

## **Temple Emanu-El Advocacy Statement on Criminal Justice Reform**

Approved by Temple Emanu-El Board of Trustees: March 10, 2021

*Written by Sarina Israel, Ryan Kassanoff, Max Levy and Ava Slobin - Teen Emanu-El*

### **Introduction**

As Jewish teens, our hearts broke as we watched the news and witnessed the horrific events as this year continued the pattern of violent and deadly interactions between police and people/communities of color.

As Jewish teens, we also believe in our system of justice and want to ensure fair justice in our society -- those who commit crimes should face consequences and receive the due process of the law. This due process should appear in both our courts and on the streets. Keeping people safe and not harmed or killed should be the top priority.

Inequities in our criminal justice system continue to exist as a major problem in our society today. People are being disproportionately incarcerated, injured and killed because of the color of their skin. With the enactment of the George Floyd Act and reforms to cash bail during this legislative session, many lives could be saved. We support a just criminal justice system that has the resources to overcome bias and better serve a diverse population.

### **Overview**

The current Texas legislative session features dozens of bills addressing various aspects of Criminal Justice Reform, of which Temple teens have focused on two areas: 1) passage of the George Floyd Act, and 2) reforms to cash bail in our State.

### **Our Advocacy**

#### **What are the issues?**

Texas incarcerates 529 people per 100,000. That's higher than every country in the world, but three (including the United States). Black Texans are 12% of the population, but 33% of those incarcerated. Mass incarceration has been a human rights crisis since our prison populations exploded in the 1990s. The range of proposals is broad, including police accountability to diversion from incarceration for the mentally ill and addicted, probation reform, and cash bail reform. The advocacy team believes that by supporting passage of the George Floyd Act and bail reform, we can contribute to racial equity in our State.

**George Floyd Act.** This legislation would effectively hold police accountable for incidents of excessive force, by (among much else) explicitly banning chokeholds and creating an affirmative duty for bystanding officers to intervene in cases of excessive force. Another provision would end arrests for fine-only offenses like theft under \$100, a version of which died dramatically in the last session of the Legislature after police union opposition.

The George Floyd Act also addresses "qualified immunity," the legal doctrine through which it is difficult to hold officers accountable for killings and other wrongs. It says that officers are shielded from personal liability unless their exact violation was previously ruled upon by a judge. Because of the rarity of the exact same violation being committed twice, and the futility of prosecuting a first-of-its-kind violation, this policy is a significant barrier to police accountability.

Gov. Abbott has previously floated the possibility of a George Floyd Act at the Legislature. While he has not offered specifics on what proposals he would support, Abbott has emphasized a proposal that has also been pushed by police union officials: strengthening law enforcement training before officers are allowed to go on patrol.

The U.S. House of Representatives passed the George Floyd Justice in Policing Act, the most ambitious police reform effort in decades, for the second time on March 3. This legislation would ban chokeholds, restrict qualified immunity for law enforcement and create national standards for policing. The House passed a version of the bill last year, but the Senate never took it up. Our proposed advocacy will be for passage of the George Floyd Act in the Texas Legislature.

**Cash bail reform.** The cash bail system in the United States discriminates against people of color and the poor, and is in dire need of reform.

Pretrial detainees make up more than 70% of the U.S. jail population -- approximately 536,000 people. Many are only there because they can't afford to pay bail. In most instances, a standard bail amount is set for any alleged offense, but judges typically have broad discretion to raise or lower it. A judge could also waive bail entirely and release a defendant on their "own recognizance," which means that a person promises that they will show up when they're supposed to.

Defendants who can't pay a bond premium are forced to await trial in jail. Pretrial detention has dramatically negative effects on the outcome of a defendant's case: those who are held pretrial are four times more likely to be sentenced to prison than defendants released prior to trial. Pretrial detainees are also likely to make hurried decisions to plead guilty to a lower charge to spend less time behind bars rather than risking a higher charge and longer sentence at trial.

In a 2018 ruling, recently affirmed by the Fifth Circuit Court of Appeals, U.S. District Judge David Godbey found the operation of Dallas County's bail system to be unconstitutional because of how it treats criminal defendants who do not have the means to secure their release from jail.

Bail practices are frequently discriminatory, with Black and Latino men assessed higher bail amounts than white men for similar crimes by 35% and 19% on average, respectively.<sup>1</sup>

Reforms have been proposed to curb the use of cash bail or eliminate it altogether. A recent op-ed by Justice Nathan Hecht, Chief Justice of the Texas Supreme Court, proposed the following reforms<sup>2</sup>:

- give judges pretrial risk assessment information for all defendants to make better-informed decisions about bail. [There is currently little sharing among jurisdictions of this kind of information].
- ask voters to amend the Texas Constitution to allow judges to hold high-risk, potentially violent defendants without bail [the Texas constitution provides that all defendants are entitled to bail, except defendants in capital cases].
- provide pretrial supervision for those released.
- collect data to verify that the system is working as it should.

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<sup>1</sup> "How Cash Bail Works," Brennan Center for Justice, December 10, 2019. <https://www.brennancenter.org/our-work/research-reports/how-cash-bail-works>.

<sup>2</sup> "If Texas Doesn't Reform Its Bail System, Federal Courts Likely Will," Op-ed Chief Justice Nathan Hecht: January 10, 2021. <https://www.dallasnews.com/opinion/commentary/2021/01/10/texas-chief-justice-hecht-if-texas-doesnt-reform-its-bail-system-federal-courts-likely-will/>

Two bills were recently filed in the Legislature to reform bail practices in Texas. We would support proposed legislation along the lines of Justice Hecht's proposals. In addition, we would also oppose legislation that would undermine reforms of this nature.

### **Our Values**

Temple Emanu-El has historically been at the forefront of the Civil Rights movement in Dallas. It is imperative that we continue the arduous fight for justice and equity, as so many founding members of Temple Emanu-El have fought before us. Beginning in the 1920's, we saw Rabbi David Lefkowitz lead our community to fight against the Ku Klux Klan. During the 1950's Rabbi Levi Olan, passionately championed against segregation and stood beside Rev. Dr. Martin Luther King Jr. against the poll tax in 1963. Since then, Temple has joined forces with faith communities across Dallas to speak out against injustice and violence in many ways. In October of 2020, Temple saw the creation of our own Anti-Racism Task Force and increased public conversations about race and equality throughout Temple, especially within teen groups and classes.

Our Jewish values teach us the importance of ensuring fair justice for all, regardless of race or socioeconomic status. *Pirkei Avot*, the ethics of our ancestors, teaches that we must judge all people favorably. We should not stand for a system that treats people differently based on race or any other incidental characteristic. Additionally, in Judaism, accountability creates a just society. Leviticus 22:24 tells us that we "shall have one standard for strangers and citizens alike: for I, Adonai, am your God". Rabbi Shimon, son of Gamliel, said that the world is pillared on three things, "On justice, on truth, and on peace." Without justice for unwarranted and unjust police action, there is no truth in our society, and without truth, there is no peace.

As Reform Jews we must use our Jewish teachings to take a stand, hold police accountable, and work toward creating a more just world. We believe the passing of the George Floyd Act this legislative session will lead to better policing for everyone, holding law enforcement officers to appropriate standards and preserving the dignity and safety of all citizens.

### **Affinity Advocacy Organizations**

We also believe that Temple should join with RAC-TX (and national) and other like-minded organizations on these issues, recognizing that our advocacy efforts will be more powerful when we add our voices to the efforts of other proper partners. Examples of other nonprofit organizations that are fully engaged in advocacy on these issues include *Texas Legislative Black Caucus*, *Texas NAACP*, *Texas Civil Rights Project*, *ACLU TX*, *Texas Criminal Justice Coalition*, *Texas Public Policy Foundation (who are GOP-adjacent)*, *Texas Assn. of Business*, *Catholic Conference*, *Baptist Convention TX*, *Prison Fellowship (right leaning chaplain group)*, *Texas Appleseed*. Temple could leverage the efforts of these groups and offer to assist them in their work.

### **Conclusion**

The advocacy team submits this recommendation to support the George Floyd Act this legislative session and to support cash bail reform fully. We believe this reflects our Jewish values and is squarely in the tradition of the history of our movement and Temple. We believe that our advocacy along with RAC-TX and NFTY-TOR teens and other strategic partners in support of these goals should give Temple teens a genuine opportunity to influence public policy.