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Joint Policy Committee Hearing

Testimony re: Racial & Gender Bias in the Courts

My name is Nikki Grant, and I am an attorney and the Policy Director for Amistad Law Project. For those unfamiliar with our organization, Amistad Law Project works with Pennsylvanians who are directly impacted by mass incarceration and the prison industrial complex. Specifically, we have built deeply with people who are impacted by life without parole sentences, which we call death by incarceration. Additionally, we are one of the founding organizations of the Judge Accountability Table, where I help coordinate the Courtwatch program.

I would like to thank the House and Senate Democrats Policy Committee and the Pennsylvania Legislative Black Caucus for convening today's hearing on this important subject. I believe this hearing should be just the beginning of a longer conversation about the inequalities that our courts prop up every day. I want to take this opportunity to uplift the work of some partners not present at this hearing but combat and bear witness to racial and gender bias in the courts. Those organizations include:

- Abolitionist Law Center Courtwatch in Pittsburgh
- Philadelphia Bail Fund
- Philadelphia Community Bail Fund
- Dignity Act Now Collective
- #No215Jail Coalition
- Youth Art & Self-Empowerment Project
- Youth Sentencing and Reentry Project; and
- Philadelphia's Participatory Defense Hubs

As the previous panelists have explained, and as everyone present understands, the criminal legal system at its very core unequally targets poor people, Black and brown people, and queer and trans bodies. This fact is well documented. What has been lacking, however, is an in-depth view into the role of the courts in maintaining racial and gender apartheid in the US. Amistad Law Project and the Judge Accountability Table believe that part of the systemic change that must happen to undo the decades of harm done to marginalized communities is to keep close watch on the courts, hold judges accountable, and make sure our people are equipped with the information they need when they go to the ballot box.

To that end, the Judge Accountability Table has done some vital work. We crafted a clear platform that demands the courts examine their role as drivers of mass incarceration. In 2019, we created a judicial candidate questionnaire and hosted a judge candidate forum where we presented the concerns of our

community and invited Philadelphia Common Pleas and Municipal Court candidates to tell us where they stood. I am pleased to announce that we have put out another judicial candidate questionnaire for the 2021 election. You can now find responses at www.judgeaccountabilitytable.org/questionnaires. Additionally, we will be holding a virtual Judge the Judges Forum for First Judicial District judge candidates on March 30th and 31st of this year.

I want to devote the rest of my remarks to our courtwatching in 2020, where we witnessed the inequalities that are the reason for this hearing play out under the added stressor of a global pandemic. Starting in April, and throughout the summer, we kept close watch on the courts while our movements demanded that the First Judicial District act quickly to #FreeOurPeople from the jails that were becoming hotbeds of COVID-19. Our courtwatch volunteers observed over 800 hearings in the courtrooms of 32 judges. Because these hearings happened over a teleconference line or Zoom, it was not always possible to know the race or gender identity of the defendants. However, data gathered from the dockets over this time period confirm what one might suspect is the racial composition defendants. Of the emergency hearings for bail reduction, detainer lifts, and early parole review that we witnessed, the majority did result in incarcerated people having the opportunity to be released. However, we noticed a few alarming patterns.

First, the primary indicator of whether a defendant would get relief was not anything about that individual or the judge, but in fact, the ADA in the courtroom. While in some rooms, one ADA would object to very few or no motions, in other rooms, a different ADA would object to most motions. Across the board, we witnessed that when the ADA objected to a motion for whatever reason, the judges usually sided with the prosecutor. Furthermore, we were alarmed to see the use of guilty pleas in exchange for immediate release from jail. If someone is deemed not a danger to the public by the DA's office, we wondered why they couldn't allow individuals to be released pending a trial? We did not witness any judge interrogate that question. This is concerning because we know that collateral consequences of convictions most heavily burden communities of color.

Second, we witnessed some judges not take seriously the urgency of the crisis, which was the purpose of those emergency hearings. We regularly observed judges denying motions of medically vulnerable people for reasons like previous failure to report for probation or parole. One judge even stated, "I cannot put people's property at risk," in denying a motion for parole of an older man accused of car theft who had several medical issues including diabetes and cancer. This pandemic has exposed the extreme disparities in health care and medical outcomes for particularly Black and brown people and women. The people most in danger behind the walls were already the ones most at risk out here, and we saw that their lives mattered less to some judges.

Third, we witnessed that some people who would have otherwise been eligible for release potentially not be released because there was a question of where they would go. The lack of access to housing, mental health care, or drug treatment in general, much less in a global pandemic, is a tragic indictment on the City of Philadelphia and the Commonwealth. Again, we know that this disproportionately impacts

communities of color, poor women, and queer and trans youth. We are failing to take care of our most vulnerable residents.

The information I have shared today will be published in a forthcoming two-part report currently being compiled by the Judge Accountability Table that will examine both the observations of last summer's courtwatch program and data from First Judicial District dockets. I would be happy to share that report with your committees when it becomes available. I would also like to direct you to the incredible work of Dr. Autumn Redcross and ALC Court Watch, which released their damning report on the municipal court of Allegheny County. You can find that report on alccourtwatch.org. Additionally, though it focuses on the behavior of the Philadelphia District Attorney's office, the [Philadelphia Bail Fund's report](#) on the use of cash bail during the pandemic sheds a lot of light on problematic actions of bail magistrates in setting exorbitant bail amounts that disproportionately impact Black and brown folks and mothers in particular.

To close, I want to thank the committees once again for holding what I hope is the first of many hearings on this topic. Racism, sexism, and transphobia in our courtrooms is not only morally reprehensible—COVID-19 has shown us it is literally deadly. It is on all of us to dismantle this rotten system and build up something that will keep our communities safe and thriving.