

2018 Candidate Questionnaire on Criminal Justice Issues Facing the District

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

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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?

This is an enormous problem nationwide, with strong links between racist school disciplinary practices and the fact there are close to 2 million incarcerated adults in the United States. In the District, this issue is particularly acute, with African-Americans making up more than 95 percent of D.C. prisoners. The D.C. Schools must put in place stronger due process protections for students subject to discipline, in particular out of school discipline. No student should be removed from school unless there is absolutely no other alternative. The level of childhood poverty in the District is shockingly high, only slightly lower than Mississippi. Many students are homeless, or come from unstable housing situations. The District needs to focus resources on serving the needs of these children, not remove them from school. Additionally, many children have special developmental needs, requiring treatment not removal from school. Additionally, out of school discipline rates in charter schools are higher than in DC public schools. Charter schools must be held to the same, or stronger, standards as DC public school.

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?

Again, childhood poverty is a significant factor in rising arrest rates among both boys and girls. Additionally, incarcerated women and girls commonly have serious histories of sexual and physical abuse. These traumatized women and girls are often arrested for offenses related to their trauma. They need treatment and services, not incarceration.

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?

We absolutely must decrease, if not eliminate, the role of “school resource officers.” Their presence leads to arrests rather than counseling or in-school discipline. Children should not be treated as criminals in school.

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?

Because there is a relatively small number of secure youth residential facilities, this is a national problem. Many are privately-owned, raising other problems. D.C. must mandate that no youth will be sent more than 50 miles away from D.C. The problem is less the lack of local facilities than the fact that too many youth are being incarcerated. We need to look to other solutions beyond putting children in cages.

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 support a ban on devices like “stingray” technology as well as secret surveillance tools used by the police. The Council must have direct authority to authorize, and reject, the procurement of military equipment for our police. I am strongly opposed to the further militarization of the police and the erosion of basic rights against illegal searches without a warrant. The longstanding DC police ties to Israel, a notorious human rights violator, should be immediately terminated.

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?

Having heard the testimony on this issue in a public hearing of the DC Council, to date, as far as I know, the DC Council has not responded to data presented by the ACLU and by the Washington Lawyers’ Committee for Civil Rights on racially biased police practices. The Council must exert stronger oversight over the police. New statutes barring the use of force generally by the police should be enacted. The police should not be permitted to make arrests for traffic and other minor offenses. The Office of Police Complaints is toothless. It has minimal enforcement powers. They should have the power to fully investigate cases, issue subpoenas and secure disciplinary action against law-breaking police officers. The MPD must be reined in. Further, the NEAR Act has yet to be fully implemented. Funding for police should be decreased, with funds shifted to social needs, not law enforcement.

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?

Community stakeholders should be involved in the design and implementation of pre-arrest diversion programs, in collaboration with the courts. Unfortunately, the federalization of the D.C. criminal system makes this difficult. I favor the full repeal of the D.C. Revitalization Act and return of local control of the D.C. criminal system, including local prosecutors, locally-appointed judges and local (and decreased) incarceration.

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?

Discrimination and mistreatment based on race, gender and sexual orientation is illegal under D.C. law (DC Human Rights Act), which must be enforced. This point must be made loud and clear, and I will do so as a Councilmember. The clear evidence is that law enforcement is disproportionately arresting, rather than protecting, trans people. This is illegal and must be stopped.

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, I support the Act.

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?

I support the limited purpose driver's license for those with expired TPS status without cost. There should be streamlined processes for all DC residents to get some kind of valid government identification. This includes immigrants as well as returning citizens who lack required documentation.

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?

I support restricting the ability of the DOC to communicate with ICE and closing this loophole. DC should not be assisting ICE in detaining our residents simply because a DC law enforcement official made an arrest. There should be no cooperation between the DOC and ICE. *I pledge now and once elected to the DC Council to help organize and participate in civil disobedience if necessary to defend Sanctuary DC.*

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?

Nearly one-third of DC Jail residents are being held on parole or supervised release violations, imposed by the US Parole Commission. I support efforts to restore local control of parole to DC, as supported by the DC Council and advocates. Additionally, police continue to make arrests for marijuana use after legalization. This must stop. Finally, DC must revisit the many laws that criminalize poverty (e.g., public urination, disorderly conduct, etc.). No one should be incarcerated simply because they are poor.

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?

As noted above, the DC Council has never responded to exhaustive analyses of this problem presented by the ACLU and others. DC arrest too many people, but especially too many African-Americans. There must be stronger Council and citizen oversight of the police. The MPD's authority is mostly unchecked, and their racially biased practices continue. This must change. I will be a voice demanding accountability for the police in all areas. Further, the police are a tool of gentrification, criminalizing the non-white population to create more high-rent properties for new, higher income residents. This is borne out by the ACLU data. Police arrest practices in newly-gentrified neighborhoods focus on arrests for minor offenses. This must stop.

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?

The Department of Behavioral Health is not serving DC residents well. The number of justice-involved people DBH serves are those who need services the most. DBH must recognize their role in the criminal system, and its responsibility for addressing the mental health needs of people facing incarceration. This is not a criminal justice issue but a treatment issue.

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 support the repeal of the DC Revitalization Act, beginning with restoring local control of parole to DC from the US Parole Commission. The DC government must develop a plan and implement it for returning DC prisoners to DC and restoring local control to the criminal system.

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?

First, I do not support investing millions of dollars in a new jail to incarcerate more people. In planning what to do about the DC Jail, we should start by reducing the jail population, with alternatives to incarceration and reform of police practices. If a new jail is to be built, we need to consider using it to house DC prisoners now held in the federal BOP as well as the Jail population. Current conditions in the jail can be improved, and must be improved in the short term. For years, the DOC has misspent millions that were supposed to be used for Jail renovation. New air conditioning was added, but rarely functions, according to lawyers I have consulted. Maintenance is sloppy and often not done. Staff misconduct continues unabated, creating terrible conditions for Jail prisoners, with little accountability for staff who assault or abuse prisoners. Again, there must be stronger Council oversight, with room for involvement of DC residents in improving conditions and addressing issues at the Jail. There is currently almost no monitoring of incidents of violence at the Jail, and no Council involvement in fixing this situation. Staff are working under poor conditions, but this is not excuse for mistreatment of incarcerated people.

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?

I support similar moves in DC. This should have been done years ago, when decriminalization and legalization of marijuana were enacted.

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, I support this legislation.

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?

The two most egregious human rights violations in DC are poverty and homelessness, as documented by the DC Human Rights City Committee drawing from extensive research (see latest report at <https://www.afsc.org/document/2017-dc-human-rights-city-report>, earlier reports at <http://afsc.org/resource/report-state-human-rights-dc>), with the trans community bearing the greatest burden because of discrimination, the lack of enforcement of existing laws and police practices targeting this community. I am committed to making this issue a priority now and once elected as Councilmember. DC's tax base is more than sufficient to virtually eliminate these human rights violations, by curbing public deals/subsidies from DC's revenue going to gentrification and displacement of long-term residents, and raising the DC income tax rate of wealthy DC residents to fund affordable housing for low-income residents, the homeless, financing community land trusts, repairing public housing, and boost rental assistance, income support for low-income residents (i.e., increase TANF income support to the federal poverty level along with tax rebates); see documentation posted at <https://www.dctj.org/>, cited in my

campaign website https://dcsqp.nationbuilder.com/david_schwartzman.

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?

Please see answers to previous questions and those given in next section.

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 support this legislation, although it does not go far enough. There is a long list of offenses that should be removed from the DC Code that punish poor people. I support the decriminalization of sex work, but I also support the development of programs and alternatives to sex work. No one should go to jail for prostitution, but no one should have to engage in this activity to survive.

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?

As noted, I support amending the DC Code to address a wide range of misdemeanor offenses that should no longer be prosecuted. I also support reduction of the lengthy sentences handed out in DC Superior Court. DC over-sentences for all offenses.

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. This is a demand of the Support Save Our System Coalition (WMATA) which I have strongly supported as representative of the DC Statehood Green Party.

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

Yes. DC sentences, which were re-set after the DC Revitalization Act, must be revisited. The sentencing guidelines are far too severe, with extraordinarily long sentences on most offenses. Additionally, there should be incentives for sentence reduction, like expanded good time for education and good behavior. I also support restoring parole to DC sentencing schemes, with local control of parole.

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?

Again, this is largely a function of racially biased policing and racial biases by federal prosecutors. We need local control of prosecution, with strong guidelines around race discrimination. There should be accountability for judges and prosecutors, which again requires local control of the DC criminal system. Repeal the DC Revitalization Act, a significant step to empower the struggle for Statehood for DC.

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

Yes. Mandatory minimums serve no purpose and should be abolished.