

WASHINGTON COALITION OF MINORITY LEGAL PROFESSIONALS

Questionnaire for Candidates for Attorney General

Name: Bob Ferguson

Phone: 206-486-5913

Email: katherine@electbobferguson.com

Substantive Questions

*Your response to this portion of the questionnaire is considered **publishable** information. Feel free to provide your answers on additional pages.*

1. Do you agree that the United States leads the world in incarceration rates? If so, is that a problem, and what would you do about it? If not, why not?

Yes. The United States leads the world in incarceration rate and total population of incarcerated individuals.

Yes. This problem is expansive and interconnected. It's related to our country's racial inequities, failure to address insufficient housing and economic opportunity, society's failure to meet the demand for services related to mental illness and chemical dependency, and systemic flaws in our criminal justice system such as over-policing and the school-to-prison pipeline. From my time as a policy maker on the King County Council to Attorney General, I am leading on these issues.

As a policy maker, I sponsored King County's Veterans and Human Services levy to increase affordable housing and resources in the region. As Attorney General, I am enforcing the emergency moratorium on evictions, responding to thousands of complaints and keeping Washingtonians housed during the pandemic. I filed lawsuits against two property management companies that illegally threatened evictions. I also filed lawsuits against property management companies that unlawfully discriminated against Washingtonians with criminal records and Washingtonians using housing vouchers because these discriminatory policies had disparate impacts on Black and Brown Washingtonians. I supported legislation to increase consumer protections for renters and prohibit source-of-income discrimination by landlords.

I am also fighting for more economic opportunities for vulnerable Washingtonians. This year I sponsored legislation creating a Domestic Worker Bill of Rights. For years I have been working to eliminate prosecutions for Driving With License Suspended in the Third Degree, or "Driving While Poor," by dramatically reducing license suspension for failure

to pay fines related to moving infractions and failure to appear. I supported Washington's Fair Chance Act to "ban the box" on job applications. I supported the creation of a Certificate of Opportunity (CROP) to help felons who have repaid their debt to society find employment. Additionally, I supported reforms to our state's legal financial obligations (LFO) to reduce debtors' prisons.

As a policy maker in King County, I sponsored King County's first Mental Illness and Drug Dependency (MIDD). As Attorney General, I took the largest opioid manufacturers and distributors to court -- many of them Fortune 15 companies -- to hold them accountable for their role in the opioid epidemic and the devastation they helped inflict on Washington families. My goal in my next term is to recover hundreds of millions of dollars to help Washington communities mitigate the crisis and support individuals seeking treatment, care, and alternatives to pain medication. Additionally, I successfully advocated for prescription pill limits for youth in Washington state to prevent addiction.

As a policy maker, I supported criminal justice reform. I sponsored the legislation creating the Office of Law Enforcement Oversight (OLEO). As a Council Member, I supported diversion through the creation and expansion of therapeutic courts of limited jurisdiction. As Attorney General, I visited drug court graduations to support those individuals.

As Attorney General, I am continuing this leadership role on criminal justice reform. I sponsored legislation banning youth solitary confinement in Washington state, and that bill passed with bipartisan support. Moreover, for years I have been leading Washington's effort to abolish our death penalty that has been implemented in a "racially biased" manner, according to our State Supreme Court.

My office will not propose any legislation without first analyzing that legislation with a racial equity lens. My office only has a small Criminal Justice Division that does criminal prosecutions. We have 6 prosecutors in our office to support local county prosecutors to assist them with prosecutions when they have conflicts, or lack resources. We consider issues of equity in all these cases.

2. Please describe how you have engaged with minority groups, including communities of color, immigrant communities, and the LGBTQ+ community in your civic involvement or professional practice.

As Attorney General, I have centered the experience of communities of color, immigrant communities, and LGBTQ+ communities on issues that disproportionately impact those communities. I also have an open door to BIPOC and LGBTQ+ communities. The following provide examples of my engagement with the community. This list is far from exhaustive.

- We have robust stakeholder engagement for all of our legislative agenda items that impact communities of color and LGBTQ+ individuals. The Domestic Worker Bill of Rights is a great example. We engaged a large, diverse roundtable coalition working on that bill to assist with strategy and policy, including the National Domestic Worker Alliance and El Centro de la Raza.
- I recently convened a Hate Crimes Task Force to improve our state's response to hate and bias incidents. The group developed 20 recommendations for the Legislature. Members of the working group included representatives from the Anti-Defamation League's Pacific Northwest Region, the Council on American-Islamic Relations (CAIR-WA), Equal Rights Washington, the Jewish Federation of Greater Seattle, the Latino Civic Alliance, the National Alliance for the Advancement of Colored People (NAACP), and a member of the Sikh community.
- My office is serving on the Race and Criminal Justice Task Force convened by Washington's three law schools.
- I convene a quarterly Civil Legal Aid meeting to engage with individuals providing civil legal aid in Washington state, including the Northwest Immigrant Rights Project, Kids in Need of Legal Defense, Columbia Legal Services, the Northwest Justice Project, and others.
- Every year I meet with the Latino Civic Alliance board members to discuss issues important to them.
- I hired two bilingual Community Outreach Positions to engage Washington's underrepresented, vulnerable and underserved communities to ensure they can access my Consumer Protection and Wing Luke Civil Rights Divisions if they are treated unfairly or discriminated against.
- I prioritize speaking and meeting requests with BIPOC-led organizations to discuss issues important to them.
- I also regularly sponsor and speak at Fighting for the Majority events to support LGBTQ+ candidates for the legislature.
- I prioritize speaking requests from Minority Bar Commissions. For example, I spoke at a QLaw event and auctioned off the gavel in the Arlene's Flowers case to support QLaw. I spoke to the Loren Miller Bar Association in 2017 and proudly accepted the Excellence in the Law Award.
- When I am holding a press conference announcing a case impacting communities of color, I invite impacted Washingtonians and their advocates to center their experiences. Examples include Dreamers who

spoke at my press conference announcing our (ultimately successful) lawsuit to protect DACA, Burien Mayor Jimmy Matta from the Latino Civic Alliance and Roxana Narouzi who spoke at my press conference announcing a \$12 million dollar resolution with Motel 6 for illegally allowing ICE to target immigrants staying at their hotel, and tribal leaders from around the state who spoke at my lawsuit to protect Washington's Endangered Species Act.

3. Please explain how you, as Attorney General, will engage with communities of color and ensure you are addressing their concerns.

I will continue to engage Washington's immigrant communities, communities of color, and LGBTQ+ communities. In addition to the information above, I would like to highlight one specific example. I launched an Environmental Justice Initiative in my office. As part of that initiative, I am partnering with Gonzaga Law School to sponsor an Environmental Justice symposium this year to address the disparate impacts of climate change and pollution on indigenous people, immigrant communities, and communities of color. My office will engage a broad spectrum of communities as part of that initiative.

4. Describe your understanding of tribal sovereignty and how, as Attorney General, you will work to engage with tribal governments.

Washington is home to 29 federally-recognized tribes. They are sovereign nations with the right to self-governance.

I am the first Washington State Attorney General to establish a full-time Tribal Liaison position in the Attorney General's Office. Asa Washines, a former elected Tribal Council Member for the Yakama Nation, serves as my Tribal Liaison with Washington's sovereign tribes.

In May 2019, I announced a historic new policy that requires the Attorney General's Office to obtain consent before initiating a program or project that directly and tangibly affects tribes, tribal rights, tribal lands and sacred sites. I was the first state attorney general to adopt a policy of free, prior, and informed consent (FPIC). This policy is the first of its kind in Washington state and the first of its kind for any Attorney General's Office in the country. It will strengthen relationships between the State and sovereign tribal governments.

As part of the policy, I committed to consulting with tribes before the state initiates litigation against a tribe or tribal-owned business, consistent with the rules of professional conduct.

Tribal leaders issued the following statements in support of this historic policy:

“Through his actions today, Attorney General Ferguson has listened to, learned from, and followed through on the advocacy of countless Native American leaders nationwide and Indigenous leaders globally who have defended the sovereignty and rights of their peoples. By adopting ‘free, prior, and informed consent’ as the basis of his Administration’s interactions with Tribal Governments, Attorney General Ferguson has become a global standard bearer for recognizing the full sovereignty and political equality of Indigenous peoples.”

- Quinault Indian Nation President and President of the National Congress of American Indians Fawn Sharp

“Today, Attorney General Ferguson introduced policies that boldly chose to make Washington state a more fair, equitable, and just place. By fully recognizing and respecting the sovereignty of Washington’s Tribes and working to improve communication and partnership with them, Attorney General Ferguson is showing real leadership, and the Snoqualmie Indian Tribe is proud to have collaborated with him on these groundbreaking new policies.”

- Snoqualmie Indian Tribe Chairman Bob de los Angeles

“Today, Attorney General Ferguson took a historic step forward in the relationship between Washington state and Washington’s Tribes by adopting Tribal relations policies founded on the principle of ‘free, prior, and informed consent. By committing to work with Washington’s Tribes on the basis of true equality and collaboration, Attorney General Ferguson is demonstrating the vision and inclusive leadership we will need to confront immense challenges like climate change, homelessness, and the opioid crisis that impact all of Washington’s communities.”

- Samish Indian Nation Chairman Tom Wooten

"Today is a day to celebrate. Attorney General Ferguson made a meaningful and historic step towards recognizing and honoring the full sovereignty of Washington's Tribes."

- Lower Elwha Klallam Chairwoman Frances Charles

5. What efforts have you undertaken in your current and prior positions to improve diversity and inclusion in your workplace, and what efforts would you undertake at the Office of the Attorney General if elected? Please include discussion of your efforts at recruitment, retention, inclusion, bias avoidance, and leadership development of underrepresented minorities, including from Black and Indigenous communities, other communities of color, women, and LGBTQ+ persons.

During my first year as Attorney General, I recognized a problematic lack of racial diversity among the Assistant Attorneys General (AAGs) in my office. In October of

2014, I launched a diversity initiative. At that time, only 50 out of 550 AAGs (9%) self-identified as diverse (the ratio was worse when I assumed office, but the office was not tracking the ratio so reliable data is not available). I'm proud that we have made significant progress. Today, 107 out of 650 AAGs (16.5%) self-identify as diverse. Additionally, women of color serve in key leadership positions, such as my Legislative Director and Policy Director.

I am also proud that 67% of the employees in the Attorney General's Office are women, including a majority of AAGs. Importantly, women hold key leadership positions in my office. A majority of my Leadership and Core Leadership Teams are women.

I want to thank Washington's Minority Bar Associations for helping with this diversity initiative. We have made it a point of emphasis to share all openings in my office with the Minority Bar Associations. The progress we have made would not have been possible without you. That said, there is still much work to do. The diversity initiative has many elements to increase diversity. These include 1) conversations about implicit bias led by attorneys Sal Mungia and Craig Sims to every manager in the office, 2) requiring that every hiring panel include a member from one of our affinity groups serving people of color, and 3) the Deputy AG heading our diversity initiative personally reviews the resumes of every diverse attorney in our hiring pool to ensure qualified candidates receive an interview and an opportunity. I often review these resumes with her. If re-elected, I will continue striving to increase diversity and representation in my office.

With respect to training, my office requires diversity training for all employees, and we are developing micro-aggression training. Next month, my entire Core Leadership Team, including myself, will participate in Racial Equity training. These trainings are important to address implicit bias and systemic racism.

6. When do you believe it is appropriate for police to use force, including deadly force, and what do you see as the Attorney General's role in tracking and affecting when and on whom police use force?

Law enforcement should only use force when it is necessary. As Attorney General, I advocated for Washington's Legislature to amend our statute regarding justifiable homicide by law enforcement to remove the requirement that prosecutors prove "actual malice" behind the use of deadly force, and eliminate the subjective "good faith" standard and replace it with an objective standard. Ultimately, the people adopted this change through Initiative 940.

Additionally, I successfully advocated for Washington's Criminal Justice Training Commission to expand crisis intervention training for all Washington peace officers to include implicit bias training and a study of the history of race and policing.

On June 30, I published [a report](#) to the Washington Legislature recommending reforms that will track police use of deadly force in Washington state and provide the public access to that data.

Currently, there is no single location where the public and lawmakers can obtain information about the use of deadly force by law enforcement officers in Washington state. Deadly force refers to firearm discharges and incidents resulting in death or serious physical injury.

In 2019, the Federal Bureau of Investigation created a national use-of-force reporting program, but the program is voluntary and only 10 percent of Washington law enforcement agencies currently participate. In addition, the information reported to that program is not publicly available.

The public expects and deserves access to this information. These common-sense, broadly supported policies are long overdue. I am currently drafting legislation to accomplish these goals.

My report calls for two critical reforms:

- Require all law enforcement agencies in the state to report all uses of deadly force to the FBI's National Use-of-Force Data Collection program
- Create a centralized, easy-to-understand website for the public to access information about all incidents of deadly force statewide

The report recommends that the state create a centralized public website containing this information so it is easily accessible to the public, policymakers and the law enforcement community. The website should include — in a simple, searchable format — regularly updated information such as:

- Date and location of incidents
- The agency or agencies employing the officers
- Type of force used by officers
- Type of weapon, if any, used by the member of the public
- Injuries, if any, suffered by officers and members of the public
- The demographic characteristics of the officers and members of the public, including sex, age, race, and ethnicity
- The reason for the initial contact between the officers and member of the public
- The agency or team investigating the incident

Since I published this report, a key Republican legislator has endorsed it. I plan to lead the effort to enact this common sense reform this year.

7. Please describe a situation in which you changed your beliefs about something of consequence.

When I ran for Attorney General in 2012, I supported decriminalization of marijuana but I did not actively support the initiative to legalize marijuana. Since it passed, I have aggressively defended legalized marijuana. In fact, one of my first acts as Attorney

General included meeting with Attorney General Holder in Washington D.C. with Governor Inslee to send the clear message that I would defend Washington's law in court if necessary. I continued to send that message to Attorney General Sessions -- repeatedly. Fortunately, we succeeded in preventing a legal challenge from the Trump Administration. I also advocated that the sentences of Washingtonians with misdemeanor marijuana convictions be vacated. I will continue to defend Washington's voter-approved system of legalized marijuana in court as long as I'm Attorney General. The failed War on Drugs has devastated families and is responsible for the incarceration of too many Black and Brown Washingtonians.

8. Do you believe that you or the organizations you have been a part of have contributed to white supremacy and/or the devaluation of the lives of Black and Indigenous persons or other persons of color? If so, please explain how. If not, please explain what, if any, forces have contributed to such issues.

Unfortunately, the Washington Attorney General's Office historically contributed to white supremacy in profound and shameful ways. The Attorney General's Office defended the internment of Japanese Americans, opposed Takuji Yamashita's application to the Washington State Bar Association, defended Washington's law that forbidding aliens from owning land, and defended the prosecution of Indians for fishing consistent with their treaty rights.

We are trying to make amends for these shameful positions. I formed the Wing Luke Civil Rights Division in my office that advocates for immigrant rights. The Civil Rights Division led our successful lawsuit challenging the Trump Administration's first Muslim Travel Ban, the decision to abolish DACA, the Family Separation policy, the lawsuit involving illegal courthouse arrests of immigrants by ICE and DHS officers, and many other critical federal cases impacting Washingtonians' civil rights. My Wing Luke Civil Rights Division is also enforcing Washington's Law Against Discrimination, the Fair Chance Act, reasonable pregnancy accommodations law, and protecting agricultural workers from patterns of sexual harassment.

During our recent all-staff conference, I made a presentation to all 1200 employees in my office about Mr. Yamashita and the ways our office contributed to white supremacy. We are working to make amends and correct historical injustices. For example, in 1916, Alec Towessnute, a Yakama Nation member, was arrested for fishing with a gaff hook near Prosser, even though the Yakamas' 1855 treaty allowed the tribe to fish in its traditional grounds, including the area where he was fishing. In 1916, the Attorney General's Office argued against Mr. Towessnute. This year I advocated to the State Supreme Court that Mr. Towessnute's conviction be vacated. This summer the Supreme Court did just that, writing: "We take this opportunity to repudiate this case, its language, its conclusions, and its mischaracterization of the Yakama people...We cannot forget our own history, and we cannot change it. We can, however, forge a new path forward, committing to justice as we do so." I am proud to have played a small part in correcting this historical injustice.

9. What metrics do you believe should be used to determine whether the Office of the Attorney General is succeeding at improving the criminal justice system? How would you realign local, state, and federal budget appropriations to support your vision of how we could most effectively (1) prevent crime in the first place, (2) provide crime victims what they need, (3) hold people accountable for the harms they cause, and (4) bring recidivism rates down as close as possible to zero?

My office has a small team, including 6 prosecutors, to assist counties in cases in which the prosecuting attorney is conflicted or lacks the resources to take a particular case. We do not employ any fully-commissioned peace officers (i.e. cops). Consequently, the primary way I promote criminal justice reforms is through the bully pulpit -- specifically, my advocacy with the Legislature. Therefore, the best metric for evaluating my office's success is whether we are helping to pass legislation increasing equity and reducing injustice in our criminal justice system.

I do not have a role in the budgeting process for state or local governments. That said, as the People's Lawyer, I am committed to fighting for criminal justice reform. I will continue fighting for economic justice, social justice, environmental justice and civil rights. These issues are interconnected. For example, reducing crime and lowering recidivism requires reducing barriers to housing, economic opportunity, strengthening education, and providing sufficient resources to treat Washingtonians in crisis, including substantial increases to mental health services, and responding to the abuse and neglect of youth.

We must combat discrimination on the basis of gender and race -- including discriminatory policies with disparate impacts -- through strong laws and vigorous enforcement. We must invest in proven alternatives to incarceration and detention for non-violent offenders, including diversion and therapeutic models. We must invest in more mental health professionals in our schools. And we must improve oversight and accountability for police officers.

I am committed to ensuring that the Attorney General's Office and other government institutions are accountable to all communities. That means committing to the systemic and institutional change necessary to do better.

References

*Your response to this portion is for our internal use only and **will not** be published. Feel free to provide your answers on additional pages.*

The questions below ask for references, including those who can speak to your character, effectiveness, and/or approach to criminal justice issues. For all references, please provide a name, telephone number, and (if available) email address. We may contact persons you list as well as additional persons.