



**Wednesday, Sept. 16, 2020**

### **Beyond the Statements**

Co-Sponsored by: Baylor Law's Black Law Students Association

In 1963, Dr. Martin Luther King penned *Letter from a Birmingham Jail*:

I am cognizant of the interrelatedness of all communities and states. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly.

Lawyers are the stewards of the rule of law and have highly distinctive capabilities as leaders. They hence have a special role and responsibility to play in addressing societal ills. They must ask the piercing questions about how we can do better – and then act. Law schools have the responsibility to foster these conversations, develop leaders, and equip law students to be change agents.

Many law school deans issued statements condemning racism and violence in the wake of recent tragedies. This session is a focused conversation about the response that law schools must now make.

#### **Moderated by:**

**Erwin Chemerinsky**

Dean and Jesse H. Choper Distinguished Professor of Law, Berkeley Law

#### **Panelists:**

**Mark C. Alexander**

Arthur J. Kania Dean and Professor of Law, Villanova University Charles Widger School of Law

**Mario L. Barnes**

Toni Rembe Dean and Professor of Law, University of Washington School of Law

**Paulette Brown**

Senior Partner and Chief Diversity & Inclusion Officer, Locke Lord LLP. Past-president American Bar Association

**Angela Onwuachi-Willig**

Dean and Professor of Law, Boston University School of Law

Brad Toben: Good afternoon. I'm going to start our discussion this afternoon, Beyond the Statements, by noting something that's very obvious. I am not Dean Erwin Chemerinsky. Just a few minutes ago, Dean Chemerinsky's assistant called us and told us that as we are speaking right now, that the Dean is with his wife en route to a hospital. Mrs. Chemerinsky has fallen and apparently has broken her ankle. So [00:00:30] I am a poor substitute for Dean Chemerinsky, but we will get through this. Of course, we send out our very best wishes and prayers to the Dean and his wife as Mrs. Chemerinsky is treated at the hospital for this mishap.

I am going to start at this point by having my associate, my friend, Leah Teague, who's put together the conference along with my colleague, Stephen Rispoli, introduce [00:01:00] our panelists. We'll of course today be talking on the topic of Beyond the Statements.

When we all experienced so vividly the death of George Floyd, law school deans across the nation issued statements. There were very powerful statements, very piercing observations upon this deep tragedy. One that as we know, just from the past couple of weeks, seems to repeat and repeat and repeat. [00:01:30] George Floyd's name is going to be indelible in our memories. So the purpose of our panel today is to discuss what happens after the statements of the deans? Scores and scores of statements that were made in the wake of the George Floyd tragedy.

The title of the panel, of course, as I indicated, is Beyond the Statements. You can see very implicitly that it's asking the question, so how is action going to be taken to essentially put [00:02:00] wheels on the road, rubber on the road, to make for an actual change in our culture, in our society, and in our body politic? And with that, I will turn it over to Leah. Leah, please.

Leah Teague: I'm going to start with Dean Angela Onwuachi-Willig, and I'm going to start with her because I read her statement, hers and Dean Chemerinsky's, and they both just [00:02:30] struck me to the core. It was such a powerful statement. So I'm going to start with introducing you to her. She is the Dean and Professor of Law of the Boston University School of Law. She is a renowned legal scholar and an expert in critical race theory, employment discrimination, and family law, and she is one of the voices in this space. So she will be joining us.

With her will be [00:03:00] another dean colleague, Mark Alexander. He is the Dean of Villanova University, Charles Widger School of Law. We are appreciative of his voice within the AALS, the American Association of Law Schools. I first met him several years ago as he was on the executive committee and he was assigned to our brand new section on leadership. He has been an early supporter of our efforts [00:03:30] in this. We are so thankful that he is joining us today.

Also joining us is Mario Barnes. He is the Dean and Professor of Law at the University of Washington School of Law. Perhaps because of his time in that chair, in an office next to Dean Chemerinsky, he is maybe the closest to his voice today. He served his Associate Dean at UC Irvine at its beginning. He spends [00:04:00] his time in research and speaking legal and social implications of race and gender, primarily in the areas of employment, education, criminal, and military law. He spent 12 years in the Navy before his academic career, and so I will just, again, mention this morning, we had a panel of the two highest ranking within the JAG and then the second highest within our military. [00:04:30] It was just an incredible and powerful panel as we recognize the expertise the military has in leadership development. Then their very specific focus within the JAG on military lawyers as leaders.

As Dean Toben and I always note at every graduation, which at Baylor Law is four times a year, there's such a connection between law and military in terms of protecting [00:05:00] our freedoms and protecting our system of justice. So I hope, Dean Barnes, that you also speak to some of that and lessons learned and what we might all learn from that today.

We also have such an honor for us to have with us Paulette Brown. She is not in the Academy, although she is well familiar with the Academy. She is currently senior partner and chief diversity and inclusion officer for Locke Lord [00:05:30] LLP, which is a global, I think you have 23 offices around the world today. She is also the past president of the American Bar Association. I note that during her time, she was just tenacious in pushing for the ABA, the bar, the practicing bar to be more aggressive in not just saying, "Oh yes, yes, important. But no, no, no. Time to act. [00:06:00] Let's do something." So her diversity, equity, and inclusion initiatives are part of her legacy with the ABA and some of those policies and rules that she implemented have continued on. So we've asked her to join us.

Now, as Dean Toben said, we are a poor substitute for Dean Chemerinsky, but I will tell you that we are guided by his notes. We were able to have a pre-conference meeting with him, [00:06:30] he and the panelists. Really, we just sat there during that time and I think each one of us shared our admiration for him and he, in his humble way, just deflected every piece of accolades or admiration and respect that we tried to shower him with.

But thankfully, he did structure this panel in a way that we at the end said, "Oh, that makes such good sense." And of course, it was so easy for him. So we're [00:07:00] going to try, the best we can, follow his lead. We will start with each of the panelists has been assigned a topic and the topics are thinking about a holistic approach to our law students' experience in law school and our experience within the Academy. Sort of beginning to end the journey of our students and the different touch points that we as legal educators have on that journey of our law students. [00:07:30] From novice coming in, bright eyed, bushy tailed, ready to make a difference in the world, to the realities of entering the practice of law.

With that, we're going to each panelist. We'll have some introductory remarks and each of our esteemed deans, including our own Dean Toben, are asked to jump in and to make this a rich conversation around these eight.

Just so the audience knows where we're going, let me just quickly list the topics that we're going to cover. [00:08:00] Student recruitment, and we'll start with Paulette Brown. Student scholarship, we'll start with Dean, I'm going to say this right, Onwuachi-Willig. I'm going to get it down before we're finished. Faculty recruitment with the Dean Alexander. Law school environment and culture with Dean Barnes. Law school governance with Dean Onwuachi-Willig. Student placement with [00:08:30] back to Dean Alexander. Bar exam with Dean Barnes. Connection to the profession, appropriately, we will wrap that topic up with Paulette Brown. With that, Paulette, I ask you to share your remarks.

Paulette Brown: Thank you. Thank you, Dean. Good afternoon. It's really a privilege to be on this panel today and a little bit intimidating, I must say. But I'm going [00:09:00] to try to give it my best shot.

We talk about recruitment and the title is so appropriate for this panel, Beyond Statements. It's really time, in this moment, as people are really thinking about things in ways that we have not thought about them in the past, to really take some appropriate action.

So when you think about recruitment, I think both at the beginning and the end, what does [00:09:30] it mean in the long term for our profession to be as diverse and inclusive as possible? How we get there sort of begins with the recruitment process. What are we looking for when we're trying to recruit students, when we want to make sure that we are as inclusive as possible?

There are a number of things that, and I actually have more questions in the beginning of this process than answers. I think about what can be done in this era of heightened awareness? [00:10:00] Who has an obligation to

own the process of recruitment, to ensure that our profession ends up being more diverse and inclusive than it already is? What role do law schools have to play? What role does US News and World Report have to play in the manner in which they rank schools and therefore and the manner in which law school sort of set their criteria combined with the [00:10:30] sectional legal education, legal ed, and admissions to the bar? And how all of these things are inextricably entwined and how we actually build a pipeline, where it is we go to look for students. Do we look for students at the most elite schools to come to our then elite schools? Are we getting the best students by doing it that way? Are there inherent biases in the criteria that we use to admit students to law school?

I think that in order to find a solution that [00:11:00] we can't compartmentalize. We have to combine all about collective efforts and I'll talk a little bit more when I have time, because my two minutes is probably over, about the role of US News and World Reports and how law schools can be impactful in that regard.

Leah Teague: Other deans, let's do this. Let's jump in, let's take each topic one at a time, and then we'll still have time at the end to go back and revisit and to pull together concepts. [00:11:30] Responses? Remarks?

Angela Onwuachi...: I guess I would say I agree with everything that Paulette said. She was absolutely on the mark. I think it's hard. I mean, I think there are structures that make it difficult for us to make certain changes, but I think that we have to be having those discussions, and one of them is US News, as she pointed out. [00:12:00] One of them is US News, I think, which makes law schools focus a lot on median GPAs and on median LSAT outside scores for the entire class, which means that we're focusing on those measures as we're looking at classes. Even as we're doing holistic review and looking at all the candidates that we have, we can't ignore those numbers in that process.

I would say another thing that's on the other end that's a structure that's playing a role, too, is the bar exam. [00:12:30] I think one of the questions that we have to have a discussion about is, do we think it's serving its purpose? Is it projecting who's going to be a good attorney or not? Or is it serving as a means of excluding certain groups of people from being practicing attorneys? I think that's also something that's playing a role, too, at the recruitment, at the admissions point as well. Those are really important discussions for schools to have, [00:13:00] and it's a really important discussion for us as a profession to have.

Mark Alexander: I guess I would add into that just, there's a question. Paulette introduced the idea of a pipeline and what we know, and actually AALS has done a longterm study that, before the JD program, before the JD study, reveals

that kids, and I really mean kids, are thinking about law school [00:13:30] in sixth, seventh, eighth grades. So many people who are currently law students thought about it first at that time, and that's formative. I think part of it, what we need to think about, is the immediate question of the criteria that Angela was talking about, and also thinking about how do we increase the volume? I mean, the number of strong [00:14:00] students. We need to say, "There's got to be a widening of that pipeline significantly."

That really does mean getting to kids when they are young and saying to them, "This is why I chose to be a lawyer, and let me tell you why it is important to me." Look, I will tell everybody, I'm very proud to be a lawyer. I am so proud of the way we serve people. I think getting kids to think about what a career in law might mean in lots of different ways. [00:14:30] I think that's also an important thing for us to really look at, knowing that kids in sixth, seventh, eighth, and ninth grades are making decisions that then six, seven, eight years later become applicants to law schools.

Paulette Brown: Sometimes you have to see it to know that you can be it.

Mark Alexander: Yes.

Leah Teague: That's a good point, and I think many law schools have some pipeline. I know that the Bar Association, many of the especially stayed in the young lawyers, do y'all have suggestions or thoughts about how we come together, [00:15:00] law schools and legal profession, in a more organized manner? We all talk about the pipeline. What are the next steps and actions related to student recruitment in terms of pipeline?

Mario Barnes: I want to complicate your question, Leah, a little bit first. I'll send my well wishes to my former colleague, [Catherine Fisk 00:00:15:17], and wish her a speedy recovery and hope she and Erwin are well.

I want to complicate that in this way. What Paulette and Angela mentioned is the notion of whether the criteria we look at when we are [00:15:30] recruiting for students to law school, and oftentimes even amongst students of color, it really is elite credentials and high scores. We're talking about a pipeline. I want us to think about diversity within the diversity and not just thinking about how we get those students into the pipeline. But if you look at this moment in our nation's sort of historical battle with COVID and racial reckoning, you look at the students and activists who are on the front line [00:16:00] and who are engaged with the ideas of having our nation live up to its highest promise.

It might not be the students and elite schools. So we might have to think about pipelines that branch outside of where we currently think about



recruiting. We might also think about diversity within the diversity to start thinking about those pipelines should not just be uplifting middle-class students of color who come from families that have been succeeding for generations. [00:16:30] We should be focusing on things like first-generation, socioeconomic diversity, and diversity of thought and experience to include people who come to our law schools with a different expectation on what they'll do with their law degree.

I wanted to complicate it and say, when we talk about pipelines, I hope we're talking about more than just the narrowed processes of going to really great schools and encouraging already really strong students to apply to law school, too.

Leah Teague: Speaking of barriers, [00:17:00] money. Always a barrier when we talk about trying to diversify. Our next topic is student scholarships. So Dean Onwuachi-Willig, will you start us off in that conversation?

Angela Onwuachi...: Yeah. Student scholarships, it's a major issue, of course. Legal education is very expensive, like all education now. Way more expensive than it was when I was a student, of course, and it will continue to rise [00:17:30] because the cost of providing that education is continuing to rise.

I think often about scholarships in terms of the wealth gap, too, and that exists across different groups in our country, particularly the racial wealth gap. For example, the overall, if you look at the gap between Blacks and whites, whites have 10 times the wealth, on average. The average white family has 10 times the wealth of a Black family. So \$171, [00:18:00] 000 is the average wealth of a typical white family compared to \$17,000 for a typical Black family. Stark, stark differences, and that's been the result of past discrimination, the result of a lack of intergenerational transfers of wealth, a result of many, many, many things.

Those things are the very things that might prevent access to law schools. [00:18:30] Scholarships make access to law schools possible. Scholarships make access to education possible, and education right now seems to be one of the major venues or the major venue for transforming one's individual life and perhaps the life of those around them, if people can gain access to that. It's really, really critical. In law schools, however, because in part, because of our focus on rankings and because [00:19:00] we're driven by them and were driven by them in part because our students, our applicant pool, really looks at it, so it's hard for us to ignore those.

It's impossible for us to ignore those rankings that we end up spending most of our money, and I think most places do merit aid, which is usually focused on LSAT scores or focused even on GPA. Those have impacts.

Those [00:19:30] disproportionately affect students of color, first generation students in a negative way. We know that standardized tests and particularly LSAT and the SAT, those scores tend to go up by income. That's income. We're not even talking wealth. We're not even talking wealth. It's not meant. LSAC would tell you it's not meant to be the kind of determinative factor that it has been. It's [00:20:00] not determinative. It's not meant to be as strong of a factor or as it has become for some schools.

The other thing is, also looking at GPA. If you're someone who's a first generation college student, if you're someone who has not had somebody go through that process before, you might get a slower start and it might be a better story, it might be more a signal of your perseverance, of your ability to be a really talented lawyer if you get a slower start because you didn't have access to information and you're able to improve grades [00:20:30] later on, versus someone who's able to come in at the beginning because they've had access to information, access to resources, access to people they could ask about the process, and has started off well and then maintained those grades all along. That process also favors people who have had privilege at an earlier point.

So scholarship is very important, I think, again, as a profession, as a body of law schools. It's something that we would have to talk about together [00:21:00] because I think it will shape the diversity of our profession, both in terms of socioeconomic background and racial background, particularly given those overlaps. We're currently having those discussions with Bob Morris, who's open to trying to import something like the social mobility index it's used at the undergraduate level into the law school level, but until we do so, I think it's important [00:21:30] for us to continue to have those discussions.

That's what I'll throw out there is that, how can we begin to think about, especially when we think about the wealth disparities in our country and those wealth disparities, I want to say also too, they have effects after people graduate from law school. We know also from data, the students of color graduate with more debt. Low income students graduate with more debt. Then also, those people have family members that they're helping when they become lawyers. That's even, that's [00:22:00] money that can't be used to build debt. They're not going to inherit wealth afterwards. They're not going to have parents who are helping to pay for their kids' college. All those things that people who come from more upper middle-class families will have later on. It even, it's just like the gap is widening, even as people are gaining access into law school and to particular professions.



Brad Toben: Angela, I believe that legal education has to point the finger at itself to at least [00:22:30] some significant degree. We all chase the rankings. Of course, the chasing process is expensive. So much more is provided now to our students in terms of programming. Student/faculty ratios have plummeted over the past decades. Personnel, as we know, is our greatest expense in our budget. But we're all chasing the rankings. The other dysfunction that has arisen from all this, of course, is the matter of [00:23:00] tuition discounting. Nobody charges the label, the sticker price, we all engage in a fiction of, "This is what our tuition is, but really, this is what our tuition is." Given that, it seems as though, irrespective of what U.S. News does, some blame, I believe, has to be cast upon the Academy itself. And I speak here, of course, not only of legal education, but of higher education generally. Your thoughts on that?

Angela Onwuachi...: I think [00:23:30] that some blame has to be... I think there's some blame because I do think that also, even as we recognize that these disparities are existing, I think some blame is there because I think we are generally a profession that... You're speaking of academics, right? Of people for whom these processes have worked or whom law schools have worked, right? You can't become a law professor generally if law [00:24:00] school hasn't worked for you, right? And so I think the people who are often making these decisions are often people who somewhat buy into the measures and the criteria that we use to evaluate people. That's what I would say. And that in itself is a problem. And when you raise questions about it and you begin to discuss it, there is more of a defense of it than I expected. [00:24:30] I absolutely would say there's some blame in the Academy more broadly.

Mark Alexander: I would also just add on to that, I think one of the challenges that Angela speaks is so important is that we do need to challenge our assumptions and we have had our own success, for lack of a better term, within the current structure. So, how do we challenge what the current structure is? And I think one of the key questions is how... When we talk about merit, [00:25:00] scholarship, the question is, what is merit? What are we looking to have in a classroom?

When I teach con law and I talk to students about, like, Grutter and Gratz and the value of diversity. I say, personally, I testified to them having different perspectives in the classroom makes us better. There's no doubt about it. As a teacher, I know when I have people thinking about different things from different perspectives, it makes for a better discussion.

Then the question I think we have to say is, "How [00:25:30] are we going to define what is merit? Who should be in a classroom?" And it comes in different contexts. But I think we do have to ask ourselves, "What is the ideal student body that we want? And what are the qualities?" And by the

way, that's really hard. I'm not saying this is a simple solution, but I do think that when we talk about this, we do have to ask, "What is it that we would like an ideal class to look like?" And that involves a lot of questions that will take us outside the current structures.

Paulette Brown: [00:26:00] But the question becomes, who's willing to move outside the current structure and whether [inaudible 00:26:07] law school deans will combine their collective power? Which I personally think that they should be able to do and some people may call... They call me naive, which is probably why I'm not sitting in your seat. But to me, if you marshal yourselves and your resources together as a collective, [00:26:30] especially those who are ranked the top by U.S. News & World Report, if you're truly interested in diversity and inclusion, why can't you combine yourselves and go to U.S. News & World Report and make some suggestions to say, for example, "Let diversity be one of the things that you grade a law school on. We are in your top 10, we are in your top 50. We strongly [00:27:00] believe that having this diversity of opinion and thought is critical to not just all students learning and understanding, but how they will react once they become lawyers."

I see the smirks on your face, but-

Mario Barnes: Not a smirk.

Paulette Brown: [crosstalk 00:27:19] I know that I've been accused of being naive, but I just don't understand why the elite schools can't join together.

Mario Barnes: I'm going to say [00:27:30] something completely politic but I am shielded by the fact that it is incredibly honest. Which is to say, every year we have this process at the beginning of ranking season, starting... We just got our first memo from US News to the Deans, and it starts a conversation on our listserv. And it goes into deep detail about the kind of problems of the rankings and the things we should be doing as a community to push back against them. [00:28:00] And the truth is, the reason it never goes very far outside of some limited kinds of interventions is because there is an advantage that comes to the schools and I won't put it in just the top 10, in the top 20. There is a ranking privilege where to really get on board, you'd be acting against interest.

For those schools, even though they can be a part of the listserv and say, "Yes, these don't accurately reflect the quality of the education [00:28:30] in various institutions." There's just going to be a disincentive for them to really come on board. And I actually think you put your finger on the issue Paulette, but the way in which you could change it would be if you start to value or place value on different types of considerations. In terms of, what percentage of your students work in the public interest or serve

underserved communities? What is your diversity index? What are some types of metrics that we can implement now? And Erwin would say this, he said [00:29:00] it to me many times. What the US News largely ends up creating is a list based on which schools have the greatest resources or the greatest access to resources. And then that gets embedded and becomes very difficult to push back against.

Now, Erwin is highly critical of rankings, although his mantra at UCI for the first eight years was that the thing it should do is break out within the top 20, within its first year. And it came [00:29:30] really close. But, so the point is, even as he criticized them, he also understood that the marketplace reacts very favorably to them.

Leah Teague: As always is the case, we would come back to resources and money. And are we going to put our money where our mouth is and where our values are? And we could go on endlessly for days, months, years, as we have, about lamenting the rankings. But we do have to keep that conversation going just as I need to keep this conversation going. [00:30:00] Let me change topics.

Let's talk about faculty recruitment and the role that our faculties play. And here there is a little bit of help from outside. ABA and WLS, they do hold us accountable with regard to the diversity within our faculty.

Dean Alexander, if you'll lead us off, please.

Mark Alexander: Sure. Thanks, Leah. It is great to be here. And I think just to step back for a moment [00:30:30] to where we are, I think it is important when we're talking about beyond the statements. That is the frame for all of this. I had a number of students who came to me this summer and said, "You need to say that you stand against racism personally, and individually and institutionally." That's easy, right? We can say that it is important. Of course we do say that, but I think that [00:31:00] what's really important. And this is where I think we are going is that we are acting based on principles that always will motivate our action. What that means to me, I think is important as we look at all of these specific questions that we have a commitment that stems from our values.

So, when we're talking about faculty recruitment, I think one of the questions is what do we value in a faculty? [00:31:30] And the question is, how do we get our faculty? How do they come to us? We have been constantly in a situation where... The usual suspects, back in part to Angela's point, those who have come through have benefited from different of the typical credentialed programs, not always, not exclusively, but certainly that works out to perpetuate [00:32:00] a lot of cycles. I think when we talk about faculty recruitment, we have to go into the processes

and who controls them. As the Dean, I am always struck that I don't actually appoint new faculty members to the tenure-track faculty. The faculty governance principles put so much in the control of faculty governance.

I think when we talk about this and particularly looking at the context of leadership, we need [00:32:30] to start to engage faculty leaders to start to speak to the faculty as a whole, to say, "Let us, re-examine our collective assumptions." As the Dean individually, there are things I can do when we have short term appoints. We have a VAT program where we are training new professors as they're coming into the market. That is something where you can say, "I'm going to do things which are not necessarily going to require the same grouping of faculty to necessarily say, 'Yes', or say, [00:33:00] 'No'", but I think we have to find ways as deans and, certainly, as faculty, to challenge the assumptions and to do things and with VAT program, create...we talk about pipelines, create a pipeline that will put more people into the mix who aren't necessarily going to have come at this with the same credentials, or maybe the same opportunities as before.

I guess my, whatever, two or three minutes I'm spending, just trying to ask my colleagues, [00:33:30] what do we see are some of the ways we can support those coming up? And what are the processes that exist that may be barriers and what are our new opportunities that we can do to bring about change?

Leah Teague: Let me do this, let me suggest this because you have just tied your topic to the next two. So why don't we do this? Ask Dean Barnes to talk just a little bit, give his opening remarks related to environment and culture, because as you said, Dean Alexander, [00:34:00] law school governance, which is faculty-driven, which is the next topic Dean Onwuachi-Willig. Those two are driven by faculty. So I think we can have a rich conversation if we take these three together, but starting with remarks. So, Dean Barnes.

Mario Barnes: Of course, one of the things that as Dean is one to preside over a welcoming community. One where, as colleagues, [00:34:30] even though we may not always agree on things where we do the way we show each other respect and collegiality and where we create a community for our students, where they all feel welcomed, included, and contrive. Part of the difficulty in recruiting diverse faculty and students, isn't just about pipeline or about who is eligible to be recruited. It's what kind of environments we are creating to invite them into.

And I think in this time of COVID, [00:35:00] we have seen that within law school and other academic environments, that people are not always similarly impacted by even national crisis, right? We saw during COVID that yes, everybody was sequestered and yes, everybody was doing lots of

remote learning, but we also have this messaging about disproportionately black and brown and poor people who are feeling the effects and disproportionately represented among those who were sick and certainly those were dying.

The [00:35:30] moments that followed George Floyd, I think part of the statement showed is that we had a national understanding of the crisis of racial violence. We had a national understanding that we needed to come together and denounce it and protest for the lives of black folks and all marginalized and disenfranchised folks mattering. But when you think about our students and our faculty and our staff, how people were experiencing those protests and that really virulent violence [00:36:00] within our community was not the same, right? Which is to say that our black students and faculty and staff for struggling mightily after George Floyd, our community was struggling, but even more so our students and faculty and staff of color.

What we have to do as a community is understand, although we have norms and values it as a community that brings us together, diversity not only means that we need to bring in difference and that matters in terms of perspectives, backgrounds, [00:36:30] adding new voices and insights but it also means that we need to be attendant to the way in which that difference matters.

When we have conversations about diversity and inclusion, we cannot come from a point of defensiveness where we feel like to say that someone is experiencing something differently and perhaps with more pain and more understanding of the way in which it can be real in your life. It's not in any way suggesting that others aren't empathetic or that others don't care about important things like racism, as well. At my own school, we were already having a [00:37:00] series of town halls on diversity and inclusion when COVID and the George Floyd and Breonna Taylor matters rose.

And the thing I tried to be mindful about our community was in saying that there are ways in which we can acknowledge that our values are shared by everyone, but that we have to be willing to see that in some cases, different subpopulations within our community are experiencing things differently and be willing to respond to that.

So that when you say we now having conversation [00:37:30] about what it means, Mark, to have a statement on anti-racism and what it means to personally denounce what we saw in terms of racialized violence in some ways that was state-sanctioned. Reason that is necessary is because that some very important parts of our population are hurting. And what we need the community to do is to be able respond to that hurt so that

everybody understands their value within that community. The thing I'm most proud of, it's not just the statements, which I do think showed [00:38:00] a lot of appropriate empathy, care, and concern, and also showed that racism is not a problem of people of color or minority is a national crisis. We all should be involved and how we come up with solution.

The thing I was more proud of is after that, I want to call out Kim Norwood from Washington University in St. Louis and also Daniel Conaway at Penn State Dickinson for two separate reasons. Kim Norwood came up with a proposal to go to the ABA [00:38:30] section on legal education and admission to the bar. And to say one of the ways we can address this as a community is create a requirement for mandatory bias and cultural competency training. And you should at least now include some efforts to discuss whether that would be appropriate given what we've learned from this moment.

Daniel Conway at her school did not just do an external statement saying, "We denounced what has happened." She and her faculty committed to coming up with a statement of anti-racism that not [00:39:00] only laid out its own responsibility for not as effectively as they should addressing the kinds of discrimination that had happened within their school, but it had an action plan of the things that their faculty are now going to do moving forward.

I will end there by saying, if we want our environment to be the diverse, inclusive, accepting environment we want, we have to acknowledge that we can have common values, but we don't all [00:39:30] experience discrimination in the same way. And there needs to be some ability to account for that. But we also need to know that we have to move beyond words and statements and to deed. So, if we want to change, we need, within our institution, to commit to anti-racism, and we need to call upon our governing body and the ABA to create requirements that put our money where our mouth is in terms of really advancing anti-bias.

Leah Teague:

And within our law school environments, it is the faculty that controls major decisions. [00:40:00] And I think those who are outside of the Academy, perhaps they aren't aware of that, or maybe they've forgotten, but it's sometimes you, Deans do such a wonderful job of communicating the things that we should do. But now to go beyond the statements to action plans, you have to involve the faculty.

Dean Onwuachi-Willig, will you talk to us about the faculty governance and then let's tie all this conversation about faculty, their role, environment that is created because of [00:40:30] our faculty.



Angela Onwuachi...: I would say again, going back to one of the things that Dean Alexander pointed out is that there is a structural problem, right? In terms of creating certain kinds of changes, that the faculty is really the governing body, the faculty vote on of these issues and it depends on, does the faculty acknowledge, recognize, and see certain problems and then think that they want to act on it? Or do they feel comfortable acting [00:41:00] on it?

And race is generally something and most of our faculties at predominantly white law schools are overwhelmingly white. Most of our faculties don't feel comfortable talking about race, don't have a lot of experience dealing with racism or thinking about it just as a general discomfort in this country, that's how many people are raised to think it's best to pretend like I don't see or acknowledge or think about race and [00:41:30] that's how you get over racism, right? And that's how many people were raised if you think about it.

So I think even coming out with an anti-racism resolution or statement is not so easy among faculties because faculties won't necessarily all agree on what racism is. Some people think only Jim Crow racism is racism. Some people have a much more complex understanding about racism and so it is a structural problem.

I think there are some things that deans can do [00:42:00] that can begin to enable change, right? Slowly, right? Some of those things are thinking about how do you communicate that this is a value, right? A value of the school. And it's something that the Dean values, the provost values, hopefully this is something coming from up top, right? Coming from the president of the provost office, which I'm lucky to be in a situation where that is the case.

Also in terms of the things that you evaluate people on at each year, [00:42:30] right? Is that one of the criteria, the contributions to diversity, contributions to mentoring that you evaluate people on every year? Is there somebody in your and your senior leadership team who focuses on issues of inclusion and equity and diversity? All those things, right? Do you have an Associate Dean for diversity inclusion, equity, whatever you want to call it. Ours is an equity, justice, and engagement and that [00:43:00] person is a faculty member. We also have, of course have somebody on the student affairs side who's also a director of diversity and inclusion, right? Those things communicate something both to the student body, but they also communicate something to the faculty.

I think deans pick committees in terms of faculty recruitment, deans pick the committees for various things. And you have a choice of the people that you put on various committees [00:43:30] who are either going to help to facilitate, right? Certain goals, or who are going to be people who

are going to try to really stymie certain goals. And so even something like the faculty appointments committee, picking people who have a commitment to wanting to see a diverse pool. Who want to try to make sure that they're reaching to all different networks. If they're looking through all the various valves, the entry level to ensure that every person is getting consideration [00:44:00] and that the pool is as diverse as possible is really important.

Requiring training for faculty, whether it be for teaching in the classroom, right? And keeping them aware of the issues that students face, I think also. And requiring training for faculty who are serving on search committees or faculty, or serving on tenure and promotion committees. Those kinds of things that they're aware, not only of particular challenges that women might face or people of color might face in these [00:44:30] jobs, but they're also aware about implicit bias, as well. I think that's really critical.

Really engaging the faculty in a discussion about the criteria, right? So creating a rubric like, what is it that we're looking for when we're looking for faculty? And that helps to ferret out some of the old markers that people have used to hire faculty members that really just reinforced inequity rather than tear it down, right?

[00:45:00] I think having an open discussion about what the criteria are, because once you have them written down and this is the rubric that you're looking at. And then when somebody mentions something that is not on that list, you can say, "Well, that's actually not on that list. Why bring that up?" Or if you think it's important to add to the list, let's add it to the list, but we shouldn't be considering that factor, right? Again, that could be something that you're simply adding to the disparities that are involved.

I think [00:45:30] the variety of steps that deans can do that signaled their commitment to these issues. I think that generally faculty want to get on board with things that help their careers and then also are helpful to the Dean and sometimes they're not, and those are just those are continued difficult conversations, but I think that deans can do signaling [00:46:00] and can help to create certain structures that at least require...

Angela Onwuachi...: And can help to create certain structures that at least require consistent discussion about issues.

Mario Barnes: Yeah. We can also say, as educators, we can help to educate. I think on the one thing you said, Angela, that I think people really don't understand is that certainly when you invite in young junior faculty of color that they often have burdens that are different than their majority colleagues, both in terms of their expectations for students of color organizations [00:46:30]

and mentoring, and also the ways in which in some ways there are built in biases that make it more difficult for them as young teachers. And so there are literatures out there, right? We have our Meera Deo from UC Davis Law School and Thomas Jefferson wrote on equal profession about Race and Gender in Legal Academia, a new wish Stanford University Press book. That is an empirical study of the tangible ways in which [00:47:00] female faculty of color differently experienced these jobs.

Before there, there was the Presumed Incompetent, which is the [inaudible 00:47:07] that's cooperated by a number of authors, including our great friend, Angela Harris, who talk about this is not limited to legal academia but is a phenomenon that really is deeply entrenched in most different subject areas. So I think what we can also do is try to educate, but we [00:47:30] have to ask ourselves in the end, as faculties who govern ourselves, what are we willing to do? If you ask anybody on my faculty, they'll tell you they are sympathetic to what students are feeling, including students of color who are feeling alienated by our recent history. But if you then ask the question, are you willing to undergo mandatory bias training? Are you willing to enter into training to show you how to include discussions of race and identity into the core curriculum? That's a whole other set of conversations. [00:48:00] And so it's how much are we willing to do in order to address what we understand are the challenges of both our students and our junior colleagues.

Angela Onwuachi...: Academic freedom is often raised in this context. And I think that there's ways to be able to see peer pressure at work, right? Peer pressure of a certain percentage of people are going or nearly everyone's going. [00:48:30] People don't want to be the faculty member who's seen as being resistant, but absolutely law faculties are expert at deflecting certain issues.

Mark Alexander: It's also a challenge of leadership in the context that faculty are communities that have very particular culture and they value their collegiality for [00:49:00] very good reason. It is really quite something to be part of a faculty, but that also means when you ask challenging questions, it's a challenge to the fabric of the community. And as we lead in this context, we have to be aware of that and find the most effective ways to get in there. And sometimes it's throw a bomb and break things up. Sometimes it's cajoling people, sometimes it's pushing and sometimes it's pulling. [00:49:30] And that's I think just a big challenge of leadership. How do you take a community that is very staid and very conservative, not politically conservative but conservative by nature about maintaining a collegial environment and challenging that environment and saying, what more can we do to better and to live up to values that we hold?

Angela Onwuachi...: So I'm really glad that you raised that question because we're actually having these discussions right now. Especially [00:50:00] right now, people have raised the collegiality question, which is really important. But I think one of the things that's really important, another thing that I have learned in this job is that I have to speak more from my experience, even though I'm the dean, because if I don't do it, sometimes people won't ever hear about it, right? They won't know they don't know. And I think that collegiality, one of the questions I always have is, but at whose expense, [00:50:30] right?

If the collegiality means that you're ignoring issues of racism and you're not going to address them so that faculty of color or staff of color or students of color feel excluded, then you're having collegiality among the majority of the people, but at whose expense? Who's feeling marginalized and left out? And I think that's a really important question for faculty to consider it. [00:51:00] And I understand people think, but if avoiding those questions means that the people who are already marginalized continue to feel marginalized, that can't really be collegial, right?

Mark Alexander: Right. And that to me is essential. And I think part of that is helping our faculty understand that accepting things as they are has an impact on other members of our community. And that's I think right [00:51:30] on point there.

Mario Barnes: Yeah. We should get though that we also have to balance our leadership role as we are faculty members, but we are administrative leaders. And that role, as we all know, can be very lonely, but also creates some requirement for us to at times, remove ourselves a bit to allow the faculty to have the conversation it needs to. And Angela, I take your point and I'll advance it to say, there's the point of knowing when and how to intervene. And sometimes [00:52:00] based on our personal experience of what we know, some of it is also knowing how to intervene as someone who like them as a scholar and someone who like them as a teacher.

Mark, you were talking about sort of issues with recruiting. One of my favorite pieces about recruiting people of color is written by Angela Onwuachi-Willig and it coins this phrase of complimentary discrimination, which talks about the way in which a lot of young candidates of color don't get hired is school say, "Oh, they were terrific, [00:52:30] but they're too good for us and they're going to end up at Harvard," right? And while everybody else is saying how great they are, Harvard never makes them the offer. And you end up with these incredibly talented people who have just been complimented out of a job. And it would be amazing for Angela, from where I sit to be able to say there are things I know about this process from my research and from my work that I need to share with you.

And I felt the same way after sort of the Arbery and Floyd and Taylor, [00:53:00] I write about race, crime and justice. But for a long time, I was trying not to say anything because I did not want to over influence or have a larger outside impact through the lens of my own research. But there was just a faculty meeting where I couldn't help it anymore because I was overwhelmed by it and to not speak on it and to tell people how it was so significantly affecting me would have been sort of inauthentic. [00:53:30] So I do think some of what we're talking about is also balancing this kind of myriad roles in which we find ourselves.

Paulette Brown: And you spoke up, right?

Mario Barnes: I did. It wasn't easy and it was far more emotional than the dean should be in a faculty meeting, I'll tell you. Thank God, you could turn your video off.

Angela Onwuachi...: Here's what I want to say, Mario, I just got it in the same way that the law assumes that certain experiences are normative and when [00:54:00] something that's supposed to be neutral is really not neutral, it's a brilliant perspective of particular people, and it sort of assumes other people's experiences away, right? I think that this idea of what a dean should do and when a dean should speak and what a dean should say is also an image description that has been built upon a presumption that there was no... I wasn't in anyone's mind when they were devising what that role [00:54:30] was going to be, right?

And so I think that... I don't often think that why I shouldn't say this, I shouldn't say this. And I think, "Gosh, were the people who were thinking about what a dean should do or not do, weren't thinking about me when they created this position?" And they weren't thinking that the dean was going to be in a room full of people who have very little understanding of what it means to be African American in the United States, right? Or what it means to be [00:55:00] whatever it is, whatever it means to be low income, whatever it is, whatever the issue is. And so they weren't thinking from that perspective.

And so if you're in a situation as dean, where if you don't speak up, people literally will not have that information and they will continue to act upon the same assumptions that have guided them. Then you have to speak up and then it's not about what a dean should or shouldn't do. But I think that, that needs to be rewritten as it becomes [00:55:30] a more diverse group of people who become deans.

Paulette Brown: And can I just say that's not restricted to academia because when I became the first woman of color to be President of the ABA, the first thing that people said, "Well, just because of that, you should not just talk about

diversity and inclusion." And it's like if I don't do it, who will do it? Who's better to speak on the issue? And so I think that we are placed [00:56:00] in situations for a reason. And I think that if we don't take the opportunity to use the voice that we have, then we lose a lot from that. And if I could just add a couple of things, one to what Mario said about the ABA creating some policies, I know Kim Norwood very well. She was on my Diversity and Inclusion 360 Commission.

But I think that there has to be an understanding, especially for the people who are listening, [00:56:30] that the ABA does not control the section on legal education and admissions to the Bar. They cannot dictate what the council does. They can reject anything that we say. And in fact, when they bring a change to the standards, to the house of delegates, we can just say that, "We want to send it back to you." And after we send it back twice, then they can do whatever they want to. So it's not... Yeah. So the [00:57:00] ABA cannot control the council on legal education and admissions to the Bar. That's one point.

And then the other point with regard to what you said, Dean Willig that, in thinking of including as a part of the evaluation process, what people have done to contribute to diversity and inclusion, diversity, equity, inclusion, I think that's an excellent idea, but what happens if they don't do it? You put it on the valuation and they say they haven't done anything. Again, [00:57:30] I think that's where the deans can come in and say, "Oh, you wanted that plump position on this particular committee?" Well, I don't think that, that's a good idea right now, if you haven't done this piece of it too.

So, there are a lot of analytical studies that have been done as to what works best, the carrot or the stick. And of course, all the studies come back. So the stick works the best, but I think that people should be rewarded if they do something connected with it. And I think that there should [00:58:00] be consequences if they don't.

Leah Teague: And with that, we'll continue this conversation, but I'm going to move forward just a little bit to the end of the law school journey for students, as they begin to think about placement, taking that Bar exam, that gateway to a law license, and then that transition from law school to the profession. So, Mark, will you begin with your thoughts about student placement?

Mark Alexander: [00:58:30] Oh, sure. And a lot of this, I feel like this most of what we've just been saying would apply actually in this context. And I know that Paulette will be very informative to the extent that she is actually in the world of practicing lawyers right now. But I think that all the things we talked about before are relevant sort of going back to sort of breaking down some of the assumptions, [00:59:00] breaking down some of the



silos, taking the risks of disturbing community, increasing the pipeline. All those things are going to be, I think, equally relevant towards how we move forward. And I think it's important for us to try to constantly work. And I think this panel is part of the discussion.

How do we then reach into the [00:59:30] world of the attorneys who are hiring or the corporations that are hiring, whatever the institution is that is hiring, a nonprofit, a bank, a prosecutor, whoever it happens to be. Reaching out and saying, "These are our top students," and defining top as not necessarily being somebody who has a certain GPA, defining top as not necessarily being any traditional criteria, law review. [01:00:00] Those are great criteria, but also there's a lot of things that any employer should be looking for. And for us to be able to speak to that I think is very important.

I think we all know that... Look, I'm proud. All of our graduates, I am proud to send out as practicing lawyers, but I think what we try to do is to find ways into the professional community to make sure that we are recommending folks for the right places they should be. So I think part of it is just really investing ourselves [01:00:30] and again, challenging the assumptions on who would then make a great contribution as a lawyer. But I think all of the things we said before, directly feed into how we would talk about these issues.

Mario Barnes:

I would add that we need to do some work on internal norms. And what I mean by that is we put a huge overemphasis on grades in law school as a determining factor on work, opportunity and placement. There are some others, and [01:01:00] onto grades, we add other things like grades and then class rank, right? Which is just a statement about your grades that becomes a kind of privileged multiplier. And if we agree with Mark, and I think most of us do that, almost all of the students who we graduate can make a contribution to the profession. Then we need to think about messaging within our institution, norms about all the things that we should consider about you that would make you a good lawyer.

[01:01:30] And we should also think outside the institution about all the many places where they need good lawyers, right? The real issue now is we have a huge access to justice problem in this country and so many communities, especially in Washington State, rural communities and places where we are not meeting the need for legal services. And some of it is because we so heavily message and direct our students toward jobs in a particular set of lanes. [01:02:00] I'm always interested in seeing what students are interested in government and military service, not because that's the best, but it's one terrific and wonderful that you could consider that will provide you an amazing set of experiences and skills and allow you to serve in really helpful ways for society.

And the point is we should be messaging in a way that says there's a whole range of things you can do. And we want you to explore the myriad of those possibilities while you're in law school, understanding that it's [01:02:30] not all just tied to how you perform in your 1L year or that you made law or if you are not, there are many other things, especially given the number of students, who've come into law school saying the reason I came to law school is I want to help you.

Brad Toben:

I think that the problem, Mark, I agree with you wholeheartedly. I think the problem is that as faculty, if you look at our own careers and educational backgrounds, we were the top performers in our respective venues. [01:03:00] And as people with human condition is that you tend to value what you have seen in your own experience. I so agree with you. I want to turn to Paulette here for a moment. Paulette taking that thought, I'm going to use the term big law. I know it's offensive to some but big law looks generally for the top 10%. They might perhaps go to the top 15%. That excludes a remarkable [01:03:30] number of students, students of color as well as otherwise. And there doesn't seem to be, even looking back over the decades, now there seems to be no impetus, no initiative among big law, to look deeper into the pool, to look at these other types of talents and skills and aptitudes that are there within our students.

We see them because we have worked with them for three years. Sometimes at graduation, [01:04:00] I look out at the graduates, I ask myself, "If my liberty were at stake, if my business was failing, if my family was falling apart, who would I want to represent me?" And by golly, most of the time it's not the person who's speaking on behalf of the class because of the top number one, it's not even the top 5% student, the top 10% student or the top 30% student. I look over at a student and I see a fire in the belly. I see [01:04:30] a student who understands the world, understands relationships, and they don't have a chance under the sun of ever going to a whole subset of firms within our profession.

Paulette Brown:

So the one thing I do agree with Dean Barnes with regard to the message that the law schools give, I think that too much focus is given on trying to get a position in big law as we call it. But I think [01:05:00] beyond that, and they should be told about all of the other opportunities and they should be told from the time that they start law school. But I think that it has been proven time and time again, as you say, the person with the fire in their belly, the person who believes they have something to prove, because they did not go to a school that's ranked in the top 20, or they were not in the top 10% of their class, et cetera. [01:05:30] And sometimes you have to look beyond that.

Sometimes it's just fractions of a percentage of the person who's next down the line and next down the line. And I think that one of the things

that we have to emphasize is the invaluable talent that you're losing by not looking at students at other schools who are going to, in many instances, outperform [01:06:00] students who went to the more elite schools. So I can give you some really good examples. There are some people, and especially in the New York, New Jersey area, they wanted students who went to NYU as opposed to a student who went to Seton Hall, for example. And I will tell you that the students who went to Seton Hall always fared better than the students who went to NYU. They were more loyal. They passed the Bar the first time, [01:06:30] because people sometimes who go to the elite schools, they sort of rest on their laurels.

But people who don't go to those elite schools know that there are lower expectations of them. And so they have something that they must prove, and they are going work their butts off to prove the naysayers wrong. So I think that we really have to make a very conscious effort in not just looking at who's not [01:07:00] in the top 10, but also looking at different schools where we recruit students, because some of the best students are not going to get into the most elite schools, because again, back to the ranking situation. And what schools believe that they have to do, how they have to elevate their quote unquote standards for certain students. And so the schools are first losing out on some of the best students, and then the law firms that they don't [01:07:30] take a look at what other schools can provide and the actual learning of the law that goes on at those schools, then they're really losing out.

And I think that some of those conversations are being held now. And then if you look at, for example, who the general councils are of the Fortune 500 companies and what their profitability is in those companies, you will see that yes, some of them went to elite schools, but a lot of them didn't. And so [01:08:00] if you look at different models of people, I think that you should always look at data to see who's doing what and who has been successful. And I think that if we take a look of that instead of just looking straight ahead and what would it is that we've always done and understand that what we've always done is not necessarily the best way, then we'll all be better off for it.

Leah Teague:

The common theme here is we need to be broader in our approach and career development [01:08:30] should begin at the beginning and be integrated through all three years, just as leadership development should be, so that it's a whole building integrated approach. All of us, faculty, staff, all the administrators, we are all part of this effort to help move our students along into those positions that fits them and that will make them feel whole and to feel like they are contributors. We have two more quick topics, and I would be remiss if I didn't get to those two quick [01:09:00] topics before we open it back up again. Mario...

Leah Teague: Hot topics before we open it back up again.

Mario, the bar exam, what would you like to start us off quickly with a conversation about the bar exam as it relates to diversity?

Mario Barnes: Sure. So I'm going to, I'll say two things quickly. As some of you know in Washington state, this last cycle, we actually granted a diploma privilege probably the broadest diploma privilege that was granted in terms of you just needed to be a graduate of an ABA accredited school and have registered [01:09:30] for our July or September bar exams. And that happened after the Supreme Court here first rejected an invitation to grant diploma privilege during COVID, but after the George Floyd moment and the protest, the court came out with a very powerful statement about its own commitment to anti-racism and then revisited the question of diploma privilege.

And they cited among their reasons. One, it was really led by an effort of a law school, Seattle University Law School, that it wrote a letter imploring [01:10:00] the court. I sent a letter in support of their letter saying that our students of color are certainly in this moment going to be more disproportionately impacted than ever when we consider what they're going through.

And so the court decided, well, they'll have to decide this again pretty quickly, cause we're coming up on February, but they did decide diploma privilege for this cycle. And here's two things that we knew before COVID and George Floyd, why do we have a bar exam? It's one way to matriculate students into a profession. [01:10:30] But as we know, the origins of the bar exam are discriminatory, right?

The bar exam came about as a tool when the threat was that minorities would start to enter the profession in larger numbers than people were concerned with. So when we look at its origins, we should have dubious. We should be very concerned about the origins. If we look at what has happened historically, which is that it continues to be a tool that disproportionately impacts students of color in terms of passage rates and [01:11:00] not necessarily where the people are not passing would make poor lawyers, that deserves some concern.

And then we know there are states like Wisconsin, where for years they have had diploma privilege and have not had data that suggests higher rates of professional malfeasance on behalf of a lawyer. So given all of those things, I'm proud of what Washington did, but what's going on here is that the Washington Supreme Court has created a committee that is going to look [01:11:30] at that will be chaired by one of our justices Montoya Lewis, who's a University of Washington Law School graduate

and has stakeholders from law schools in the bar involved looking at moving forward, what we should do in terms of licensing of lawyers in Washington state to make recommendations for change.

And I think Angela has been involved in key efforts like this in Massachusetts. I think anybody who cares about the profession and diversity in the profession and who understands the history of bar exams and how they were intended [01:12:00] to be used. And the impact of them should be asking questions about what is the purpose of our exam? Is it the most effective way to predict who will be an effective lawyer? Because in the end, all we are concerned about is ensuring that we are producing effective lawyers for our citizens. So I'll stop there in the interest of time and open up the conversation.

Leah Teague: Should we go ahead and let Paulette take from where you left off [01:12:30] and transition into the practice and then we can open it all back up again?

Paulette Brown: So I did open it up with the recruiting and it is directly tied, as is everything in between, to the ultimate practice of law. And who we admit to, I think of everything good or bad of [01:13:00] with a diversity and inclusion lens and what it means for the profession and how our profession needs to be more diverse and how I am tired of saying that we have the least diverse profession of all comparable professions.

And so I think that, again, we have to look at things from a holistic point of view in terms of how it is that we admit students to law school. What is the criteria that we use and is it the most effective criteria in determining whether a person will [01:13:30] be a good and ethical lawyer when they graduate from law school.

And the bar exam obviously is another piece of it. But I think that we have to look at all of those things. And again, the impact of what it is that we can do collectively about including other criteria or in US News and World Report. And just looking at all the empirical data that has been done to demonstrate [01:14:00] how much more effective in learning the law and understanding the law is when you have people who consider issues that others would not ordinarily consider. I remember New Jersey had to regrade bar exams because of, I don't know if you remember this Mark, but there was a question about a move out of Philadelphia. [01:14:30] There was a question on the bar exam about move and how black bar examiners answered it in a completely different way than whites. And so I don't know whether you all may not be as old as I am to remember that happening, but it is a difference in the way people based upon their experiences view the law.

And when we [01:15:00] think about what is necessary, I think we need to take all those things into consideration. And I don't really have a lot more to add with regard to the actual merging into the profession. I mentioned it before, it has to start when the person is first beginning law school. And I think, again, that too much emphasis has been placed traditionally in students thinking that big laws, the only option a lot of times, it's because of debt [01:15:30] that they accumulate from going to law school. But now it's sort of transitioning to public interest work where there aren't enough jobs for that.

I think that law schools through their career services, one, they need to talk to everyone all of the time and not just to the people who are in the top of the class and make best efforts for all of them. But to make sure that people understand that there are various opportunities available to them [01:16:00] and that their law license can be put to great use in a lot of different arenas. So I'll stop at that. Let other people have an opportunity to talk.

I can say more if you want to, I don't hear anybody saying anything.

Brad Toben:

I have a question for everyone. We obviously have been at an inflection point in regard to race relations in the [01:16:30] system of justice policing and the like. We have traveled this path before and been at other inflection points. And it seems as though attention sometimes is turned away after a period has passed. Is that going to happen again?

Paulette Brown:

I personally think only time will tell, but I do think that, especially as deans and some of you have said it in different ways, but I think that we [01:17:00] should invite people to have some really courageous conversations. To invite people to read and watch things that they had not done before. I invited everybody in my firm to engage in a 21 day challenge where we read things, listened to things. And then we discussed them in town hall meetings. You know what it is that they've learned.

And I think that until we have these real courageous conversations and continuously [01:17:30] engage people, yes, I think there will be a slippage back. But I also think that because of COVID and because we were sort of all trapped inside that people paid closer attention to things that they would not have ordinarily paid attention to. I think that unless we continue to talk about it, unless we create spaces that are sort of judgment free, that people won't be criticized for their opinions and they can have a sense that they are speaking a [01:18:00] little bit freely and not being disrespectfully challenged for what they're thinking. That it may go away, but it's really important to keep people engaged.

My two cents.



Mark Alexander: I think that's a great question about where does this go? And absolutely correct Paulette, time will tell. But I think about the officer [01:18:30] who had his knee on George Floyd's neck, I mean he knew it was against the law to kill a man mercilessly like that. I mean, it's not that it was intellectually a question to him. So something inside of him was cruel, indifferent, not caring. I don't know what the words are to find it, but there's something about him. It wasn't just the law, but we have to examine [01:19:00] and say to ourselves "What is it that we think is right in the world?" And not just what is right by the definition of the law. And then that, to me, gets to that hard question about like, where do we really stand and where can we go forward?

And I think that's where for me, it's getting us to say, what do we really believe in? And trying, at least in our context here at Villanova to say, we stand for something that's before, during, and after [01:19:30] this past six months, let's say, or three months, you can look at short time spans. And I think that things to dig deep and say, "These are our values and no matter what the circumstance, our values endure."

And so that to me is sort of the question in part to respond to Paulette's insightful question, or point, only time will tell. And I think time will tell if we do really explore these questions deep down, inside and ask ourselves, why [01:20:00] do we stand for things? Why do we not stand for things? And that's about our core values and that's just hard work. But I think we are at a point where we are challenging ourselves to that next level down.

Leah Teague: To build on that and to challenge all of us, you were all so right. And Brad now is the time. And it's upon us as the deans, the administrators, the leaders of law schools to not let this time pass. [01:20:30] That we have to be pragmatic and recognize we need faculty to change the culture, to change the environment, to influence the students in all those ways we need to do that. We need faculty involved, and these are hard conversations.

So Paulette your 21 day challenge makes me want to throw out an idea for us to consider. We can't have those meaningful conversations and come to an action about value statements without first stepping back and creating that environment [01:21:00] that is first informed about all of the issues and a judgment free environment in which we are all able to have a civil discourse and to use those skills to bring together.

Something we in any industry, we're not very good at, how did we come together? We're so competitive in certain ways, but there are certain issues that are bigger than us. So is this one of us that law schools across the nation should come together and we have an action plan [01:21:30] for.

We're all going to do this. We're all going to have whatever it is, 21 days, certain readings, we're going to have these period of time for faculty to explore and explain, and staff as well. And then we have those conversations about here's what our value statement is. Is that a crazy idea? Or are we ready for something like that?

Paulette Brown: It was kind of crazy in a law firm context, but I will tell you that [01:22:00] I was so pleasantly surprised at not only how many people were interested in it, but when we had the town hall meetings to discuss it, we had four and there were no less than 90 people who participated in each one. I never thought that it would happen, but it did. It doesn't have to be the 21 day challenge. It could be something else that will engage people. But I was [01:22:30] very pleased at the response.

Mario Barnes: Yeah. I want to say the same thing. I think there are many ways in which you can prep an environment you can test that leads to meaningful change. And I think the 21 day challenge is one way. What we're doing right in our faculty convocation, that starts for two days. Tomorrow, and then in our orientation for students, cause we're a quarter school, we start late. As we are doing as a common book reading, [01:23:00] Ijeoma Oluo, *So You Want to Talk About Race*. And we're having a set of sort of primers on how we have this conversation. And then a set of questions.

I'm going to embarrass her, we're also including an article by Angela Onwuachi-Willig on cultural trauma materials we're providing. And the point is we're hoping to set some ground rules for how to effectively communicate and to start a conversation [01:23:30] that begins a thread that we carry forward for our faculty and staff and convocation and for our students in orientation, understanding there's no right way to do this work and all of it is work and it's tough and it's not easy, but if we care, and I know we all do, about our communities and about our students and producing ethical lawyers who understand what it means to service a diverse population, law is more global [01:24:00] than ever, right?

It's not just national diversity, it's global. Then we all have to be committed to it. So my sense is, I bet Angela and Mark will tell you things that are ongoing within their schools. We're also working on our anti-racism statement and you're just right, Angela it's got to be faculty engaged and approved, but it's not easy. Cause you're also acknowledging here's what we commit to do in support of our values.

Angela Onwuachi...: I love the idea of a 21 day challenge. [01:24:30] To answer all the questions, I guess, I hope this moment is different. I'm not certain, I do think Mark was right, that there was something about Derek Chauvin's actions in killing, murdering George Floyd that I think really awakened a lot of people. He was not under any distress. He was all those things, all

the narratives that people would have made and told [01:25:00] themselves to explain away other killings they couldn't do in that context. And I think it forced many people to sort of grapple with their own thoughts on the issue of police brutality and racialized killings.

I do think that that was a real moment of awakening for people. But I do think that even as people have the moment of awakening recognizing all of the work that they have to do and all the [01:25:30] ways in which they have to change, which is really, really hard, for people who are used to not having to think about these issues on a regular basis. I don't know how much people want to do that work.

I do think it's important. I was thinking about your description that you wrote for this panel, which is I thought the excerpt from [01:26:00] a letter from a Birmingham jail. And it's related to some of the conversations that I'm even having with people now that, I think, obviously we want to move beyond statements. I think the fact that we got to the statements is pretty darn incredible, right? Because, I had never seen that in my lifetime. The idea that so many law deans would issue statements that you would see faculty resolutions faculty working on anti-racism statements with action items, that [01:26:30] we're going to do this. That is pretty incredible. And I think that there is a tendency for faculties to think, that was really hard for us. And we've done all this hard work.

But what I would say is to really read a letter from a Birmingham jail and I think Dr. King's message in there about what wait means to the people who've been waiting for so long for justice and fairness and all those things [01:27:00] that, even as I know, cause when I talk to people, they'll say something like, "I guess I know you'd thought that conversation was not deep enough or it wasn't hard." But this is really hard for people because they're engaging with these issues the first time. And I understand that. I'm completely sympathetic to that.

But this is also a time that now that you've had your awakening, you have to move more quickly because our students have been waiting their whole lives. [01:27:30] Other people have been waiting their whole lives for a change. And so even as it's hard for you, it's much harder for other people who are grappling with the consequences of everything that people are doing. And so I'm hopeful that this is a different moment, but what I fear is that as people really get down and begin to do the work, some decide that I would rather go back to a world in which I didn't have to think about it and didn't have to do this work. And so I'm waiting to see what happens.

Mario Barnes: [01:28:00] I would say Mark, that the words that resonated with me for George Floyd were actually written about Tamir Rice by Judith Butler, the Berkeley professor who wrote in the New York Times, that if you can

look at that situation and not want to radically change, then what you've done is viewed the body of that 13 year old boy as disposable and fundamentally un-grievable. And what would it mean as a nation to see what we saw [01:28:30] and come to that determination? I don't think that is who we are as a nation. I think we are better than that. I hope in this moment, we will prove that we are.

Leah Teague: This as parting wishes, what are your wishes for the future of our law schools and legal education and our profession?

Mark Alexander: I guess those last words are so moving to me, but I just, I just [01:29:00] hope that we can continue to be institutions that are aspirational. I am so blessed to be the Dean here at Villanova and have students who come in, who are eager to be lawyers. And that gives me hope and optimism every day.

And I hope we can at least get people to think about their obligations and opportunities as lawyers who serve people with needs. And to me, this all connects in there. So I think if we can be [01:29:30] institutions that foster that aspiration and a little inspiration, that to me is what I would hope for us going forward.

Leah Teague: And Angela?

Angela Onwuachi...: Oh gosh, I liked what Mark said very much and I hope that, I guess I just really hope that we're all willing to be as hard on ourselves. [01:30:00] And I have to remind myself to do it too, as we are on other people about their need to change in ways to make our world better is what I would say.

Leah Teague: Paulette.

Paulette Brown: So, thank you. I think of a couple of things. First, I think that we should always do a self-assessment of ourselves to see where we are. I think that we have to understand that this is a journey [01:30:30] that it's not going to be easy, that there's no secret sauce that we have to keep working at it. And there's no one particular way to do something.

Leah Teague: Brad parting, closing remarks for us please.

Brad Toben: I think everyone has to embrace momentum and avoid inertia.

Leah Teague: Well, thank you so much and again, my apologies for being a very poor substitute for the incredible moderator that you were deprived of today. And I [01:31:00] know he is heartfelt in his wishes that he was with us, but we all completely understand in our hearts and go out with them. So thank you again, panel. Thank you so very much.

