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Statement on Equal Justice under Law

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The protests of the last several weeks have coalesced into a truth that cannot be ignored: people of color are being denied their rightful equality. Frustration and grief have poured out in response to the recent events that so horribly have illuminated injustices against people of color; injustices, sadly, that are not new. These events represent the extremes of the all-too-common conscious—and unconscious—disrespect and disregard for the dignity of people of color. Difficult and painful, but necessary and overdue, conversations are taking place across our state and our nation.

We may be disheartened, not only that our collective efforts have been insufficient and inadequate, but that so little progress appears to have been made. We cannot falter, as we must fulfill our mandate to ensure equal justice to all under law. We must, individually and collectively, contribute in any way we can to overcome the bias that divides and imperils our civil society and the experiment that is our democracy.

This recognition of the need for collective resolve is not new, but perhaps our determination to address the long-term inequities spawned by slavery and Jim Crow, has, at last, become new. In 1862, President Abraham Lincoln, in his annual message to Congress, noted:

> We can succeed only by concert. It is not "can any of us imagine better?" but, "can we all do better?" The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise — with the occasion. As our case is new, so we must think anew, and act anew. We must disenthrall ourselves, and then we shall save our country.

Many of those among us have taken an oath to support the constitutions of the United States and Maryland. As such, we have the particular responsibility to make the

guarantees embodied in them a reality for all people. We have the unique privilege and responsibility to administer justice: equal justice under law.

Judges swear to be fair and impartial, to do justice in every individual case. That cannot change, but we, together, as members of the system of justice, must re-examine how we administer justice. We must determine, along with the other branches of government, how to ensure that the protections and rights under law are afforded equally to all of us. We must assure that our courts do not suffer bias, conscious or unconscious. We must examine, together, the reasons for disproportionate impact upon people of color, and address those reasons.

All of us—members of the judicial branch and the legal community—must, as Justice Thurgood Marshall, has demanded, ensure that the doors of justice open wide for all people—and that once inside, procedural fairness and due process are a given. Access to legal services and representation in matters that affect the lives of all the people in our state, whether they have means or not, is essential. No one should suffer the degradations that too often accompany poverty—and we, the stewards of the justice system, cannot allow the lack of representation in civil matters to add to the burdens of the poor. Until governments can afford to guarantee representation to all in civil matters, the provision of legal representation *pro bono publico*—for the public good—and the legal services and information we provide can fill some, but not nearly enough, of the need.

In Maryland, we have begun to address some of the systemic inequities that affect the poor and people of color more often and with greater detriment. We have begun pretrial reform, but still need pretrial services state-wide to eliminate the pretrial detention of those who do not pose a risk, but cannot afford even a low monetary bail. We have instituted mediation in landlord-tenant cases, but we need to address the manner in which the hundreds of thousands of landlord-tenant matters are filed and administered each year.

We are working to improve the justice responses to children involved with the courts. But we do still need to better address the problems of our young, our children, who have grown up in violence and poverty, far too many of whom are of color. We must recognize that their suffering is our suffering and their desperation, ours. As long as they are not afforded the stability and opportunity that all children deserve and require, we risk our collective stability as a state and as a nation.

We have been fortunate in Maryland to have had a longstanding commitment to a Judiciary that looks like the people it serves—and an equal commitment to access to justice. We must, however, recognize the economic and racial disparities that persist in our justice system. We cannot eliminate them until we make certain that all voices are heard and

respected and that the perspectives and experience of all realign our practices to make good the promise of equal justice under law.

To answer President Lincoln, we will do better in Maryland because we must, until we achieve what a true democracy requires: equality for all people. Our duty and fealty to the constitutions of our state and country command that we strive toward equality. Let us, in reaffirming our commitment to equal justice under law for all, make it known that, in Maryland, the lives of people of color do matter.

Mary Ellen Barbera
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