



Executive Summary: Texas NAACP Change the World-Texas Restorative Criminal Justice Plan In the Aftermath of George Floyd

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In crafting the *Change the World-Texas Restorative Criminal Justice Plan*, the Texas NAACP recognizes the corrosive and harmful impact of anti-Black racism — and its various cousins — on our communities. Certainly, it is not an easy problem for Texas or other states to handle. We already see a logjam in Congress and politicization of human rights even as we face two crises: The coronavirus pandemic and systemic racism in policing and the legal system. Both pose an existential danger to African Americans.

Our plan was spurred by the nearly nine minutes in which a Minneapolis police officer knelt on the neck of George Floyd as he pinned him face down on the ground until Mr. Floyd, who repeatedly cried out for help with pleas, “I can’t breathe,” died; and also, the challenge issued by Mr. Floyd’s brother, Philonise Floyd, who in the aftermath of his brother’s horrific death made a call to action for people across the nation and planet to use this opportunity to change the world by eliminating police brutality and the criminal justice system’s long-standing dehumanization of Black people.

We can’t wait for Congress, which is stalled on reforms, or the Texas Legislature, which won’t meet until 2021. It is important to act in this moment, as cities and communities are rethinking how they fund police departments and local and state leaders (and the private sector) are looking to push forward on taking real action to make Black Lives Matter. Our plan puts the focus on actions local communities can do on their own. Now.

Below are some features of the Change The World-Texas initiative:

- Our state and local units will lead efforts to reach out and create conversations with people of different races, religions, beliefs, political parties, businesses, politicians, academics and corporate officials to discuss how they can deal with this issue at their own local or state level. In some communities, they might consider fashioning this dialogue in a truth and reconciliation body, which in turn, could make recommendations to local and state officials and the private sector about dismantling systemic racism and changing a toxic culture that infects our democracy. We will work with experts in these matters to help communities facilitate such dialogue.

- Our state and local units will focus on police departments' recruitment and training of law enforcement personnel. We are advocating for psychological screening tools and effective and curative, anti-racist training, again working with experts, including experts at HBCUs. HBCUs are trusted institutions in our communities. Too often, the training given to law enforcement in such areas comes from experts outside of Texas, who are less familiar with our state's history regarding African Americans as well as the state's unique legal and political systems. Though a one-size fits all training might seem good on the surface, local communities need to have a say in such matters and the training needs to be customized to fit the data in terms of how African Americans are treated by police, die in custody, are the subjects of unnecessary force in nonviolent situations, are jailed because they cannot afford bonds, racially profiled, or stopped and searched by police in disproportionate numbers that don't comport with crime statistics.

We have witnessed some errant behavior in Texas, where police officers are trained by practice or policy in a default defense in which they claim that they had to use force, lethal or otherwise, in any situation — including minor, nonviolent ones — because they feared for their life. That justification needs to be nullified when it is not substantiated by evidence, witnesses, or video evidence, etc.

- Ensuring that law enforcement is fair and balanced. Education is one component of that. To that point, law enforcement should require high levels of education for officers as this seems to be a factor in whether a department is likely to have greater use of force problems. It is particularly important for police departments to recruit from Historically Black Colleges and Universities.

Certainly, we want to keep good law enforcement officers and not expose them to needless and warrantless complaints. But at the same time, we do not want to keep bad officers, paid with our tax dollars, employed.

- Reforming Internal Affairs Departments so they focus on internal department corruption or wrongdoing between officers. IADs should not continue to handle or investigate external complaints made by residents against officers. That duty should be severed from IADs because they have inherent conflicts of interest and cannot avoid approaching those matters in ways favorable to police. Residents have reported feeling a level of distrust and uneasiness in having their complaints against police investigated by police, no matter the department. At the very least, such a system undermines public trust because there is a perception, if not practice, of bias and conflicts of

interest. Ultimately, IAD officers are returned to the rank and file or line of duty, which means they subsequently face the officers they investigate. To restore public trust, use of force complaints made by residents against police, should go to an independent entity.

Suggestions for independent entities might include Citizens Review Boards with subpoena power that could possibly stand in place of the IAD to make recommendations. Other possible entities might include Citizens Evaluation Boards that have representation of community groups like the NAACP, Black Lives Matter and LULAC that have the power to look at everything and make reports to public bodies about what they see.

- Establish independent counsel (who are criminal defense lawyers) to be available to answer questions and help present cases to grand juries to ensure that grand juries aren't unduly influenced by prosecutors favorable to police. Grand jury forepersons should reflect the community demographics. Currently, there is a problem because prosecutor offices are required to work daily with police offices, whom they depend on to make their criminal cases. They develop friendships in many cases and then are required to turn around and prosecute the very officers they rely on for their success.
- Establish a new state office to handle criminal prosecutions involving lethal use of police force against Texas residents for counties with a population of under 250,000. As mentioned above, the relationships between prosecutor offices and police lends itself to a perception or practice of conflicts of interest and that is particularly true in smaller counties. Again, it undermines public trust in our legal system. While imperfect, a new state office could go a long way in helping smaller counties fairly address such cases and build public trust. In larger counties, prosecutor offices could create separate departments with experienced criminal lawyers to handle those cases.
- Work with prosecutors to rely less on the use of the grand jury process to handle use of force cases against police. Under state law, prosecutors have the option of charging directly, using what is called an "information," which is a written statement filed and presented in behalf of the state of Texas by the prosecuting attorney. That permits prosecutors to bring criminal charges immediately without a grand jury. A complaint is yet another option to charge an officer. Subsequently, in felony cases, a complaint or an information charge would have to be replaced by a grand jury indictment before trial if the defendant did not waive his or her rights. But using that system in certain use of lethal force cases would restore public trust, which continues to be undermined by a

long, exhausting process that can take years to get before a grand jury. That results too often in delayed justice, which becomes denied justice.

- Pass legislation for uniform standards for use of force by law enforcement in Texas and changes in the Meet and Confer bargaining process to empower citizens, who are currently left out of the process even though they pay for law enforcement.
- Pass legislation to create a state center for policing at one or more of Texas' HBCUs. Such a center would collect vital data on use of force incidents/deaths statewide, craft training and instruction for best practices in policing and training in communities of color, hold seminars between law enforcement and the public to promote trust and overcome racist stereotypes and provide experts in psychological testing. The center would assist law enforcement and the public in improving law enforcement in their communities. In the meantime, our units will work to encourage the corporate community and local governments to fund such initiatives.

In closing, our *Change The World-Texas Restorative Criminal Justice Plan* provides valuable resource information, citations and other resources to allow communities to generate the kind of important paragraph necessary to have such a conversation. We also stand ready to deploy our team to help facilitate those discussions for restorative justice. Our position is that the communities should not wait for Congress or the Legislature to Act. This will just delay justice and possibly even deny it.

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