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Pennsylvania House and Senate Democratic Policy Committees
Pennsylvania Legislative Black Caucus
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The topics of racial and gender bias in our legal system seem to be the hot-button issues of the time, but to so many people who have had contact with the system, this is nothing new. Black people experience disparate treatment during encounters with police; by the prosecutors who have discretion over charging options; by judges who have discretion over sentencing; and by parole boards who have discretion over release decisions. The incarceration rate for women has skyrocketed 700 percent over the last three decades, and more than 60 percent of incarcerated women are parents of minor children - and many of these women were the sole caregivers of their children prior to their contact with the justice system.¹

All of these things contribute to the Black experience of daily life, and to the devastating impact our legal system has had on our Commonwealth's communities. FAMM has spent the last 30 years fighting to change sentencing laws that disproportionately harm people, families, and communities of color. FAMM also advocates policies that provide dignity, compassion, and respect for incarcerated women. Our commitment to these issues persists, and we will continue to fight with our allies to ensure fairness in our legal system.

Through our overreliance on excessive, sometimes endless punishment, Pennsylvania has become one of the most incarcerated places in the country. Entrenched in our carceral culture, and even by design, is the fact that Black people and other people of color are disproportionately targeted and harmed by every step of the legal system. Our prisons were not constructed to care for the unique needs of women, and our responses to offensive behavior overlook the potential harm caused to children when their parents are removed from the home.

In the relentless struggle to protect women and Black lives, sentencing reform must be included as a core focus of legislative action. Sentencing reforms can have immediate and broad-sweeping impact on restoring communities, reuniting families, and infusing years of life back into our communities of color.

One of the most extraordinary examples of how critical sentencing reform is to address historical harms done to our Black community members was around crack sentencing. Around 80 percent of people charged with crack offenses were Black, as compared to just 7 percent who were white.² The work to reduce the 100:1 sentencing disparity between crack and powder cocaine sentences at the federal level down to 18:1 had a monumental impact on reducing future years of incarceration for Black people.

¹ Incarcerated Women and Girls, Sentencing Project, 2020.

<https://www.sentencingproject.org/publications/incarcerated-women-and-girls/>

² How FAMM's Sentencing Reform Advance Racial Justice, FAMM, 2020. <https://famm.org/wp-content/uploads/famm-racial-justice-work.pdf>





The Fair Sentencing Act of 2010 is estimated to have reduced the number of excessive sentences Black people were serving for crack convictions by 20,000 years.² The First Step Act of 2018 reduced the number of years Black people were sentenced to serve for crack convictions by an additional 18,000 years.² The effort to change one racist and unjust sentencing policy has reduced the excessive incarceration of our Black community members in this country by 38,000 years and counting. FAMM is committed to fighting with our allies until the disparity between crack and powder cocaine sentences is eliminated.

Drug-free school zone laws are also an example of how communities of color have been disproportionately harmed by our sentencing policies. While on their face, these laws seem to have a goal of keeping drugs away from schools and kids, drug-free school zone laws have had an overwhelmingly negative effect on communities of color. The Pennsylvania Sentencing Commission found that 43 percent of people caught in the trap of drug-free school zone laws were Black, and 41 percent were Hispanic.³

Although Pennsylvania's drug-free school zone laws were struck down as unconstitutional, are not an effective deterrent, and overwhelmingly impact communities of color, we continue to see efforts by Pennsylvania lawmakers to bring them back. If our lawmakers consider themselves allies in racial justice, it is incumbent upon them to continue to keep these and all mandatory minimum sentences off the books in Pennsylvania.

Another example of sentencing reform efforts restoring years of life to communities of color is through executive clemency. Clemency Project 2014 under the Obama administration reduced excessive incarceration for Black people serving federal drug sentences by more than 13,000 years.⁴ In Pennsylvania, Governor Wolf has granted clemency to more than 30 people serving life without parole sentences during his tenure, and more than 20 of those people given second chances are Black.

In America, one of seven people in prison are serving life sentences, and around two-thirds of those folks are people of color.⁵ Pennsylvania's rate of people serving life without parole sentences is more than double the national rate, and 65 percent of the people serving life without parole in our commonwealth are Black.⁶ One of the most glaring examples of racial disparity in Pennsylvania sentencing is the disparity between life without parole sentences for people of color and their white counterparts. In

³ Pennsylvania's School Zone Laws: Racially Biased and Ineffective, FAMM. <https://famm.org/wp-content/uploads/PA-School-Zone-Factsheet.pdf>

⁴ How FAMM's Sentencing Reform Advance Racial Justice, FAMM, 2020. <https://famm.org/wp-content/uploads/famm-racial-justice-work.pdf>

⁵ No End in Sight: America's Enduring Reliance on Life Imprisonment. Sentencing Project, 2021. <https://www.sentencingproject.org/publications/no-end-in-sight-americas-enduring-reliance-on-life-imprisonment/>

⁶ A Way Out: Abolishing Death by Incarceration in Pennsylvania. Abolitionist Law Center, 2018. <https://abolitionistlawcenter.org/wp-content/uploads/2018/09/ALC-abridged-report-grayscale-A-Way-Out-Abolishing-Death-By-Incarceration-in-Pennsylvania.pdf>





Pennsylvania, the rate our Black community members serve life without parole sentences is more than 18 times greater than our white community members.⁶

About one in five people serving a life without parole sentence in Pennsylvania is serving for second-degree, felony murder.⁷ That is over 1,100 people who did not intend to take a life, or did not directly cause a life to be taken, that will die in prison without necessary intervention by our commonwealth's leaders. About 70 percent of these 1,100 people are Black.⁷

By denying or severely limiting opportunities for relief for people sentenced to life without parole, our lawmakers have denied the opportunity for some of our commonwealth's strongest Black mentors and leaders to return to their home communities. Sending people to prison for unnecessary and excessive periods of time - sometimes until they die, has a vast and intergenerational impact. Families with incarcerated loved ones, and children with incarcerated parents are also victimized by our current legal system, and nothing is done by our legal system to address that harm.

Where Pennsylvania's leaders can make an immediate and long-lasting positive impact on our communities of color is by prioritizing mechanisms, both legislative and non-legislative, to release people stuck serving extreme sentences. Pennsylvania must abolish our mandatory life without parole statute, and create and expand mechanisms to provide relief for those currently stuck under this oppressive and illogical punishment. Our Commonwealth would reap great benefit from taking a more individualized method to accountability and punishment, instead of the one-size-fits-all approach we have taken and continue to take.

FAMM believes that all incarcerated people deserve to be treated with dignity, and that our responses when women come into contact with the legal system consider what is best for the individual, family, and community involved. When speaking of gender bias in the system, we must consider that carceral facilities were not built to care for the specific needs of women. We must ensure that women who interact with the legal system are protected against shackling during and after giving birth, are given equal and free access to products for menstrual care, are offered trauma-informed programming, and that we maintain critical family bonds to lessen the compounding of harm.

There has been a nationwide, bipartisan effort to pass legislation and create policies that provide dignity for incarcerated women. FAMM is proud to stand with our allies and the lawmakers in Pennsylvania that have championed this issue. We hope to see a continued effort by Pennsylvania's General Assembly, as well as in the Department of Corrections, to strive to protect and support incarcerated women.

As residents of this commonwealth, we must ask ourselves if our current legal system is how we would want it to operate if we, or our loved ones were to have to navigate through. As lawmakers, put yourselves in the shoes of a constituent who might have made a mistake, but deserves a legal system that prioritizes fairness and balances punishment with mercy. There are common-sense, evidence-based

⁷ Life Without Parole for Second-Degree Murder in Pennsylvania. Philadelphia Lawyers for Social Equity, 2021. <https://www.plsephilly.org/wp-content/uploads/2021/01/PLSE-Second-Degree-Murder-Audit-Jan-19-2021.pdf>





responses to the issues of racial and gender disparities in our legal system. Pennsylvanians simply need their lawmakers to act on them.

Thank you for considering our views.