

City Council Candidates Questionnaire on Policing and Surveillance Issues

Introduction

The City Council has the power to approve or deny the budget, to hold hearings, to pass ordinances, and to subpoena information from City agencies and offices. Residents of Boston deserve to hear how candidates for City Council intend to use their power to ensure all of us are treated with respect, dignity, and fairness.

In a city that continues to struggle with systemic racism, and in light of the Trump administration's escalated threat to immigrant and communities of color in Boston, changing how the city is policed must be a priority for the incoming City Council.

The ACLU of Massachusetts, Muslim Justice League, Families for Justice as Healing, Digital Fourth, Center for American Islamic Relations - Massachusetts, Jewish Voice for Peace - Boston, Young Abolitionists, Boston Police Camera Action Team, and Boston Coalition for Police Accountability have joined together to create a questionnaire to assess how city council candidates will address pressing policing issues in our city.

For each topic, we have asked two types of questions: the first invites an open-ended response for you to provide policy specifics, while the second asks for a simple 'yes' or 'no.' We respectfully request that you send us your responses to these questions by October 11. We will publish the results before the general election so Boston voters can make informed decisions on Election Day.

Immigration and Police Policy

1. Thousands of people are arrested each year in the City of Boston for minor offenses like driving without a license, drug possession, and disorderly conduct. Data obtained by the ACLU show these minor arrests disproportionately impact Black and Latinx Bostonians. Each time the Boston Police arrest someone, ICE is notified of the arrest—putting our immigrant neighbors and family at substantially greater risk for detention and deportation. Charges for these minor arrests are often dropped, but by then the damage has been done.
 - a. **If elected or reelected to the City Council, what will you do to limit the number of minor offenses arrests in the city?**
 - b. **If elected or reelected to the City Council, will you encourage the police commissioner to use discretion to stop making arrests for minor offenses? YES or NO**

2. The Boston Police Department's existing privacy and civil liberties policy allows officers and intelligence analysts to collect and share with the federal government information about people who are not suspected of criminal activity. This policy has enabled BPD surveillance of political dissidents like antiwar protesters. Recently, it also resulted in the ICE detention of and initiation of deportation proceedings against at least one Boston public school student, after an unsubstantiated claim of his supposed gang membership in a BPD incident report was shared

with ICE.¹ We do not know how often BPD information sharing with ICE has led to the detention and deportation of people not suspected of criminal activity, but we can safely assume this is not the first or only time. The BPD's information collection and sharing policy puts immigrants, dissidents, and people of color at risk for inappropriate and repressive surveillance, and worse when that information is shared with Trump's federal government.

- a. **If elected or reelected to the City Council, what will you do to restrict the Boston Police Department from collecting and sharing with the federal government information about people not suspected of criminal activity?**
- b. **If elected or reelected to the City Council, will you support changing BPD policy to prevent intelligence collection and sharing with the federal government absent articulable criminal suspicion? YES or NO**

Surveillance of Muslims

1. The Boston Police Department is involved in a "countering violent extremism" (CVE) grant program called the [Youth and Police Initiative Plus \(YPIP\)](#). This program focuses on Somali youth, who are deemed a potential threat due to the social and economic trauma they experience as immigrants and refugees. The application for federal funds for YPIP lists "unaccountable times and unobserved spaces" as a potential "risk factor" for Somali youth in Boston, implying that for Somali youth, privacy is dangerous. CVE programs across the country have not made communities safer, but instead have chilled political dissent and access to social services for Muslims and other marginalized communities.
 - a. **If elected or reelected to the City Council, what will you do to ensure funding is available to support social services for immigrant communities that is not tied to law enforcement?**
 - b. **If elected or reelected to the City Council, will you support ending BPD's involvement in any community outreach programs that credit false and stigmatizing theories about predispositions toward violence or "extremism," including Youth and Police Initiative Plus? YES or NO**
2. Law enforcement should not investigate people unless officers have articulable suspicion of involvement in criminal activity. The FBI does not require a criminal predicate for Joint Terrorism Task Force (JTTF) investigations; in fact, current federal policy allows the FBI to investigate anyone based on no suspicion of criminality whatsoever. Recently, a BPD officer tasked to the JTTF was reportedly involved in improper surveillance and targeting of the political activity of a Boston-based Dakota Access Pipeline protester in North Dakota.² BPD collaboration with the FBI, which has historically targeted Muslims for improper surveillance and entrapment operations, puts Muslim Bostonians at risk of federal harassment.
 - a. **If elected or reelected to the City Council, what will you do to protect Muslim Bostonians and activists from unwarranted federal harassment and surveillance?**

¹ Ali Winston, "How sanctuary cities can protect undocumented immigrants from ICE data mining," June 16, 2017, the *Intercept*. <https://theintercept.com/2017/06/16/how-sanctuary-cities-can-protect-undocumented-immigrants-from-ice-data-mining/>.

² Sam Levin, "Revealed: FBI terrorism taskforce investigating Standing Rock activists," the *Guardian*, February 10, 2017. <https://www.theguardian.com/us-news/2017/feb/10/standing-rock-fbi-investigation-dakota-access>.

- b. **If elected or reelected to the City Council, will you support efforts to end BPD collaboration with the Joint Terrorism Task Force, as the City of San Francisco has recently done? YES or NO**

Racial Profiling

1. According to data from the Boston Police Department analyzed and reported by the Boston Globe, 70% of the nearly 15,000 individuals that police observed, interrogated, or searched in 2016 were Black. Black people make up 25% of the population in Boston.³
 - a. **If elected or reelected to the City Council, what will you do to eliminate these significant racial disparities in street investigations, besides previously proposed plans of hiring more officers of color?**
 - b. **The number of Field Interrogations and Observations declined by 30% in 2016. If elected or reelected to the City Council, will you work to further reduce the number of FIOs? YES or NO**

Drug arrests

1. According to the Massachusetts Department of Public Health, “The risk of opioid-related death following release from incarceration is **more than 50 times greater** than for the general public. What’s more concerning is that the threat is immediate. Fatal overdoses during the first month after release are six times higher than for all other post-incarceration periods.”⁴ In Boston during the years 2012-2016, the Boston Police Department made over 27,000 drug arrests.⁵
 - a. **If elected or reelected to the City Council, how will you leverage your position to shift the city from a law enforcement response to drugs to an equitable and effective public health approach?**
 - b. **If elected or reelected to the City Council, will you support a pre-arrest diversion program for drug-related offenses? YES or NO**
2. Across the nation, white people are more likely to use and sell drugs than people of color, yet substantially less likely to be arrested for those offenses.⁶ Black and Brown people are also punished more harshly than white people for drug offenses. Although people of color make up less than 25% of the Commonwealth’s population and less than 28% of people convicted of drug possession, they are roughly 55% of those convicted of drug distribution and 75% of those convicted of mandatory minimums drug offenses.⁷ Despite the fact that Black people make up only 23% of the population in Boston, they accounted for 36% of drug arrests during the years

³ Jan Ransom, “Blacks remain focus of Boston Police Investigations, searches,” August 29, 2017, *The Boston Globe* <https://www.bostonglobe.com/metro/2017/08/28/blacks-remain-focus-boston-police-investigations-searches/PDbFr2QZexCEi3zJTO9mOJ/story.html>.

⁴ Massachusetts Department of Public Health, “The Massachusetts Opioid Epidemic: A data visualization of findings from the Chapter 55 report,” Commonwealth of Massachusetts. <http://www.mass.gov/chapter55/#populations>.

⁵ Boston Police Department arrest data, obtained by the ACLU via public records request.

⁶ Christopher Ingram, “White people are more likely to deal drugs, but black people are more likely to get arrested for it,” September 30, 2014, *The Washington Post* https://www.washingtonpost.com/news/wonk/wp/2014/09/30/white-people-are-more-likely-to-deal-drugs-but-black-people-are-more-likely-to-get-arrested-for-it/?utm_term=.a97f7973378f.

⁷ Massachusetts Sentencing Commission, “Selected Race Statistics” September 27, 2016 <http://www.mass.gov/courts/docs/sentencing-commission/selected-race-statistics.pdf>.

2012-2016. Whites, meanwhile, were underrepresented; 46% of the population of the City is white, but whites were only 36% of all drug arrests.⁸

- a. **If elected or reelected to the City Council, what will you do to end racial bias in drug policing in our city?**
- b. **If elected or reelected to the City Council, will you actively support the repeal of all drug mandatory minimums this legislative session?⁹ YES or NO**

Police Militarization and Use of Force

1. The Trump administration has once again opened the floodgates to allow unrestricted transfers of military weaponry from the Department of Defense to state and local police. The Boston Police Department describes its mission as community policing, a mission which is incompatible with police militarization.
 - a. **If elected or reelected to the City Council, what will you do to address police militarization?**
 - b. **If elected or reelected to the City Council, will you work to prevent the Boston Police Department from obtaining military weaponry such as machine guns, armored vehicles, drones, bayonets, or grenade launchers from the US military? YES or NO**
2. When a police officer in Boston uses deadly force, the officer's conduct may be reviewed internally by the Boston Police Department and the Suffolk County District Attorney may investigate to determine whether or not to press charges. Neither the Boston Police Department nor the District Attorney can be impartial. The BPD and Suffolk County District Attorney's office work together to investigate and prosecute people. Given this partnership, there is an unavoidable conflict of interest when the District Attorney is tasked with investigating police use of deadly force.
 - a. **If elected or reelected to the City Council, what will you do to ensure a timely, transparent, and independent investigation whenever an officer kills a Boston resident?**
 - b. **If elected or reelected to the City Council, will you support the institution of a policy requiring independent, impartial investigations whenever the BPD uses deadly force? YES or NO**

Plain clothes policing

Several tactical units of the Boston Police Department patrol in plain clothes. They often drive unmarked vehicles while wearing cargo shorts, jeans, sweatshirts, hats, and sneakers on duty. Some Bostonians know these officers as "the jump out boys" because of their reputation for being more aggressive and using intimidation tactics against residents.

⁸ Boston Police arrest data obtained by the ACLU via public records request.

⁹ S.819/H.741 – Sen. Creem & Rep. Carvalho (Currently before the Judiciary Committee)

1. There is almost no public information available about the number of officers, budget, equipment used, complaints against, stops or arrest data of the Youth Violence Strike Force, the Drug Control Unit, or the Anti-Crime unit. In response to the same lack of transparency and negative impact on residents—particularly residents of color—the City of Baltimore recently ended the practice of plain clothes policing.¹⁰
 - a. **If elected or reelected to the City Council, what will you do to ensure transparency and assess the impact of tactical units on community wellbeing?**
 - b. **If elected or reelected to the City Council, will you support the abolition of plain clothes policing? YES or NO**

Overtime Spending

The total FY 2018 Boston Police Department budget is \$373,380,191. In FY 2016, the BPD was allocated \$35,028,750 for overtime and spent \$57,479,518. In FY 2017 and FY 2018, budget allocations for overtime are over 55 million dollars¹¹. Of the city's 100 top paid employees in 2017, 98 of them were police officers.¹²

1. Police overtime spending exceeds spending on youth jobs and community centers.¹³ Current overtime policies allow for excessive spending including a mandate that officers testifying in court are paid for a minimum of four hours even if they're there less than an hour. Boston Police officers collect pay for thousands of hours for construction details, while civilians flaggers work those sites in other cities and states.
 - a. **If elected or reelected to the City Council what will you do to curb excessive overtime spending, besides previously proposed plans of hiring more police officers?**
 - b. **If elected or reelected to the City Council, will you work to impose stricter limitations on police overtime spending and invest cost savings in housing, education, youth jobs, and drug treatment? YES or NO**

Transparency and Public Accountability

1. The Boston Police Department has made some progress in terms of opening its data to the public. For example, every day the BPD automatically posts the most recent incident report metadata from across the city on the City's open data portal. But currently, arrest data and stop and frisk data (also known as FIO) are not available to the public on an ongoing basis on the city's data portal. These data can be posted online without compromising the privacy of Boston residents, by way of simple-to-automate data minimization. FIO and arrest data are critical to understanding the impact of policing in Boston.

¹⁰ Justin Fenton and Tim Prudente, "Commissioner Davis says plainclothes policing in Baltimore is over," March 8 2017, *The Baltimore Sun*. <http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-plainclothes-policing-ends-20170308-story.html>.

¹¹ City of Boston, Public Safety Budget, FY 2018.

<https://budget.boston.gov/img/pdfs/volume-3-by-cabinet/12-public-safety-cabinet.pdf>.

¹² Meghan E. Irons, "Police detective tops Boston's payroll with a total of over \$403,000." February 14, 2017, *The Boston Globe* <https://www.bostonglobe.com/metro/2017/02/14/police-detective-tops-boston-payroll-with-total-over/6PaXwTAHZGEW5djgwCJuTI/story.html>.

¹³ City of Boston, Budget, FY 2018. <https://budget.boston.gov/img/pdfs/volume-3-complete.pdf>.

- a. **If elected or reelected to the City Council, what data will you use to evaluate police performance?**
 - b. **If elected or reelected to the City Council, will you work to make Boston Police arrest data and stop and frisk data, including race data, available to the public in real time? YES or NO**

2. Cities and counties across the country have enacted policies to require transparency and democratic approval of surveillance technology acquisitions by city government agencies.
 - a. **If elected or reelected to the City Council, what will you do to ensure transparency and democratic accountability around new surveillance technology acquisitions?**
 - b. **If elected or reelected to the City Council, will you support a municipal law to require transparency and democratic accountability before city agencies acquire new surveillance tools? YES or NO**

Community Oversight

1. While Boston has taken steps to allow for community review of civilian complaints against police officers in the form of the Community Ombudsman Oversight Panel (CO-OP), the Panel has limited power to hold officers accountable. The current CO-OP is made up of a former police officer, a former judge, and a former city employee. These members documented resident dissatisfaction, severe delays and bias in the investigation process, and lack of referrals to the panel in their December 2015 report to Mayor Walsh.¹⁴
 - a. **If elected or reelected to the City Council, what steps will you take to increase community control over policing in our neighborhoods?**
 - b. **If elected or reelected to the City Council, will you support replacing the CO-OP with an independent community-based complaint review body with the power to subpoena, investigate, discipline, and fire police officers? YES or NO**

2. Boston community members pushed for the adoption of body cameras after Ferguson Police Officer Darren Wilson killed Michael Brown in 2014. Boston Police officers are no longer wearing body cameras after the year-long pilot program. The Boston Police Department is planning a nine-month study on the body camera program.
 - a. **Please describe the role you think body cameras should play at the Boston Police Department.**
 - b. **If elected or reelected to the City Council, will you work with advocacy groups to implement a body worn camera program, along with a policy that mandates public transparency and personal privacy? YES or NO**

¹⁴ Community Ombudsman Oversight Panel, "Civilian Review and Police Oversight in Boston: Review and Recommendations," December 21, 2015.
https://www.boston.gov/sites/default/files/document-file-08-2016/co-op_recommendations_to_mayor_walsh_tcm3-53523.pdf.