



Montgomery County Board of Commissioners
One Montgomery Plaza
Suite 800
Norristown, PA 19404

March 4, 2020

Dear Members of the Board,

The National Association for Public Defense (NAPD) is an organization of over 22,000 public defenders and other public defense professionals, including over 110 organizations from around the country. NAPD stands in solidarity with public defenders everywhere and with the clients they represent.

As an association of public defense practitioners that is committed to advancing the cause of equal justice for accused individuals in public defense delivery systems throughout the United States, we write to express our unwavering support for Dean Beer and Keisha Hudson as well as to express our deep concern about their sudden terminations.

As Chief and Deputy Chief of the Montgomery County Public Defender Office, Dean Beer and Keisha Hudson are transformative leaders who have helped build an organization with a national reputation for high quality, zealous advocacy on behalf of low-income people with system involvement in Montgomery County. As one of the first offices outside of California to create a participatory defense hub, they have become a model for what community-oriented defense should look like. Because of their vision, they have been able to attract the best and the brightest advocates from across the country to work for them, many of whom signed an open letter of support for their leaders.

Dean Beer and Keisha Hudson have also worked tirelessly on behalf of their clients and community members to identify and address the systemic issues that perpetuate injustice in our legal system. That work included efforts to reform bail practices, raise awareness about racial bias in the police department, and address the overcharging for phone calls made by young incarcerated people. Based on a letter to Dean Beer, dated February 20th, from the Chief Operating Officer (COO) of the Montgomery County Board of Commissioners, it is their systemic reform work that seems to have prompted the termination decision. This letter illustrates that the Montgomery County Board of Commissions has a deeply flawed understanding of the role of the public defender and of public defender independence.

In the letter to Dean Beer, COO Soltysiak recognizes that Dean Beer and Keisha Hudson are zealous advocates for their clients and suggests that when it comes to direct representation, "minimal oversight is necessary." However, the letter goes on

to suggest that justice reform work is outside of the scope of the public defender role and that such work can only be pursued in partnership with the County Administration. Specifically, the letter repeatedly references Dean Beer's decision not to engage in more robust "communication," "collaboration," and "coordination" with the Administration and criticizes the public defender for choosing, with respect to its reform work, to "go-it-alone."

Advocating on behalf of clients to identify and address systemic injustice in our criminal legal system is a core part of the public defender function. When a public defender sees inequities, unfairness, and bias in an individual client's case, zealous advocacy requires the defender to advocate against that injustice. Similarly, when a public defender sees a pattern and practice of inequity, unfairness, and bias, it is the responsibility of the public defender to advocate against that injustice on behalf of all clients. Contrary to the position taken by the COO, Dean Beer and Keisha Hudson have acted entirely within the scope of their role as public defenders when advocating for systemic reform. They have been terminated precisely by their engaging in best practices of public defense leaders.

Not only is systemic reform work part of the public defender function but systemic advocacy, like individual advocacy, falls within the umbrella of independence and must be free from County interference. A member of the Board of Commissioners would be in gross violation of the fundamental principle of independence essential to a functional public defense system should it demand communication, coordination, or collaboration with a public defender in the course of a lawyer's representation of an individual client in an individual case.

Similarly, it is a gross violation of the same principle of independence to require that kind of partnership when a public defender chief is advocating for systemic reform on behalf of all of its clients. NAPD's Foundational Principles, found at www.publicdefenders.us/foundationalprinciples, stress in Principle #2 that public defense must be independent of judicial and political control. It reads in part that "the policy-making function, choice of the chief public defender, and oversight of defense programs should be vested in a commission or board of trustees selected by diverse authorities." This policy making board provides a buffer from a political body such as yours and the leader of a public defense organization as well as the lawyers and other professionals in that organization. This independent board ensures not only that an excellent chief defender is chosen, but also that termination of a chief defender cannot be accomplished by a political body such as yourselves, but also that termination can only be done when that leader has acted contrary to providing excellent representation to clients. NAPD's Foundational Principle #2 is consistent with the ABA Ten Principles (2002) which states in Principle #1 that the "public defense function, including the selection, funding, and payment of defense counsel, is independent." The commentary goes on to clarify that independence means independence from "political influence."

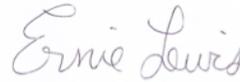
The actions of the County Board of Commissions in terminating Dean Beer and Keisha Hudson because of their dedication to addressing inequities, unfairness, and bias in the legal system and because they did so independent of the Board of Commissioners is alarming. It threatens not only the integrity of public defense but it is a threat to justice itself. Without an independent public defender, there can be no justice.

We call on the Montgomery County Board of Commissioners to reinstate Dean Beer and Keisha Hudson and cease interference in the important work they are doing to create an equitable, fair, and just legal system that we can all be proud of. We also recommend strongly that the Montgomery County Board of Commissioners initiate the creation of an independent board to oversee the Montgomery County Public Defender's Office to ensure the future independence of that office.

Respectfully,



Derwyn Bunton, NAPD Chair
Orleans Parish Chief Defender



Ernie Lewis
NAPD Executive Director

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