

Interfaith Coalition NYS Criminal Legal Reform Talking Points, March 2018

Micah, 6:8: And what does the Lord require of you? To act justly, to love mercy and to walk humbly with your God.

Leviticus, 19:15: You shall not render an unfair decision: do not favor the poor or show deference to the rich; judge your kinsman fairly.

U.S. Constitution, 8th Amendment: Excessive bail shall not be required.

There are effectively two criminal legal systems in the United States, one for the rich and one for the poor. The full weight of the law crashes down on the poor, and particularly poor people of color, subjecting them to lasting indignities and injustices from which rich people and most white people are generally spared. Governor Cuomo has recognized and rightly criticized the determinative role that race and poverty play in our system. He has proposed legislative changes to bail, discovery - the right to see the evidence against you before trial, and speedy trial. His proposals will be voted on by the end of March, so time is tight. The Governor's rhetoric is sound but his proposals do not yet match it. His bail proposal is a strong start, yet can be improved. On the other hand, his discovery and speedy trial proposals unfortunately fail to achieve meaningful, positive change.

As people of faith we believe we must step into the breach when people harm one another, and seek to end that injustice. So, **we will gather at 7 PM on March 15 at Congregation Beth Elohim at 271 Garfield Place in Park Slope to host New York State legislative leaders.** We are inviting Assemblyman Carl Heastie, Senate Democratic Leader Andrea Stewart-Cousins, IDC leader Jeff Klein, and Senate Majority Leader John Flanagan. With our families, friends and neighbors, we will raise our voices in support of necessary criminal legal reform. Together, we will call upon our state's leaders to say: enough. Enough disparate treatment by race. Enough punishment of people simply because they are poor. Now is the time to act. Our legislators must ensure we have a justice system worthy of its name.

Bail Reform - No One Should Be Jailed Because They Are Poor

- In New York, bail is meant to ensure people come back to court. Judges are required to consider a person's ability to pay. In reality, they almost never do.
- 88% of people who have bail set in NYC go to jail because they can't pay it. On any given day, there are almost 4,000 people sitting in New York City jails because they are too poor to pay bail. 90% are Black or Latino.
- If people are locked up, even for a few days, they can lose jobs, housing, spots in school, even custody of their kids. Families cannot afford food, utilities get turned off.

- New York City jails are cauldrons of violence. A federal court-appointed monitor found NYC jails were beset by an “ingrained propensity of Staff to immediately default to force” and that staff “engender, nurture and encourage confrontation” and “relish confrontation.”
- Innocent people who cannot pay bail face an awful choice: plead guilty, get a permanent criminal record, but go home; or stay in a brutal jail indefinitely while they fight their case.
- People in jail because they can’t pay bail plead guilty 90% of the time. People who are free because they have been able to pay bail plead guilty 40% of the time. Poverty is robbing people of the presumption of innocence and the right to a fair trial.
- Pleading guilty saddles people with a criminal record that can stop them from getting jobs, housing, admission to a school and student loans. It can even lead to deportation.
- It cost \$742 per day to keep one person locked in a New York City jail. That’s \$270,876 per person, per year. New York City spends \$2.4 billion per year to run its jails.
- 95% of people for whom the Brooklyn Community Bail Fund pays bail return to court, even though they have no personal financial incentive to do so.
- Governor Cuomo has proposed ending bail for the vast majority of people charged with misdemeanors and non-violent felonies. This is a fantastic step forward. But his bill also allows prosecutors to unilaterally jail a broad group of people for up to five days before they get a bail hearing, including some people arrested for turnstile jumping or marijuana possession. Those same people can be kept in jail, without bail, until their trials.
- True reform will end cash bail, severely limit who can be held in jail pending a trial, and make sure judges are the ones who decide whether anyone should go to jail, not prosecutors.

Repeal the “Blindfold Law” - Discovery Reform

- Under current New York State law, prosecutors can withhold evidence such as witness statements and police reports until the eve of trial. But only 3%-4% of cases make it to trial. People have to make decisions about whether to take plea deals “blindfolded” -- without information about the evidence against them.
- New York is one of only four states in the nation that still operates with this dysfunctional system. The others are Louisiana, South Carolina and Wyoming.
- Governor Cuomo has proposed requiring prosecutors to turn over more evidence earlier, but not before a plea deal. His bill also gives the prosecutors the brand new power to black out anything they think “could interfere with an ongoing investigation or case.”

- True reform will require prosecutors to turn over evidence early, automatically and fully, and will not give prosecutors power to withhold or black out information unless a judge agrees it is absolutely necessary.

Protect the Constitutional Right to a Speedy Trial

- The Sixth Amendment to the U.S. Constitution guarantees everyone the right to a speedy trial, but that is a false promise in New York. We are the only state in the nation that has a “ready rule”: if the prosecution says it is “ready” for trial, the speedy trial clock stops, even if the prosecution isn’t actually ready and the trial gets delayed. As a result, people are jailed pre-trial for months and years as they wait for their day in court.
- Governor Cuomo has proposed reforms that will actually make the situation worse. His proposal keeps the “ready rule,” allows people charged with a qualifying crime to be held up to 180 days without a trial (the current maximum time is 90 days), and allows the prosecution to declare they are ready for trial without requiring them to turn over any evidence to the defense.
- True reform would replace the ready rule with reasonable timeframes by which trials would actually start, and would not stop the speedy trial clock when trials are delayed because of court congestion, which are out of the defendants’ control.