

A. Ryan McGuigan
1 State Street
Hartford, CT 06103

Dear Attorney McGuigan:

On September 13, 2021, the Criminal Justice Commission informed the public that you are pursuing the opportunity to assume the role of Connecticut's first Inspector General. Thank you for recognizing your role in holding police accountable and criminally responsible when they unjustly harm or kill a member of the public.

As of the date of this letter, and based on public reporting, at least 5 people have been shot at or killed by municipal or state police employees in Connecticut in 2021 alone. Since 2001, the Division of Criminal Justice has investigated 81 cases of uses of deadly force and has found that the police were justified in 79 of those cases. The General Assembly, moved to action by the protests of hundreds of thousands of people across the country and across Connecticut, embarked on an effort to fulfill a promise – that Connecticut values Black life – by beginning to seriously grapple with the need to hold police accountable.



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The creation of the Inspector General role was necessary because the public, including lawmakers, advocates, and impacted families, do not believe that State's Attorneys and the Division of Criminal Justice are willing to hold police accountable when they harm the public. In other words, you are seeking to originate a role specifically created to serve justice for and guarantee redress to people and families harmed by police violence. Your answers to this questionnaire are critical, because the core question at stake is whether you are committed to ending police violence and harms to policed communities.

We request that you complete our *ACLU of Connecticut Questionnaire for Connecticut Inspector General Applicants*. Because of the unique nature of the Inspector General position, the public has a right to know your views. We trust you recognize that transparency is critical and that your responses will provide the most public benefit if they are received before your interview with the Criminal Justice Commission on September 27, 2021. Accordingly, we ask that you provide your answers on or before the close of business on September 20, 2021.

Our questionnaire consists of 16 Yes/No questions, each of which provides the opportunity to make a brief comment. Where neither "Yes" nor "No" is clearly stated, the response will be recorded as "Did Not Respond." Please also submit a one-paragraph biography with your answers. Each candidate's response will be posted on our website and circulated to ACLU supporters and the public. We look forward to receiving your responses.

Claudine Fox
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Questionnaire for Connecticut Inspector General Applicants

1. Do you believe that (a) the Inspector General must acknowledge racial disparities in policing, prosecution, incarceration, and the criminal justice system overall and (b) the Inspector General has a responsibility to take affirmative steps to end systemic racial disparities? Please give a clear “Yes” or “No” to both subparts and any explanation.

- (A) Yes. Not only does the Inspector General have the responsibility of acknowledging racial disparities in policing, prosecution, and the criminal justice system overall, but she/he/it also has the responsibility of uncovering and shining a light on these disparities for all to see.
- (B) Yes. The Office of Inspector General was created as an acknowledgement of our Legislature that true disparities in policing, prosecution, incarceration, and the criminal justice system overall exist. I will do whatever is within the scope of the duties of the Inspector General to remedy those disparities. I also commit myself to promote, support, and assist in improving our criminal justice system in order that each and every citizen in this State can expect substantial justice and equal treatment before the Law.



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2. Do you believe police officers should be held criminally liable for the unnecessary physical harm of Connecticut residents? Please give a clear “Yes” or “No” to the question and any explanation.

Yes, assuming that the Officer’s conduct falls without the standards set forth in C.G.S. 53a-22, as amended by P.A. 21-4. Over the past 17 years in private practice, I have prosecuted civil cases against police officers, detectives, and the municipalities they served for intentional misconduct; including, but not limited to battery, and false arrest.

3. Do you believe police officers should be held criminally liable for the unnecessary killing of Connecticut residents? Please give a clear “Yes” or “No” to the question and any explanation.

Yes.

4. Do you believe that the current statutory standard for determining when police are justified in using deadly physical force makes it clear that an officer is justified to use deadly physical force only when it is absolutely necessary? Please give a clear “Yes” or “No” to the question and any explanation.

No. The current statutory standard permits the use of deadly force where the Officer merely believes it reasonable and necessary to defend him/herself or a third person or in the arrest of a serious violent felon in the commission or

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threatened commission of a felony involving serious physical injury. It does not limit the use of force to an absolute necessity.

6. Do you believe that the standard in Public Act 21-4 for determining when police are justified in using deadly physical force that will be effective January 1, 2022 makes it clear that an officer is justified in using deadly physical force only when it is absolutely necessary? Please give a clear “Yes” or “No” to the question and any explanation.

No. P.A. 21-4 does not raise the evidentiary bar to absolute necessity. It allows for objectively reasonable use of deadly physical force when it is necessary in:

- A. Self-defense or the defense of others from imminent deadly physical force,
- B. The arrest of a serious violent felon in circumstance where the Officer reasonably determined that there were, (1) no reasonable alternatives, (2) no unreasonable risk to third parties, and (3) when a warning was issued, if feasible,
- C. The escape of a serious violent felon when there is a significant threat of death or serious physical injury to others.

Although P.A. 21-4 further restricts an Officer’s use of deadly force, it does not limit it to an absolute necessity.

7. Do you believe police officers should be protected from criminal liability when their use of physical force was reasonable under all the circumstances, but not absolutely necessary? Please give a clear “Yes” or “No” to the question and any explanation.

No. The question assumes that the circumstances were not “absolutely necessary”, which implies the existence of circumstances known to the Officer at the time, which belie the claim of “necessity”. If the use of physical force was not “necessary” then it was, by definition, unreasonable under P.A. 21-4.

8. Will you commit to holding police accountable by supporting policy proposals that change Connecticut’s use of force standard to one in which killings by police are justified only if it is clear that police did not, through their actions, create a situation in which deadly force was necessary? Please give a clear “Yes” or “No” to the question and any explanation.

Yes. If an Officer created a situation in which deadly force was used then, by definition, the use of deadly force was not necessary and/or reasonable under the unlawful circumstances created by the Officer.

9. Will you commit to holding police accountable by supporting policy proposals that change Connecticut’s use of force standard to one in which killings by police

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are justified only if it is clear that the force used by police was the least amount of force needed in the situation? Please give a clear “Yes” or “No” to the question and any explanation?

Yes. I am open to policy proposals that change Connecticut’s use of force standard to one that more clearly limits the use of deadly physical force to emergency situations only; in other words, a “method of last resort”.

10. Will you commit to holding police accountable by supporting policy proposals that change Connecticut’s use of force standard to one in which killings by police are justified only if it is clear that the force used was necessary because all available, effective alternatives had been exhausted? Please give a clear “Yes” or “No” to the question and any explanation.

Yes. P.A. 21-4 lists several factors in determining when the use of physical force is justified. I am open to amendments of the Statute further restricting the use of deadly physical force. It is my hope that through education training and personnel evaluations, that this Office never has to prosecute a single case of an Officer’s use of deadly force. This may seem naïve and quixotic, but it is my goal in the service of this Office.

11. Will you commit to holding an open, public meeting in the community where the police use of deadly force occurred, where, within 30 days after publishing your report on the deadly force investigation, you present your report and provide the community an opportunity to publicly comment on the report and/or the deadly force? Please give a clear “Yes” or “No” to the question and any explanation.

Yes. I believe that community outreach is essential to the position of Inspector General. I believe that the Inspector General should be front and center in the crusade against racial injustice and restoring faith and trust in law enforcement. We can not lead our communities without the trust of the community which we serve.

12. When you investigate a matter, will you commit to investigating the impact of the patterns, practices, and/or policies of the law enforcement unit(s) involved had on the subject matter under your investigation? Please give a clear “Yes” or “No” to the question and any explanation.

Yes. These factors as well as others will be considered in determining the reasonableness of the force that was used.

13. Will you commit to making licensure recommendations, including decertification and suspension recommendations, to the Police Officer Standards and Training Council if you find, after complete investigation, that a police officer has:

(a) been unjustified in a use of physical force;

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(b) engaged in conduct that undermines public confidence in law enforcement, including, but not limited to, discriminatory conduct, falsification of reports, or violating the Alvin W. Penn Racial Profiling Prohibition Act; or

(c) violated any policy of the law enforcement unit that employs the officer?

Please give a clear “Yes” or “No” to all question subparts and any explanation.

(a) Yes.

(b) Yes.

(c) Yes.

Accountability and consequences are key in the service of reform.

14. If, after a complete investigation, you find that a police officer (a) was unjustified in using physical force and/or (b) engaged in other criminal conduct, will you commit to moving forward with justice and redress for such actions to the greatest extent of your discretion? Please give a clear “Yes” or “No” to the question and any explanation.

Yes. My Father was once the Chief State’s Attorney and a crusader against civil corruption. He is well remembered for his prosecutions of corrupt police officials and police officers. When I was a boy he told me, “A violent cop is a corrupt cop, and a corrupt cop is not a cop at all...he’s a criminal.” I have never forgotten that. If I find conduct that is criminal in nature but outside the jurisdiction of the Office of Inspector General, I will report those findings to the Chief State’s Attorney for further prosecution.

15. Will you commit to holding police accountable by (a) supporting the creation of a statewide “Brady List” of police officers excluded from testifying in criminal cases because of a proven history of lying or other professional or criminal misconduct, (b) making the “Brady List” available to the public on request, and (c) moving to ensure police officers that are on the statewide “Brady List” are decertified by the Police Officer Standards and Training Council? Please give a clear “Yes” or “No” to all question subparts and any explanation.

(a) Yes.

(b) Yes.

(c) Yes.

Accountability and transparency are key to rebuilding trust in our system. I further would support policies that exclude prosecutors with a proven history of prosecutorial misconduct from participating in any Judicial proceedings as a representative of the People of the State of Connecticut.

16. Will you commit to fairness and transparency by supporting policy proposals that require uniform policies and procedures to be promulgated by the Division of

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Criminal Justice Advisory Board for all 13 state's attorney offices? Please give a clear "Yes" or "No" to the question and any explanation.

Yes.

Please direct all responses to Claudine Fox at cfox@acluct.org on or before the close of business on September 20, 2021.

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