluded to previously with regard to racially insensitive policing and expand that concept to the training required of prosecutors. But the problem begins long before individuals encounter police and prosecutors. We need to address the shortcomings in our education system, reduce unemployment in our most economically challenged neighborhoods and do much better on providing affordable housing. By fixing education, employment and affordable housing, we will significantly reduce the number of black residents who wind up in the system to begin with.

3. The Department of Corrections reports that people who are re-incarcerated within a year after their release have a significantly higher incidence of mental illness. However, D.C.'s Department of Behavioral Health has repeatedly maintained that the justice-involved consumers of mental health services are just too small a percentage of the population the

department serves to be a priority. What would you do to ensure people with mental illness who are justice-involved are a priority in our systems?

I would encourage greater collaboration between the Department of Corrections and the Department of Behavioral Health. Perhaps, a committee, composed of representatives of each department, could be formed to do case by case reviews.

4. As of April 2018, 4,679 D.C. residents were incarcerated in federal prisons as far away as Washington state, California, Texas, and Florida. This distance isolates those incarcerated from the support systems of family, friends, and local rehabilitative services that research shows is critical to successful re-entry. Do you support D.C. bringing people back from the Federal Bureau of Prisons system and, if so, how would you propose the District accomplish this?

I do support bringing people back from the federal system. I'm not sure how to accomplish that other than to pay for the recreation of a new Lorton Reformatory which might not be fiscally feasible.

5. A 2015 report by the Washington Lawyers Committee for Civil Rights and Urban Affairs described the conditions of the D.C. Jail as "Damaged. Moldy. Crumbling. Infested with vermin. Smelling of sewage. Completely unconcerned with inmate safety." While incarcerated people, advocates, and the government are in general agreement that the conditions at the D.C. Jail are unacceptable and unhealthy, there is no consensus as to the process, timeline, and method of financing for the replacement of the jail. What considerations do you believe should inform the replacement of the D.C. Jail and what steps would you take to address the current conditions faced by inmates and those who work in the facility?

In the earlier years of my career as a lawyer, I was often in the D.C. Jail. Conditions were very bad then. 20 years later, I can only imagine how much worse they have become. I believe we are going to have to set aside funding to rebuild the D.C. Jail, even if we have to do it in phases. Meanwhile, we should empower our health department to monitor conditions in the jail and mandate that issues thereby identified be addressed with priority.

Reentry/Returning Citizens

1. Several other jurisdictions have taken steps to remove the criminal conviction records of people who were arrested on marijuana-related charges prior to legalization/decriminalization. Most recently, Seattle's mayor and city attorney announced plans to vacate all misdemeanor marijuana possession convictions that were prosecuted before it was legalized in Washington state in 2012. Do you support a similar move in the District?

Absolutely. In fact, I believe we need to examine and revise our law on sealing convictions and reduce the number of exempt misdemeanors so that more returning citizens will have to opportunity for a true fresh start.

2. Would you vote in favor of the Removing Barriers to Occupational Licensing Amendment Act of 2017 (B22-0523), which would restrict the ways in which criminal records can be considered by occupational licensing boards?

Yes.

Criminalization of Poverty

1. The trans community, and particularly trans people of color, face a disproportionate level of violence, discrimination, homelessness and unemployment in D.C. Nearly half of homeless youth in D.C. identifying as LGBTQ, while 50% of trans Washingtonians live in extreme poverty, with a median income of \$10,000. How would you use your position to address these issues?

I would support legislation which specifically identifies trans people and trans people of color as a protected class under our human rights protections.

2. Smart Justice means placing less emphasis on criminalizing conduct and a greater focus on directing resources to address the underlying problems, like substance abuse, mental health issues, and lack of stable housing. If you are elected, what concrete steps will you take to move away from a criminalization approach to a public safety approach to criminal justice?

I would support the incentives of the NEAR Act and I would actively monitor the results of its implementation to find out what works and how we can continually improve on that progress.

D.C. Criminal Code Reform

1. The "Reducing Criminalization to Promote Public Safety and Health Amendment Act of 2017," would remove criminal penalties for consensual sex work among adults in the District and would create a task force to study the effects of the law and make recommendations for further public health interventions. Do you support this bill? Why or why not?

I'm not sure about this one. In principle, I don't believe sex workers should be subject to criminal penalties. On the other hand, I am concerned that those who exploit vulnerable young people might use the "you can't be arrested" argument to draw more young women and young men, some who are pre-teens, into their web. I'm also concerned that decriminalization might make sex workers less conscious about exposing themselves to the potentially deadly health consequences. I'm not familiar with the details of the bill but I think that maybe a phase down

approach to decriminalization might be wise while the task force gathers the data needed to make a more informed decision on complete decriminalization.

2. One of the major barriers to reducing the overcriminalization and mass incarceration of D.C. residents is D.C.'s bifurcated criminal justice system. All federal offenses, adult felony offenses and some misdemeanors are prosecuted by a federally appointed U.S. Attorney, and the federal government also exerts control over parole decisions, probation, and supervision for those convicted of crimes in the District. However, the Council does control D.C.'s criminal code, and arrests for crimes contained in the code are largely carried out by the Metropolitan Police Department. With the above limitations, what changes would you make to reduce the high number of D.C. residents who are charged, convicted, and imprisoned each year?

I could pontificate on this question ad infinitum but the truth is that this is a Statehood issue. Until we have statehood for the District of Columbia, there is, in my view, no truly effective way, other than, as I stated before, sensitivity training for police and prosecutors, to address this problem.

3. The "Fare Evasion Decriminalization Act of 2017" would replace criminal penalties for fare evasion in the District with a civil fine. Do you support this bill and would you support the decriminalization of other low-level offenses like eating on the Metro? Why or why not?

Yes. Fare evasion, even though it has financial implications, is less of a problem than pedestrians jay walking and bicylists running red lights and stop signs without stopping. Yet police don't even issue fines for those offenses. Fare evasion should be subject to a civil fine.

4. Do you support reforming D.C. sentencing guidelines to reduce recommended sentencing ranges for certain crimes in the District?

Yes.

5. How would you address sentencing disparities that lead to black and Latino offenders facing significantly greater odds of incarceration than similarly situated white offenders?

I would support the formation of a human rights appeal panel with the authority to review sentences to insure that defendants are not facing greater penalties based solely on their race.

6. Do you support the removal of mandatory minimums? Why or why not?

Absolutely. Mandatory minimums undermine the discretion of judges who we appoint because of the expectation that they will use their wisdom and human experience to deliver justice on a

case by case basis. Mandatory minimums take that discretion away from judges and give it to prosecutors whose mission, unlike judges, is not to deliver justice, but to win convictions. Mandatory minimum sentences, in my opinion, do not enhance criminal justice, they undermine it.

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