



2019 Raleigh City Council and Mayoral Candidate Questionnaire

The Raleigh Police Accountability Community Taskforce (PACT), the American Civil Liberties Union (ACLU) of North Carolina, Carolina Justice Policy Center, and El Pueblo would like to provide voters with information about where Raleigh's 2019 Mayoral and City Council candidates stand on important issues of police accountability and oversight. Our goal is to educate voters about local candidates' positions on local policing issues.

All candidates for City Council and Mayor are receiving this questionnaire. Responses will be made publicly available in an effort to hold candidates accountable to their communities' fundamental need for justice, safety, and respect.

Please submit all responses on or before **August 27, 2019 at 6:00 p.m.**

Save a copy of this document and type your responses under each question, using additional space as needed.

Email your completed questionnaire to: **sbirdsong@acluofnc.org**.

Candidate Name: David Cox

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1. PACT has called for the City Council to pass a resolution asserting the Council's public support for a Community Oversight Board of local police with investigatory, subpoena, and disciplinary power. We propose focusing our community's energy on securing Raleigh's authority to create a board with subpoena power and later convening dialogues with community stakeholders to discuss details of the board's structure. The Council's support of an external Community Oversight Board with meaningful authority would communicate that we want to work together toward a system where people's concerns would be justly investigated.

Do you support the creation of a Community Oversight Board that has the power to investigate, subpoena, and discipline police officers when there is injustice?

Response (Please give a clear "Yes" or "No" and any explanation):

Yes, I support a community oversight board where investigatory, subpoena, and disciplinary authorities of the board must be very clear, well defined, and unambiguous. There are several challenges to specifying these criteria.

In North Carolina, Charlotte, Greensboro, Durham, and Winston-Salem have some form of oversight board. An oversight board is not unusual and they are found in many cities throughout the country.

It is rare for an oversight board to have strong disciplinary authority (e.g. the ability to suspend or terminate employment). Only a few boards in the country have the authority to impose discipline. One survey shows that 10 percent impose discipline, 60 percent recommend discipline, and 75 percent review discipline (see <https://ric-zai-inc.com/Publications/cops-w0861-pub.pdf>)

Newark, NJ is often cited as a model for an oversight board. In Newark, the civilian oversight board, CCRB, was established in 2016.

Since its establishment, the board's powers have been challenged in court.

The Newark board is an investigatory and oversight board but a recent court case has determined that the board has “no authority to discipline officers” (see <https://www.courthousenews.com/powers-of-newarks-civilian-police-review-board-restored-on-appeal/>).

Moreover, the court determined that the Newark board cannot disclose an officer's or complainant's identity and the board's findings are non-binding. (see <https://www.njtvonline.org/news/uncategorized/court-favors-newark-in-police-challenge-to-civilian-board/>).

Investigations, of course, must be fair and accurate. To be fair and accurate an oversight board must have access to a complete record of information about an incident. North Carolina laws make this problematic.

For example, NC state law governs personnel records and who may access those records. The law allows access to limited basic information such as name, age, salary, and type(s) of discipline the officer may have previously received. It does not allow access to information gathered during an ongoing investigation. In fact, release of such information is a class 3 misdemeanor.

That said, Charlotte, Greensboro, Durham, and Wilmington have obtained local acts from the General Assembly to allow boards access to personnel files. Board members must sign a non-disclosure agreement agreeing to keep the information confidential. A similar non-disclosure requirement exists in Winston-Salem even though Winston-Salem has no local agreement.

State law also governs access to body camera and dash camera recordings. No recordings may be released without a court order. No oversight board has the ability to view these recordings without a court order.

When it comes to specific incidents involving a police officer, an oversight board typically conducts an investigation and review of the incident and issues a recommendation or decision.

It should be noted that any disciplinary decision (e.g. related to suspension or termination) may be appealed to the Civil Service Commission. And, a Civil Service Commission decision may be appealed to the courts. Consequently, while a board may issue a binding decision, it is not necessarily a final decision.

To summarize, I support an oversight board but specifying investigatory, subpoena, and disciplinary authorities that are clear, well defined, and unambiguous is complicated.

At present, any oversight board will be limited in reviewing available information about incidents and reporting recommendations. This will limit a board's ability to render fair and impartial decisions. Unless fair and impartial decisions can be made, then rendering a disciplinary decision is problematic will most likely be challenged.

Moreover, I support an oversight board where the members have received training or can demonstrate knowledge about police enforcement

2. For so many people, particularly Black and Latino residents, a routine encounter with a police officer can become a traumatic experience that results in unnecessary, invasive searches. This happens because the individual doesn't know that they have the right to refuse a consent search of their person, vehicle, or home. RPD has created a consent-to-search form that states an individual's right to refuse a search, and RPD policy requires that an individual sign their consent before a vehicle or property search, but only requires written consent before individuals themselves are searched "where possible." It is unclear whether this policy is effectively enforced.

Are you in favor of requiring Raleigh Police Department to require and enforce the use of consent-to-search forms prior to any search and pat down that is not based on probable cause?

Response (Please give a clear "Yes" or "No" and any explanation):

Yes

3. While Raleigh has implemented a body-worn camera program, it lacks a key element to ensure it is fully implemented: disciplinary consequences for violating the policies. This was illustrated in the failure of the officer who killed Soheil Antonio Mojarrad to turn on his body-worn camera. In order to ensure proper use of body cameras, policies should specify additional training opportunities and disciplinary consequences for officers who repeatedly misuse body cameras and improperly handle recordings. Similar policies have been implemented in other cities, including Durham and Charlotte.

Do you support the development and implementation of an effective discipline policy to enforce the existing RPD body-worn camera program?

Response (Please give a clear “Yes” or “No” and any explanation):

Yes

4. Another tool for ensuring the consistent use of body-worn cameras is to use a camera system that automatically turns on when officers draw their weapon from its holster. The body-worn cameras that Raleigh has purchased from a company called WatchGuard apparently do not support this feature, and are turned on by the officer clicking a button on the camera.

Do you support allocating funds to implement a holster activated body-worn camera system?

Response (Please give a clear “Yes” or “No” and any explanation):

Yes

5. Wake County's jail has regularly been overcrowded, and at times as many as 90 percent of the people in the jail are being held before their day in court, and before being convicted of any crime. Studies show it can take months or years to recover from the job loss and other damage caused by even a day or two of incarceration. There are many ways to reduce the harm to the community of jailing people before trial. One option is to expand the use of citations in lieu of arrest for certain misdemeanor charges. This policy can not only prevent harmful pretrial incarceration, but it can also reduce jail overcrowding and save time and police department resources.

Do you favor expanding the Raleigh Police Department's use of citations in lieu of arrest for certain misdemeanor charges?

Response (Please give a clear "Yes" or "No" and any explanation):

Yes

6. *Are you in favor of requiring, and ensuring funding for, de-escalation training for all RPD officers? Do you support establishing consequences for officers who do not attempt to de-escalate prior to any use of force?*

Response (Please give a clear "Yes" or "No" and any explanation):

Yes

7. *Do you support promoting police transparency by requiring that RPD make the pictures, names, and ranks of RPD officers available on the city website?*

Response (Please give a clear "Yes" or "No" and any explanation):

I am concerned that doing so could jeopardize investigations as well as an officer's safety. I will have to give this additional thought.