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I, Anthony Kyriakakis, certify that the information provided on this questionnaire is accurate and the opinions stated here accurately reflect my own positions.



Please complete, sign and return this via email in both Word Doc and PDF format to [phillyjat@gmail.com](mailto:phillyjat@gmail.com) **on or before March 18, 2019**

The Judicial Accountability Table (JAT) is a coalitional effort comprised of Philadelphia community organizations working to bring more fairness to our courts. We've written this questionnaire to be values-driven and focused on the issues most relevant to the people of Philadelphia, and we've made our questions compliant with the Code of the Commonwealth of Pennsylvania<sup>1</sup>. **We ask that you use no more than 250 words to respond to each question.**

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<sup>1</sup> Specifically the following section of 207 Pa. Code § 4.1, Political and Campaign Activities of Magisterial District Judges and Judicial Candidates in General:

*The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine whether the candidate for judicial office has specifically undertaken to reach a particular result. Pledges, promises, or commitments must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a magisterial district judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.*

As well as the following section of 207 Pa. Code § 4.2, Political and Campaign Activities of Judicial Candidates in Public Elections:

*A judge who is a candidate for elective judicial office shall not make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court.*

Thank you for taking the time to complete our questionnaire, and we look forward to your response. The organizations of the JAT include:

Reclaim Philadelphia  
Project SAFE  
Philadelphia DSA -- LILAC  
215 People's Alliance  
Philadelphia Community Bail Fund  
Youth Art and Self-Empowerment Project  
Amistad Law Project  
Coalition to Abolish Death By Incarceration (CADBI)  
The Center for Carceral Communities  
ICE out of Courts

## Questions

*(With respect to all of the below questions and answers, I acknowledge the overarching obligation that I would have as a judge to apply and uphold the law in every case, without regard to my own personal views.)*

1. What are your top three priorities as an elected judge?

My top priorities as a judge would be to: (1) discharge my judicial duties in a way that is just, impartial, and consistent with applicable law; (2) always act in accordance with the highest standards of integrity; and (3) work with my judicial colleagues and staff to continuously improve our court system with the overarching goal that each and every person who walks into a courtroom (including defendants, plaintiffs, victims, witnesses, and attorneys) be treated in a manner that is fair, respectful, and consistent with justice.

2. Do you feel that implicit bias plays a role in our courts? If so, how do you think it should be addressed?

Implicit bias exists throughout our society, including in our court systems. One of the fundamental challenges posed by the problem of implicit bias stems from the fact that an

individual may have implicit, *unconscious* associations that do not match one's declared beliefs. Accordingly, an important, initial step in addressing implicit bias requires increasing awareness in ourselves and in others of its existence and in the ways that it may affect the decision-making process.

If we assume that implicit biases are malleable (a belief largely supported by social science), then we should take steps to confront implicit biases and attempt to minimize the impact they have on the impartiality of judges. One way to do that is to provide regular training to judges so as to bring greater attention to the problem and provide guidance and techniques to curtail its effects on the administration of justice. We should also look to court statistics in order to attempt to identify patterns that signal unwarranted disparities in treatment.

In the courses on sentencing that I teach at Temple Law and Penn Law, we devote part of the semester to delving into some of the root causes that contribute to the unwarranted disparities in treatment that can be seen across race, gender, socioeconomic status, sexual orientation, and gender identity. Only by developing greater awareness of those disparities can we begin to take effective steps to address them.

3. What is the role of bail in criminal proceedings? Do you believe the bail system in Philadelphia is fair?

Bail in criminal proceedings has historically been used as a mechanism to attempt to ensure that a defendant returns for future court appearances. I have concerns about the fairness of the bail system in Philadelphia. Defendants should not be kept in custody pending trial simply because they do not have the resources to pay a high cash bail.

In Pennsylvania, pretrial detention is justified where the Commonwealth can prove that an individual faces a capital offense or life imprisonment or no other conditions can reasonably

assure the safety of any person and the community. It should not be ordered based upon a defendant's socioeconomic status. Before pretrial detention is ordered, defendants must be afforded their due process rights, including opportunities to participate in hearings in which they, through counsel, are provided with opportunities to challenge the Commonwealth's evidence. In Philadelphia, bail commissioners have sometimes set high cash bail amounts without engaging in an analysis of a defendant's ability to pay, which effectively serves as an order for pretrial detention for many defendants.

One way the system could be improved is by directing Pretrial Services to conduct a more rigorous analysis of defendants' financial status. Bail commissioners should be required to determine a defendant's ability to pay and to explore non-monetary alternatives. Bail commissioners should also be discouraged from setting cash bail when unnecessary. A recent study has shown that alternatives to cash bail (including innovative uses of technology) can be more effective in ensuring future court attendance.

4. What do you believe is the purpose of incarceration, both pre-trial and post-trial?

Pre-trial, judges in Pennsylvania apply a general presumption that a defendant should be released pending trial. An exception applies in the most serious cases when pretrial detention is necessary to protect a person or the community from danger.

Post-conviction, the traditional purposes of incarceration have historically been incapacitation, retribution, deterrence, and rehabilitation. In my view, all defendants should be treated as individuals on a case-by-case basis, and the purposes of punishment should vary depending upon the circumstances of the offense, and the history and characteristics of the offender. For example, a period of incarceration may have a greater deterrent effect in some

cases, and it may have a greater chance to result in rehabilitation in others. I personally believe that we currently incarcerate too high a rate of criminal defendants in the United States, and an even higher rate specifically in Pennsylvania. As a judge, I would seek to promote the use of alternatives to incarceration in appropriate cases, including through diversion programs that provide treatment for substance abuse and mental health issues.

5. One in three Philadelphians has a criminal record. In your opinion, how can judges support successful community re-entry?

Re-entry into the community by those with criminal records is a vitally important issue, which is part of why I address it as part of my sentencing courses. There are numerous collateral consequences that can flow from a criminal conviction, and the ripple effects are felt not only by ex-offenders, but also by their families and communities. I personally believe that policymakers should do more to support expungement of criminal records and to support legislation that aims to lift some of the barriers of re-entry for ex-offenders, including with respect to hiring practices.

Judges can also play an important role with respect to re-entry. Numerous “re-entry court” programs have developed in recent years, including in the Common Pleas Court and in the U.S. District Court for the Eastern District of Pennsylvania. I would support expanding such programs so that more ex-offenders can participate and receive greater assistance in overcoming the burdens that can make re-entry difficult. If given an opportunity, as a judge I would seek to participate in a “re-entry court” program.

One additional, important way that judges can address the problem of re-entry is by supporting diversion programs that provide offenders with the opportunity to avoid a criminal sentence in the first place.

6. When, if ever, do you think it's appropriate for a judge to reject an agreement between the District Attorney and the defense?

It may be appropriate for a judge to reject a plea agreement for a variety of reasons, including, for example, if the defendant has not understood or voluntarily accepted the terms of the plea agreement, if there is no factual basis for the plea, if the defendant has not understood his or her rights (such as the right to trial by jury or the right to be presumed innocent), or if the defendant is not aware of the maximum sentences for the charged offenses.

7. According to a study from Columbia University's Justice Lab, about 44,000 adults in Philadelphia are on probation or parole, which is a much higher figure than many other large cities. Pennsylvania is also one of the leading states in long probation tails, sentencing many people to probation for ten years or more after a jail sentence. What do you see as the longterm effects of this?

I have significant concerns about the long-term effects from having such a high number of people on probation or parole in Philadelphia. While probation and parole are important alternatives to incarceration, they still constitute forms of criminal punishment that significantly curtail the rights and freedoms of those under supervision, restricting their freedom and ability to return to their communities. Judges should impose sentences that are no greater than necessary to accomplish the purposes of punishment, and excessive periods of probation and parole can be counter-productive, costly to the Commonwealth, and lead ex-offenders back to prison, which further increases our high incarceration rate. In many cases, I believe that the significant resources we allocate to probation and parole could be better applied to supporting diversion and treatment programs.

8. When, if ever, is it appropriate to incarcerate someone for technical violations of probation when they haven't committed a new crime? What factors would you consider here?

Judges are obligated to consider the unique facts and circumstances of each individual

case before determining that a probation violation justifies further incarceration. For example, judges must consider the nature and seriousness of the violation, as well as the individual's history of prior violations, if any. As a judge, I would seek to explore alternatives to incarceration for technical violations of probation in appropriate cases, such as ordering counseling or enrollment in a drug rehabilitation program, requiring a period of community service, or otherwise modifying the terms of one's probation. An order of further incarceration should generally be the last resort for violations of probation.

9. Probation detainees make up over 50% of the city's jail population, and individuals are often held without signed judicial warrants. What do you think of this?

I think a far too-high percentage of our jail population in Philadelphia is incarcerated due to probation detainees. In the federal system, violators of probation are generally not held in custody until a warrant has been signed by a judge. I believe that it is appropriate for judges to be the ones to determine whether detention is necessary when there has been an alleged violation. It is also important that alleged violators have an initial hearing before a judge as soon as possible to determine whether just cause exists for a detainer to remain in place. Unless detention is necessary, judges should not keep alleged probation violators in custody.

10. Philadelphia is at the center of the opioid crisis. In order to prevent more deaths, advocates have worked on harm reduction initiatives including needle exchange programs, Narcan distribution, and overdose prevention sites. What can judges do to help expand and protect programs to combat the opioid crisis and continue to reduce harm?

The opioid epidemic is of grave concern for our City and for the many individuals and families suffering as a result of opioid addiction. While it is not the role of judges to develop the legislative policies that are necessary to address the epidemic, I believe that judges and the court system have an important role to play, including by further developing and expanding

diversion programs that provide treatment for substance abuse, including opioids. Judges should explore alternatives to incarceration for those individuals struggling with addiction issues.

11. According to the National Coalition for Child Protection Reform (NCCPR), Philadelphia now leads the country in removing children and placing them in foster care. What do you see as the longterm effects of this? What can judges do about this?

The removal of a child from a home is one of the most significant, life-changing actions that can be ordered by a judge and should never be done lightly and without full adherence to each of the procedural steps required by law, including the provision of full due process rights to parents. Unfortunately, I have seen up-close some of the cases where removal is in the best interests of the child through my pro bono participation as a volunteer Child Advocate through the Support Center of Child Advocates. Through that program, I have encountered children who have been physically and mentally abused by parents, necessitating their removal from the home.

However, the high rate of children in the foster care system in Philadelphia, relative to other cities, is troubling. Removing a child from a home is a traumatic experience with long-term consequences for both the child and the family. Accordingly, it should be done only when absolutely necessary. Judges have an important role to play by safeguarding the rights of parents to challenge the evidence presented by DHS and to present their own evidence that removal is unwarranted. Judges must properly apply the facts to the law before deciding whether removal of a child from the home is warranted.

12. What is the “school-to-prison pipeline” and do you see it at work in Philadelphia?

Generally speaking, the “school-to-prison pipeline” is a term that has been used to refer

to a trend in which children are moved from public schools and into the criminal justice system, where they are incarcerated and punished rather than being counseled and educated. The children most commonly affected by this trend tend to come from disadvantaged communities and are often subject to “zero-tolerance” policies at school that criminalize minor infractions of school rules.

The Philadelphia School District had a zero-tolerance policy for crime from 2002 until 2014. During that period, school administrators did not have discretion to prevent students from being arrested at the first instance of violence. However, in 2014, the District adopted the Philadelphia Police School Diversion Program, which has been credited with averting more than 1,000 arrests between 2014 and 2016. While more work needs to be done in this area, there is at least reason to believe that Philadelphia has begun to address its “school-to-prison pipeline.”

13. According to EvictionLab.org, in 2016 Philadelphia led the country in eviction rates at 3.84%, 1.14% higher than the national average. What do you see as the longterm effects of this? What can judges do about this?

Eviction from one’s home can have devastating effects on the evicted individuals and families, as well as the communities in which they live. It is deeply unfortunate that Philadelphia has a high eviction rate relative to other parts of the country. In all cases, judges must properly apply the facts to the law before issuing a decision that may result in an eviction. The Landlord/Tenant Act provides rights to tenants facing possible eviction, including a variety of notice requirements, and judges have a responsibility to make sure that the applicable legal requirements have been met by a landlord before permitting an eviction.

14. Would you support the court instituting a uniform policy prohibiting court personnel from contacting ICE and discouraging ICE arrests on court property without judicially signed warrants?

I serve on the Executive Committee of the Criminal Justice Section of the Philadelphia Bar Association, where this issue was raised and discussed at length. Many of us agreed that the presence of ICE at the courthouse is problematic for several reasons, including, for example, by discouraging victims and witnesses of crime to appear at court due to concerns about their immigration status. However, there are possible First Amendment issues raised by a blanket prohibition on communications with ICE, or by attempting to exclude ICE agents from property that is open to the public. I would need to study the details of a specific policy proposal, including its legality, before agreeing to support it. However, I would be in favor of the general policy goal of reassuring all people, regardless of immigration status, that the court system is a safe place and a forum where justice will be done for all who seek it.

15. What should the role of the judiciary be in ensuring equal access to justice for all city residents, regardless of immigration status? What steps would you personally take if elected?

As the first-generation child of immigrants who came to this country with no more than a suitcase and who spoke little English, I understand some of the challenges and disadvantages faced by those in immigrant communities. Those disadvantages become exacerbated by fears over one's immigration status, often contributing to feelings of helplessness. I believe that the court system is a place where all city residents, regardless of immigration status, should be confident that they will receive equal access to justice. As a judge, I would support policies that reinforce that position.

16. 86% of women who enter the Philadelphia courts have experienced some form of trauma, and this is especially true for Black women. How could you use mitigation in your sentencing as a way of reducing harm? What alternatives to incarceration would you consider for women who have experienced trauma?

Under the Pennsylvania Sentencing Guidelines, which are advisory but not mandatory, a

judge may impose a mitigated sentence after determining that mitigating circumstances exist.

In determining an appropriate punishment in my cases as a judge, I would consider each of the aggravating and mitigating circumstances of an individual case before imposing sentence. If evidence is presented that a defendant's past trauma played a role in the commission of criminal acts, I would take that evidence into account, as well as all of the other evidence presented in the case. If the case warrants use of an alternative to incarceration, I would seek to explore programs that provide treatment for past trauma.

17. Current PA state law allows children under 18 to be prosecuted as adults in some cases, despite growing efforts locally and nationally to remove children from the adult system. Do you believe that children should ever be treated legally as adults? What do you think the long-term impacts are of incarcerating children in adult jails and prisons?

As a judge, I would be required to follow current Pennsylvania law with respect to the criminal prosecution of juveniles. However, as the U.S. Supreme Court has made clear in a series of cases, juveniles are different from adults in meaningful ways when it comes to accomplishing the purposes of criminal punishment. For example, in Miller v. Alabama (2012), the Supreme Court explained that juveniles generally have diminished culpability, lack full maturity and have an underdeveloped sense of responsibility, are more vulnerable to negative influences and outside pressures, and are better candidates for rehabilitation. Consistent with precedent, such differences should not be ignored by judges who handle criminal cases involving juveniles.