



ADVANCING AND IMPACTING EQUITY IN THE LEGAL SYSTEM

A Collection of Legal Advocacy Papers by the
LexisNexis® African Ancestry Network & LexisNexis®
Rule of Law Foundation Fellowship 2023 Cohort

Veronica Alba • Tatiyana Brown-Harper • Paul Campbell
Skylar Dean • Jaylon Denkins • Lauren Fleming
Larry Futrell • Zaria Graham • Jai'Ehir Jackson-Hawkins
Favour Okhuevbie • Imani Roberson • Qwantaria Russell
Whitney Triplet • Morigan Tuggle • Christian Wolford



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Foreword

Mike Walsh



LexisNexis® Legal & Professional combines unparalleled legal and business information with analytics and technology to transform the way our customers work and shape a more just world.

We have been committed to the mission of advancing the rule of law for many years. That's because our 11,300 people can see the bright line between strengthening legal infrastructures and furthering peace, prosperity, and progress for all people.

The rule of law is the principle that no one is above the law and that all are equal before the law. Robust economies depend on the existence of clear and accessible laws that govern society and commerce, and an independent judiciary to enforce laws and contracts in a timely manner so that citizens and businesses can be sure that their interests are protected from arbitrary forces.

Our teams work to advance these areas through our core operations, collaborations with customers, actions as a corporate citizen, and efforts in caring for our communities. We help to build, maintain, and enhance entire justice systems through our work with lawyers, judges, and lawmakers in more than 150 countries around the world. The products and services we provide our customers everyday help to make it possible for the foundational institutions of society, including law-making bodies, legal professionals, and the judiciary, to function. We work to expand access to laws, legal information, and legal decision tools in parts of the world where legal professionals, businesses, and citizens find it difficult to understand, protect, and exercise their rights under the law.

We also support the rule of law through our work with non-profit organizations to protect the rights of some of the most vulnerable members of society. In 2019, we launched the LexisNexis® Rule of Law Foundation, and today partner with organizations in over 35 countries with more than 160 projects since inception.

We recently launched a research and analytics tool called the LexisNexis® U.S. Voting Laws & Legislation Center to increase transparency of law. This first-of-its-kind resource shines a spotlight on voting laws and legislation in the U.S., bringing transparency to information which has historically been difficult to access and understand. The initial release of the Voting Laws Center provides free, public access to a comprehensive collection of U.S. federal and state election and voting laws. This includes proposed legislation, codes,

voting-related information, and graphics. It uses legislative data from LexisNexis® State Net and codes from Lexis+®, providing full-text access and real-time updates to existing and proposed state and federal laws. This gives lawmakers, journalists, non-profit organizations, legal professionals, academics, students, and the public, timely, fact-based, and unbiased data on voting and election laws.

We stand at a critical juncture in history, where our commitment to diversity, equity, inclusion, justice, and belonging resonates more profoundly than ever. As we pursue our mission to advance the rule of law and create a more just world, it is imperative that we champion these values not only within our organization but also in the broader communities we serve. Our unwavering dedication is not merely a corporate initiative; it is a moral imperative and a reflection of our core values. We recognize that a diverse and inclusive environment fosters innovation, creativity, and stronger performance, making us better equipped to address the complex legal challenges that lie ahead for the customers we serve. By embracing diverse perspectives, we enhance our ability to advocate for justice and equality effectively. We are tremendously proud to have launched a third cohort of Fellows through a partnership of our African Ancestry Network employee resource group and LexisNexis® Rule of Law Foundation. The program was created in partnership with the Historically Black Colleges and Universities Law School Consortium, including Florida Agricultural and Mechanical University College of Law, Howard University School of Law, North Carolina Central University School of Law, Southern University Law Center, Thurgood Marshall School of Law at Texas Southern University, and the University of the District of Columbia David A. Clarke School of Law. In its inaugural year, we provided 12 Fellowships across six law schools, and we are pleased to have grown the fellowship to 15 Fellows now, in our third year, having hosted 45 Fellows throughout the program's tenure. Our LexisNexis® Legal and Professional African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship is a tangible manifestation of our pledge to promote inclusion and provide opportunities for underrepresented voices in the legal community. By investing in the education and development of aspiring legal professionals, we not only advance their careers but also contribute to the realization of a fairer society.

In the following papers, you will read about action-oriented, impactful solutions to increase equality under the law, transparency of the law, and accessible legal remedy by increasing equity in the U.S. legal system. The Fellowship projects cover a range of topics, including increasing education about, and exposure to, the legal profession for youth, increasing the presence of diverse representation in the legal profession and its highest leadership, utilizing LexisNexis®' broad array of content to enhance inclusion in the law school curriculum, providing legal resources to increase equity in wealth creation, creating technological solutions to enhance access to justice for marginalized individuals lacking proper avenues to legal recourse, and leveraging LexisNexis® data and visualization analytics to increase equity in the courts and criminal justice system. Each of the Fellows were challenged to leverage LexisNexis® products, content, technology, and our exceptionally talented workforce to build solutions that address the program's focus to eliminate systemic racism in the legal system. As we continue to navigate a world grappling with social disparities, it is crucial that we remain steadfast in our advocacy and the principles of inclusion for all. Our dedication to fostering an environment where every individual, regardless of their background, can thrive is a testament to the core values that guide our organization.

The Fellows continue to enrich our organization and mission. Our dedicated LexisNexis® volunteers further amplify the rule of law through innovation and hard work. They have each collaborated closely with our Fellows, nurturing their leadership, and supporting their rule of law projects. This publication highlights their combined impactful work.

Congratulations to the Fellows for their achievements and future leadership in advancing equity in the legal system. In the following pages, you'll find solutions showcasing the positive impact of our commitment to the rule of law, championing a more equitable legal field.

Thank you for joining us on this journey toward a more just future.

Mike Walsh is the Chief Executive Officer of LexisNexis® Legal & Professional Global.



Adonica Black



We find ourselves at a pivotal moment. In this moment, we each face high promises of a world where justice is blind, where the rule of law is an equalizer, and where equity is the bedrock of society, yet we each live with low practices of these ideals not yet fully realized in our daily experiences. Our Fellows, in this publication, seek to address how to elevate the practices of our legal system beyond mere missed promises.

This innovative Fellowship program, which was launched in 2021, is placing a spotlight on how we can advance the rule of law by eliminating systemic racism in the legal system. This year's Fellows were selected from a large and competitive applicant pool representing all six members of the Historically Black Colleges and Universities Law School Consortium (HBCULSC), consisting of Florida A&M University College of Law, Howard University School of Law, North Carolina Central University School of Law, Southern University Law Center, Thurgood Marshall School of Law, and the University of the District of Columbia David A. Clarke School of Law. We are sincerely grateful to each institution for sharing their scholars and support.

The pursuit of a more just world is an unyielding journey, one that requires a continual assessment of our legal systems and an unwavering commitment to the principles of equity. We can always do more to reach those lofty promises of advancing the rule of law. In the pages of this book, our Fellows embark on a profound exploration of advancing the impact of equity within the legal system and the rule of law. They delve into the depths of its history, tracing the roots of inequality and injustice that have plagued societies for far too long. They also shine a light on tangible, meaningful ways to bring about change. Our Fellows are changing the status quo, simply because they can, thus, they must.

This unique Fellowship initiative is an extension of LexisNexis®' commitment to eliminate systemic racism in legal systems while advancing the four key elements of the rule of law — equality under the law, transparency of law, an independent judiciary, and accessible legal remedy and will continue to build a culture of inclusion and diversity within our company. Our perspective is that we must do what we can, where we can, whenever we can, to keep moving forward in the pursuit of justice and equality.

As one turns these pages and absorbs the scholarly reflections and recommendations within, we each are also faced with a call to action. For knowledge without action is but a half-realized dream. As you read these words, we invite you to join in support of the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship. Consider how you may also contribute to creating a more just world for all, and reach out! I encourage each reader to connect with me, sharing how you can support and advance the work of these Fellows and their mission.

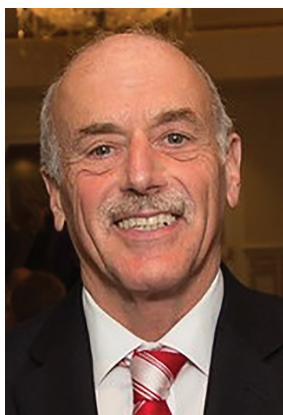
May you be inspired, educated, and moved to action. Let us carry the torch of equity and justice forward, guided by the lessons of the past and the urgency of the present, knowing that together, we can be the change that has been long overdue. In the stirring and motivational words of Sam Cooke, “A change is [gonna] come.”

Be the change.

Adonica Black, Esq. is the Director of Global Diversity and Inclusion for LexisNexis® Legal & Professional and she is the Director of the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship.



Nigel H. Roberts



On behalf of the LexisNexis® Rule of Law Foundation, my sincere congratulations to each and every one of you on being selected as a 2023 Fellow. I was fortunate to have the privilege of meeting many of you at the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship Innovation Retreat in May and was inspired to learn more about your achievements to date and your projects to help make a difference in people’s lives.

In addition to my role with the Foundation, I have a “day job” at LexisNexis, as VP Global Associations, managing our external relationships with key industry leading global associations across the world. An increasingly important part of my role, for well over ten years now, has been to partner with our global association network on efforts to advance the Rule of Law, just as each of you are doing, with my colleagues at LexisNexis — and your work is more important than ever. According to the recent World Justice Project Rule of Law Index, that evaluates 140 countries and jurisdictions around the world, for the fifth year in a row, the Rule of Law has declined in more countries, than improved.

Each of you have the commitment and passion to advance the Rule of Law through your projects, to promote equality under the law; transparency of law; an independent judiciary; and an accessible legal remedy.

Developing solutions to help eliminate systemic racism in our legal system, will drive meaningful change, and I have no doubt, will also help to inspire others.

Thank you for your dedication, for your leadership, and for your support of the LexisNexis mission to advance the Rule of Law across the globe.

Nigel Roberts is Vice President Global Associations, LexisNexis® Legal & Professional and Vice President, LexisNexis® Rule of Law Foundation.



Tina DeBose



The binding belief that the Rule of Law is of utmost importance is something the LexisNexis® African Ancestry Network embraced by stepping away from the sidelines and into the fray following the murder of George Floyd, among many other events. We were reminded that the Rule of Law is not just something that happens in courts and legal offices, it's something we help to create every day by choosing to step up as individuals, as well as using the influence of our organization.

As a result, the LexisNexis® African Ancestry Network requested LexisNexis® Senior Leadership to commit to significant annual donations supporting organizations and projects fighting systemic racism. This was done in partnership with the LexisNexis® Rule of Law Foundation as fiduciary.

As a result, our flagship Fellowship program supporting Historically Black Colleges and Universities was birthed. The purposeful and passionate projects introduced by the Fellows fighting systemic and oppressive policies and procedures that disproportionately affect minorities will impact change for years to come. We are so proud of this our third group of Fellows and all they are doing to be the change!

As you read and learn more from the labor of love each Fellow dedicated to their project process and see the outcomes of their efforts you will gain a sense of pride in knowing what the world knows to be true today will be forever changed tomorrow because of their vision.

Tina DeBose serves as the LexisNexis® African Ancestry Network Liaison to the LexisNexis® Rule of Law Foundation Board and Manager Software Engineering at LexisNexis® Legal and Professional.



Roderick Brown



The Fellowship has been an amazing experience. I have enjoyed my time bonding with my fellow Fellowship Committee members, and I have enjoyed engaging with the Fellows to assist them with further formulating their ideas and navigating potential and actual challenges. It has been a wonder and a joy to experience the evolution of the Fellowship, to experience the growth of the fellows as they cycle out of the Fellowship into the legal profession, and to experience the growth of those involved in the Fellowship as they progress and accomplish so much within a relatively short timeframe, in efforts to effectuate change with respect to the fight against systemic racism and racial inequality. For the present Fellows, and Fellows to come, I hope that the LexisNexis® African Ancestry Network and the LexisNexis® Rule of Law Foundation continue to support the program and the efforts of its participants, to enable bright minds to overcome challenges and flourish in this space.

Roderick Brown serves as LexisNexis® Legal & Professional North America Senior Counsel and Director. He is a member of the LexisNexis® African Ancestry Network and is one of the founding Fellowship Committee members.



Gretchen Bakhshai



Imagine a world where there is diversity in the more prestigious and lucrative fields of law, driven by equitable access and opportunities for diverse students,

where our diverse and underserved youth, their parents, and their guardians, have broader literacy and comprehension of the rule of law and critical legal concepts, made available via an easy-to-use mobile app,

where legal scholars, historians, and anyone interested can access racially diverse case law that highlights nuances in the law and brings awareness to minority culture, provided via an award-winning LexisNexis® platform,

where a community and its legal practitioners have access to a county-level dashboard that provides a visual depiction of a racially representative potential jury, highlighting potential bias in the selection process,

where underserved communities have access to no-cost resources and legal support to help them build generational wealth and ensure local equity in the courts and the criminal justice system.

In our third year of the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship program, we have the extreme pleasure of working with 15 extraordinary future lawyer leaders, who are bringing these five projects to life. It is my ongoing honor to be a small part of such meaningful work that will undoubtedly accelerate our mission — the elimination of systemic racism in legal systems.

Gretchen Bakhshai is the Senior Vice President of Global Client Service and Support at Knowable, a subsidiary of LexisNexis® Legal & Professional. She also serves as a LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship Committee Member.



Support From Our Corporate Sponsor Reed Smith

Law firms and companies have joined LexisNexis®, ensuring the sustainability of this initiative, by joining us as 2023 Fellowship Supporters to demonstrate their organization's commitment to inclusion and diversity, gain access to diverse HBCU law school talent, and help increase equity in the legal system. The first law firm sponsor of the program is Reed Smith LLP. The LexisNexis® African Ancestry Network and the LexisNexis® Rule of Law Foundation Fellowship, wishes to express its gratitude for their generosity and support of this important program.

ReedSmith

**Driving progress
through partnership**

Reed Smith enthusiastically creates and supports initiatives and programs designed to increase access to the legal profession. The LexisNexis® African Ancestry Network & Rule of Law Foundation Fellowship is an excellent example of what organizations can do to inspire and support the next generation of leaders. As a law firm dedicated to excellence for clients and that values the unique perspectives and talents of every member of our firm community in delivering excellent service, Reed Smith is pleased to partner with LexisNexis® in its goal to eliminate systematic racism in legal systems and build a culture of inclusion and diversity built upon access to the next generation of exceptional law students. LexisNexis®' partnership with historically black colleges and universities (HBCU's) celebrates student achievement and highlights the promise embodied in the next generation. We extend our congratulations to this year's scholars and are at the ready to support them on their journey and excited to see their contributions to our cherished profession.

Reed Smith LLP Global Head of Diversity Recruiting, Reggie McGahee

About LexisNexis Legal & Professional

LexisNexis Legal & Professional® provides legal, regulatory, and business information and analytics that help customers increase their productivity, improve decision-making, achieve better outcomes, and advance the rule of law around the world. As a digital pioneer, the company was the first to bring legal and business information online with its Lexis® and Nexis® services. LexisNexis Legal & Professional, which serves customers in more than 150 countries with 10,500 employees worldwide, is part of RELX, a global provider of information-based analytics and decision tools for professional and business customers.

The African Ancestry Network (AAN) is organized as an official network for employees of African descent at RELX. AAN embraces RELX corporate diversity initiatives aimed at improving the company's competitiveness by increasing the representation, development, promotion, and retention of black employees.

About LexisNexis Rule of Law Foundation

LexisNexis Rule of Law Foundation is a 501(c)(3) non-profit organization which has the mission to advance the rule of law around the world. The foundation efforts focus on the four key elements of the rule of law: transparency of the law, accessible legal remedy, equal treatment under the law, and independent judiciaries.

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Introduction

Ian McDougall



For the LexisNexis® Rule of Law Foundation, the link between ending systemic racism in the legal system and our mission to advance the rule of law is clear: equal treatment under the law. When the legal process treats parties unequally in the application of laws, there is an inherent lack of fairness in the system, and the Rule of Law suffers as a result. Let's be clear: if the Rule of law is harmed for any section of society, ultimately it is harmed for all sections of society. As the President of the LexisNexis® Rule of Law Foundation, I want to take this opportunity to recognize the Fellows in the 2023 cohort of the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship.

These Fellows have identified areas of inequity that spoke most clearly to them. Their work has helped to draw in the commitment of our many LexisNexis® employees who have shared time and talent to help to examine these areas of inequity. Together, the volunteers and Fellows have deployed skills ranging from legal acumen to data analysis, and from editorial skill to technological expertise. These strengths have combined to make these projects the foundational work to shape a better, more equitable world. Here, we highlight the stories of our 2023 Fellows, showcasing their five group projects, and building on the work of previous Fellows.

The great social movements for justice and fairness made the headlines and front pages for a while. The spark of the George Floyd tragedy raised awareness, inflamed passions, and showed the need for improvement. But the lessening of interest in the media, as they move on to other stories, does not lessen the injustices that have been highlighted. As is often the case, before any meaningful change is made, other stories come to the fore. What was once the passion story of the day often gets replaced by the latest news from the reality TV show of the moment. But we believe it is important to stay the course for the long term — to pursue the advancement of the Rule of Law, ending systemic racism wherever it shows or hides. It is why we are proud of those who step forward and, despite the lack of headlines and knowing how hard the road ahead is, take on the Fellowship and help us all take a step forward towards a better world. The Fellows' projects are crucial steps toward forming a legal system that is clearly grounded in equity and fairness — so that the scales of justice move back towards equal treatment under the law.

Ian McDougall is the Executive Vice President & General Counsel of LexisNexis® Legal & Professional. He also serves as the President of the LexisNexis® Rule of Law Foundation.

The Gavel League: An App Providing Legal Education to Adolescents

Imani Roberson, Lauren Fleming, and Jai'Ehir Jackson-Hawkins

Introduction

Black children do not have the privilege or protection of childhood. Since 2015, the police have killed over 100 black children.¹ Black children are six times more likely to be shot to death than their white peers.² Black children are more than four times as likely to be detained or committed in juvenile facilities than their white peers.³ Their skin tone is a presumption of guilt, and their age does not offer them the cloak of innocence. History and present-day events and sagas bear witness to the adultification, criminalization, and death of black children.

Black children have been historically criminalized for merely being in the park, on the playground, calling for help, or engaging in typical childlike behaviors at school. Among the most significant examples of black children criminalized in this manner, include

This project's mission is to develop a mobile application designed to increase literacy and comprehension of rule of law and critical legal concepts such as *Miranda* rights for youth and their parents and guardians in the United States.

¹ Giulia Heyward and João Costa, *Black children are 6 times more likely to be shot to death by police, study finds*, CNN (Dec. 17, 2020, 10:57am EST), <https://www.cnn.com/2020/12/17/us/black-children-police-brutality-trnd/index.html>.

² *Id.*

³ Joshua Rovner, *Black Disparities in Youth Incarceration*, THE SENTENCING PROJECT (July 15, 2021), <https://www.sentencingproject.org/fact-sheet/black-disparities-in-youth-incarceration/>.

but are not limited to the following poignant historical events:

- In 1989, the then “Central Park Five” (who now, rightly and correctly claim a just title, the “Exonerated Five”⁴): Kevin Richardson, Antron McCray, Raymond Santana, Korey Wise, and Yusef Salaam existed as four black and one Hispanic teenager, ranging in ages from 14 to 16 years of age, who were wrongfully incarcerated for the rape of a woman in Central Park.
- In 2014, a child was playing with a toy gun on a playground’s swing set, his name was Tamir Rice. Tamir was only 12 years old when he was shot and killed by the police.
- In 2023, an 11-year-old boy, Aderrien Murray, calls the police for help, but is instead shot dead by the police.

From the “Exonerated Five” to Tamir Rice, to the countless black girls whose names we do not know, like the 6-year-old arrested for having a tantrum at school in Orlando, Florida, the 9-year-old girl pepper-sprayed by police in Rochester, New York, or the 15- and 16-year-old girls body slammed by School Resource Officers (SROs), black children are not seen or treated as juveniles in the eyes of law enforcement. For this reason, black children must be armed with the vital knowledge of how to survive law enforcement encounters.

The Gavel League (TGL)⁵ seeks to arm school-aged children with the knowledge they need to suc-

cessfully navigate encounters with law enforcement in their communities and schools for their survival. TGL continues the work of its founder, Cohort 2 Fellow Dominique Douglas,⁶ who sought to create an interactive application to teach children about their *Miranda* rights, and expand the idea to explore two other incidents in which most children will interact with the police, *Terry* Stops and interactions with an SRO.

Part I of this paper provides the law and background context associated with the problem. Part II explores the unique challenges black children face when exercising their rights during interrogations, *Terry* Stops, and interactions with school resources officers, highlighting the importance of legal literacy and comprehension. Part III focuses on our proposed solution. It details roadblocks, modifications, and planned future iterations to engage children in more impactful ways. Through this application we plan to show that legal literacy and comprehension are a key factor in ensuring black children do not experience incarceration or violence during common police encounters.

Part I: Constitutional Rights in Practice

A. *Miranda* Rights

You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you. Do you understand the rights I have just read to you?⁷

⁴ Sofia Yakren, *Brett Kavanaugh vs. The Exonerated Central Park Five: Exposing the President’s “Presumption of Innocence” Double Standard*, 33 J. CIV. RTS. & ECON. DEV. 101, 104 (2019).

⁵ Referenced names are only conceptual and used by the Fellows for demonstration purposes.

⁶ See Dominique Douglas, “*The Gavel League*”: *An App Providing Legal Education to Adolescents*, in *Increasing Equity in the Legal System: A Collection of Legal Advocacy Papers by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship 2022 Cohort*, 28 (Matthew Bender 2022).

⁷ Standardized warnings based on *Miranda v. Arizona*, 384 U.S. 436 (1966) and *Gideon v. Wainwright*, 372 U.S. 335

Many can recite the *Miranda*⁸ warning by heart because it has been made popular by the media, but far fewer actually know what it means or the rights it entails. “In fact, only about 3% are aware of their continuing legal rights. Even those who [can] recall the *Miranda* warning show misconceptions about its meaning.”⁹ This substantial lag in legal comprehension manifests as the erosion of rights.

In *Miranda v. Arizona*,¹⁰ the Supreme Court held that statements made by an adult during custodial interrogation are inadmissible unless law enforcement officers administer warnings before questioning and the adult validly waived those rights.¹¹ Pursuant to the Fifth and Sixth Amendments, *Miranda* warnings inform individuals of: (1) the right to remain silent, (2) that any statement can be used against them, (3) the right to obtain an attorney and to have counsel present during questioning, and (4) the right to be appointed an attorney. To waive these rights, a person must make a voluntary, knowing, and intelligent waiver based on the totality of the circumstances.¹² The Supreme Court emphasized that any statement or confession obtained through an uninformed, coerced, or compelled waiver of these rights must be excluded from any judicial proceeding.¹³ A year later, in the case of *In re Gault*, the Supreme Court recognized that the procedural Constitutional safeguards outlined in *Miranda v. Arizona* apply to children as well.¹⁴

B. Terry Stops

Fourth Amendment Protection

The Fourth Amendment was created to protect persons and their effects from unreasonable search and seizure from the government and its agents. While the direct text highlights security, the amendment also encompasses privacy and property rights. The text states:

[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.¹⁵

This two-clause amendment creates a presumption that a reasonable search or seizure is one justified by a warrant issued upon probable cause.¹⁶ However, neither a warrant nor probable cause is necessary for a lawful search or seizure to be executed.¹⁷ The Supreme Court has carved out a caveat to the Fourth Amendment that allows law enforcement to momentarily detain or search a person based on “reasonable suspicion.”¹⁸ This exception to the rule is known as a *Terry* stop or, more colloquially, a “stop and frisk.”¹⁹ Specific states and municipalities have coined police policies similar to *Terry* stops under the same name. For purposes of this

(1963).

8 *Id.*

9 Richard Rogers, et. al, *General Knowledge and Misknowledge of Miranda Rights: Are Effective Miranda Advisements Still Necessary?*, 19 PSYCHOLOGY, PUBLIC POLICY, AND LAW 432-442 (2013).

10 *Miranda v. Arizona*, 384 U.S. 436 (1966).

11 *Miranda v. Arizona*, 384 U.S. 436, 444 (1966).

12 *Miranda v. Arizona*, 384 U.S. 436, 444-45 (1966).

13 *Miranda v. Arizona*, 384 U.S. 436, 462 (1966).

14 *In re Gault*, 387 U.S. 1 (1967).

15 U.S. Const. amend. IV.

16 *Investigations and Police Practices*, 51 GEO. L.J. ANN. REV. CRIM. PROC. 3, 5 (2022).

17 *Id.*

18 *Terry v. Ohio*, 392 U.S. 1, 4 (1968).

19 *Id.*

paper, “stop and frisk” will refer to the *Terry* stops, not any state specific meanings.

Terry Stops

The name *Terry* stop is derived from the name of the petitioner in *Terry v. Ohio*.²⁰ In *Terry*, a police officer noticed the petitioner and two friends “casing” a jewelry store.²¹ Five to six times, they followed the same path, looked through the same window, and met in a huddle to discuss. The officer suspected they were planning a heist, stopped, and searched them on the spot. During the search, the officer discovered Terry and one other man were carrying firearms.²² Terry sought to have the gun suppressed, stating the discovery was the result of an illegal search.²³ The Supreme Court held discovery of the gun was not from an illegal search.²⁴ Law enforcement has “the authority to permit a reasonable search for weapons for the protection of the police officer, where he has reason to believe that he is dealing with an armed and dangerous individual, regardless of whether he has probable cause to arrest the individual for a crime.”²⁵ The officer must have a reasonable suspicion, predicated on “specific reasonable inferences.”²⁶ Additionally, it has to be limited in scope to areas where a weapon possibly could be to cause hidden.²⁷

Terry and the Black Community

While *Terry* proclaims to weigh the balance of the competing interests involved – the neutraliza-

tion of danger to the police officers in the investigative circumstance and the sanctity of the individual – *Terry* stops have been used to profile, harass, and over-police marginalized communities.²⁸ Stop and Frisk is a direct result of the racial subordination that has been inflicted upon black people since the transatlantic slave trade.²⁹ Even officers without intentional bias or prejudice toward black people and minorities are still likely to view those groups as dangerous, violent, crime-prone individuals. Policing is a highly racialized system that will continue to perpetuate oppression.³⁰ Stop and Frisk has been compared to torture-lite: forms of torture that are less severe in nature and do not leave a physical mark. However, the fear, anxiety, humiliation, and helplessness are long-lasting. A heartbroken black mother described her son as almost “desensitized to being treated criminally . . . they shrug it off . . . and simply share their war stories. But listen closely and you can hear anger commingled with humiliation and a weary, reluctant acceptance.”³¹

C. School Resource Officers (SROs)

School Research Officer (SRO) Requirements

In Florida, school districts are able to have SROs.³² For the protection and safety of school personnel, property, students, and visitors, each district school board and school district superintendent shall partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers at each school facility within

²⁰ *Terry v. Ohio*, 392 U.S. 1 (1968).

²¹ *Id.* at 6.

²² *Id.* at 7.

²³ *Id.* at 8.

²⁴ *Id.*

²⁵ *Id.* at 27.

²⁶ *Terry v. Ohio*, 392 U.S. 1, 27 (1968).

²⁷ *Id.* at 26.

²⁸ Paul Butler, *Stop and Frisk and Torture-Lite: Police Terror of Minority Communities*, 12 OHIO ST. J. CRIM. L. 57 (2014).

²⁹ *Id.* at 66.

³⁰ *Id.* at 67.

³¹ *Id.* at 69.

³² 40 Fla Jur Police, Sheriffs, and Other Law Enforcement Officers § 60.

the district, including charter schools.³³ SROs are officers that are employed by a law enforcement agency, and they are also required to have a background check, drug test, and psychological evaluation, and be certified as a law enforcement officer.³⁴

Every SRO who holds a law enforcement oath should undergo mental health crisis intervention training based on a curriculum established by a reputable national organization specializing in that field.³⁵ This training is intended to enhance the officer's comprehension and abilities as a primary responder to situations involving students with emotional disturbances or mental health conditions. The training should focus on developing de-escalation skills to guarantee the safety of both the students and the officer.³⁶ Every safe-school officer who is not a sworn law enforcement officer should undergo training designed to enhance their expertise and capabilities in effectively addressing and de-escalating incidents that occur within the school premises.³⁷

The Role of SROs

SROs play a critical role in ensuring the safety and security of educational institutions.³⁸ Originally, the placement of law enforcement officers in schools was intended to: “offer young individuals the chance to engage with [police] officers in a constructive manner.”³⁹ However, concerns have been raised regarding the potential negative effects of their presence on students. This section

aims to explore the adverse impacts of SROs on students' well-being and proposes the implementation of training programs as a means to promote safety and prevent harm. By examining the negative effects of SROs and highlighting the potential benefits of training between officers and students, we can address the concerns surrounding SROs and work toward creating safer and more inclusive school environments.

Initially, school police officers were recruited to serve as security personnel with the primary objective of safeguarding school premises against unauthorized entry and effectively ensuring the well-being and safety of everyone within the educational institution.⁴⁰ Their role encompassed maintaining a secure environment that not only protected against external threats but also contributed to fostering an atmosphere conducive to learning and personal development for all members of the school community. By being present on school grounds, these officers played a vital role in creating an environment where students, staff, and visitors could engage in educational pursuits without unnecessary concerns about their safety.⁴¹ The heightened interactions between young individuals and school law enforcement have led to increased reactions for relatively minor instances of disciplinary infractions and a perceptible increase in the overall tension within school environments. This heightened engagement has, in certain instances, resulted in responses that are disproportionately severe in relation to the nature of the transgressions.⁴² Conse-

33 *Id.*

34 Fla. Stat. § 943.10.

35 Fla. Stat. § 1006.12.

36 Fla. Stat. § 1006.12(6)(a).

37 Fla. Stat. § 1006.12(6)(b).

38 Janel George, *Article and Speech: Populating the Pipeline: School Policing and the Persistence of the School-to-Prison Pipeline*, 40 NOVA L. REV. 493 (2016).

39 Melinda D. Anderson, *When Schooling Meets Policing*, THE ATLANTIC (Sept. 21, 2015), <https://www.theatlantic.com/education/archive/2015/09/when-schooling-meets-policing/406348/>

40 Janel George, *Article and Speech: Populating the Pipeline: School Policing and the Persistence of the School-to-Prison Pipeline*, 40 NOVA L. REV. 493 (2016).

41 *Id.* at 506.

42 *Id.*

quently, the atmosphere within schools has become characterized by a palpable sense of tension and unease, impacting the overall learning environment and the well-being of students. As interactions between youth and school police have become more frequent and prominent, there is a growing concern that the inclination toward escalated responses to minor disciplinary issues is contributing to an environment where students may feel apprehensive, and educators may be challenged in maintaining a positive and nurturing atmosphere for learning.⁴³

Part II: The Problem, its Importance and Current Developments

Part II explains how racial bias impacts a police officer's interrogation efforts, suspicion of criminal activity, interactions with black students and how current solutions have not been sufficient in improving these circumstances for black children.

A. The Problem and its Importance

Miranda Rights

Youth Do Not Understand *Miranda*

Only 20% of youth adequately understand their *Miranda* rights. Empirical evidence illustrates that adequately comprehending *Miranda* requires at least a tenth-grade reading level.⁴⁴ Understanding two of the *Miranda* warnings, the right to remain silent and the right to have an attorney present, requires a college or graduate reading ability.⁴⁵

As high as 85% of the youth in the juvenile legal system have disabilities, and children with disabilities inherently have difficulties understanding the complexity of the *Miranda* doctrine.⁴⁶ Due to economic, social, and educational disparities, these necessary reading levels are far beyond the majority of individuals, including adults, who are targets of custodial interrogations.⁴⁷

Terry Stops

The Unreasonableness of Reasonableness

The Supreme Court's decision in *Terry* gave police officers the authority to briefly seize and search a person without the requisite probable cause.⁴⁸ To complete a *Terry* stop, the requisite culpability standard is much lower and much more subjective. An officer can execute a stop and frisk on anyone they reasonably suspect is engaging in criminal conduct or is armed and dangerous.⁴⁹ To prove this, an officer must be able to point to "specific and articulable facts, which taken together with rational inferences from those facts" would lead one to reasonably believe the suspect is armed or is engaging in criminal conduct.⁵⁰

Reasonableness is determined through the viewpoint of the police officer. If a similarly situated objective police officer would believe criminal conduct was or soon thereafter would occur the stop would be permissible.⁵¹ A reasonableness decision should be predicated upon the totality of the related circumstances – the whole picture must be taken into account. Based upon that whole picture,

⁴³ *Id.*

⁴⁴ Anthony J. Domanico et al., *Overcoming Miranda: A Content Analysis of the Miranda Portion of Police Interrogations*, 49 IDAHO L. REV. 1, 3 (2012).

⁴⁵ *Id.*

⁴⁶ Taryn VanderPyl, *The Intersection of Disproportionality in Face, Disability, and Juvenile Justice*, 15 JUST. POL'Y J. 1, 2 (2018).

⁴⁷ *Id.*

⁴⁸ *Terry v. Ohio*, 392 U.S. 1, 27 (1968).

⁴⁹ *Id.* at 30.

⁵⁰ *Id.*

⁵¹ *Ornelas v. United States*, 517 U.S. 690, 696 (1996).

the detaining officers must have a particularized and objective basis for suspecting the particular person stopped of criminal activity.⁵² The totality of the circumstances can include police experience and expertise and background or historical facts.⁵³ Often a single factor, standing alone, is not enough to indicate criminal activity, but the aggregate of factors can lead to reasonable suspicion of criminal activity.⁵⁴

Reasonable suspicion has been described as a “fluid concept.”⁵⁵ Though considered to be objective, the case-by-case assessment is heavily dependent on the experiences and opinions of the police officer. While a police officer may base their assessment of a suspect’s behavior on their experiences and police training, is it far-fetched to think a police officer may make assumptions based on their own implicit biases? Is it far-fetched to assume that even an officer acting solely on police training may make a decision rooted in prejudice and bias? Is it far-fetched to assume if a police officer holds personal beliefs about a certain type of person that this will impact their determinations? We propose that these considerations are not far-fetched. A reasonableness standard where the adjudicator is indoctrinated with bias will always be unreasonable.

Terry and Children

Legal socialization is defined as: “how individuals develop attitudes toward the law and legal authorities (i.e., police, judges, and other represen-

tatives of the justice system) in ways that can influence their behaviors.”⁵⁶ This process can occur for people through direct and indirect experiences. For children, in particular, their legal socialization is influenced through personal experiences, experiences of loved ones, and through what they hear from others. This process begins incredibly early in a child’s life.⁵⁷

While it may seem plausible that adult criminal activity draws most of police attention, children actually account for a disproportionately large number of arrests and police encounters.⁵⁸ In the United States, children are often in prime locations to be targeted or surveilled by the police. Being minors, they are more likely to be seen in public spaces and on the streets.⁵⁹ How police officers engage with youth is predicated on the officer’s own social and psychological assumptions of the child’s behavior. These assumptions are rarely based upon facts of adolescent brain functioning and development. As such, cultural influence and subconscious and conscious bias more often than not lead an officer to take a punitive and forceful approach when interacting with children.⁶⁰ Police rhetoric around children is often based on the “warrior model.” This model labels children as inherent threats to public safety and order. The “warrior model” deems youth as troublemakers and juxtaposes them with fearful, “law abiding” citizens.⁶¹ Based on these assumptions, police resort to hostility against the youth in the communities. Youth tend to be accurately aware of the typical “power-plays” used by

52 United States v. Cortez, 449 U.S. 411, 417-18 (1981).

53 Ornelas v. United States, 517 U.S. 690, 696 (1996).

54 Illinois v. Wardlow, 528 U.S. 119, 125 (2000).

55 Ornelas v. United States, 517 U.S. 690, 696 (1996).

56 Aaron Kupchik, Benjamin W. Fisher, F. Chris Curran, & Samantha L. Viano, *Police Ambassadors: Student-Police Interactions in School and Legal Socialization*, 54 LAW & SOC’Y REV. 391, 397 (2020).

57 *Id.*

58 Terrance J. Taylor, K.B. Turner, Finn-Aage Esbensen, and L. Thomas Winfree Jr., *Coppin’ an attitude: Attitudinal differences among juveniles toward police*, 29 J. CRIM. JUST. 295, 296 (2001).

59 Kristen Henning, *The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment*, 67 AM. U. L. REV. 1513, 1540 (2018).

60 *Id.* at 1541.

61 James Forman, Jr, *Community Policing and Youth as Assets*, 95 J. CRIM. L. CRIMINOLOGY 1, 22 (2004).

the police.⁶² One child from a study conducted in St. Louis, Missouri stated that “he [the officer] was showing us that he had more power, authority over us at the time, so there was nothing we could do or say.”⁶³

These are the types of interaction that lead children to be negatively socialized toward law enforcement, developing what is known as “legal cynicism.” Legal cynicism leads to helplessness and distrust of the police.⁶⁴ Unfortunately, once a child has developed legal cynicism, the crime that police sought to prevent often follows. These dehumanizing experiences weaken the perceived authority of a police officer and lead to children being less likely to comply with officers.⁶⁵ Furthermore, those feelings of helplessness and distrust diminish a child’s ties to law enforcement and their community. Those cut ties create an opportunity for gangs and other criminal enterprises to prey on those vulnerable children in need of community.⁶⁶

Terry and Race

At the intersection of blackness and youth, the police-youth relationship is even more volatile. Although the behaviors that lead to an arrest exist equally among races, black children are still more likely to be arrested for these crimes.⁶⁷ When questioned about their experiences with the police,

black children describe harassment, racial profiling, and physical intrusions. In the context of *Terry* stops, black children expect to be demeaned by racial slurs, invaded physically outside the scope of *Terry* (forced to undress), “handcuffed like a common criminal,” and physically abused (pushed, shoved, punched, even maced).⁶⁸ *Terry* stops were intended to be limited in duration and scope so as to only create a minor inconvenience and loss of dignity.⁶⁹ These practices are not only propagating centuries of racial injustices against black people by the police, but they also blur the lines between a *Terry* stop and full formal arrest.⁷⁰ This gray area provides ample opportunity for abuse of power and violations of constitutionally protected rights.

Racial profiling and implicit bias play a major role in the disparities between: police-black youth relationships and police-white youth relationships. Racial profiling is defined as: “the practice of police and other law enforcement officers relying, to any degree, on race, color, descent or national or ethnic origin as the bases for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity.”⁷¹ Using racial profiling to determine a person’s culpability is an example of explicit bias. Even police officers that do not claim to racially profile, often act as those who do because of implicit bias and prejudice. “Implicit biases . . . lead well-intentioned

⁶² Josephine Ross, *Warning: Stop-and-Frisk May Be Hazardous to your Health*, 25 WM & MARY BILL RTS. J. 689, 720 (2016).

⁶³ *Id.*

⁶⁴ Aaron Kupchik, Benjamin W. Fisher, F. Chris Curran and Samantha L. Viano, *Police Ambassadors: Student-Police Interactions in School and Legal Socialization*, 54 LAW & SOC’Y REV. 391, 397 (2020).

⁶⁵ Josephine Ross, *Warning: Stop-and-Frisk May Be Hazardous to your Health*, 25 WM & MARY BILL RTS. J. 689, 723 (2016).

⁶⁶ *Id.* at 724.

⁶⁷ Janaya Trotter Bratton and Rickell Howard Smith, *Growing up a Suspect: An Examination of Racial Profiling of Black Children and Effective Strategies to Reduce Racial Disparities in Arrests*, 45 N. KY. L. REV. 137, 150 (2018).

⁶⁸ Josephine Ross, *Warning: Stop-and-Frisk May Be Hazardous to your Health*, 25 WM & MARY BILL RTS. J. 689, 719-720 (2016).

⁶⁹ Omar Saleem, *The Age of Unreason: The Impact of Reasonableness, Increased Police Force, and Colorblindness on Terry “Stop and Frisk,”* 50 OKLA. L. REV. 451, 468 (1997).

⁷⁰ *Id.* at 466.

⁷¹ Janaya Trotter Bratton and Rickell Howard Smith, *Growing up a Suspect: An Examination of Racial Profiling of Black Children and Effective Strategies to Reduce Racial Disparities in Arrests*, 45 N. KY. L. REV. 137 (2018).

people to make decisions that can be as detrimental as those motivated by conscious racism.”⁷² When a police officer is socialized to associate criminality with blackness, despite their own best efforts, they can unintentionally make decisions that lead to the racial disparities in treatment and arrest rates between black and white children.

Although black children are, in fact just simply children, this intersectionality is usually lost in police encounters. Police officers notice a child’s blackness before they recognize they are a minor. As such, police officers find black children less worthy of protection because they are associated with culpability, viewed as older/less innocent, and seen as less human.⁷³ Age overestimation leads to black children’s actions being judged and responded to as if they have the intelligence, maturity, or emotional intelligence to respond as an adult.⁷⁴ As for dehumanization, there is research that shows police officers who implicitly associated black children with apes and primates were more likely to believe a black child has higher culpability to commit misdemeanors and felonies.⁷⁵ Believing that black children are older and more culpable leads to *Terry* stops and police encounters “based on race rather than evidence of criminal activity.”⁷⁶

Moreover, racism does not just hurt black children – it is so oppressive that some of that burden bleeds on to those in proximity. Non-black minorities and white children are also harmed by the racially charged acts of the police. White youth tell stories of guilt by association, where police treat them differently when with their black friends versus being with their white friends. Further, white youth find themselves targeted by the police when

they dress in styles made famous by black people.⁷⁷

Having considered all the obstacles that stand in the way of those who find themselves at the intersection of youth and blackness – the need for justice, protection, and solutions for black children is ever-present. *Terry* stops have become state-sanctioned means to harass, embarrass, abuse, and exert control over black youth. It has been proven that police officer’s surveillance of black children is different from surveillance of adults and non-black children. As such, black children face unique challenges when interacting with the police. *Terry* stops are an everyday reminder of the systemic oppression black people endure at the hands of controlling demographic. They are an everyday reminder of the painful, blood stained past and present. They are a tool used to create fear, establish dominance, and maintain the status quo.

School Resource Officers

As time progressed, the integration of SROs within educational institutions led to their increasing involvement in addressing everyday disciplinary issues that were traditionally within the purview of classroom teachers and school administrators.⁷⁸ This evolving role saw SROs taking on responsibilities that extended beyond their initial security-focused mandate. They began assuming a more active role in addressing behavioral matters that once fell under the discretion and jurisdiction of educators and school management. This transition marked a shift in the dynamics of disciplinary procedures within schools, as SROs gradually became an integral part of the decision-making process pertaining to student conduct and discipline.

⁷² *Id.* at 153.

⁷³ *Id.* at 154.

⁷⁴ *Id.* at 155.

⁷⁵ *Id.* at 158.

⁷⁶ *Id.* at 137.

⁷⁷ Josephine Ross, *Warning: Stop-and-Frisk May Be Hazardous to your Health*, 25 WM & MARY BILL RTS. J. 689, 721 (2016).

⁷⁸ *Id.*

Numerous research studies have been conducted to investigate the repercussions of deploying SROs in educational settings.⁷⁹ These studies collectively reveal the pressing need to address the associated concerns and advocate for sustainable solutions. The research endeavor conducted by Denise Gottfredson and colleagues on gang prevention in the United States underscored the necessity for addressing this matter, as their findings pointed to discernible effects stemming from increased SRO presence.⁸⁰

Gottfredson and colleagues' study illuminated a noteworthy aspect: the amplified presence of SROs within schools exhibited a correlation with elevated occurrences of drug and weapon-related offenses. Moreover, their analysis highlighted an increase in the implementation of exclusionary disciplinary actions within treatment schools, as compared to their counterparts in comparison schools.⁸¹ The investigation undertaken by Gottfredson *et al.* centered on the examination of a total of 33 public schools, all of which had recently augmented their SRO personnel contingent. This augmentation was achieved through funding provided by the Department of Justice, specifically under the community-oriented policing services hiring program. These schools were juxtaposed with a group of 72 schools that did not witness an increase in their SRO numbers.

Employing a longitudinal approach, Gottfredson *et al.* systematically analyzed monthly school data related to disciplinary offenses and subsequent actions taken. The outcome of their comprehensive study drew a significant conclusion: the heightened

presence of SROs within schools exerted an adverse influence on crime rates.⁸² The study's findings serve as a compelling indication that the unregulated augmentation of SRO presence can result in unintended repercussions, ultimately necessitating thoughtful consideration and corrective measures to mitigate potential negative outcomes.

In an incident that came to light on the internet in October 2015, a recorded instance showcased the inappropriate treatment of a student by an SRO.⁸³ The sequence of events commenced when a female student defied school regulations by possessing a cell phone during class. This prompted the teacher to summon the principal, who instructed the student to exit the classroom – an instruction that she chose to disregard. Subsequently, seeking assistance, the principal enlisted the aid of SRO Deputy Field. The manner in which the situation was handled took a distressing turn as Deputy Field used physical force to extract the student from the classroom. He placed his arm around her neck and abruptly pulled her from her desk, resulting in the desk toppling over. The student, while still in contact with her desk, was then pulled by Deputy Fields to the front of the classroom, with the intention of effecting an arrest. Strikingly, other students who were also in possession of cell phones in the same class were not subjected to a comparable course of action. Fellow students documented this entire incident using their cell phones, sparking widespread public outrage. The video footage catalyzed a vehement response from the public, largely attributed to the fact that the officer involved was a white male while the student at the receiving end was a black female.

⁷⁹ Denise C. Gottfredson, Scott Crosse, Zhiquan Tang, Erin L. Bauer, Michele A. Harmon, Carol A. Hagen, and Angela D. Greene, *Effects of School Resource Officers on School Crime and Responses to School Crime*, 19(3) CRIMINOLOGY & PUBLIC POLICY 905 (2020).

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.* at 906.

⁸³ Denise C. Gottfredson, Scott Crosse, Zhiquan Tang, Erin L. Bauer, Michele A. Harmon, Carol A. Hagen, and Angela D. Greene, *Effects of School Resource Officers on School Crime and Responses to School Crime*, 19(3) CRIMINOLOGY & PUBLIC POLICY 905 (2020).

Nance and Heise (2022) present findings derived from empirical research that highlight a strong correlation between consistent police interaction within school settings and the notable rise in the frequency with which school administrators report students to law enforcement for an array of transgressions.⁸⁴ This encompasses even minor infractions that could conceivably be managed internally within the school environment.⁸⁵ The state requires schools to report certain cases to the justice system; however, the cases referred to the justice system go beyond those. Reporting students to the criminal justice system has severe consequences, especially for students of color, and may negatively affect the trajectory of students' lives.⁸⁶

Providing comprehensive training for SROs emerges as a compelling and enduring strategy to effectively address the issue at hand. By investing in rigorous and well-structured training programs tailored to the unique dynamics of the school environment, we can equip SROs with the necessary knowledge, skills, and strategies to navigate complex situations while upholding the safety and well-being of all students. This multifaceted training approach encompasses not only law enforcement protocols but also focuses on fostering positive relationships, understanding adolescent development, employing de-escalation techniques, and promoting cultural sensitivity. Consequently, arming SROs with these tools and insights enhances their capacity to navigate a wide spectrum of scenarios with finesse, ensuring that responses are

proportionate and aligned with the educational objectives of the institution. As a result, implementing robust training initiatives stands as a promising and enduring solution that positions SROs to fulfill their roles as guardians of safety while also contributing to a nurturing and supportive school environment.⁸⁷

B. Current Developments and their Impact

The consequences — which are often grave and lethal — of misunderstanding *Miranda* rights, *Terry* stops, and interactions with SROs are one and the same. As such, developments to combat these issues are similar in nature. Community policing and establishing a “child” reasonableness standard are the major developments that have been implemented to improve the current conditions.

Community Policing

Community policing is a practice that incorporates both social norms and crime control. It focuses on “prevention, order maintenance, and . . . partnership with the policed population.”⁸⁸ There is a heavy reliance upon cooperation from citizens to share information, seek police assistance, and report crimes.⁸⁹ For this practice to be effective, permanent officers must be visible and accessible within the community.⁹⁰ Regular meetings with these officers are essential and serve distinct functions: (1) they provide a safe space for residents to share concerns, (2) gives police a platform to educate residents on local crime issues, (3) residents can air

84 Jason Nance and Michael Heise, Students, *Threat, Race, and Police: An Empirical Study*, 50 FLA. ST. U. L. REV. 1 (2022).
85 *Id.*

86 Madeleine Morris, *School Resource Officers: Do the Benefits of Student Safety Outweigh Their Negative Impacts?*, 41(2) CHILD LEGAL RTS. J. 193 (2021).

87 Jessica Campisi, *School resource officers need SEL training, experts say — but their preparation ‘lacks consistency,’* K-12 DIVE (Mar. 28, 2019) <https://www.k12dive.com/news/school-resource-officers-need-sel-training-experts-say-but-their-prepara/550428/>.

88 Sarah E. Waldeck, *Cops, Community Policing, and the Social Norms Approach to Crime Control: Should One Make us More Comfortable with the Others?*, 34 GA. L. REV. 1253, 1254-55 (2000).

89 Josephine Ross, *Warning: Stop-and-Frisk May Be Hazardous to your Health*, 25 WM & MARY BILL RTS. J. 689, 725 (2016).

90 Sarah E. Waldeck, *Cops, Community Policing, and the Social Norms Approach to Crime Control: Should One Make us More Comfortable with the Others?*, 34 GA. L. REV. 1253, 1254-55 (2000).

grievances about the police directly, and (4) police can share their crime control efforts and successes. The collaboration with residents creates the illusion that policing is by the “will of the community”⁹¹

While community policing has been praised across the country, the practice has neglected to include children. Children are a forgotten demographic.⁹² Since children are often met with hostility from police, they are less likely to engage with community policing. Legal cynicism as a result of negative interactions with the police undermine efforts to include children into the community policing framework. Children are less likely to attend community meetings and are less likely to collaborate, to confide, or to rely on police.⁹³ The oppressive tendencies used by police disrupt crime prevention efforts by leading to more crime and making it difficult to bring actual criminals to justice.⁹⁴

Child Reasonableness Standard

Initially the reasonableness standard within criminal procedure was not impacted by the age of the suspect. Whether considering the reasonableness of a police officer’s actions or the reasonableness of a child’s response, the standard is still that of an adult. Choosing to align with society’s long held determination that children have less wisdom, knowledge, maturity, and prudence than adults, the courts have recently shifted to protect the interest of children during police encounters.⁹⁵ In *J.D.B. v. North Carolina*, a thirteen-year-old student was

pulled from his middle school class and interrogated by a police investigator, a resource officer in uniform, a vice-principal, and an administrative intern about recent robberies.⁹⁶ J.D.B. was never read *Miranda* rights, told he was allowed to leave, or told he could contact a parent or guardian.⁹⁷ The Supreme Court held that for the purposes of a *Miranda* analysis, the age of the suspect must be considered. Age is a relevant factor when it is accepted that “a reasonable child subjected to police questioning will sometimes feel pressured to submit when a reasonable adult would feel free to go.”⁹⁸

Using this standard has improved conditions for children during police interrogation and when they have been seized. However, in most jurisdictions, it falls short of protecting children during a *Terry* stop. Only a few states have chosen to extend their child reasonableness standard to the Fourth Amendment.⁹⁹

While both developments, community policing and the child reasonableness standard, have limited some bias and injustice against children, areas of opportunity still exist.

Part III: Proposed Solution and Progress

A. Current Progress

In developing this project, we were lucky to inherit the hard work of our predecessor Fellow,

⁹¹ *Id.* at 1258.

⁹² James Forman, Jr, *Community Policing and Youth as Assets*, 95 J. CRIM. L. CRIMINOLOGY 1 (2004).

⁹³ Josephine Ross, *Warning: Stop-and-Frisk May Be Hazardous to your Health*, 25 WM & MARY BILL RTS. J. 689, 725 (2016).

⁹⁴ *Id.*

⁹⁵ Kristen Henning, *The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment*, 67 AM. U. L. REV. 1513, 1526 (2018).

⁹⁶ *J.D.B. v. North Carolina*, 564 U.S. 261, 265 (2011).

⁹⁷ *Id.* at 266.

⁹⁸ *Id.* at 272.

⁹⁹ Kristen Henning, *The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment*, 67 AM. U. L. REV. 1513, 1526 (2018).

Dominique Douglas.¹⁰⁰ Once we had a view of her prototype and previous research, we brainstormed on how to capitalize on the strengths of her work and enhance the areas of opportunity. We began by expanding the target audience to include children and their parents. Through the connection established by one of the cohort members, we focused our attention on students in Orange County, Florida. Once a location and target audience was decided, we began to specify the details of that audience to ensure the content of the application was tailored properly. We decided to center the target age to be middle schoolers. Around that age students are discovering their own autonomy — around the time children are allowed to leave the home without their parents with them.

Once we defined our target audience we began to research. We researched the common occurrences in which children interact with the police. Additionally, we researched how early children begin to create opinions about the police and how those opinions are formed. Throughout this time, we also thought it might be beneficial to include law enforcement officers in the conversation. We could survey them to learn about their interactions with black children from their perspective. The Constitution grants the police a lot of discretion in determining culpability in a suspected criminal individual, so understanding what may lead a police officer to assume culpability would help in crafting the content of the modules within the application.

After this research phase, we decided to initially craft the modules of the application to focus on three areas: (1) police interrogations (*Miranda* rights), (2) *Terry* stops, and (3) interactions with SROs. In the modules we have included interactive lectures, with video animations that play out various child-police interactions. Each lesson will conclude with a short quiz to test comprehension.

In addition to the lectures, there will also be a summary sheet for each lesson. For quick access and navigation, there will also be a search feature powered by artificial intelligence. This feature will allow users to search a specific phrase or question and receive an answer and a specific lesson to review for further information.

B. Challenges

Initially, our cohort wished to continue down our predecessor's path of making TGL into a game to be played by students in application form. We contemplated the idea of whether this would be “fun” for the student user and whether these students would opt into playing an educational game. We brainstormed many ideas to make TGL something with which students would want to engage. Those ideas ranged from adapting pre-existing popular video games that students already play, to include takeaway lessons to allowing students to pick their role of either citizen or officer in the scenario and go through a simulation.

Upon deeper discussion, we realized that the heavy material we sought to convey was not appropriate in the form of a game. We were dealing with material that could result in life altering scenarios that we felt should not be relegated to a game. One major roadblock that we encountered as these questions came up was gaining access to a pool of our target demographic: students. The research phase of the project kicked off in summer, and we no longer had access to the students, as we had previously expected. This made most of our theories difficult to test. At this time, a survey asking students their current perceptions of law enforcement, their preparedness for encountering law enforcement, and the scenarios they would like TGL to cover, is underway and the results are pending to better inform succeeding cohorts.

¹⁰⁰ See Dominique Douglas, “*The Gavel League*”: *An App Providing Legal Education to Adolescents*, in *Increasing Equity in the Legal System: A Collection of Legal Advocacy Papers by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship 2022 Cohort*, 28 (Matthew Bender 2022).

Pending our survey results, we relied on ample existing research of youth and law enforcement encounters as well as our experience as students to create engaging learning modules on being pulled over in a traffic stop and out in the community. We resolved to adapt our content to emulate School-House Rock! and Quimbee-like animation. We aimed to create a short, yet impactful way to deliver information to suit a TikTok generation followed by short quizzes.

C. Proposed Solution

The proposed solution initially revolved around providing comprehensive training to SROs to address issues related to their interactions with students. However, a critical challenge has arisen, which was effectively engaging students in the learning process to ensure they absorb and internalize essential information about dealing with police interactions. As a result, the solution has undergone necessary changes to incorporate strategies that captivate and resonate with students, ensuring their active participation and understanding of the subject matter.

The need for these changes stems from the recognition that traditional training methods might not fully engage the attention and interest of today's youth. The objective is not only to educate but also to empower students with skills that can potentially save lives during encounters with law enforcement officers. By incorporating innovative and interactive approaches, the solution can better meet the needs of modern students and ensure the longevity and effectiveness of the educational program.

One of the crucial changes involves infusing elements of popular culture and technology into the learning process. Utilizing platforms like School-House Rock!, TikTok, and interactive games aligns the education with the interests and preferences of the younger generation. This approach acknowl-

edges the influence of media and technology on students' lives and leverages these channels to deliver important information in a format that is both familiar and engaging.

Additionally, the proposed changes involve designing a product that is impactful and relatable. This underscores the understanding that the ultimate goal is to equip students with life-saving knowledge that can influence their behavior and decisions during interactions with police officers. By creating a product that resonates with youths, the solution increases the likelihood of sustained interest and understanding.

Furthermore, the inclusion of engaging learning methods seeks to address the urgency of teaching students how to respond appropriately during police interactions. By providing them with knowledge of procedures and potential consequences, the solution empowers students to make informed choices and manage such situations with confidence. This is particularly crucial in preventing potentially harmful misunderstandings and ensuring the safety of all parties involved.

Overall, the changes to the proposed solution are essential to overcome the challenge of engaging students effectively. Incorporating dynamic and contemporary learning methods acknowledges the evolving preferences and interests of today's youth. By aligning education with popular culture and technology, the solution can effectively deliver life-saving information that prepares students to navigate police interactions with awareness and composure.

D. New Counter Arguments and Issues that may Arise from Our Solution

Implementing engaging and interactive learning methods to educate students about police interactions can indeed be highly effective in capturing their attention and imparting crucial information.

However, it is important to acknowledge potential counterarguments and anticipate new issues that might arise from this approach.

Critics might argue that platforms like TikTok and games could potentially simplify or trivialize the complexities of police interactions. They might question the accuracy and depth of information presented through such media, raising concerns about whether students are receiving a comprehensive understanding of their rights and responsibilities. Some individuals might assert that using popular culture and technology-driven methods could lead to generalizations about police interactions, overlooking the unique nuances that can arise in real-life situations. They might contend that relying solely on engaging methods might not adequately prepare students for the diverse range of potential encounters with law enforcement. While initial engagement might be high, sustaining students' interest over time could become a concern. Kids may not remain engaged with a game or remember the content from a short two-minute video, potentially leading to a lack of retention of vital information about police interactions.

While engaging learning methods offer a promising solution, they come with potential counterarguments and new challenges that need to be

carefully addressed. Striking a balance between captivating education, accurate information, and retaining knowledge over time is key to effectively preparing students for police interactions while navigating these complexities.

Conclusion

As demands about police reform and abolition increase with every documented, publicized incident of police brutality or abuse of power, this is the perfect time to offer a solution that does not require organizing or legislative action. Black children are going to continue to face disappointing and fatal consequences when interacting with law enforcement. However, by increasing the black youths' legal literacy and comprehension, we put are the power in their hands. We enable them to confidently exercise their rights without overwhelming fear. Furthermore, we are teaching children the type of police behavior they do not have to suffer through. They will feel empowered to advocate for themselves in the aftermath of their negative experience. There is a knowledge requirement to speaking truth to power. This application will satisfy that knowledge element and allow black children to foster conversations and behavior that will ensure their safety and innocence in police encounters.

Fellows



Imani Roberson

Imani Roberson is a 3L at the University of the District of Columbia David A. Clarke School of Law, where she serves as Student Bar Association President. Upon graduation Imani plans to pursue a career in environmental social governance (ESG) law. She believes ESG is at the intersection of her favorite interests and talents — equity, business, innovation, and critical thinking. Outside of the classroom, Imani is also an advocate in the community. She helps underserved communities within the DC area, volunteers with Planned Parenthood, and is establishing a non-profit to improve the Black maternal mortality rate.



Lauren Fleming

Lauren Taylor Fleming is a third-year law student at Howard University School of Law. She currently serves as the Diversity, Equity, & Inclusion Co-Chair on the Student Bar Association. Inspired by her experience on the Charles Hamilton Houston National Moot Court Team, Lauren plans to pursue a career in litigation upon graduation. Lauren is a graduate of Spelman College and Columbia University.



Jai'Ehir Jackson-Hawkins

Jai'Ehir Jackson-Hawkins is a recent law graduate from Florida Agricultural and Mechanical University. Currently working as an Assistant Principal at Cheney Elementary School, she is passionate about education and aims to practice Education Law and Policy. Her ultimate goal is to draft bills at the United States Senate, advocating for equitable access to quality education. With her dedication and expertise, Jai'Ehir is poised to make a significant impact in the field of Education Law and Policy.

Mentors

Margaret Unger Huffman

Senior Product Manager II, LexisNexis® Legal & Professional



Championing the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship as a mentor has been incredibly inspiring and one of the most rewarding experiences of my career. Participating as a mentor for my third cohort of Fellows, I remain impressed and honored to work amongst some of the most talented law students in the country and such passionate LexisNexis® colleagues to continue progress toward ending systemic racism in the legal profession.

The Gavel League focuses on legal literacy and comprehension for youth, their parents, and guardians. Envisioned as a mobile application, *The Gavel League* educates youth on important topics including scenarios where youth might interact with police — interrogations, *Terry* Stops, and interactions with school resource officers. This mobile application will fundamentally change the experience of youth in the United States for the better, and I cannot wait to see it brought to life.

Our team of Fellows have displayed incredible advocacy skills through brainstorming, designing, and researching their topics and creating modules for the mobile application. My mentorship experience working with these Fellows inspires me to bolster my own advocacy efforts as a Product Manager at LexisNexis® and pro bono attorney. I am thankful that LexisNexis® promotes and strongly supports this amazing Fellowship, continuing to make an impact on the worldwide advancement of the rule of law for years to come.

Margaret Unger Huffman, Esq. currently serves as a Senior Product Manager for LexisNexis®, focusing on the flagship product, Lexis+®, for both the United States and United Kingdom. Margaret holds a Juris Doctor from Campbell University Norman Adrian Wiggins School of Law, a Bachelor of Science in Business Administration and a Bachelor of Arts in Music from the University of North Carolina at Chapel Hill. As a licensed North Carolina attorney, Margaret is passionate about advancing the rule of law and using her talents to help the community through educating others on the legal system and her pro bono practice.

Silvian Rosario

Senior Director of Digital Marketing and eCommerce



The rule of law is core to the existence of a just and democratic society. Its principles of equality, fairness, accountability, and predictability foster trust between individuals and institutions. Its presence ensures that fundamental individual rights are protected while enforcing all round accountability. The LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship embraces the unique experiences of our Fellows, mentors, and volunteers, and allows us to work together to cultivate a more fair, innovative, and harmonious world.

I am impressed by the caliber, empathy, and passion that our Fellows bring to the table. Working with these young minds and exploring the opportunities to create safe, equitable spaces in society is profoundly rewarding. These individuals are in a unique position to learn beyond their classrooms, ask thought-provoking questions and adapt to and shape a rapidly changing legal landscape. Helping them navigate this journey and being a small part of the change that I would like to see in this world is exhilarating. This investment that the Fellowship is making is contributing to a more colorful, inclusive, beautiful future.

Silvian Rosario is a Senior Director of Digital Marketing and eCommerce at LexisNexis with 20+ years' experience in leading digital brand transformations, product and sales strategy and driving new business revenue growth across global markets. Born in India, Silvian earned her M.S. and M.B.A from Mumbai University. Silvian is an ardent advocate of data driven approaches and is passionate about empowering matrixed teams, enabling creative, inclusive conversations, and reinforcing continuous improvements to deliver business results. She loves working with young minds and volunteers her time sharing her culture, experiences and mentoring young professionals in the community.

I, Too, Sing America:^{*} Uncovering Untold U.S. History Through the Law

Tatiana Brown-Harper, Skylar Dean, and Zaria Graham

Introduction

Have you ever heard of Daniel Hale Williams, the first person to successfully complete heart surgery?¹ What about Frederick M. Jones, the inventor of the air conditioning unit?² If you had to ask yourself, did you learn of these two black inventors in school, or did you have to research these advancements on your own? Most likely, you are a person who falls within the majority of American students who did not become knowledgeable of significant advances achieved by black Americans by learning it in school. Most students were taught in class that Thomas Edison was the inventor of the lightbulb,³ but it is often left out of school

¹ *Daniel Hale Williams Biography*, BRITANNICA, <https://www.britannica.com/biography/Daniel-Hale-Williams> (last visited Aug. 13, 2023).

² *Who Invented the First Air Conditioner and Other Surprising Facts*, LEX AIR, <https://www.lexairconditioning.com/blog/2017/05/who-invented-the-first-air-conditioner-and-other/#:~:text=Although%20Willis%20Carrier%20is%20largely,-first%20portable%20air%20conditioning%20unit> (last visited Aug. 13, 2023).

³ *Lewis Howard Latimer*, BIOGRAPHY, <https://www.biogra->

This project's mission is to create an accessible repository of inclusive curriculum resources, with a spotlight on racially diverse case law to help legal educators, students, historians, and others uncover untold stories in U.S. history, and increase overall awareness of minority culture and nuances in the law. The repository would be available to users through Lexis+[®] and its secondary supplemental materials. To increase accessibility to the repository, a keyword search filter would be added to the LexisNexis[®] platform which would distinguish racially diverse cases.

^{*} Langston Hughes, *I, Too. The Collected Poems of Langston Hughes* (New York: Knopf: Distributed by Random House) 1994. Referenced names to the *I, Too, Sing America: Uncovering Untold U.S. History Through the Law* project are only conceptual and used by the Fellows for demonstration purposes.

curricula that the lightbulbs we utilize daily would not even last a week if Lewis Latimer, a black man, had not created a filament that extended the lifespan of lightbulbs.⁴ Historically, American school systems have far too often failed to recognize and to teach the contributions of black Americans.

Many K-12 schools fail to recognize the necessity of introducing students to black history. According to a study conducted by *Education Weekly*, only 35% of K-12 teachers across the U.S. expressed that their state requires their students to learn black history.⁵ In higher education, this problem is parallel as it pertains to the teaching of black advances that have contributed to American law. From a law student's standpoint, the cases and concepts often taught by faculty are ones involving topics that are unrelatable to today's African American students. Although law students are taught important constitutional law cases such as *Loving v. Virginia*⁶ and *Brown v. Board of Education*,⁷ other cases involving actual African American achievement that have contributed to American law are often difficult to find and U.S. law school curricula often opt out of ensuring that students learn of these advancements.

In an effort to alleviate the problem, *I, Too, Sing America: Uncovering Untold U.S. History Through the Law* seeks to create a repository through Lexis+® to bring these untold stories to individuals

and make them readily available to faculty, law students, and other legal scholars.⁸

Part I

The inception of the *I, Too, Sing America: Uncovering Untold U.S. History Through the Law* project began with a third-year law student of the District of Columbia David A. Clarke School of Law and 2022 Fellow named Alexis McNeal. McNeal believed the history that is currently taught in the American education system falls short when it comes to the teaching of African American history. Specifically, this teaching commonly comes from the same perspective. “The contributions and the morality of Christian white men are the framework in which all other parts of U.S. history are taught.”⁹ The history and contributions of African Americans are then made to fit within this framework, forcing much of their robust, beautiful, and multifaceted history to be ignored.

Overlooking the full history of African Americans does a disservice to both learners and educators and does nothing to further diversity. Black history is usually taught from the starting point of slavery, then the Civil Rights Movement, and ends with the first black president. Black history is so much more than this. African Americans have always been inventors, investors, law changers, owners, leaders, and trailblazers — a fact that McNeal

phy.com/inventors/lewis-howard-latimer (last visited Aug. 13, 2023).

4 Dora Mekouar, *Everyday Things Created by Black Inventors*, VOICE OF AMERICA (Mar. 13, 2022, 3:13 AM), <https://www.voanews.com/a/everyday-things-created-by-black-inventors/6480850.html#:~:text=The%20folding%20chair%2C%20gas%20mask,all%20invented%20by%20Black%20innovators>.

5 Ileana Najarro, *Despite Obstacles, Educators Find a Way to Teach Black History*, EDUCATION WEEKLY, <https://www.edweek.org/teaching-learning/despite-obstacles-educators-find-a-way-to-teach-black-history/2023/04#:~:text=At%20a%20time%20when%20a,according%20to%20new%20survey%20results> (last visited Aug. 13, 2023).

6 *Loving v. Virginia*, 388 U.S. 1 (1967).

7 *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

8 Alexis McNeal, *I, Too, Sing America: Uncovering Untold U.S. History Through the Law* in *Increasing Equity in the Legal System: A Collection of Legal Advocacy Papers by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship 2022 Cohort 40* (Matthew Bender 2022).

9 Alexis McNeal, *I, Too, Sing America: Uncovering Untold U.S. History Through the Law* in *Increasing Equity in the Legal System: A Collection of Legal Advocacy Papers by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship 2022 Cohort 40, 42* (Matthew Bender 2022).

felt it was time to recognize. McNeal believed that a way to increase diversity in legal education and aid in the ending of systemic racism was through the creation of a racially diverse repository. The repository that the *I, Too, Sing America: Uncovering Untold U.S. History Through the Law* project has built honors and then expands McNeal's vision, allowing for African American history, which is U.S. history, to be told from the black perspective. The repository makes case law, which touches upon African American achievement and ownership, more accessible to legal educators for them to use in their lectures. "Taking this initial step of just making the information accessible will allow for more balance in the law school curricula."¹⁰

In order to approach the task of a diverse case law repository coming into fruition, McNeal looked at significant historical events of different decades from which the case law could be pulled. When looking at these different time periods, McNeal asked simple questions to frame her research: (1) What were African Americans doing at a specific time?; and (2) How were African Americans involved in a particular event? With this framework in place, it became evident to McNeal that the material for the repository existed, but there needed to be one single place where the material was all compiled. McNeal also found that because African Americans were excluded from the legal process for a number of years or because they were disproportionately negatively affected by the legal process, there may not have been direct case law stemming

from a historical event; however, there were a number of secondary resources that discussed African American involvement and perspective, providing a context for the case law.

McNeal's research process can be applied to a number of historical events. An example of its application can be shown when looking at the Tulsa Race Massacre. African American history in Oklahoma during that time does not start with the massacre in 1921.¹¹ Before Greenwood Avenue, which came to be known as Black Wall Street, burned down due to race wars, it was 40 acres of land owned by O. W. Gurley, who moved to Tulsa, Oklahoma in 1906 during the Oklahoma Land Run that started in 1889.¹² At this time, there was increasing support for Senate Bill One.¹³ Senate Bill Number One was Oklahoma's first piece of legislation and prevented African Americans from residing, traveling, and marrying outside their race.¹⁴ The bill was approved on December 18, 1907, and is known to most as the state's first Jim Crow law.¹⁵ African American history is more than just one of oppression, and if one is to research further, one will find that as a result of Senate Bill Number One, from 1865 to 1902, African Americans created more than 50 identifiable towns and settlements in Oklahoma.¹⁶ Upon further research one will find that in 1908, a black man by the name of Edward P. McCabe took a case all the way to the United States Supreme Court, arguing that separate cars on railroads violated the 1906 Enabling Act.¹⁷ The Supreme Court decided *McCabe v. Atchison* in No-

¹⁰ *Id.*

¹¹ Larry Hill, et al., *Ottawa W. Gurley, The Visionary of Black Wall Street Tulsa* (Aug. 5, 2023, 3:12 PM), <http://blackwallstreet.org/owgurley>.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Larry O'Dell, *Senate Bill One*, THE ENCYCLOPEDIA OF OKLAHOMA HISTORY AND CULTURE (Aug. 5, 2023, 3:12 PM), <https://www.okhistory.org/publications/enc/entry.php?entry=SE017>.

¹⁶ Larry O'Dell, *All-Black Towns*, THE ENCYCLOPEDIA OF OKLAHOMA HISTORY AND CULTURE (Aug. 5, 2023, 3:12 PM), <https://www.okhistory.org/publications/enc/entry.php?entry=AL009>.

¹⁷ Jere Roberson, *McCabe, Edward P. (1850-1920)*, THE ENCYCLOPEDIA OF OKLAHOMA HISTORY AND CULTURE (Aug. 5, 2023, 3:12 PM), <https://www.okhistory.org/publications/enc/entry.php?entry=MC006>.

member of 1914, upholding Oklahoma’s Senate Bill Number One.¹⁸ Though the case law does not provide a favorable outcome for the African American plaintiffs, this line of research is a good example of how a diverse repository can be built. With so much of the history shared above, and African American history in general, being unknown by most people, the desirability and usefulness of a diverse case law repository becomes quite clear.

The need for this repository becomes even more obvious when one realizes that black history is taught the same way from primary through higher education with an overall lack of representation. Most first-year law school classes consist of property, contract, civil procedure, and criminal law. In these courses, the same case law is used time and time again to teach the foundation for legal principles. Due to the repetitive nature of teaching these legal principles, the use of diverse cases is routinely left out of lectures. In constitutional law, the cases that are discussed time and time again, come from a place of oppression. Though there are cases, like *Moore v. East Cleveland*,¹⁹ *Loving v. Virginia*,²⁰ and *Brown v. Board of Education*,²¹ that may have favorable outcomes for the African American plaintiffs, the cases do not expound on different aspects of the black experience, which went beyond just not being able to marry white people or being segregated in schools. Property law classes do not teach law students that black land ownership occurred before 1900, and, moreover, that black land ownership was and is still heavily affected by systemic racism. First year criminal law professors use textbooks that contain case law in which most of

the defendants are African American. This is a part of a bigger problem – outside of the textbook publisher’s control – within the criminal justice system. In both contract law and civil procedure, there is a complete and utter lack of representation of African Americans in case law texts and, therefore, in classroom lectures. Focusing on contract law, African Americans have surely been parties to contracts since 1868, so the lack of any mention of African Americans in case law texts is baffling.²²

This same sentiment applies when it comes to upper-level legal education courses. Intellectual property courses fail to include cases concerning black innovation. Upper-level property law classes, like a course on wills and decedents’ estates or a course on intestate succession and wills, for example, fail to touch upon African American land ownership. The *I, Too, Sing America: Uncovering Untold U.S. History Through the Law* diverse case law repository plans to remedy this by initially focusing on three distinct areas of law. The areas of intellectual property, real property, and voting rights will be discussed to show how research was conducted to find the case law to build this diverse repository.

Part II

A. Intellectual Property Law

Since before the founding of the United States of America, when there were colonies under the control of the British monarchy, innovation and creative genius have been the catalysts behind progress in America.²³ The first patent in the 13 colonies

18 *McCabe v. Atchison, T. & S.F. R. Co.*, 235 U.S. 151 (1914).

19 *Moore v. City of East Cleveland*, 431 U.S. 494 (1977).

20 *Loving v. Virginia*, 388 U.S. 1 (1967).

21 *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

22 The year 1868 is extremely important not only in American history generally, but also specifically African American history. It is the year of the ratification of the 14th Amendment, which granted citizenship to all who were born or naturalized in the United States, including formerly enslaved people. Through the 14th Amendment citizens are also granted equal protection of the laws.

23 Shontavia Jackson Johnson, *The Color Blind Patent System and Black Inventors*, American Bar Association (Aug. 5, 2023, 3:12 PM), https://www.americanbar.org/groups/intellectual_property_law/publications/landslide/2018-19/march-april/col-

was granted in 1641 by the Massachusetts general court to Samuel Winslow, for a novel method of making salt.²⁴ “American invention and innovation was thought to be so important that these concepts were written into the first Article of the U.S. Constitution, authorizing Congress to give inventors exclusive rights to their inventions for a limited time.”²⁵ This is, of course, the same founding document that recognized slavery, making African Americans property and not people, and in which an enslaved person was counted as only three-fifths of a free individual. The juxtaposition of these principles — the promotion of innovation and the enslavement of black people — within the same document caused African American creations to be excluded from the patent system and go unrecognized for far too long. Despite this unjust historical reality, it does not mean that there were no African American inventors. African Americans have always been inventing and innovating, a fact that a diverse case law repository can rectify.

Intellectual Property covers a broad spectrum of creative work such as “literary and artistic works, inventions, designs, symbols, names, images, computer code[s],” and the like.²⁶ Intellectual property law exists in order to protect creators and covers copyrights, trademarks, and patents.²⁷ Afri-

can Americans have been excluded from the protection of these laws since the beginning of the U.S. patent system.²⁸ After 1793, the Patent Act included a Patent Oath, which eventually required patent applicants to swear to be the original inventor of the claimed invention and to their country of citi-

"I'm very passionate about changing the community and changing the justice system to end racism ... and I'm excited to be here and to be around so many like-minded people, doing this work right now, because I thought this was something that I'd get to do later on in my career, but here I am at the start — actually making something meaningful and impactful!"

**— Skylar Dean, Fellow
I, Too, Sing America**

zenship.²⁹ This served as the first barrier for black inventors. The U.S. Supreme Court’s 1875 *Dred Scott* decision held that black Americans could not be citizens of the United States.³⁰ As observed by Shontavia Jackson Johnson in the American Bar Association article, *The Colorblind Patent System and Black Inventors*, “free blacks were precluded from patenting their inventions after *Dred Scott* because they did not have a country of citizenship and

orblind-patent-system-black-inventors/.

24 *Salt Making, First Patent*, THE CAMBRIDGE LIBRARY: THE CAMBRIDGE SENTINEL, Volume XXXVIII, Number 39, 26 Sept. 1942 (Aug. 5, 2023 3:12 PM), <https://cambridge.dlconsulting.com/?a=d&d=Sentinel19420926-01.2.46&e=-----en-20--1--txt-txIN----->.

25 Jackson Johnson, *supra* note 23.

26 *Copyright and Intellectual Property Toolkit*, UNIVERSITY OF PITTSBURGH LIBRARY SYSTEM (Aug. 5, 2023, 3:12 PM), <https://pitt.libguides.com/copyright/definitions>.

27 *Id.*

28 Jackson Johnson, *supra* note 23.

29 *Id.*

30 *Id.*; *Scott v. Sanford*, 60 U.S. 393 (1857).

presumably could not swear to the Patent Oath.”³¹ But, whether enslaved or free, African Americans were still inventing.

Among the African Americans who were enslaved, there was Ned who invented an effective, innovative cotton scraper.³² His slave master, Oscar Stewart, attempted to patent the invention under his own name, but because he was not the actual inventor, and the actual inventor had been born into slavery, the application was rejected.³³ Others born into slavery shared a similar story of not receiving recognition or compensation for their inventions and their masters taking credit or attempting to take credit for their inventions. For example, when researching black innovation, one will come across the story of Benjamin Montgomery, who was an enslaved inventor who was able to acquire significant wealth due to his invention of a certain type of boat propeller to be used by steamboats to deliver goods on waterways.³⁴ Montgomery could not receive a patent for his invention due to being enslaved but nonetheless found success by operating a general store on the plantation.³⁵ He eventually earned enough money to purchase the plantation he worked on as the Civil War ended and became one of the wealthiest planters in Mississippi.³⁶ This standing then positioned his son, Isaiah Montgomery, to found Mound Bayou, a successful African American town in Mississippi, much like Tulsa, Oklahoma, in the early 1900s.³⁷

Throughout American history, black inventors who were either born free or otherwise acquired their freedom faced many legal barriers.³⁸ Thomas Jennings was the first known African American patentee, successfully patenting a dry cleaning method in 1821.³⁹ Elijah McCoy obtained 57 patents over his lifetime.⁴⁰ In the 21st century, African American inventors have followed in the footsteps of their ancestors and have continued the spirit of American creativity.⁴¹ Lonnie Johnson is only one example of a modern African American inventor who has generated more than one billion dollars in sales with his Super Soaker water gun invention, and now owns more than 80 patents.⁴² The experiences of the free African American inventors of the mid-19th and -20th centuries and African American inventors of the 21st century demonstrate that those with access to the patent system benefitted and benefit not only financially due to this access, but also creatively because their ability to file patents in their own names which encouraged and encourages them to keep innovating. According to Professor Brian Frye:

Obtaining a patent was difficult and expensive [for free black inventors]. Some inventors could not afford to patent their inventions or could not obtain legal assistance. Some inventions were not worth patenting. And some patent applications were rejected, possibly based on racial discrimination. Accordingly, some patent applicants concealed their race from the Patent Office,

31 Jackson Johnson, *supra* note 23.

32 Shontavia Johnson, *America Always had Black Inventors – Even When the Patent System Explicitly Excluded Them*, The Conversation (Aug. 5, 2023, 3:12 PM), <https://theconversation.com/americas-always-had-black-inventors-even-when-the-patent-system-explicitly-excluded-them-72619>.

33 *Id.*

34 Jackson Johnson, *supra* note 23.

35 *Id.*

36 *Id.*

37 *Id.*

38 *Id.*

39 *Id.*

40 Jackson Johnson, *supra* note 23.

41 *Id.*

42 *Id.*

in order to avoid potential discrimination. And others used their white partners as proxies, for the same reason.⁴³

Access to legal assistance and resources still remains an issue for inventors and entrepreneurs today. Many U.S. law schools offer clinics to provide free legal assistance to those within their community who cannot afford to hire counsel. Trademark and patent clinics help local inventors and entrepreneurs, usually people of color, navigate the difficult U.S. patent and trademark system. This leads one to question the effectiveness of these clinics if students are unaware of the history of not only the United States Patent and Trademark Office (“USPTO”), but also the history of the people with whom they are working. Recent academic research has identified at least three major gaps in patenting.⁴⁴ Those areas are gender, race, and income.⁴⁵ The USPTO does not collect demographic data about patent applicants, and, as a result, each study in this field has been conducted differently, using different data sets to compile as much information as possible.⁴⁶ Despite these limitations, researchers have documented that each of the patenting gaps is significant and represents billions, maybe even trillions, of dollars in lost economic activity.⁴⁷

Focusing on race, African Americans have acquired patents at disproportionately low rates.⁴⁸ One study found that from 1970 to 2006, African American inventors were awarded just six patents per million people.⁴⁹ This disparity is due to a number of reasons, from the systemic racism discussed above to times of economic, political, and social

unrest that inevitably curtailed innovation and invention. Knowing these important facts can be used to aid current and future legal professionals to best advocate for their clients.

The information discussed thus far was gathered through many hours of research. While research like this is necessary, the access to it and the case law found through it, need to be more easily accessible. The diverse case law repository built by the *I, Too, Sing America: Uncovering Untold U.S. History Through the Law* project provides this easy access. For example, intellectual property law educators can supplement their lectures with the case law found through the repository and provide a more well-rounded legal education. The specific history of African American inventors is not taught in intellectual property courses, even at historically black colleges and universities. Black innovation and ownership within intellectual property law is rarely talked about at all. This lack of teaching means not only people of other racial groups, but African Americans themselves, are lacking the knowledge needed to gain more of a stake in the U.S. patent and trademark system. It is important that diverse intellectual property case law can be found in the repository because innovation has and still does drive the United States forward. African Americans have been a part of this innovation and, thus, a part of the progress of this country since its very beginning. It is time to leave behind the idea that African Americans only contributed to the economic power of the U.S. through slavery. African Americans have always been inventors, innovators, and entrepreneurs, and the *I, Too, Sing America: Uncovering Untold U.S. History Through*

43 Brian L. Frye, *Invention of a Slave*, 68 SYRACUSE L. REV. 181, 186 (2018) as quoted in Jackson Johnson, *supra* note 23.

44 Holly Fechner and Matthew S. Shapanka, *Closing Diversity Gaps in Innovation: Gender, Race, and Income Disparities in Patenting and Commercialization of Inventions*, NATIONAL ACADEMY OF INVENTORS, TECHNOLOGY AND INNOVATION, Vol. 19, at 727 – 34 (Aug. 5, 2023, 3:12PM), https://www.cov.com/-/media/files/corporate/publications/2018/06/closing_diversity_gaps_in_innovation_gender_race_and_income_disparities_in_patenting_and_commercialization_of_inventions.pdf.

45 *Id.*

46 *Id.*

47 *Id.*

48 *Id.*

49 *Id.*

the Law diverse case law repository will aid in this fact becoming more widely known and taught in law schools across the United States.

B. Real Property

According to Herbert Thorndike Tiffany, “[p]roperty is known to be material objects, regarded as the objects of legal rights, that is either (1) land, or things so connected to land as to be considered part of it, or (2) articles of a movable character, not connected to land, or not considered to be part thereof.”⁵⁰ Whether property is considered real or personal is determined by the state in which the property is located. Most often, ownership is the right in land considered the most important, including the idea of rights in a particular person or persons to use the land and to demand that others refrain from use of the land.⁵¹ Typically, law school curricula include these rights with examples of white parties in lawsuits but seldom involve examples of African American owners to which black law students can connect.

The Homestead Act

The Homestead Act, signed by President Abraham Lincoln in 1863, secured homesteads to settlers on the public domain.⁵² The Act opened land ownership to male citizens, widows, single women, and immigrants pledging to become citizens.⁵³ The benefits of the Act were extended to African

Americans by the passage of the 1866 Civil Rights Act and 14th Amendment. These enactments led to black homesteaders who used these laws to build livelihoods in which they owned the land they worked, provided for their families, and educated their children.⁵⁴ Under the Homestead Act, individuals were required to pay a small fee, appear with two witnesses, and live on their claims for five years, among other obligations, before they obtained their titles.⁵⁵ Acknowledged as the federal government’s biggest wealth redistribution program, the Homestead Act allowed approximately 1.6 million homesteaders to successfully obtain titles and receive 160 acres of free public land.⁵⁶

Through these homesteads, black Americans built culturally rich and religious environments for their communities and sought the advantages of being liberated and free members of society. About 70% of homesteaders settled in colonies with other black families while 30% of black homesteaders filed on federal lands apart from other African Americans.⁵⁷ Between 1877 and 1920, large quantities of black Americans migrated from the South to the Great Plains in an effort to exercise their rights under the Homestead Act and collectively obtained title to relatively 650,000 acres.⁵⁸ Although many settled in groups, the successful solo homesteaders included individuals such as inventor George Washington Carver and African American film-maker Oscar Micheaux.⁵⁹

⁵⁰ Herbert Thorndike Tiffany, *Tiffany Real Property* (1947).

⁵¹ *Id.*

⁵² *African American Homesteaders in the Great Plains*, U.S. NATIONAL PARK SERVICE, <https://www.nps.gov/articles/african-american-homesteaders-in-the-great-plains.htm> (last visited Aug. 13, 2023).

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Homesteading*, UNIVERSITY OF NEBRASKA-LINCOLN, CENTER FOR GREAT PLAINS STUDIES, <https://www.unl.edu/plains/homesteading-research> (last visited Aug. 13, 2023).

⁵⁶ *Id.*

⁵⁷ *African American Homesteaders in the Great Plains*, U.S. NATIONAL PARK SERVICE, <https://www.nps.gov/articles/african-american-homesteaders-in-the-great-plains.htm> (last visited Aug. 13, 2023).

⁵⁸ *Id.*

⁵⁹ *Id.*

The History of Black Ownership

African American achievement has significantly been overlooked and unacknowledged throughout American history; however, descendants of homesteading families, the Great Plains Black History Museum, the Black American West Museum, and preservation groups have made strides to bring the stories to the forefront.⁶⁰ One expansion during this time was Dearfield.⁶¹ Dearfield was the largest black homesteading settlement in 1910, established by Oliver Toussaint Jackson in Colorado. Another example is Empire in Goshen County, Wyoming. This Wyoming community consisted of black owners who had substantial financial resources and farming experiences, something a number of other colonies did not possess.⁶² However, to the detriment of Empire, racism was the number one problem and contributed to its demise. In 1914, a citizen was arrested and beaten to death by police officers. Many residents decided to leave the community for new opportunities as a result of this murder and the fear of a possible white reprisal. By 1930, the town of Empire no longer existed and only four black individuals remained in the entire Goshen County.⁶³ Although the Homestead Act expanded ownership rights significantly, third parties used state provisions and racial segregation, along with partition sales, as methods to inevitably take black ownership away.

Several states passed legislation in an effort to halt the progression of property rights in America. One example of this is the case of *Veal v. Hopps*, in which an Oklahoma law purported to prevent the sale or lease of real property to African Amer-

icans, but was deemed unenforceable by the state supreme court.⁶⁴ Similarly, in *Jones v. Mayer*, the United States Supreme Court reversed the Court of Appeals' erroneous decision to allow the respondents to refuse to sell Joseph Lee Jones and his wife a home because they were black.⁶⁵

Despite many African Americans' diligent efforts to acquire and to maintain ownership of real property, white landowners and developers were able to manipulate the system and gain control over land owned by black farmers and homeowners. In many cases, African Americans did not have wills that would transfer land from one individual to another after the death of the recognized owner. In scenarios where there was no will, the land was distributed amongst all known descendants. If those descendants passed away, the land would further be divided amongst their descendants. When family members could not be located in order to ask their permission to sell the land, it became fairly easy for other individuals to step in and acquire the land instead. Accordingly, many white developers were able to take advantage of the miscommunication among black families in order to gain control over the land.⁶⁶

Third parties continued to take property away from black landowners by the use of state Torrens Acts. Torrens Acts, also known as the Torrens System, were originally enacted in Australia as the Real Property Act of 1858. The Acts were later introduced in the U.S. by states in order to make title registry easier. However, the system instead became a backdoor that allowed third parties to

⁶⁰ *Homesteading*, UNIVERSITY OF NEBRASKA-LINCOLN, CENTER FOR GREAT PLAINS STUDIES, <https://www.unl.edu/plains/homesteading-research> (last visited Aug. 13, 2023).

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Veal v. Hopps*, 1938 OK 351, 183 Okla. 116, 80 P.2d 275.

⁶⁵ *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968), discussed in Richard Rothstein, *The Color of Law* (2017).

⁶⁶ Tykeisa Nesbitt, *Black Land Theft and the Racial Wealth Divide*, INEQUALITY, <https://inequality.org/research/black-land-theft-racial-wealth-divide/> (last visited Aug. 13, 2023).

conduct partition sales⁶⁷ and extract families from their homes.⁶⁸ A Torrens Act allowed the sale of property to take place without notifying the family members or other co-owners of the land. Since the buyers were covered under the umbrella of the Torrens Act, owners who were oblivious to the sale lacked any legal recourse. Eventually, the theft of black land spread over the 20th and 21st centuries and had lasting impacts on African American landowners as well as their descendants. A recent 2023 study conducted by the American Bar Association showed the value of black land loss to be about \$326 billion.⁶⁹

The History of Racial Zoning and Public Housing

Many years after black Americans first attempted to create homes and communities, U.S. law further made it difficult for these individuals to be treated as equal citizens in terms of acquiring equal housing. Segregation by law and public policy is historically known as *de jure*. The use of public housing and racial zoning by the government to crowd African Americans into “urban ghettos” had a major influence in the creation of the *de jure* system of segregation in the U.S.⁷⁰ At the time that public housing first began in the mid-20th century, it was mainly designated for working and lower-middle class white families. Public housing was not intended to provide housing to individuals too poor to afford it, but to benefit those individuals

who were financially capable and simply could not find housing available on the market.⁷¹ After the Great Depression in the 1930s and well into the early 1950s, white Americans as well as black Americans were faced with a significant housing shortage. President Franklin D. Roosevelt’s administration constructed separate projects for African Americans, segregated buildings by race, or completely excluded black individuals from the developments altogether.⁷²

By the late 1940s, white families progressively were accepted into the private market. On the other hand, due to racial zoning, black families were purposely excluded from higher-priced neighborhoods, or black neighborhoods were valued considerably lower than their actual value,⁷³ leaving black families more dependent on public housing than white families.⁷⁴ Previous housing programs that excluded black families were now only sought by black families wishing to fill vacant units. This became the root of further segregation as cities began to only approve of public housing projects in predominantly black areas.⁷⁵

Current Effects of These Measures

Today, black homeownership is the lowest amongst U.S. citizens at 43.4%, behind Hispanic ownership at 50%, Asian ownership at 61.7%, and white homeownership at 72.1%.⁷⁶ The effects of

⁶⁷ A partition allows persons who own property jointly to sever their co-ownership. If property cannot be divided equally, or the owners wish to separate their ownership interests, a partition by sale is typically conducted by a court order.

⁶⁸ *Id.*

⁶⁹ Dr. Dania V. Francis, *The Contemporary Relevance of Historic Black Land Loss*, AMERICAN BAR ASSOCIATION, https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/wealth-disparities-in-civil-rights/the-contemporary-relevance-of-historic-black-land-loss/ (last visited Aug. 13, 2023).

⁷⁰ Richard Rothstein, *The Color of Law* (2017).

⁷¹ *Id.*

⁷² *Id.*

⁷³ CEA, *Exclusionary Zoning: Its Effect on Racial Discrimination in the Housing Market*, THE WHITE HOUSE, <https://www.whitehouse.gov/cea/written-materials/2021/06/17/exclusionary-zoning-its-effect-on-racial-discrimination-in-the-housing-market/> (last visited Aug 13, 2023).

⁷⁴ Richard Rothstein, *The Color of Law* (2017).

⁷⁵ *Id.*

⁷⁶ *The Black homeownership rate is now lower than it was a decade ago*, CNN BUSINESS (Feb. 25, 2022, 10:45AM),

racial segregation, racial zoning, and further efforts to eliminate black ownership in America contribute to the low percentage of black homeownership today. In law school, these concepts and issues are very seldom addressed in the curricula. Although African Americans own and operate homes and businesses, it would be extremely damaging to dismiss the effects of laws and social forces that brought African Americans to their low percentage of ownership of real property today. Having cases and secondary sources that introduce students to federal laws, such as the Homestead Act of 1862, and state law, such as the usage of Torrens Acts, which hindered the advancements of black ownership in America will enhance students' understanding of the concept of real property. Understanding the history of the obstacles that African Americans had to face in acquiring property can contribute to the understanding of current state and federal property law today. It is imperative to create a repository that will include not only the history of property law in America but current cases which help black law students connect to relevant material within current societal normality.

C. Voting Rights Law

Since its ratification in 1789, the United States Constitution has been the bedrock of American democracy. It has served as the law of the land, but it has never served all American people equally. On July 9, 1868, the 14th Amendment was ratified, granting citizenship to all people “born or naturalized in the United States” and “equal protection under the laws.”⁷⁷ When you are a citizen of the

United States, you enjoy many freedoms; among these freedoms are your civil rights. A civil right is an enforceable right or privilege which, if interfered with by another, gives rise to an action for injury.⁷⁸ Examples of civil rights include, but are not limited to, freedom from unreasonable discrimination in government services, public education, and use of public facilities.

All civil rights are fundamental and play a prominent role in shaping the American justice system. However, it can be contended that all the privileges enjoyed in the United States stem from one right: the right to vote. In its 2018 statutory report, the United States Commission on Civil Rights noted that, “[t]he right to vote is the bedrock of American democracy. It is, however, a right that has proven fragile and in need of both Constitutional and robust statutory protections,”⁷⁹ as all citizens of the United States have not always had the privilege to engage in this fundamental right. “Racial discrimination in voting has proven to be a particularly pernicious and enduring American problem.”⁸⁰

History of Voting Rights in America

It is no secret that minority groups have been restricted from the right to vote since the installment of the right. Originally, suffrage was granted exclusively to white, land-owning men. However, in the early 1800s, white men pushed to remove the property requirement as an impediment to male suffrage.⁸¹ Although this increased the percentage of the population allowed to vote, it still left out Af-

<https://www.cnn.com/2022/02/25/homes/us-black-homeownership-rate/index.html>.

⁷⁷ Lesley Kennedy, *Voting Rights Milestones in America: A Timeline* (2021), <https://www.history.com/news/voting-rights-timeline>.

⁷⁸ CORNELL LAW SCHOOL, LEGAL INFORMATION INSTITUTE, <https://www.law.cornell.edu> (last visited Aug. 13, 2023).

⁷⁹ *An Assessment of Minority Voting Rights Access in the United States*, UNITED STATES COMMISSION ON CIVIL RIGHTS, (2018), <https://www.usccr.gov/reports/2018/assessment-minority-voting-rights-access-united-states#:~:text=An%20Assessment%20of%20Minority%20Voting%20Rights%20Access%20in,the%20Supreme%20Court%E2%80%99s%20Shelby%20County%20v.%20Holder%20decision.>

⁸⁰ *Id.*

⁸¹ *Voting Rights Throughout United States History*, NATIONAL GEOGRAPHIC, <https://education.nationalgeographic.org/resource/voting-rights-throughout-history/> (last visited Aug. 13, 2023).

rican Americans, women, and other minority groups. In 1870, the 15th Amendment to the U.S. Constitution was ratified, declaring that the “right of citizens of the United States to vote shall not be denied or abridged by the United States or any state on account of race, color, or previous condition of servitude.”⁸² The passage of this amendment affirmed the right of African American men to vote, but it still did not ensure that they could freely exercise this right. In a successful effort to circumvent the passage of the 15th Amendment, many states began to enact laws, including poll taxes, literacy tests, and grandfather clauses, to suppress black voting rights.⁸³

In the American South, these laws became a feature of what is referred to as the Jim Crow Era, which, in addition to the employment of these discriminatory laws, violence, and intimidation, were also used to restrict the black vote.⁸⁴ Often, scholars focus on the states’ roles in creating these laws. However, the federal government legalized these forms of state discrimination when the United States Supreme Court issued rulings in cases such as *Plessy v. Ferguson*,⁸⁵ in 1896, which condoned the separation of the races, and created challenges at the polls.⁸⁶ History textbooks often perpetuate the idea that progress for the right to vote was not made until the Civil Rights Movement in 1954-1968. However, during the first half of the 20th century, voting rights litigation did result in some increased access to the ballot box for African Americans. After the United States Supreme Court invalidated

“With our project, I’m really interested in being able to implement a diversity portal on Lexis+ that will be readily available for people to research African-American history and see how important it is as a part of American history as a whole.”

**—Tatiana Brown-Harper, Fellow
I, Too, Sing America**

the “white primary” in 1944 in the case of *Smith v. Allwright*,⁸⁷ black voting registration and participation rates began to increase across the South.⁸⁸ It was not until the 1960s that the federal government more effectively protected African Americans’ right to vote. After a series of speeches, sit-ins, and marches in Selma, Alabama, and other cities in the South during the Civil Rights Movement, the 24th Amendment — which abolished poll taxes — and the Voting Rights Act of 1965 protected the right to vote for African Americans and others.⁸⁹

Current History of the Right to Vote

All American students have learned and are aware of the history of voting rights in American society and how African Americans were disenfranchised from voting for 175 years. This history is presented to students in the same “cookie cutter” manner leading them to believe that African Americans and other minority groups secured the

82 U.S. Const amend. XV.

83 See Kennedy, *supra* note 77.

84 *Id.*

85 *Plessy v. Ferguson*, 163 U.S. 537 (1896).

86 See *Voting Rights Throughout United States History*, *supra* note 81.

87 *Smith v. Allwright*, 321 U.S. 649 (1944).

88 See *An Assessment of Minority Voting Rights Access in the United States*, *supra* note 79.

89 *Id.*

right to vote after a great fight, then discriminatory practices came to a stop. What the current methodology of our constitutional law and history classes neglects is the modern ways African Americans and other minority groups have been restricted from exercising their constitutional right to vote. The actual passage of the Voting Rights Act of 1965 did very little to stop states from engaging in these discriminatory voting practices. It was the amendments and revisions to the Voting Rights Act in 1970, 1975, 1982, 1992, and 2006 that aided in producing the significant increase shown in voter turnout today.⁹⁰ The Voting Rights Act (VRA) has effectively limited the passage of voting laws in states that intentionally or in effect discriminate against minority voters for centuries. However, the VRA was seriously weakened in 2013 when the United States Supreme Court by a 5-4 decision, in the case of *Shelby County v. Holder*,⁹¹ ruled that the formula used in Section 4(b) identifying the jurisdictions that required Section 5 preclearance was unconstitutional.⁹²

Prior to *Shelby County*, Section 5 required any voting law, practice, or procedure be subject to preclearance review by the federal government including all redistricting done after each decennial census; any other changes to voting district lines; eliminating or moving polling places to less accessible areas or to locations that could be perceived as intimidating, such as sheriff's offices; new voter purge procedures; English-language literacy tests; new voter identification laws; cutting early voting or same-day voter registration; moving election day to a day that would be inconvenient to an identifiable set of voters, such as a religious holiday,

or taking away Sunday voting and limiting voting to a Tuesday, or any other change in registration, voting, or election procedures.⁹³ After the *Shelby County v. Holder* ruling, jurisdictions previously covered under Section 5 are not required to obtain preclearance before making changes in voting laws unless subject to a separate court order.⁹⁴ Chief Justice John Roberts based the majority opinion on the flawed ideology often perpetuated in the teaching of American History and the law that there has been “dramatic progress” in voting rights since the Voting Rights Act was enacted, without considering the laws that were the cause of such progress.

United States citizens are drawn to believe that voting discrimination is a thing of the past and that states have matured from using such tactics to restrict minority voices in voting. Unfortunately, this is not true, evidenced by the 700 objections to voting changes under Section 5 of the VRA from 1982 to 2006; these changes were blocked because they were considered by the Department of Justice (DOJ) or a federal court to be racially discriminatory. Additionally, over 800 proposed voting changes were withdrawn or amended after the DOJ requested more information from the submitting jurisdiction. All objections and other DOJ actions under Section 5 occurred in the formerly covered jurisdictions.⁹⁵

The ruling in *Shelby* has led to new waves of state laws enacting voter ID requirements, closed polling stations, restrictions on the vote by mail, and limited voting hours.⁹⁶ As of 2020, eight states are home to about half of all black eligible voters in the United States.⁹⁷ Texas has the most significant

90 H.R. 4249. (1969); H.R. 6219, 94th Cong. (1975-1976); S. 1992, 97th Cong. (1981-1982); H.R. 4312, 102nd Cong. (1991-1992); and H.R. 9, 109th Cong. (2005-2006).

91 *Shelby Cty. v. Holder*, 570 U.S. 529, 133 S. Ct. 2612 (2013).

92 See *An Assessment of Minority Voting Rights Access in the United States*, *supra* note 79.

93 *Id.*

94 *Id.*

95 See *An Assessment of Minority Voting Rights Access in the United States*, *supra* note 79.

96 See Kennedy, *supra* note 77.

97 Mohamad Moslimani, *Key facts about Black eligible voters in 2022* (2022), <https://www.pewresearch.org/short-reads/2022/10/12/key-facts-about-black-eligible-voters-in-2022/#:~:text=Black%20Americans%20are%20projected%20>

number, with 2.7 million, followed by Georgia and Florida (each 2.5 million).⁹⁸ Rounding out the top eight are New York (2.3 million), California (2.0 million), North Carolina (1.8 million), and Maryland and Illinois (1.4 million each).⁹⁹ Together, these states account for 52% of black-eligible voters in the 50 states and D.C..¹⁰⁰ Of these states that have been found to have the highest minority voters registered, Texas, North Carolina, and Georgia have all passed or attempted to pass restrictive voting rights laws that negatively impact minority groups since the *Shelby County* decision.¹⁰¹ Other Southern states, such as Alabama in 2023, have been found to have created a redistricting map that violates the Voting Rights Act because they were drawn in a way that diluted the voting power of black residents.¹⁰²

The Future of Voting Rights

Voting is the foundation of the United States. Every racial inequality experienced by African Americans and other minorities alike can be traced back to a discriminatory law. Because of this, voting rights law must be one of the first topics covered in the *I, Too, Sing America: Uncovering Untold U.S. History Through the Law*, LexisNexis® repository. The law is more often than not shaped and formed by lawyers and legal scholars whose foundation and understanding of the nuances of the law began in the law classroom. Constitutional Law classes are often taught as a history lesson rather than an evolving form of law that can be changed to reflect what citizens want the United States to look like moving forward. Law students are taught about the past hindrances that African Americans experienced to the right to vote and are

led to believe that that harm was rectified after the civil rights movement, which has led to a class of lawyers and legal scholars that genuinely believe the fight is over, as evidenced by the *Shelby County* decision. Current discriminatory practices intended to discourage black Americans from voting are being ignored. The recently launched LexisNexis® U.S. Voting Laws & Legislation Center, a research and analytics tool, increases transparency of law by providing free, public access to a comprehensive collection of U.S. federal and state election and voting laws, including proposed legislation, codes, voting-related information, and graphics. This repository created by *I, Too, Sing America's* project team will further transparency of the law, adding to voting rights information and advocacy resources.

In order to continue the fight for unrestricted access to the ballot, lawyers need to adapt to the new tactics used to restrict it, such as gerrymandering, poll location restrictions, identification laws, and more. For this to happen, lawyers must be adequately taught about these issues in the law classroom. The repository will house many cases that address current voting rights issues, such as the cases mentioned above regarding Texas, Georgia, and Alabama, and even past cases like *Smith v. Allwright*, which have been swept under the rug of the past. The creation of the repository and inclusion of diverse perspectives is not about simply increasing the number of black lawyers or the number of black cases featured in law school curricula, although there is a need for more black representation in the legal field. The central point is that truly just laws should produce equality regardless of whether there is an increased number of black lawyers or cases featured. However, advancement

to,new%20Pew%20Research%20Center%20projections.

98 *Id.*

99 *Id.*

100 *Id.*

101 See *An Assessment of Minority Voting Rights Access in the United States*, *supra* note 79.

102 Jess Krochtengel, *Justices Say Ala. Congressional Map Violates Voting Rights*, LAW360 (2023), https://www.law360.com/publicpolicy/articles/1574808?nl_pk=dd6e15de-8bc9-44ad-8841e514f1dd3def&utm_source=newsletter&utm_medium=email&utm_campaign=publicpolicy&utm_content=1574808&nlsidx=0&nlaidx=0?copied=1.

towards equality does not happen because the system that has been built to educate lawyers is founded on systematic racism.

The *I, Too, Sing* project hopes that by having these cases readily available in the repository, law professors will use them to reconstruct the law school curricula to not only teach the law, but to teach law students the different perspectives of how the law governs and impacts all American citizens, not just the majority. These lawyers will then enter American society with the knowledge and tools to fight systemic racism in the legal system and create laws that provide equality for all citizens.

“We have two tendencies in American history regarding voting rights,” David Schultz, a political science professor at Hamline University and the University of Minnesota School of Law says.¹⁰³ “One has been the gradual expansion toward universal franchise over time, but at the same time, there has been a counter push to disenfranchise,” Schultz adds.¹⁰⁴ American society is past the stage of stopping racism once it has already been enacted. To fight systematic racism, our society needs to remedy the unjust laws that currently oppress minority groups and begin to consider how enacting laws that benefit the majority will unfairly impact the minority.

Part III

The repository will be created by filling it with cases, statutes, newspapers, and legal materials that uncover untold United States history. With this being the goal, many of the materials sought are hard to locate as they have yet to be widely publicized or utilized in current educational curricula. To help alleviate this anticipated problem, we have planned

to create a keyword search filter that will guide us in using the most effective terminology to ensure we get the best results when using different search engines. Another initial roadblock we expect to encounter is securing a practical location for the repository on the LexisNexis® platform.

With the attempt to implement anything new, there will always be a struggle to incentivize people to adapt their current practices to the new standard. This struggle will be the same in incentivizing legal faculty and scholars to utilize the repository in their curricula or legal research. However, to mitigate this issue, we have created a survey to send out to different individuals in the legal community to gather feedback on what they would like to see done in the construction of the repository and what resources they will need to implement the repository into their current curriculum effectively. Many individuals have proposed that the repository would be more effective if available to the general public. However, because it is a relatively new project, targeting the repository toward a small focus group, such as the legal community, would be more effective in gauging its success. The legal community is also the primary group that frames the laws of the American justice system that we aim to shed light on.

Three significant adaptations have been made to our original design. First, we originally planned to cover all minority groups within the first round of research for the repository. However, due to time constraints and the need to ensure adequate data collection for all minority groups, we have decided to initially narrow the covered legal materials to those aimed at the African American experience. Future Fellows will work to add other minority groups (e.g., Hispanic, Asian, Native Americans) to the repository during each cohort. Second, we

¹⁰³ See Lesley Kennedy, *Voting Rights Milestones in America: A Timeline* (2021), <https://www.history.com/news/voting-rights-timeline>.

¹⁰⁴ *Id.*

will initially only market the repository to the legal faculty rather than the entire legal community. This decision was made because the legal faculty play a crucial role in expanding the knowledge and utilization of African American case law in the legal community, as they are the first to make contact with aspiring lawyers. Third, the repository was only to be available on the Lexis+® service, but we now eventually hope to make the repository accessible to the public for wider use. We aspire for the repository to be made available to the public. If the repository is made public, it will be more impactful in increasing the United States' rule of law score and in eradicating systemic racism, as the legal sector is not the only field that possesses untold stories of minority groups.

A prototype of the repository has already been created, and researchers and Fellows are currently working to locate at least 150 cases per topic to be filed in the repository by the end of this cohort. In the coming weeks, a survey will be sent out to legal faculty to identify the possible pros and cons of the repository and what would incentivize them to use it. Current Fellows will also reach out to prominent individuals within the legal community to conduct interviews to gather their opinions about the repository. Lastly, the team is creating an effective and sustainable research plan for future Fellows and

team members to follow so that the next round of Fellows will have a basis to begin their research.

Conclusion

The clear goal of the *I, Too, Sing America: Uncovering Untold U.S. History Through the Law* project group during this current cohort session is to advance the representation of African Americans in the legal world. This goal will be achieved by creating a racially diverse repository on the Lexis+® platform. We acknowledge the challenge of persuading faculty and legal professionals to recognize the present problem and be a part of the solution. We hope to bridge present biased societal gaps by becoming aware of our past and how we got here together.

If every citizen in America is “created equal,”¹⁰⁵ they deserve to be governed under laws that adequately and unequivocally protect their interest. However, the law classroom and many other aspects of society are mirrored by the wants and needs of the white majority. This is the reality, and as we begin to acknowledge it, we can develop ways to improve our legal system. Creating a repository of racially diverse case law can provide lawyers with the access needed to change the laws that aid systematic racism.

¹⁰⁵ The Declaration of Independence para. 1 (1776).

Fellows



Tatiyana Brown-Harper

Tatiyana Brown-Harper is a third-year law student at the Southern University Law Center. Tatiyana plans to pursue a career in the area of entertainment law. Throughout law school, she has furthered her interests by actively serving as a member of the Sports and Entertainment Legal Association and the Newsletter for Entertainment and Sports Law. Additionally, Tatiyana is a current member of the 2023 HBCU in LA Cohort.



Skylar Dean

Skylar Dean is a third-year law student at Southern University Law Center. She currently serves as Vice Chair on the Southern University Law Center Moot Court Board. Additionally, she works as a legal intern for the Greater Baton Rouge Teen Court Program coordinated by the Baton Rouge Bar Association. In her spare time she works as a youth leader for the Belfair Baptist Church Teen Ministry. She lives her life by the motto “Power in your voice, and Service in your heart”. As such, she plans to pursue a career in public interest law upon graduation. She is driven by her desire to aid in the eradication of systematic racism with the hopes of creating a justice system that provides equal access to justice for all.



Zaria Graham

Zaria Graham is a third-year law student at North Carolina Central University School of Law. She plans to pursue a career in criminal prosecution upon graduation. Her experience at the New York State Office of the Attorney General Organized Crime Task Force and United States Attorney’s Office for the Western District of North Carolina strengthened her commitment to public service and advocating for victims of violent crimes on both the state and federal level.

Mentors

Rhea Ramsey

Regional Manager – Large Markets: Large Law & Law Schools



One of the marvelous virtues of LexisNexis is that we can deliver high quality work while still being able to give back to our communities and support them through passion projects. Key towering passions for me are mentoring, equal justice advocacy, and the rule of law. As this is my third year as a mentor in the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship, it is inspiring to be a part of each Fellow’s journey to make impactful changes to race and equity issues. Collaborating with the *I, Too, Sing America: Uncovering Untold U.S. History Through the Law* project, rightly is a labor of love married with the love of the law. The Fellows, Skylar Dean, Tatiyana Brown-Harper, and Zaria Graham dive into systematic racism not only within the legal system but also within legal education at its root, the curriculum itself. The current legal curriculum in our law schools consistently

lacks diversity that highlights minorities and moreover, African Americans as “positive” and “impactful” contributors to the development of our legal system and legal practices. The Fellows devised a robust vision to proactively remedy the gap of diversity in legal education by exposing and developing resources for legal educators, scholars, and researchers to use in their curriculums. Through the Fellowship’s mentoring program, I observed each Fellow develop a research strategy in each of their focus areas to surface cases, statutes, law review articles and legal resources that showcase the contributions of African American history, achievements, and culture to the law. They have also successfully networked to cultivate an advisory team of developers and educators to develop a much needed “repository” within Lexis+® to house these resources. In addition, the Fellows displayed their commitment to being future leaders in our legal community, through their arduous work, organization and most importantly, collaboration. This was another wonderful year, to work with and motivate future leaders of our community. Their project is the beginnings of a longer and bigger vision; and they are fittingly embodying Dr. Martin Luther King Jr’s quote of moving forward: “If you can’t fly then run, if you can’t run then walk, if you can’t walk then crawl, but whatever you do you have to keep moving forward.”

Thank you for the opportunity to be part of your vision; and remember to keep moving forward!

Rhea Ramsey, Esq., based in Chicago, Illinois, manages a team of practice area consultants who support the Law Schools and Am Law 200 firms within the Midwest legal market. She is a graduate of Wellesley College and has a J.D. from University of Wisconsin Law School and a LL.M. in Health Law from Loyola University-Chicago, School of Law. Prior to joining Lexis, she practiced health care law at Gardner, Carton & Douglas and was a sales and marketing associate at Astrogamma, Inc. She has been with LexisNexis for 23 years.

Liz Christman

Senior Director of Product Management, LexisNexis® Legal & Professional



As a mentor for the *I, Too, Sing America* project, I was fortunate to work with the project Fellows, Tatiyana Brown-Harper, Zaria Graham, and Skylar Dean, supporting their work in building a set of diverse cases that would be used to augment and to enrich law school curricula. This project is building on the work begun by the 2021-2022 cohort, and it's exciting to see the new aspects brought to life by this group of Fellows. I was very impressed from my first meeting with Zaria, Tatiyana, and Skylar with their passion for the project, as well as their legal analysis and research skills that would help take this project over the finish line.

This project has a broad, bold vision — to support a more diverse legal education by providing a new caselaw resource law professors can use to identify more diverse cases to use in classes or publications to illustrate important legal principles. The initial offering will include cases from three key practice areas, specifically Intellectual Property, Real Property, and Voting Rights, with plans to expand the collection over time. Starting on a smaller scale will enable the group to test and refine their case selection criteria with the limited offering, so they can adjust and improve the case selection process before ramping up to include more practice areas. I'm confident that this team will not only provide an end product that will benefit law professors and students, but that they are setting up a framework to expand the collection over the years to come.

Being able to contribute to this project this year has been an amazing experience, and it inspires me in my work at LexisNexis® to manage our US caselaw portfolio and related online enhancements. We are uniquely situated to provide deeper insights into caselaw documents, with our unparalleled coverage of US case opinions (including trial decisions), as well as advancements in AI capabilities, and knowledge graph technologies, leading to our deep portfolio of powerful data analytics tools supporting litigation strategy, drafting, and more. It's exciting to leverage these same assets to support this project, as well as other LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship projects, providing new insights based on our legal data.

Elizabeth Christman is the product manager for the Case Law portfolio and Brief Analysis on Lexis+®. She has a long tenure in the legal technology industry, holding a variety of roles in editorial, content operations, and product management. For the past six years she has focused on improving the case law research experience on Lexis® and developing document-based research tools to support users in brief drafting.

Based in Raleigh, NC, she works directly with editorial, engineering, and UX teams at LexisNexis® to develop new features and enhancements. Originally from California, Liz earned her BA in Journalism from Cal Poly Humboldt, and her JD from California Western School of Law, and is licensed to practice in California.

Natasha Newberry

Director & Senior Corporate Counsel, LexisNexis®



As a black female attorney, I am painfully aware of how deeply embedded systemic racism is in our everyday lives. Despite the progress made in the efforts to combat it, systemic racism continues to plague our society. LexisNexis® has shown its commitment to eliminating systemic racism in a variety of ways, including developing and continuing the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship program.

In the previous cohort, I had the opportunity to mentor Fellow alum, Alexis McNeal who was determined to find ways of uncovering the untold stories of black people through caselaw in an effort to provide a more robust legal and historical education to law students. There are trends throughout history that have had a significant effect on black communities, but we often have no basis or foundation for the root of these trends. Alexis reminded me that to truly understand where we are going, we must understand where we have been. She and I worked closely together to delve into the importance of expanding legal education to explore caselaw that emphasizes racial diversity amongst the parties.

This year's cohort Fellows, Skylar Dean, Tatiyana Brown-Harper, and Zaria Graham are passionate, enthusiastic individuals who saw a path forward in bringing Alexis's vision to life. The Fellows are creating a repository which will encompass racially diverse cases with an initial focus on highlighting the advancements and achievements of black people in areas such as Real Estate, Intellectual Property Law and Civil Liberties. The Fellows have shown a true determination to get the repository at the fingertips of law professors and faculty and ultimately impact the lives of law students who will now be able to enrich their legal education, uncover untold stories and, in turn, be better equipped as legal professionals.

Natasha Newberry is Director & Senior Corporate Counsel for LexisNexis® and is responsible for negotiating complex customer and vendor contracts and collaborating with the various market segments to address current legal needs and mitigate potential legal issues. Natasha earned her Juris Doctor from Northern Kentucky University-Chase College of Law, and her Bachelor of Arts degree from Bowling Green State University. She is a results-driven attorney passionate about contributing to the success of minorities within the legal profession.



Pathways to Practice: A Pipeline to Practice for Law Students at Historically Black Colleges and Universities

Qwantaria Russell, Morigan Tuggle, and Christian Wolford

Introduction

In recent years, many, if not most, legal professionals have acknowledged the need for more diversification in the profession. Yet still, throughout the profession, law graduates, especially those who attended Historically Black Colleges and Universities (HBCUs), face many challenges that do not affect their counterparts who have attended other institutions. Given the fact that a large percentage of black attorneys are graduates of the HBCUs, the disparity in the opportunities that have been available to graduates of HBCUs and graduates of other law schools has seriously impacted the diversification of the legal profession, particularly in the more prestigious and lucrative growth areas. In addition, while affirmative action has been a force for moving forward with diversity efforts, the recent setback for affirmative action in the admissions process has created a new challenge for maintaining the limited progress that has been made and increasing opportunities in the legal profession for black law graduates.

This project's mission is to increase the diversity of students in prestigious and lucrative fields of law by providing HBCU law school students with additional professional development, support and exposure to ensure their success.

Statistics indicate that 13.4% of the U.S. population is African American.¹ Despite the percentage of the population that is African American, the American Bar Association National Lawyer's Population Survey indicates that, of the approximately 1.3 million attorneys in the United States, only 4.7% of the attorneys are African American.² Thus, although there have been significant advancements in many areas of society, the data indicate that the number of African American attorneys has remained virtually stagnant for over a decade.³ Within the ranks of African American attorneys, 80% of all African American judges and 50% of attorneys received their Juris Doctor degree from HBCU law schools.⁴ Thus, not only have HBCUs been responsible for educating many of the African American attorneys, but those law schools have graduated some of the nation's most influential lawyers and judges.⁵

As a result of decades of inequities, black students are still at a disadvantage as compared with other students. When seeking employment in the legal profession, black law students with average grades are still less likely to be hired than white students with similarly average grades.⁶ An example of this disparate treatment can be found in the on-campus interviewing (OCI) process. During that process, prestigious law firms consider only those black students whose grade point average (GPA) is over 3.5 or those students who are in the top 5%–

10% of the class. HBCUs make up almost the largest amount of enrollment of black law students.⁷ Thus, when looking at the number of students hired as a result of the OCI process, the data indicates that, rather than analyzing the students' ability to perform well at these law firms, the firms still grade HBCU law students on a more difficult scale, using more challenging criteria than those used for students from other law schools.⁸ The effect of this disparity is profound, for both the graduates and the institutions of higher education from which they graduate. The result is that many law school graduates from HBCU law schools enter the workforce with lower paying positions, thus widening the gap in compensation levels. These law schools are also impacted when their alumni have less income to donate to their alma mater, thus reducing their available resources for future lawyers.

This paper asserts that the absence of diversity in various legal fields disproportionately affects the recruitment and retention of African Americans in law school and as future practitioners.⁹ Systemic recruitment mechanisms utilized by the legal field exclude African Americans, who do not have the same opportunities as their counterparts.¹⁰

Part I of this paper explores the historic and systemic problems that have been inherent in the diversification of the legal field, particularly as they

1 ABA survey finds 1.3M lawyers in the U.S., AM. BAR ASS'N, NEWS (June 20, 2022) <https://www.americanbar.org/news/abanews/aba-news-archives/2022/06/aba-lawyers-survey/>.

2 Demographics, AM. BAR ASS'N, <https://www.abalegalprofile.com/demographics.php#:~:text=Meanwhile%2C%20the%20number%20of%20Black,ethnic%20group%20among%20U.S.%20lawyers> (last visited Aug. 23, 2023).

3 *Id.*

4 *Id.*

5 John Pierre, *The Value of HBCU Law Schools*, THE NATIONAL JURIST (Apr. 19, 2022) <https://nationaljurist.com/national-jurist/insight/the-value-of-hbcu-law-schools/>.

6 David B. Wilkins and G. Mitu Gulati, *Why Are There So Few Black Lawyers in Corporate Law Firms?*, 84 CALIF. L. REV. 493 (May 1996).

7 *Law School Enrollment by Race & Ethnicity (2022)*, ENJURIS, <https://www.enjuris.com/students/law-school-race-2022/> (last visited August 15, 2023).

8 Karen Sloan, *ABA Says Law Firms Should Look Beyond Grades, Class Rank to Boost Associate Diversity*, REUTERS (Aug. 7, 2023) <https://www.reuters.com/legal/legalindustry/aba-says-law-firms-should-look-beyond-grades-class-rank-boost-associate-2023-08-07/>.

9 David B. Wilkins and G. Mitu Gulati, *Why Are There So Few Black Lawyers in Corporate Law Firms?*, 84 CALIF. L. REV. 493 (May 1996).

10 *Id.*

have impeded minority representation. Included in this part is case law, as well as other significant developments that have impacted and contributed to the lack of diversity. Part II of this paper will explore those efforts that have contributed to attempting to create a more diverse environment in legal fields such as big law, corporate, and in-house counsel work, as well as judicial clerkships. This part will also explore how those efforts encourage more minority representation. Part III of this paper will focus on proposed solutions to promote equal opportunities and combat systemic barriers to the legal challenges of diversity, equity, and inclusion initiatives. Further, Part IV will explain why the additional challenges faced by HBCU law students and lawyers can contribute to the need for additional efforts to encourage diversity in the legal community. Finally, this paper will introduce the creation of a pipeline initiative to increase diversity in these avenues of the legal profession. The pipeline will provide resources and support HBCU law students, including mentorship, networking opportunities, and professional development training.

Part I – Historic and Systemic Barriers to Minority Representation in the Legal Field

A. Underrepresentation of African Americans in Prestigious Legal Fields

The legal profession is one of the least diverse of all professions.¹¹ In 2021, black or African Amer-

ican attorneys comprised 3.63% of attorneys at law firms.¹² Despite efforts aimed at diversification, the percentage of black associates still lags behind other ethnic and racial groups, including Asians and Latinx associates.¹³ Perhaps one of the most significant areas of disproportionate representation is in the larger law firms, *i.e.*, “Big Law.” There is a perception that those in Big Law represent the *crème de la crème* of private practice, and being employed by one of these prestigious firms signifies belonging to the “legal elite.”¹⁴ These attorneys serve elite clients and hold considerable influence over the profession’s development.¹⁵ Although many black students, particularly those who have attended HBCUs, have the same or similar academic qualifications and involvement in law-related activities as those students who have attended more prestigious, or “elite,” law schools, the black law graduates, especially those from HBCUs, are often overlooked and significantly underrepresented in Big Law.¹⁶

Systemic barriers also hinder black law students from securing prestigious judicial clerkships.¹⁷ There are several factors that impact the disadvantage that many African American law graduates experience in obtaining clerkship positions. Some of these factors include lack of resources in identifying opportunities, networking opportunities, and diversity among judges in the legal system.¹⁸ Because judges possess wide discretion in choosing their clerks in the selection process, the lack of diversity on the judicial bench seriously impacts,

11 Justin J. Hill, *It's Not Me; It's You: Big Law Has Been Failing its Black Associates*, 21 U. MD. L.J. RACE RELIG. GENDER & CLASS 292 (2021).

12 See 2021 Report on Diversity in U.S. Law Firms, NAT'L ASS'N FOR L. PLACEMENT (Jan. 2022) <https://www.nalp.org/uploads/2021NALPReportonDiversity.pdf>.

13 *Id.*

14 Alex M. Johnson, Jr., *Symposium: Representing Race: The Underrepresentation of Minorities in the Legal Profession: A Critical Race Theorist's Perspective*, 95 MICH. L. REV. 1005, 1008 (1997).

15 *Id.*

16 *Id.*

17 Kristina Hall, *Breaking Down the Barriers: A Pipeline to the Bench*, in *Increasing Equity in the Legal System: A Collection of Legal Advocacy Papers by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship 2022 Cohort* 64, 68 (Matthew Bender 2022).

18 *Id.*

and thus perpetuates, the underrepresentation of black law graduates in clerkship positions.¹⁹ An additional factor can be found in the unconscious bias that each of us holds as a result of our own backgrounds. This unconscious bias may influence the selection process for clerkships based on the tendency of many judges to gravitate toward individuals with similar backgrounds and experiences, giving rise to a further impediment to diversity.²⁰

B. Discriminatory Laws That Have Contributed to the Lack of Diversity

Throughout the history of the United States, there have been racially discriminatory practices and laws against minorities that have led to systemic injustices. Some of those injustices have ranged from pervasive policies and practices such as slavery and educational and societal segregation to less obvious injustices, such as those found in the voting process and the criminal justice system.²¹ In 1896, even the Supreme Court advanced discriminatory practices when it upheld racial segregation in *Plessy v. Ferguson*.²² In that case, the Supreme Court stated that separate “but equal” treatment did not “imply the inferiority of African Americans,”²³ and thus the separate and disparate treatment that existed was not unlawful discrimination and did not violate the Fourteenth Amendment.²⁴ An interesting perspective, however, can be found in the analysis put forth by Justice Harlan in his dissent. As part of that dissent, Justice Harlan noted that “the Constitution

. . . in its present form, forbids, so far as civil and political rights are concerned, discrimination by the General Government or the States against any citizen because of his race.”²⁵ Therefore, the Justice opined, all citizens should have equal access to civil rights and not be subjected to discrimination based on their race.²⁶

Laws that were particularly egregious and promoted primarily in the southern states, known as the “Jim Crow” laws, enforced racial segregation and discrimination, and so placed African American individuals and people of color at a disadvantage — educationally, economically, politically and socially. For many years, the “Jim Crow” laws hindered educational and professional advancement, the effect of which has remained for generations, even after the elimination of those laws.

One case, decided in 1954, did help to advance equal opportunities slightly, and became a landmark case in the civil rights movement. This case, *Brown v. Board of Education*,²⁷ marked a crucial turning point in the civil rights movement. The plaintiffs in *Brown* were African American children who sued the Topeka Board of Education to prohibit the enforcement of the Kansas statute that permitted cities to maintain separate school facilities for African Americans and white students.²⁸ The U.S. Supreme Court decision in this case overturned *Plessy v. Ferguson*,²⁹ and held that “separate but equal” violated the Equal Protection Clause un-

¹⁹ *Id.*

²⁰ Christopher D. Kromphardt, *Fielding an Excellent Team: Law Clerk Selection and Chambers Structure at the U.S. Supreme Court*, 98 MARQ. L. REV. 289 (2014).

²¹ For a comprehensive discussion of systemic racism, see, e.g., Renita Seabrook and Heather Wyatt-Nichol, *The Ugly Side of America: Institutional Oppression and Race*, 23(1) JOURNAL OF PUBLIC MANAGEMENT AND SOCIAL POLICY, Article 3, (2016) available at: <https://digitalscholarship.tsu.edu/jpmmsp/vol23/iss1/3>.

²² *Plessy v. Ferguson*, 163 U.S. 537 (1896).

²³ *Id.* at 544, 552.

²⁴ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

²⁵ *Id.* at 556 (quoting *Gibson v. Mississippi*, 162 U.S. 565 (1896)).

²⁶ *Id.* at 556.

²⁷ *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

²⁸ *Id.*

²⁹ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

der the Fourteenth Amendment;³⁰ the Court found that separate but equal educational facilities were “inherently unequal.”³¹ This case was the first to establish the advancement of civil rights for people of color by desegregating schools and providing more educational opportunities. Despite the advancement made in *Brown v. Board of Education*, there are still many obstacles that people of color face when trying to reach full educational equality due to the disparities faced in minority communities. In part, *Brown v. Board of Education* laid the foundation for affirmative action, intended as a partial solution to the lack of diversity in the educational and employment processes. That case is a significant and pertinent precedent to the recent decision of the U.S. Supreme Court in *Students for Fair Admissions v. Harvard*,³² which will be discussed below.

C. Challenges Created by the U.S. Supreme Court decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*³³

Affirmative action, involving specific steps to reduce or to eliminate the effects of systemic racism and discrimination, had its roots in the Civil Rights movement of the 1950s and 1960s. In 1961, President John F. Kennedy specifically used the term in an Executive Order to encourage government contractors to take positive steps to diversify their workforce.³⁴ Over the years, affirmative action has met with some societal and legal challenges. The 1978 U.S. Supreme Court decision in *Regents of the Uni-*

*versity of California v. Bakke*³⁵ directly addressed the validity of affirmative action; while the Court invalidated racial quotas as a consideration, it did uphold the use of affirmative action in the educational admissions process. In *Grutter v. Bollinger*,³⁶ decided in 2003, the U.S. Supreme Court, in addressing the issue of affirmative action, upheld the consideration of race as “one factor among many, in an effort to assemble a student body that is diverse in ways broader than race.”³⁷ Most recently, however, affirmative action suffered a setback. The U.S. Supreme Court decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*³⁸ has created uncertainty about the future of diversity in the admissions process in higher education, a development that has created an additional challenge to diversity in the legal profession. The U.S. Supreme Court’s 2023 decision in *Students for Fair Admissions*,³⁹ which rejected the affirmative action reasoning of *Grutter v. Bollinger*,⁴⁰ held that the process used by the institutions of higher education, specifically Harvard University and the University of North Carolina, which included race as a determinative factor, violated the Equal Protection clause of the U.S. Constitution. Concerns have been expressed as to the future of diversity in both education and employment.⁴¹ The Association of American Law Schools (AALS), in its Conference on Affirmative Action, held in July 2023, noted that, despite the uncertainty surrounding the factors for consideration in the admissions process with the curtailment and elimination of affirmative

30 U.S. Constitution, Amendment XIV, Section 1.

31 *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

32 *Students For Fair Admissions, Inc. v. President and Fellows of Harvard College*, 143 S. Ct. 2141 (June 29, 2023).

33 *Id.*

34 Executive Order No. 10925, 26 Fed. Reg. 1,977 (Mar. 8, 1961).

35 *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978).

36 *Grutter v. Bollinger*, 539 U.S. 306 (2003).

37 *Id.* at 340.

38 *Students For Fair Admissions, Inc. v. President and Fellows of Harvard College*, 143 S. Ct. 2141 (June 29, 2023).

39 *Id.*

40 *Grutter v. Bollinger*, 539 U.S. 306, 340 (2003).

41 See, e.g., Robert Holtzman, Eliza Kaiser, Kevin Leblang, Rachael A. Schuman, *Supreme Court’s Affirmative Action Decision: Uncertainty Looms Over the Future of DEI in the Workplace*, KRAMER LEVIN NAFTALIS & FRANKEL LLP (Aug. 22, 2023), <https://www.jdsupra.com/legalnews/supreme-court-s-affirmative-action-4257192/>.

action, the issue of diversity remains of “enormous importance” to the process.⁴²

Before the Supreme Court decision in *Students for Fair Admissions*, affirmative action significantly promoted diversity in the legal profession, starting with law schools. Law school admissions policies determine the school an applicant will attend and whether they will even have an opportunity to become a lawyer.⁴³ Historically, only 7.9% of all law school applicants are black.⁴⁴ Additionally, of those 7.9%, many do not possess the high academic credentials required by the most respected educational institutions, a significant factor during the law school application process.⁴⁵ LSAT scores also highlight the significant differences between black and white applicants.⁴⁶ Due to many of these factors, without affirmative action, admission to law school for black students would drop drastically.⁴⁷

Living in a post-*Students for Fair Admissions* world, it is unclear what will happen next with black law students and their law school journeys, which will have an even more profound effect on diversity in legal fields. Legal educators, bar associations,

“Lexis has a lot of resources that we can utilize, and a lot of connections ... we're trying to utilize those connections and utilize those resources to benefit HBCUs. We're trying to create pathways and pipelines to be able to give more opportunities in underrepresented areas, and to expose some areas that we might not know are unrepresented.”

**— Christian Wolford, Fellow
Pathways to Practice**

and legal practice fields must consciously invest in pre-law pipelines to combat this ground-shattering decision.⁴⁸ Additionally, law schools, in general, will need to find other avenues to evaluate applicants and dedicate time and effort to recruiting and enrolling minority students.⁴⁹ In 2022, nearly 37% of first-year law students were racial or ethnic minorities, an increase from 28% in 2012.⁵⁰

There have been previous efforts to curtail affirmative action, and so some of the impact can be observed in those situations. For example, California and Michigan law schools are no strangers to

⁴² See *Conference on Affirmative Action*, THE ASSOCIATION OF AMERICAN LAW SCHOOLS (July 2023), <https://www.aals.org/events/affirmative-action>, and related materials for a discussion of the future of the process and suggestions for maintaining diversity in the applications and admissions process.

⁴³ Jesse Rothstein and Albert H. Yoon, *Affirmative Action in Law School Admissions: What Do Racial Preferences Do?*, 75 *UNI. OF CHI. L. REV.* 649 (Spring 2008).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Karen Sloan, *U.S. Supreme Court's affirmative action ruling a “headwind” for lawyer diversity, experts say*, *REUTERS* (June 29, 2023), <https://www.reuters.com/legal/government/us-supreme-courts-affirmative-action-ruling-headwind-lawyer-diversity-experts-2023-06-29/#:~:text=Affirmative%20action%20has%20been%20credited,to%20American%20Bar%20Association%20data>.

⁴⁹ *Id.*

⁵⁰ *Id.*

the lack of affirmative action.⁵¹ When California banned affirmative action, enrollment of black, Hispanic, and Native American first-year law students fell from 19% to less than 6% at UC Berkeley.⁵² At Michigan, minority students in the first-year classes declined from 17% to 9% when the state prohibited considering race.⁵³ These schools now look at other factors, such as whether applicants are first-generation students, the high schools that the applicants attended, and economic status, to compensate for the lack of race consideration, and combat adverse impact on diversity.⁵⁴ Those law schools that were precluded from considering race have also considered personal application essays.⁵⁵ By implementing alternative methods, Michigan has brought its minority applicant rate up to more than 46%.⁵⁶ Implementation of alternative criteria can help to increase diversity, even when affirmative action is not present. Law schools in the rest of the United States may need to follow the lead of California and Michigan and adopt these alternative practices.

Part II – Addressing the Need for Diversity in the Legal Profession

As mentioned previously, the legal profession is still one of the least diverse professions in the United States.⁵⁷ Still, many years after the recognition of a lack of diversity, only 5% of U.S. attorneys are black, and the percentage of all minorities has

only grown to 6%.⁵⁸ As noted, various factors affect this number, including students who have been less privileged not being able to afford law school, inner-city schools not having enough resources, and minority lawyers leaving the profession after graduation due to a lack of opportunity or toxic work environments.⁵⁹ Now that there is an attack on diversity measures following the overturn of affirmative action initiatives, the issue's importance is even more heightened.⁶⁰ There are, however, a few avenues that address the systemic challenges, and can be used to create and to enhance opportunities for creating a more diverse environment in the legal profession.

A. Development of Historically Black Colleges and Universities (HBCUs)

One of the most significant developments in creating opportunities for black and African American students to enter the legal profession is the formation and growth of the HBCUs. Since the 1800s, African Americans have confronted systemic challenges in accessing the legal field due to the deeply entrenched racial prejudices within the United States. In response to the discriminatory laws that hindered black individuals from pursuing education and receiving proper training, HBCUs were established. These institutions have played a vital role in providing educational opportunities to African Americans and have particularly excelled in producing numerous black attorneys who have become

51 Karen Sloan, *Post-affirmative action, these law schools may provide paths for others*, REUTERS (June 29, 2023), <https://www.reuters.com/legal/post-affirmative-action-these-law-schools-may-provide-path-others-2023-06-29/>.

52 *Id.*

53 *Id.*

54 *Id.*

55 *Id.*

56 *Id.*

57 Elaine Spector, *Why Is There a Chronic Lack of Diversity in the Legal Profession?*, BRINK NEWS (Dec. 15, 2022) <https://www.brinknews.com/why-is-there-a-chronic-lack-of-diversity-in-the-legal-profession/#:~:text=In%20the%20U.S.%2C%20there%20are,firms%20has%20grown%20only%206%25.>

58 *Id.*

59 See, e.g., Kevin Woodson, *Entrenched Racial Hierarchy: Educational Inequality from the Cradle to the LSAT*, 47 MITCHELL HAMLINE LAW REVIEW 224 (2021).

60 *Conference on Affirmative Action*, THE ASSOCIATION OF AMERICAN LAW SCHOOLS (July 2023), <https://www.aals.org/events/affirmative-action.>

trailblazers in their field.⁶¹ Currently, six HBCU law schools are leading the charge in fostering diversity in the legal area: North Carolina Central University (NCCU) School of Law, Thurgood Marshall School of Law, Howard University School of Law, Southern University Law Center (SULC), Florida A&M University (FAMU) College of Law, and University of the District of Columbia School of Law.

These six HBCU law schools are instrumental in reshaping the landscape of the legal profession, promoting equality, and empowering the next generation of African American lawyers to break barriers and make lasting contributions to the field of law.⁶² Among many achievements of HBCU law schools, the legacy of the first African American Supreme Court Justice, Thurgood Marshall, continues to inspire countless aspiring lawyers. That legacy showcases the potential for African Americans to excel in the legal profession.⁶³

Although HBCUs have played a significant role in advancing diversity in the legal system, the effects of racially biased laws and systemic challenges have resulted in significantly fewer African American lawyers than other racial groups in the legal profession. Despite efforts to address this disparity, the number of black attorneys has remained stagnant over the past few years, according to the ABA.⁶⁴ Thus, African Americans remain underrepresented, particularly in the more prestigious areas of the legal profession, including corporate law firms, in-house counsel, and judicial clerkships.⁶⁵

B. Sponsored Programs to Create Diversity

Apart from the HBCUs, there is a need for more diverse individuals who are pursuing a legal education. Separate and apart from, and in addition to, schools addressing the issue of diversity, various employers and firms have made some progress in increasing the pipeline and implementing programs such as internships and mentoring. These programs can be highly beneficial in reversing the lingering effects of the inequities and the lack of opportunities that black law students face, especially HBCU law students.

Some programs already exist that are designed to aid in creating a more diverse legal field. Sponsors for Educational Opportunity (“SEO”) is a mentorship program led by industry professionals that began in 1984 to help underserved students in their goals to gain admission into competitive universities and the corporate law sector.⁶⁶ SEO Law has several programs that support underrepresented students to gain experience in the legal field and advocate for their future education.⁶⁷ The SEO Law Fellowship is a unique program that aids incoming first-year law students with the opportunity to work at a top law firm the summer before law school.⁶⁸ The SEO Catalyst program is virtual and assists underrepresented applicants in navigating the law school admissions process.⁶⁹ Further, they dedicate time and resources to scholarships, webinars, and career coaching for diverse law students.⁷⁰

⁶¹ John Pierre, *The Value of HBCU Law Schools*, THE NATIONAL JURIST (Apr. 19, 2022), <https://nationaljurist.com/national-jurist/insight/the-value-of-hbcu-law-schools/>.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ See *2021 Report on Diversity in U.S. Law Firms*, NAT’L ASS’N FOR L. PLACEMENT (Jan. 2022) <https://www.nalp.org/uploads/2021NALPReportonDiversity.pdf>.

⁶⁶ *About Us*, SEO LAW, <https://www.seo-usa.org/law/about-us/> (last visited Aug. 15, 2023).

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

The Leadership Council on Legal Diversity (“LCLD”) is an organization composed of 400 corporate members and law firms that pledge their commitment to creating a truly diverse legal profession.⁷¹ Through this program, they show dedication to increasing the legal pipeline by encouraging these members to develop opportunities for first-year law students during the summer.⁷² The LCLD also commits to holding a virtual summit, mock interviews, post-summit sessions, and a LinkedIn group to maintain contact.⁷³ Furthermore, they ensure first-year law students have placements in big law firms and can spend two weeks of their summer in-house with corporate counsel.

Another implementation by the legal sector is the Mansfield Rule, a diversity initiative for law firms, designed to measure their progress in diversification, with the intention of holding firms accountable for their progress and instituting systemic improvements.⁷⁴ The Mansfield Rule requires law firms to affirmatively consider a minimum of 30% diverse candidates for senior roles.⁷⁵ This rule has extended to corporations, as well, to consider the rule when hiring and retaining their outside counsel and legal departments.⁷⁶ The program requires companies and firms to continuously have a year-long certification process in which they must share

lessons through forums, create and publish leadership jobs, and continue to meet routine check-in, data collection, and reporting milestones.⁷⁷ In the Mansfield Rule’s inaugural year in 2017, only 35 law firms participated, although that number has grown to more than 270 firms in 2022 and more than 75 legal departments.⁷⁸ Participation in the program is now an essential and robust indication of whether a firm or company truly values and commits to diversity and inclusion.⁷⁹

Part III – LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship

To address the issues of lack of diversity in the legal field, LexisNexis® African Ancestry Network Employee Resource Group & LexisNexis® Rule of Law Foundation Fellowship Fellows have done the research and recommended a framework for establishing an equal hiring process for black law students consisting of three stages: extensive training, internship placement, and assistance with the application process and mentorship.⁸⁰

71 *Our Mission*, LEADERSHIP COUNCIL ON LEGAL DIVERSITY, <https://www.lclld.com/about/> (last visited August 15, 2023).

72 *1L Scholars*, LEADERSHIP COUNCIL ON LEGAL DIVERSITY, <https://www.lclld.com/programs/1l-scholars/> (last visited August 15, 2023).

73 *Program Components*, LEADERSHIP COUNCIL ON LEGAL DIVERSITY, <https://www.lclld.com/programs/1l-scholars/#how-it-works> (last visited August 15, 2023).

74 John Harrity and Samantha Sullivan, *How to Improve Diversity in the Legal Profession*, AMERICAN BAR ASSOCIATION (July 18, 2022), https://www.americanbar.org/groups/law_practice/publications/law_practice_magazine/2022/july-august/how-to-improve-diversity-in-the-legal-profession/?login.

75 *Id.*

76 *Id.*

77 Julia DiPrete, *What is Mansfield Certification and Why is it so important for Law Firms?*, VAULT (Dec. 9, 2022), <https://vault.com/blogs/vaults-law-blog-legal-careers-and-industry-news/what-is-mansfield-certification-and-why-is-it-so-important-for-law-firms>.

78 *Id.*

79 *Id.*

80 *See*, Kristina Hall, *Breaking Down the Barriers: A Pipeline to the Bench*, in *Increasing Equity in the Legal System: A Collection of Legal Advocacy Papers by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship 2022 Cohort* 64, 68 (Matthew Bender 2022). *See also*, Herbert Brown, *HB6U Law Practice Pipeline*, in *Increasing Equity in the Legal System: A Collection of Legal Advocacy Papers by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship 2021 Cohort* 16 (Matthew Bender 2021).

In previous years, Fellows in the program have recommended intensive training in legal skills, research, writing, and editing using the LexisNexis® Practice-Ready Certification⁸¹ to prepare students for their internship or clerkship.⁸² That practice continues through the program. Supplementing the recommendations of previous years, the current program has made recommendations that include partnering with internships and federal judicial clerkships for internship placement and building up mentorship programs to help build a bridge for successful black law students.⁸³ Finally, industry professionals and educational institutions need to cooperate in assisting interested students with a love for the law, who are inspired to serve in this profession, with the process of applying to law schools and assisting in their development beyond law school, for successful legal careers.⁸⁴

Previous Fellows have adopted a collaborative approach with law firms and clerkships to help place black students in elite firms, corporations, and clerkships and address the systemic challenges. This approach, which has been recommended by previous Fellows, is an essential step toward eliminating barriers and fostering inclusivity and support for African American law students and law graduates.

Part IV – Proposed Solutions to Diversify the Legal Profession

A. Providing Adequate Resources

Over the years, because of the historic inequities, HBCU law schools have received fewer resources than many other educational institutions.⁸⁵ Having adequate resources and support has been a major factor in the quality of education HBCU law students receive and the opportunities they are afforded.⁸⁶ Supporting underrepresented individuals in the legal profession can be furthered by allocating more resources to benefit diverse law students who need assistance.⁸⁷

Since the days of the “Jim Crow” laws, separate but not equal cases demonstrated that individuals of color even if afforded the opportunity to gain an education, were given minimal resources.⁸⁸ LexisNexis® has a unique competitive edge to help fill some gaps for diverse law students who may lack resources to enter areas of law that remain underrepresented.

⁸¹ See *Legal Research Certification for Law Students*, LexisNexis®, <https://www.lexisnexis.com/community/lawschool/b/pre-auth/posts/legal-research-certification> (last visited Aug. 24, 2023).

⁸² Kristina Hall, *Breaking Down the Barriers: A Pipeline to the Bench*, in *Increasing Equity in the Legal System: A Collection of Legal Advocacy Papers by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship 2022 Cohort 64*, 70 (Matthew Bender 2022).

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Robert Furnier, *HBCU Law Schools: An Overlooked Resource in the Diversity Pipeline*, *LAW PRACTICE TODAY*, (Dec. 14, 2015) <https://www.lawpracticetoday.org/article/hbcu-diversity-pipeline/>.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Sweatt v. Painter*, 339 U.S. 629, 70 S. Ct. 848, 850 (1950).

One area in which LexisNexis® Practical Guidance could help is through creating new Resource Kits to help guide students through law school and into the area of law in which they are interested.⁸⁹ These kits, equipped with steps and tactics for individuals to enter different underrepresented areas of law, could enhance opportunities for those individuals to obtain employment in underrepresented areas of the law such as Big Law, judicial clerkships, and in-house counsel legal positions.⁹⁰ Each area of law represented in the kit would have a detailed checklist and enclose suggested general criteria from employers in each field based on what industry hiring practices exhibit.⁹¹ For example, many federal judges look for students who are on law review or have mock trial experience. While participation in a law school organization does not guarantee a law student an internship or a job post-graduation, it provides the information on what employers are looking for, which can be helpful for students if packaged in a way that can be beneficial.

B. Expanding Legal Networking Opportunities

The impact of networking on opportunities in any field, particularly the legal field, cannot be overestimated. In conjunction with providing more resources to law students, to further networking opportunities LexisNexis® could provide a directory of attorneys who have graduated from HBCU law schools and are practicing in different areas of law.

Providing a contact list of lawyers willing to mentor and help the next generation of lawyers is invaluable. This proposed directory of attorneys will serve as a resource for aspiring attorneys and junior associates looking to navigate the legal profession. HBCU schools are known for having a fantastic network base, which can be used to help create opportunities.

C. Legal Training Opportunities

In addition to having adequate resources and connections, providing opportunities for law students to receive practical legal experience is an excellent way for diverse candidates to stand out to employers. Many HBCU law students have claimed not to have the same opportunities because they did not attend a T14 law school.⁹² Many law firms and employers understand they are taking a risk when hiring students straight out of law school because success in law school does not always translate to becoming a great attorney.⁹³ Ron Jordan, founding principal of Carter-White & Shaw stated, “[t]heir various experiences, along with their theoretical background, will determine what type of lawyer they will become. Going to Harvard is not going to guarantee that you’re going to be successful.”⁹⁴ Allowing students to display the necessary skills and intangibles of a great lawyer through completing substantive work eliminates the bias of law school stigmas.⁹⁵

⁸⁹ *Using Resource Kits on Lexis+ Practical Guidance and Practical Guidance*, Document ID HT7529, LEXISNEXIS®, https://supportcenter.lexisnexis.com/app/answers/answer_view/a_id/1102049/-/using-resource-kits-on-lexis+-practical-guidance-and-practical-guidance (last visited August 15, 2023).

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² T14 law schools are the top 14 law schools in the US based upon U.S. News & World Report’s ranking of Best Law Schools. See Robert Morse, Kenneth Hines, Eric Brooks, and Sam Wellington, *Methodology: 2023-2024 Best Law Schools Rankings*, U.S. NEWS & WORLD REPORT, (May 10, 2023) <https://www.usnews.com/education/best-graduate-schools/articles/law-schools-methodology>.

⁹³ Kara Mayer Robinson, *Debunking The Mystique of Top 20 Law Schools*, MINORITY CORPORATE COUNSEL ASSOCIATION (June 2007), <https://mcca.com/mcca-article/debunking-the-mystique-of-top-20-law-schools/>.

⁹⁴ *Id.*

⁹⁵ *Id.*

By partnering with other organizations, LexisNexis® can create a pipeline for students to showcase their litigation or transactional skills outside the classroom. Working with platforms such as PracticePro⁹⁶ and AltaClaro⁹⁷ gives law students the same substantive training that junior associates will receive. For example, Orrick Herrington & Sutcliffe LLP has partnered with AltaClaro to train their summer associates on prompt engineering and technical skills, rather than solely focusing on traditional legal skills.⁹⁸ Partnering with companies that have existing relationships with law firms to help train summer associates and junior associates can provide valuable opportunities for law students and legal employers looking for young talent.⁹⁹

Focusing on practical and intangible skills helps to create another metric for employers to value law students. Many underrepresented areas of law have set criteria that they consider when hiring law students, and this option creates an additional metric. These partnerships will shift employers' perspective in the legal profession to put more weight on practical/transferrable skills rather than solely depending on law school accolades.

D. Fostering Partnerships

As previously mentioned, some organizations have committed to diversifying the legal profession. Partnering with some of these organizations to achieve a common goal can be an effective tool in a resource set. For example, partnering with an organization such as the Minority Corporate Coun-

sel Association (MCCA), which has already established a diversity pipeline program, can be doubly beneficial to help achieve the same goals.¹⁰⁰

Partnering directly with influential and committed law firms, corporations, and courthouses to increase diversity can help set a trend among industry leaders. This will also help develop work with employers to better understand how HBCU law students can be an asset to any corporation, law firm, or courtroom.

Part V – Potential Challenges to Future Diversity Efforts

A. Law School and Employer Participation

According to Forbes, “[i]ncreasing diversity requires a concerted effort by law schools, law firms, and other legal organizations to work together to support Black students — starting at a young age — who would like to become lawyers.”¹⁰¹ Creating opportunities for law schools by giving more resources and fostering relations can be challenging without the support of all HBCU law schools.¹⁰² Gaining law school support will require law school representatives and administration to buy into these initiatives.¹⁰³ Although LexisNexis® has the resources and connections to create these wonderful initiatives, those initiatives are not beneficial if they do not help underrepresented law students at HBCU law schools.¹⁰⁴

⁹⁶ PRACTICEPRO, <https://www.practicepro.cc/> (last visited Aug. 24, 2023).

⁹⁷ ALTACLARO, <https://www.altaclaro.com/> (last visited Aug. 24, 2023).

⁹⁸ Stephanie Wilkins, *Orrick Trains Summer Associates in Prompt Engineering With New Course From AltaClaro*, AMERICAN LAW (Aug. 9, 2023), <https://www.law.com/legaltechnews/2023/08/09/orrick-trains-summer-associates-in-prompt-engineering-with-new-course-from-altaclaro/?slreturn=20230715083324>.

⁹⁹ *Id.*

¹⁰⁰ *MCCA's Story*, MINORITY CORPORATE COUNSEL ASSOCIATION, <https://mcca.com/about/> (last visited Aug. 15, 2023).

¹⁰¹ Marybeth Gasman, *Why We Need More African American Lawyers*, FORBES (Mar. 16, 2023) <https://www.forbes.com/sites/marybethgasman/2023/03/16/why-we-need-more-african-american-lawyers/?sf180632287=1&sh=7b9e027c14cd>.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

In addition, those in the legal profession, especially those in decision-making positions in law firms, corporations, and the judiciary, would have to buy in to the process in order to effectuate change. Getting corporations and law firms to participate can be achieved by raising awareness of the lack of diversity and demonstrating how it brings value to any legal field. By obtaining buy in from the legal professionals, there will be opportunities to gain insight into hiring metrics and more participation from employers in diversity programs/pipelines. It will take concerted efforts on the part of law students, law schools, advocates, and legal professionals to diversify the legal profession.

Long term, the goal is to have diversity and inclusion deeply rooted within the fabric of law firms, corporations, and courthouses culture, rather than it being an agenda item.¹⁰⁵ Moreover, if the legal industry prioritizes diversity and inclusion as a whole, implementing programs and initiatives to help African American students receive more opportunities will be more broadly accepted.¹⁰⁶

B. Overcoming Traditional Hiring Practices

One of the biggest hurdles in creating opportunities for underrepresented law students is getting employers to consider changing the traditions passed down for years.¹⁰⁷ Traditional hiring practices demonstrate that employers consider only

students at particular law schools and who are on law review or the mock trial team.¹⁰⁸ Limiting the candidates who have a chance to receive clerkships or legal positions based on joining a law journal and being top of the class would mean these employers could be missing out on some talented law students.¹⁰⁹

Jean Lee, president and CEO of the MCCA, once stated, “[a]ll of the talented Black lawyers do not reside in the top 5% of law schools,” and “[i]t’s a missed opportunity.”¹¹⁰ Although this has been proven accurate, employers that are recruiting for big law firms, judicial clerkships, and other areas of law still hold tight to the same hiring traditions.¹¹¹

C. Legal Risks

Amid the recent developments impacting affirmative action, many law firm employers have questioned how the changes might impact the landscape for legal recruiting.¹¹² To address the question posed, Craig Leen stated, “I suggest that employers consult counsel regarding their affirmative action and diversity-focused programs to ensure they are following guidance from the Department of Labor and the EEOC.”¹¹³ Creating diversity pipelines and opportunities for diverse candidates following the recent affirmative action decision can raise concerns with hiring practices. Some employers may consider

¹⁰⁵ Sheenika Gandhi, *Driving DEI Change in a Law Firm*, JD SUPRA PERSPECTIVES (June 6, 2023) <https://www.jdsupra.com/legalnews/driving-dei-change-in-a-law-firm-2540569/>.

¹⁰⁶ *Id.*

¹⁰⁷ *Overcoming Lawyers’ Resistance to Change*, REUTERS, <https://legal.thomsonreuters.com/en/insights/articles/overcoming-lawyers-resistance-to-change> (last visited Aug. 15, 2023).

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ Paul Caron, *BigLaw Eschews Recruiting At Lower Ranked HBCU Law Schools Despite Pledge To Hire More Black Associates*, LAW360 (Feb. 28, 2021), https://taxprof.typepad.com/taxprof_blog/2021/02/biglaw-eschews-recruiting-at-lower-ranked-hbcu-law-schools-despite-pledge-to-hire-more-black-associa.html.

¹¹¹ *Id.*

¹¹² *Students For Fair Admissions, Inc. v. President and Fellows of Harvard College*, 143 S. Ct. 2141 (June 29, 2023).

¹¹³ Matt Gonzales, *Supreme Court Dismantles Affirmative Action in College Admissions*, SHRM (June 30, 2023), <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/affirmative-action-supreme-court-cases.aspx>.

the legal impact of participating in programs that help students from HBCU law schools.¹¹⁴

D. Changes to the Proposed Solution

As a result of the changes in the case law, particularly the more recent developments in the Supreme Court's approach, both law schools and legal employers have been forced to consider the effects of affirmative action and the alternatives when focusing on educational opportunities and on hiring practices, particularly those that would ensure a more diverse pool of candidates. While programs that will help to create a more diverse environment could be scrutinized by employers because of the perception and possible legal ramifications, the additional challenge should not deter legal employers from creating a more diverse environment. It should create an opportunity to revisit all hiring practices and ensure everyone is given a fair shot at employment regardless of race, gender, or sex.

E. Raising Awareness

Creating a pipeline for underrepresented law students can be ineffective if legal employers and HBCU law schools are either unaware of the value of the pipeline or if they choose to refrain from active participation. Bringing awareness to the lack of diversity in the legal profession can help foster change in the legal community and increase willingness to participate in diversity programs. For example, Bloomberg Law has created the Bloomberg

Law DEI framework to recognize law firms who have exhibited a commitment to diversity, equity and inclusion and how they can measure their efforts based on the metrics provided.¹¹⁵ There has been an exponential growth in the amount of law firms participating in the program, which has a direct impact on diversifying the legal profession.¹¹⁶ Also, educating law schools and employers on how to comply with local laws can help keep a commitment to having a diverse workforce.

When interviewed and asked for comment on the ways in which the gap in representation can be closed or reduced, Kohl Anderson, a law clerk in the Southern District of Texas, stated, “[t]here is no easy way to bridge the gap for minority law students to enter these underrepresented areas of law. Until change occurs, we should continue to push for equal access to opportunities and ensure that our diverse candidates have the resources to overcome the systematic deficiencies within the legal profession.”¹¹⁷ We aim to continue pushing the pendulum toward equality and equal representation in law practice.¹¹⁸

Conclusion

While the legal profession has remained one of the most prominent industries, there has not been an increase in diversity over the years as opposed to other industries.¹¹⁹ African American lawyers only make up a fraction of the population they repre-

114 Karen Sloane, *U.S. Supreme Court's affirmative action ruling a "headwind" for lawyer diversity, experts say*, REUTERS (June 29, 2023), <https://www.reuters.com/legal/government/us-supreme-courts-affirmative-action-ruling-headwind-lawyer-diversity-experts-2023-06-29/#:~:text=Affirmative%20action%20has%20been%20credited,to%20American%20Bar%20Association%20data>.

115 Joseph Breda, *The 2023 Bloomberg Law DEI Framework*, BLOOMBERG LAW, <https://pro.bloomberglaw.com/diversity-equity-and-inclusion-framework-for-law-firms/> (last visited Aug. 15, 2023).

116 *Id.*

117 Interview with Kohl Anderson, Law Clerk, Southern District of Texas (July 5, 2023).

118 *Id.*

119 John Harrity, *How to Improve Diversity in the Legal Profession*, AMERICAN BAR ASSOCIATION (July 18, 2022), https://www.americanbar.org/groups/law_practice/publications/law_practice_magazine/2022/july-august/how-to-improve-diversity-in-the-legal-profession/.

sent.¹²⁰ Due to slavery and segregation, historically, African Americans have faced inequities resulting in a lack of the same opportunities.¹²¹ Further, as a solution, many HBCUs were created to educate African American students because they were not allowed in white-only institutions.¹²² Sadly, even today, 50 years post-segregation, a significant gap still exists between the resources and opportunities that African American students receive in the legal profession.¹²³

Despite the systemic recruitment mechanisms that have consistently excluded African Americans from receiving the same opportunities as their counterparts, there have been some initiatives to help combat these practices. Regardless of the advances, however, more remains to be done. One way is to focus on creating a pipeline to ensure that HBCU

law students have adequate resources to be successful. These steps are essential because access to resources like diversity programs and channels can be a game changer in bridging the gap for minority law students seeking to enter areas of law that are still underrepresented.

In addition, allowing HBCU law students access to a database of HBCU graduates can foster a more comprehensive network for support and provide crucial mentorship from attorneys who practice in underrepresented areas of law. While there is a focus on big law firms, in-house counsel positions, and legal clerkships, these steps can apply to all areas of law. Without making a commitment to taking the necessary actionable steps, we will still lack the needed diversity in the legal field for many years.

120 *Id.*

121 Hassan Kanu, 'Exclusionary and classist': Why the legal profession is getting whiter, REUTERS (Aug. 10, 2021) <https://www.reuters.com/legal/legalindustry/exclusionary-classist-why-legal-profession-is-getting-whiter-2021-08-10/>.

122 *Id.*

123 *Id.*

Fellows



Qwantaria Russell

Qwantaria Russell is a Mississippi native and third year law student at Southern University Law Center. She is a 2023 SLIP Intern at the ACLU of Mississippi where she works alongside attorneys on various civil rights cases. After she graduates, Qwantaria aspires to specialize in civil rights, criminal defense, emergency management, and employment law. She has a passion for justice and equality and plans to defend the rights of individuals and ensure fair treatment in the legal system.



Morigan Tuggle

Morigan Tuggle is a third-year law student at Howard University School of Law. She plans to pursue a career within a prominent law firm after graduation. At present, she is the Executive Publications Editor for the *Howard Law Journal*, and she also works as a research and teaching assistant for Professor Kurland. Her time at Howard University has only intensified her passion for advocating and mentoring underserved communities, both throughout her undergraduate years and within her legal education.



Christian Wolford

Christian Wolford is a third-year law school student at Texas Southern University Thurgood Marshall School of Law. Christian graduated from Sam Houston State University with a Dual BBA in Finance and Banking & Financial Institutions. He currently serves his law school as the treasurer of his 3L class board, the sergeant-at-arms of the Student Bar Association, and chief justice of the Student Government Association. He is also the immediate past president of the Black Law Students Association at Thurgood Marshall School of Law. He now serves as the director of alumni affairs for the Southwestern Region of the Black Law Students Association. This summer, Christian had the privilege of interning with Orrick Herrington & Sutcliffe LLP as a summer associate as he is pursuing a career in transactional law with a focus on energy and infrastructure.

Mentors

L. Delaine Poland-Frazier

Corporate Counsel, LexisNexis® Legal & Professional



Pathways to Practice Pipeline addresses the systemic barriers in the legal system which impact the representation of black and other ethnically diverse attorneys in prestigious and lucrative fields of law. It has been a privilege and honor to serve as a mentor for the *Pathways to Practice Pipeline* cohort in the LexisNexis® African Ancestry Network Employee Resource Group & LexisNexis® Rule of Law Foundation Fellowship program. Fellows Qwantaria Russell, Morigan Tuggle, and Christian Wolford have continued to carry the torch to eliminate systemic barriers faced by law students attending Historically Black Colleges and Universities (HBCUs).

From day one Qwantaria, Morigan, and Christian have demonstrated their dedication, passion and excitement to develop Prepare to Practice program modules for HBCU law students as well as identify opportunities for mentorship, networking, and professional development trainings. Despite personal and professional obligations, the cohort has cohesively worked together to identify and to present actionable steps needed to increase the representation of black and other ethnically diverse attorneys in big law, corporate counsel, and judicial clerkships.

Qwantaria, Morigan, and Christian, have grown tremendously during their time in the Fellowship. I look forward to seeing where their legal endeavors take them.

As Corporate Counsel of LexisNexis® Legal & Professional, L. Delaine Poland-Frazier, Esq. works collaboratively with stakeholders across all business functions in the preparation, review, and negotiation of contracts and provides legal advice to various LexisNexis business units. Delaine holds a Juris Doctorate from Southern University Law Center and has been recognized with several awards from LexisNexis®, including the SMARTY Award, the North America One Dream One Team Award, and the North America Mountain Movers Award. In 2020, Delaine and Rhea Ramsey proposed a solution to the 2020 Rule of Law Challenge by creating an Equal Justice Practice Area Page to support equal justice initiatives.

Brian Kennedy

Director, Government Content, LexisNexis® Legal & Professional



I am honored to once again serve as a mentor in this wonderful Fellowship program. The commitment of LexisNexis® to the rule of law and to addressing the issue of systemic racism is commendable. I am proud to be a part of the effort. I am also proud to be a part of the team mentoring the *Pathways to Practice Pipeline* cohort. This project, geared towards placing law students from HBCU law schools in underrepresented areas of law, is very timely in light of the current political climate. This cohort has hit the ground running from the beginning, building on the foundation from the previous Fellows. Qwantaria, Morigan and Christian have formed an amazing team and have successfully reached out to internal LexisNexis® personnel and external partners to complete the pipeline. The result of their work will help prepare and place students in elu-

sive internships and clerkships. Their “take charge and go forth and make it happen” attitude is amazing to witness and will drive this project to fruition. They have also impressed me with their ability to do this and their other demanding Fellowship tasks while tackling demanding schoolwork and summer internships. I’m excited to see what’s to come in the subsequent years as a result of the hard work of this cohort.

Brian Kennedy began working at LexisNexis® as a Legal Analyst one year after graduating from North Carolina Central University School of Law. Brian has worked at LexisNexis® in several capacities including Senior Legal Analyst, Editorial Manager, and Director of Editorial. Brian currently serves as Director of Government Content; he is responsible for establishing and maintaining primary law publishing contracts and acquiring data. Brian is a founding member of the Raleigh African Ancestry Network and currently serves as Treasurer. Brian and his wife Kimberly are the proud parents of three wonderful children. Brian and Kimberly spend their free time traveling with family and chasing after their grandchildren.

Teal Taylor

Relationship Manager, Nexis Solutions



It is inspiring to work with Fellows Christian Wolford, Morigan Tuggle, and Qwantaria Russell as they develop their solution to combat systemic racism and advance the rule of law through increasing diversity in the legal profession. When I first met these members of the *Pathways to Practice Pipeline* cohort, I was struck by their dedication and enthusiasm as well as their ability to collaborate on this project seamlessly. Each came to the Fellowship with ideas about how to connect students from HBCU law schools with legal opportunities not readily available to them — not only building a pathway to positions in Big Law, in-house, and judicial clerkships, but also — very important — providing the foundation for students to succeed in these roles.

After several brainstorming calls, we met in person at the Innovation Retreat at our Raleigh campus. In Raleigh, their collective vision began to coalesce. Building upon the work of past Fellows, they sought to create a Prepare to Practice program for students to be practice-ready for legal opportunities. They created an action plan to reach out to professionals in different legal fields to learn what skill sets these jobs require and how to increase opportunities for HBCU law students. The cohort immediately began to execute the plan, reaching out to attorneys, hiring managers, recruiters, and judges to hear their thoughts and obtain their commitment to recruit from HBCU law schools. Christian, Morigan, and Qwantaria fully embrace the mission of their project: their tenacity, enthusiasm, and commitment to combating systemic racism in the legal field will result in a robust HBCU pipeline and pave the way to increased diversity in the legal profession.

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Technology Solutions to Alleviate Jury Bias

Jaylon Denkins, Whitney Triplet, and Favour Okhuevbie

Introduction

The Sixth Amendment declares that criminal defendants are entitled to trial by a jury made up of a fair cross-section of peers.¹ This constitutional right recognizes the vital function of community and diversity in the pursuit of justice. Application of ideals is seldom unblemished; consequently, there are many categories of biases that pervade the US legal system (*e.g.*, ageism, sexism, bias based on socioeconomic status). However, this research paper centers on racial bias in jury selection.

Although every state has many unique challenges with juries, the manifestation of racial biases in jury selection in California, Louisiana, and New York is this paper's focus. The selected jurisdictions represent socially, culturally, and geographically diverse communities in divergent regions of the United States. Additionally, they have large populations of historically marginalized people.² Considering the historical and

This project's mission is to research the possible applications and consequences of leveraging technology, specifically artificial intelligence, to alleviate racial bias in the jury selection process; expand the jury dashboard tool (previously designed for North Carolina) to California, Louisiana, and New York, which provides insight to practitioners and the community at large of what a representative jury might look like on a county-by-county basis; and administer surveys to gauge public sentiments on the jury selection process.

¹ U.S. CONST. amend. VI.

² Eric Jensen, Nicholas Jones, Megan Rabe, et al., *2020 U.S. Population More Racially and Ethnically Diverse Than Measured in 2010*, UNITED STATES CENSUS BUREAU (Aug. 12, 2021), <https://www.census.gov/library/stories/2021/08/2020-united-states-popu->

statistical implementations, it is clear that the judicial systems of these states are riddled with negative effects of racial bias, making them suitable choices for continued study and reform. This group of jurisdictions is an expansion of the previous research publication, authored in 2022 by Aquilla Gardner.³ Gardner's publication discussed the effects of racial jury bias and how technological tools could alleviate racial bias in the jury selection process to ensure fairness. The project provided a hands-on tool that allowed practitioners in North Carolina to visualize a truly representative jury.⁴

It is widely understood that marginalized groups have been systematically excluded from the judicial process since the beginning of our democracy.⁵ Segregation and Jim Crow Laws in the South were intended to exclude certain groups of people, mainly African Americans, from voting, holding public office, and serving on juries.⁶ Since the enactment of legislation enforcing equity in access to the courts, the exclusion of minority groups in the process of justice has become more subtle.⁷ The marginalization of minorities has migrated to areas that are not given as much attention. For example, voting rights is a socially notable topic that is well discussed and has a legislative act bearing its name.⁸ It is popular, as opposed to jury duty in which participation is not as popular. As such, racially marginalized groups are less likely to serve on a jury because of the negative social stigma of jury duty; however, as

highlighted in Gardner's research, "[j]ury bias is harmful because it contributes to the ever-growing number of wrongful convictions, unfair and excessive sentencing, and social and economic penalties for African Americans and other people of color."⁹

The selective exclusion of certain groups of people from the judicial process violates not only the fair-cross section requirement in the 6th Amendment but also the Equal Protection Clause of the 14th Amendment.¹⁰ The problems with racial bias in jury selection lie in possible fundamental rights violations and in the perpetuation of systematic inequalities and erosion of public trust in the judicial system. This paper discusses the negative effects of racial bias in the jury selection process; analyzes multi-state survey results on public trust in the jury selection and judicial process; and explores possible technological solutions to increase the compliance with the fair-cross section requirement in jury composition. As an additional component of this project, we have expanded the web-tool created by Gardner and LexisNexis® to include the jurisdictions of California, Louisiana, and New York. This jury selection tool helps to alleviate racial bias in jury selection by providing a visual model for what representative juries should look like in each county, or parish, in the focus states.

Part I of this paper examines the constitutional right to an impartial jury under the Sixth Amend-

lation-more-racially-ethnically-diverse-than-2010.html.

3 Aquilla Gardner, *In the New Age Can Artificial Intelligence and Technology Alleviate Racial Bias in Jury Selection?*, in *Increasing Equity in the Legal System: A Collection of Legal Advocacy Papers by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship 2022 Cohort*, 74 (Matthew Bender 2022).

4 *Id.*

5 *Racial and Ethnic Disparities in the Criminal Justice System*, NCSL (May 24, 2022), <https://www.ncsl.org/civil-and-criminal-justice/racial-and-ethnic-disparities-in-the-criminal-justice-system>.

6 Farrell Evans, *How Jim Crow-Era Laws Suppressed the African American Vote for Generations*, HISTORY (May 13, 2021), <https://www.history.com/news/jim-crow-laws-black-vote>.

7 *Id.*

8 Voting Rights Act of 1965.

9 Aquilla Gardner, *In the New Age Can Artificial Intelligence and Technology Alleviate Racial Bias in Jury Selection?*, in *Increasing Equity in the Legal System: A Collection of Legal Advocacy Papers by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship 2022 Cohort*, 75 (Matthew Bender 2022) (citing Equal Justice Initiative, *Race and the Jury: Illegal Discrimination in Jury Selection*, EJI REPORTS (Oct. 1, 2021), <https://eji.org/report/race-and-the-jury/>).

10 *Batson v. Kentucky*, 476 U.S. 79, 106 S. Ct. 1712, 90 L. Ed. 2d 69 (1986).

ment, explains the jury selection process in the focus states, and explores the racial bias present in these processes. Part II provides a summary of the research conducted by our former fellow, Aquilla Gardner, and outlines our goal to expand on that research by delving into AI-powered solutions for a more targeted approach to achieving a fair and representative jury selection process. Part III presents an analysis of the survey results. Part IV probes into the inner workings of artificial intelligence (“AI”) systems and examines their practical application in the jury selection process through the presentation of case studies showcasing their current utilization. Finally, Part V scrutinizes the limitations and shortcomings of AI systems that should be carefully considered by relevant stakeholders before relying on them for the jury selection process.

Part I: The Jury Selection Process

In all criminal proceedings, the accused is entitled to be judged by a panel of people, called a jury.¹¹ The U.S. Constitution dictates that a jury is to be composed of a fair cross section of people from the community where the alleged crime occurred. Although the constitution dictates the jury requirement, each state has developed its own implementation of the constitutional requirement by legislating the parameters for jury selection and availability. Most states utilize similar procedures for jury selection, including standardizing the qualifications

of prospective jurors, mailing summonses, selecting the jury pool, and conducting voir dire.

However, despite federal and state laws enacted to eliminate racial bias in jury selection, many juries in America still remain white.¹² For example, in recent cases such as the Kyle Rittenhouse trial, and the trial of the three men who murdered Ahmaud Arbery in Glynn County, Georgia, the juries were nearly all white.¹³ This remains an issue because it directly opposes the guarantees promised by the Constitution.¹⁴

A. Jury Selection in California

The jury selection process in California is a critical part of the justice system.¹⁵ Unless waived, all persons accused of a crime or involved in a civil dispute have a constitutional right to have a jury decide their cases.¹⁶ The jury selection process is designed to ensure that “a fair and impartial jury” is chosen for each case, regardless of the race, ethnicity, gender, or socioeconomic status of the parties.¹⁷ Serving on a jury is both a civil right and a duty.¹⁸ Not everyone in California is qualified to serve on a jury.¹⁹ Specifically, a person is not competent to serve as a juror unless they are: (1) a citizen of the U.S.; (2) a resident of the county; (3) 18 years of age or older; (4) self-sufficient to make decisions; and (5) has sufficient knowledge of the English language.²⁰ Moreover, persons “who have been convicted of a felony or misdemeanor involving moral turpitude”

11 U.S. CONST. amend. VI.

12 Emmanuel Felton, *Many juries in America remain mostly White, prompting states to take action to eliminate racial discrimination in their selection*, WASHINGTON POST (Dec. 23, 2021 at 3:00 PM), https://www.washingtonpost.com/national/racial-discrimination-jury-selection/2021/12/18/2b6ec690-5382-11ec-8ad5-b5c50c1fb4d9_story.html.

13 *Id.*

14 U.S. CONST. amend. VI.

15 *Jury Handbook from Trial Selection to Final Verdict*, JUDICIAL COUNCIL OF CALIFORNIA, <https://www.courts.ca.gov/2240.htm> (last visited Aug. 13, 2023).

16 *Id.*

17 See Cal. Code Civ. Proc. § 222.5.

18 *Jury Handbook from Trial Selection to Final Verdict*, JUDICIAL COUNCIL OF CALIFORNIA, <https://www.courts.ca.gov/2240.htm> (last visited Aug. 13, 2023).

19 See Cal. Code Civ. Proc. § 203.

20 *Id.*

are prohibited from serving on a jury in California unless they have had their civil rights restored.²¹

Without jurors, the jury system would not be able to work the way the authors of the Constitution envisioned.²² When qualified individuals serve on a jury, they help uphold the right of Americans to trial by jury.²³

In civil actions or cases of misdemeanor, the standard jury consists of 12 jurors; however, the parties are at liberty to have fewer than 12 jurors if they so agree.²⁴ This flexibility does not exist in felony criminal actions, in which the jury must consist of 12 persons.²⁵

The jury selection process begins with the random selection of potential jurors from a list of qualified citizens.²⁶ This list is typically compiled from voter registration lists and from the Department of Motor Vehicles records.²⁷ The primary goal of this list, also known as the “source list,”²⁸ is to reflect a “representative cross section of the population of the area served by the court.”²⁹ Once a pool of po-

tential jurors³⁰ has been assembled, they are called to the courthouse for jury selection.

After the jury panel³¹ is called, the trial judge will ask preliminary questions to determine prospective jurors’ suitability to serve on the jury.³² Based on the answers to these questions, the trial judge may excuse some prospective jurors for cause or undue hardship.³³ “Challenges for cause are based on specific biases jurors may have that could prevent or appear to prevent them from being impartial in a particular case.”³⁴ Undue hardship, on the other hand, “is defined by law and includes no reasonable transportation, excessive travel, extreme financial burden, undue risk to physical property, a physical and/or mental impairment, deficiencies to public health and safety, or no available alternate care for a dependent.”³⁵

After the court’s preliminary questioning is completed, 12 prospective jurors are selected at random from the panel to participate in the jury selection process and are tentatively seated on the jury, ordinarily in the jury box.³⁶ The next step in the selection process is voir dire.³⁷ During voir dire,

21 See Cal. Code Civ. Proc. § 203(5).

22 *Jury Handbook from Trial Selection to Final Verdict*, JUDICIAL COUNCIL OF CALIFORNIA, <https://www.courts.ca.gov/2240.htm> (last visited Aug. 13, 2023).

23 *Id.*

24 See Cal. Code Civ. Proc. § 220.

25 *Id.*

26 *Jury Handbook from Trial Selection to Final Verdict*, JUDICIAL COUNCIL OF CALIFORNIA, <https://www.courts.ca.gov/2240.htm> (last visited Aug. 13, 2023).

27 *Id.*

28 See Cal. Code Civ. Proc. § 194(m).

29 Cal. Code Civ. Proc. § 197.

30 Cal. Code Civ. Proc. § 194(h) defines “potential juror” as “any person whose name appears on a source list.”

31 Cal. Code Civ. Proc. § 194(q) defines “trial jury panel” as “a group of prospective jurors assigned to a courtroom for the purpose of voir dire.”

32 See *Jury Selection*, SUPERIOR COURT OF CALIFORNIA COUNTY OF TRINITY, <https://www.trinity.courts.ca.gov/general-information/jury-services/jury-selection#:~:text=Once%20you%20have%20been%20directed,remain%20seated%20in%20the%20courtroom> (last visited Aug. 13, 2023).

33 Cal. Code Civ. Proc. § 204(b).

34 *Jury Handbook from Trial Selection to Final Verdict*, JUDICIAL COUNCIL OF CALIFORNIA, <https://www.courts.ca.gov/2240.htm> (last visited Aug. 13, 2023).

35 *Id.*

36 See Cal. Code Civ. Proc. §§ 220, 222.

37 *Jury Handbook from Trial Selection to Final Verdict*, JUDICIAL COUNCIL OF CALIFORNIA, <https://www.courts.ca.gov/2240.htm> (last visited Aug. 13, 2023).

the attorneys for both sides ask potential jurors a series of questions to determine their qualifications to serve on the jury.³⁸ The attorneys may challenge the entire jury panel for cause.³⁹ The attorneys may also remove individual prospective jurors by establishing a ground for a challenge for cause or by exercising a peremptory challenge.⁴⁰ All challenges for cause must be made before peremptory challenges are exercised.⁴¹

California uses the “jury box” method for exercising challenges for cause and peremptory challenges.⁴² Under this procedure, the initial 12 prospective jurors are questioned, and those who are challenged for cause are replaced until 12 qualified jurors remain.⁴³ Both sides then exercise peremptory challenges with respect to the remaining 12 jurors.⁴⁴ If a juror is removed by peremptory challenge, a replacement juror is selected from the panel.⁴⁵ The replacement juror is then questioned, and both sides can challenge the juror for cause or peremptorily.⁴⁶ This process continues until both sides have exhausted their peremptory challenges or waived them.⁴⁷

In criminal cases, the number of peremptory challenges a defendant is entitled to depends on the severity of the punishment.⁴⁸ If the offense is pun-

ishable with death or life in prison, the defendant is entitled to 20 peremptory challenges.⁴⁹ For all other offenses except those punishable with a maximum term of imprisonment of 90 days or less, the defendant is entitled to 10 peremptory challenges.⁵⁰ A defendant accused of an offense punishable with a maximum term of imprisonment of 90 days or less is entitled to six peremptory challenges.⁵¹ After all challenges for cause have been ruled on and both sides have exercised or passed their peremptory challenges, the jury is sworn in, and jury selection is complete.⁵²

Although improper practices during the voir dire process can be the basis for a mistrial, the California Supreme Court has held that “[u]nless the voir dire ‘is so inadequate that the reviewing court can say that the resulting trial was fundamentally unfair, the manner in which voir dire is conducted is not a basis for reversal.’ ”⁵³

Just like many states, California courts are not exempt from hiding behind peremptory strikes to remove people of color, most especially African Americans, from jury service.⁵⁴ In fact, there have been a series of reports of racial discrimination and injustice in California’s jury selection process.⁵⁵

38 *Id.*

39 *See* Cal. Code Civ. Proc. § 225(a).

40 *See* Cal. Code Civ. Proc. §§ 225(b), 226.

41 *See* Cal. Code Civ. Proc. § 226(c).

42 *See Jury Selection*, SUPERIOR COURT OF CALIFORNIA COUNTY OF TRINITY, <https://www.trinity.courts.ca.gov/general-information/jury-services/jury-selection#:~:text=Once%20you%20have%20been%20directed,remain%20seated%20in%20the%20courtroom> (last visited Aug. 13, 2023).

43 *See* Cal. Code Civ. Proc. § 231(d).

44 *Id.*

45 *Id.*

46 *Id.*

47 *Id.*

48 *See* Cal. Code Civ. Proc. § 231(a).

49 Cal. Code Civ. Proc. § 231(a).

50 Cal. Code Civ. Proc. § 231(a).

51 Cal. Code Civ. Proc. § 231(b).

52 Cal. Code Civ. Proc. § 231(e).

53 *People v. Salazar*, 63 Cal. 4th 214, 235 (2016) (quoting *People v. Contreras*, 58 Cal.4th 123, 143 (2013)).

54 Andrew Cohen, *New Report Shows Ongoing Racial Discrimination in CA Jury Selection*, BERKELEY LAW, <https://www.law.berkeley.edu/article/new-report-shows-ongoing-racial-discrimination-in-ca-jury-selection/> (last visited August 13, 2023).

55 *See* Elisabeth Semel, et al., *Whitewashing the Jury Box: How California Perpetuates the Discriminatory Exclusion of*

Prior to the Supreme Court’s decision in *Batson v. Kentucky*,⁵⁶ California “was the first court in the [United States] to adopt a three-step procedure intended to reduce [lawyers’] discriminatory use of peremptory challenges.”⁵⁷

However, the adoption of *Batson* has not stopped lawyers from striking jurors on the basis of race. Instead, lawyers have become good at manipulating the system by merely providing race-neutral reasons for striking a juror.⁵⁸ For instance, lawyers have struck jurors for reasons such as “having dreadlocks, wearing a short skirt or large earrings, distrust[ing] law enforcement, having family members who are incarcerated, and expressing a belief that the criminal legal system treats people differently based on their race.”⁵⁹ Additionally, lawyers “are trained to identify the ‘ideal juror’ as a person who most resembles them,”⁶⁰ who are white jurors in most cases.

The effect of these race-triggered, discriminatory peremptory strikes in the jury selection process is the exclusion of a group of people from exercising their constitutional right and duty to serve as jurors. Also, different studies and past cases have

shown that “an African American defendant may be at a significant disadvantage if the jury is exclusively or predominately Caucasian.”⁶¹

B. Jury Selection in Louisiana

In Louisiana, the voter registration catalog is used to create a jury pool.⁶² Registered voters are randomly sent a questionnaire to gauge their qualifications to serve as jurors. According to the Louisiana Code of Criminal Procedure, any person who is a citizen of the United States; a resident of the county/parish in which summoned, for at least one year; at least 18 years old; able to read, write, and speak the English language; not deemed incompetent due to medical or physical infirmity; and not under indictment for a felony, nor convicted of a felony for which a pardon has not been granted, may serve on a jury.⁶³ Those who meet the qualifications are added to a list of potential jurors, called the venire, and may receive a notice to appear for jury duty. This notice is called a summons.⁶⁴

Voters who receive a summons must report to jury duty where they will answer another series of questions.⁶⁵ These questions are used by the prose-

Black and Latinx Jurors, BERKELEY LAW, chrome-extension://oemmnndcbldboiebfnladdacbfmadadm/https://www.law.berkeley.edu/wp-content/uploads/2020/06/Whitewashing-the-Jury-Box.pdf (last visited Aug. 13, 2023).

⁵⁶ *Batson v. Kentucky*, 476 U.S. 79, 96 (1986).

⁵⁷ Elisabeth Semel, et al., *Whitewashing the Jury Box: How California Perpetuates the Discriminatory Exclusion of Black and Latinx Jurors*, BERKELEY LAW, chrome-extension://oemmnndcbldboiebfnladdacbfmadadm/https://www.law.berkeley.edu/wp-content/uploads/2020/06/Whitewashing-the-Jury-Box.pdf (last visited Aug. 3, 2023).

⁵⁸ *Id.*

⁵⁹ Andrew Cohen, *New Report Shows Ongoing Racial Discrimination in CA Jury Selection*, BERKELEY LAW, https://www.law.berkeley.edu/article/new-report-shows-ongoing-racial-discrimination-in-ca-jury-selection/ (last visited Aug. 13, 2023).

⁶⁰ Elisabeth Semel, et al., *Whitewashing the Jury Box: How California Perpetuates the Discriminatory Exclusion of Black and Latinx Jurors*, BERKELEY LAW, chrome-extension://oemmnndcbldboiebfnladdacbfmadadm/https://www.law.berkeley.edu/wp-content/uploads/2020/06/Whitewashing-the-Jury-Box.pdf (last visited Aug. 13, 2023).

⁶¹ Adam Hime, *Life or Death Mistakes: Cultural Stereotyping, Capital Punishment, and Regional Race-Based Trends in Exoneration and Wrongful Execution*, 82 U. DET. MERCY L. REV. 181, 209 (2005).

⁶² *Jury Duty*, LOUISIANA STATE BAR ASSOCIATION, https://www.lsba.org/ChildrensLaw/COAJuryDuty.aspx (last accessed Aug. 14, 2023).

⁶³ La. Code Crim. Proc. Ann. § art. 401.

⁶⁴ *Jury Duty*, LOUISIANA STATE BAR ASSOCIATION, https://www.lsba.org/ChildrensLaw/COAJuryDuty.aspx (last accessed Aug. 14, 2023).

⁶⁵ *Jury FAQs*, UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF LOUISIANA, https://www.lamd.uscourts.gov/jury-info/faq#:~:text=Juror%20names%20are%20selected%20at,legal%20qualifications%20for%20jury%20service (last accessed Aug. 14, 2023).

cution and defense to determine which jurors may be beneficial to their case.⁶⁶ This process, known as voir dire, is where qualified jurors are either selected as a juror or dismissed.⁶⁷ The selected jurors are then sworn in.⁶⁸

In these very first stages of trial, during jury selection before any evidence is disclosed, black and brown defendants are already at a disadvantage. In Louisiana there are 1,863,219 white registered voters, compared to 926,143 black registered voters and 175,277 who racially identify as other.⁶⁹ This means, during random selection, a white person is twice as likely to receive a summons for jury duty than a black person because there are about two times more whites registered to vote than blacks and browns. So, if a defendant is black or brown, a jury is less likely to be composed of people of the same racial identity as them.

Next, the dismissal process of voir dire is executed through two types of challenges: challenges for cause and peremptory challenges. Challenges for cause, where the juror exhibits an unreconcilable enumerated issue, may be exercised in an unlimited amount by both sides according to the direction of the Louisiana Code of Criminal Procedure.⁷⁰ Conversely, peremptory challenges, for which no reason must be provided for the dismissal of jurors, are limited. “In trials of offenses punishable by death or necessarily by imprisonment at hard labor, each defendant shall have twelve peremptory challeng-

es, and the state shall have twelve for each defendant.”⁷¹

These peremptory challenges, also referred to as peremptory strikes, are just as detrimental to diversity, if not more, than the limited representation of minorities in the jury pool. These challenges allow the prosecution to further stifle racial diversity by removing ethnic groups of people. In Louisiana this is a noted problem. Allen Snyder, a black defendant, was convicted of first-degree murder by an all-white jury and sentenced to death after five black people were struck from the venire; a constitutional challenge was made, and the Supreme Court remanded the case, granting a new trial to the defendant.⁷² Larry Broussard Jr. was convicted of aggravated flight from an officer; during voir dire, defense counsel challenged the State’s use of a peremptory strike against a black woman.⁷³ This challenge was ruled meritless. On appeal, Larry Broussard’s conviction was ultimately vacated, and the case remanded for further proceedings.⁷⁴ A study performed by Equal Justice Initiative showed in Caddo Parish, a jurisdiction in Louisiana, prosecutors used peremptory strikes to exclude 46% of qualified black jurors but struck only 15% of jurors who were not black.⁷⁵ Caddo Parish is 48% black; however, the typical 12-member criminal jury had fewer than four African American members.⁷⁶

One method for practitioners to voice their objections to suspected racial discrimination in jury

⁶⁶ *Jury Selection; Law and Practice*, LOUISIANA L. REV., <https://lawreview.law.lsu.edu/2011/04/01/jury-selection-law-and-practice/#ftnt10> (last visited Aug. 14, 2023).

⁶⁷ *Id.*

⁶⁸ La. Code Crim. Proc. Ann. § art. 790.

⁶⁹ *Registration Statistics – statewide*, LOUISIANA SECRETARY OF STATE, <https://www.sos.la.gov/ElectionsAndVoting/Pages/RegistrationStatisticsStatewide.aspx> (last accessed Aug. 14, 2023).

⁷⁰ La. Code Crim. Proc. Ann. § art. 797.

⁷¹ La. Code Crim. Proc. Ann. § art. 799.

⁷² *Snyder v. Louisiana*, 552 U.S. 472, 128 S. Ct. 1203 (2008).

⁷³ *State v. Broussard*, 16-1836 (La. 01/30/18), 318 So. 3d 683.

⁷⁴ *Id.*

⁷⁵ *Illegal Racial Discrimination in Jury Selection Documented in Caddo Parish, Louisiana*, EQUAL JUSTICE INITIATIVE (Aug. 24, 2015), <https://eji.org/news/study-documents-racially-biased-jury-selection-caddo-parish-louisiana/>.

⁷⁶ *Id.*

selection is through a *Batson* challenge that asserts that a juror was struck for an unconstitutional reason: race, ethnicity, or gender.⁷⁷ The result of a successful *Batson* challenge differs by jurisdiction, but generally it may be a new trial.⁷⁸ *Batson* challenges, in theory, curb attempts to whitewash the jury; however, when a *Batson* challenge is raised, the practitioner only needs to provide a race neutral reason for the strike. In Louisiana, such race neutral reasons that pass the *Batson* challenge have been baggy attire, hair styles, and demeanor.⁷⁹ Each of those physical observations are integrally tied to cultural differences and race; however, some Louisiana judges accept them as race neutral. Therefore, the *Batson* challenge offers very little protection for ethnic defendants and prospective jurors.

A Louisiana criminal case where there is the possibility of capital punishment “shall be tried before a jury of twelve persons, all of whom must concur to render a verdict”; while a case in which the punishment may be “confinement at hard labor or confinement without hard labor for more than six months shall be tried before a jury of six persons, all of whom must concur to render a verdict.”⁸⁰ It is likely that people who have similar life experiences will vote in a similar manner; thus, without diversity on a jury, achieving a unanimous verdict seems to be an easy feat, whether that verdict serves justice or cripples it. Jury selection is a major component of the execution of justice, and Louisiana citizens play a vital role in the process. Therefore, it

is essential that juries are representative of the population and fairly selected without implications of racial bias.

C. Jury Selection in New York

Pursuant to the New York State Constitution, “[t]rial by jury in all cases in which it has heretofore been guaranteed by constitutional provision shall remain inviolate forever...”⁸¹ Further, it provides “[n]o member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof...”⁸² The “heretofore been guaranteed” phrase now means that the right to a jury applies to all causes of action to which the right attached at the time of the adoption of the 1894 Constitution. The effect of this provision is to continue under the Constitution all common law rights to a jury trial that existed prior to 1777 and all statutory rights to such trial by jury enacted prior to 1894.⁸³ These first two classes exist as constitutionally guaranteed rights.⁸⁴

Within New York State, potential jurors are randomly selected from lists of registered voters, holders of drivers’ licenses or IDs issued by the Division of Motor Vehicles, New York State income tax filers, recipients of unemployment insurance or family assistance, and from volunteers.⁸⁵ Defendants charged with a felony are tried by panels of 12 jurors and up to six alternates are chosen.⁸⁶ If a defendant is charged with lesser crimes, six jurors

⁷⁷ *Batson v. Kentucky*, 476 U.S. 79 (1986).

⁷⁸ *Batson challenge*, CORNELL LAW SCHOOL, https://www.law.cornell.edu/wex/batson_challenge#:~:text=The%20Batson%20challenge%20refers%20to,may%20be%20a%20new%20trial (last visited Aug. 14, 2023).

⁷⁹ Bruce Hamilton, *Bias, Batson, and “Backstrikes”*: *Snyder v. Louisiana Through a Glass*, LA. L. REV. Volume 70 (2010).

⁸⁰ LA. CONST., art. 1, § 17.

⁸¹ N.Y. CONST. art. I, § 2.

⁸² N.Y. CONST. art. I, § 1.

⁸³ Betty Lugo, William Pagan, Jesus Zeno, *Introduction to Jury Selection*, NEW YORK STATE BAR ASSOCIATION, <https://nysba.org/NYSBA/Sections/Trial/Events/2017/P1%20Intro%20to%20Jury%20Selection%20.pdf> (last visited Aug. 14, 2023).

⁸⁴ *Id.*

⁸⁵ New York State Unified Court System, *Questions & Answers (FAQ’s)*, NYJuror.gov, <https://www.nyjuror.gov/juryQandA.shtml#:~:text=Potential%20jurors%20are%20randomly%20selected,family%20assistance%2C%20and%20from%20volunteers> (last visited Aug. 14, 2023).

⁸⁶ New York State Unified Court Systems, *Criminal Trial*, NYCOURTS.GOV, <https://nycourts.gov/courthelp/criminal/trial.shtml> (last visited Aug. 14, 2023).

and up to four alternates are chosen.⁸⁷ As a next step, the judge will ask certain questions to the potential jurors. Thereafter, attorneys are permitted to give a summary of the case and ask jurors questions — the voir dire. After such questioning, attorneys can request jurors be removed for cause. There are also peremptory challenges, where an attorney does not have to give a reason for asking for that juror’s removal.

In essence, voir dire is to determine whether a juror can be fair and impartial. To help illustrate, in the case of *Horton v. Associates in Obstetrics & Gynecology, P.C.*, the jury selection process began when plaintiff’s counsel was permitted 30 minutes (subsequently enlarged to 60 minutes) to question the first round of 12 prospective jurors and was required to exercise peremptory challenges prior to similar questioning and peremptory challenges by defendants’ counsel.⁸⁸ On appeal, the court held that the plaintiffs were not prejudiced by the time limits imposed.⁸⁹

However, 15 minutes was deemed to be “unreasonable” by the court in the case of *Zgrodek v. McInerney*.⁹⁰ In that case, the court found that a time limit of 15 minutes for each round of voir dire was “unreasonable.”⁹¹ This decision stemmed from a new trial required for an automobile accident case.⁹² The court determined that the brief duration of 15 minutes per round was inadequate given the complex nature of the case. It involved intricate factual and medical details; testimony from multiple experts; and nuanced legal issues such as causation challenges, preexisting conditions, varying expert

opinions, and compensation considerations for numerous injuries.⁹³ The court concluded that this abbreviated time frame hindered the fair assessment of potential jurors, potentially leading to prejudice.⁹⁴

New York courts, as with a majority of jurisdictions including California and Louisiana, have adopted the *Batson* test to combat bias on the basis of sex, race, ethnicity, or religion by any party. The Court of Appeals of New York held in *People v. Bridgeforth*, “[w]e [the court] have adopted *Batson* under the State Constitution and prohibit discrimination against prospective jurors by either the People or the defense ‘on the basis of race, gender or any other status that implicates equal protection concerns.’ ”⁹⁵ The Court further held that “[o]ur State Constitution and Civil Rights Law plainly acknowledge that color is a ‘status that implicates equal protection concerns.’ ... “Today, we acknowledge color as a classification separate from race for *Batson* purposes, as it has already been acknowledged by our State Constitution and Civil Rights Law.”⁹⁶ Thus, the law enforces strict regulations to safeguard against the exclusion of potential jurors on the grounds of race, gender, religion, or any other classification that might introduce bias into the trial process — preserving the intended objective of impartiality.

At its core, the jury selection process is intended to be impartial; however, there exists evidence suggesting that biases can emerge in specific circumstances. In *People v. Bridgeforth*, the defense raised concerns about racial bias in jury selection when it was revealed that the prosecutor had dispropor-

87 *Id.*

88 *Horton v. Associates in Obstetrics & Gynecology, P.C.*, 229 A.D.2d 734, 645 N.Y.S.2d 354 (3d Dep’t. 1996).

89 *Id.*

90 *Zgrodek v. McInerney*, 61 A.D.3d 1106, 876 N.Y.S.2d 227 (2009).

91 *Id.*

92 *Id.*

93 *Id.*

94 *Id.*

95 *People v. Bridgeforth*, 28 N.Y.3d 567, 46 N.Y.S.3d 824 (2016).

96 *Id.*

tionately used peremptory challenges to strike African American jurors from the jury pool.⁹⁷ While the defendant did not meet his prima facie burden of establishing that the prosecutor exercised a peremptory challenge to remove that prospective juror on the basis of her membership in a constitutionally protected class, it did however shed a light on the importance of the ongoing issue of underrepresentation of racial minorities on juries.⁹⁸ Additionally, in response to reports by members of the New York Bar Association that there appeared to be a disproportionate number of white prospective jurors in the jury assembly rooms in New York County (the borough of Manhattan), a survey conducted by Citizen Action of New York (“CANY”) found overwhelming evidence of underrepresentation by people of color and Hispanics in jury pools in Manhattan.⁹⁹ The clear consequence of the underrepresentation observed within jury pools is a hindrance to both parties and judges in their pursuit of selecting juries that accurately reflect a diverse cross-section of Manhattan. Considering the vital role that representative juries play in upholding a just legal system within New York State, it is unacceptable for the disparities highlighted in this survey to persist.¹⁰⁰

Embedded within the fabric of the New York State Constitution lies an enduring commitment, boldly asserting the inviolable right to trial by jury, a cornerstone of justice.¹⁰¹ This pledge, safeguarding the rights of every citizen, resonates across time, declaring that none shall be stripped of their rightful privileges.¹⁰² This constitutional promise extends beyond its words, preserving the essence of jury trial rights that have endured since the dawn of our le-

gal foundation. Guided by this constitutional compass, the New York jury selection process is crafted to uphold fairness. In the presence of these truths, the underrepresentation of minority voices in jury pools is undeniable, echoing through the corridors of justice. The unsettling echoes of these disparities remind us that progress remains imperative. In this quest for an inclusive and unbiased legal system, the urgency to correct these imbalances is undeniable. By rectifying these inadequacies, we must uphold the spirit of justice that guides us through the intricate terrain of our legal landscape.

Part II: Advancing Jury Selection Equity Through AI-Powered Solutions

Former Fellow Aquilla Gardner’s research was dedicated to a comprehensive exploration of the jury selection process in North Carolina.¹⁰³ The primary objective of her research was to gather a collection of survey results and analytical insights that unveiled instances of bias within this process. Additionally, Gardner’s efforts culminated in the creation of an innovative “jury dashboard.” This digital tool was ingeniously designed to visually portray a representative jury composition at the county level, allowing practitioners and the wider community to understand the ideal representation in each jurisdiction.

In this context, our current paper builds upon the foundations laid by Gardner. While her work illuminated the biases present in jury selection in

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ See Bob Cohen and Janet Rosales, *Racial and Ethnic Disparity in Manhattan Jury Pools: Results of a Survey and Suggestions for Reform*, CITIZEN ACTION OF NEW YORK (2007), available at <https://www.law.cuny.edu/wp-content/uploads/page-assets/academics/social-justice/clore/reports/Citizen-Action-Jury-Pool-Study.pdf>.

¹⁰⁰ *Id.*

¹⁰¹ N.Y. CONST. art. I, § 2.

¹⁰² *Id.*

¹⁰³ Aquilla Gardner, *In the New Age Can Artificial Intelligence and Technology Alleviate Racial Bias in Jury Selection?*, in *Increasing Equity in the Legal System: A Collection of Legal Advocacy Papers by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship 2022 Cohort*, 74 (Matthew Bender 2022).

North Carolina, our focus extends beyond that state's borders. We are updating the already existing jury dashboard to include the states of California, Louisiana, and New York, but we also intend to delve into the realm of AI-powered solutions, aiming to provide a more targeted and nuanced approach to attaining a fair and inclusive jury selection process. Our scope encompasses the states of New York, California, and Louisiana, each of which possesses a distinct legal landscape and demographic makeup. Research shows that the introduction of AI and technology in jury selection promises increased efficiency and objectivity.¹⁰⁴ However, these tools have faced criticism for exacerbating existing biases.¹⁰⁵ Machine learning algorithms can inadvertently reinforce historical prejudices present in the data used for training, leading to skewed outcomes in juror selection.¹⁰⁶ For instance, if historical data exhibits underrepresentation of certain communities, the AI may perpetuate this bias by replicating past practices.¹⁰⁷ The challenge in regulating AI and its biases is dynamic in nature. Some might argue AI algorithms pose a significant challenge to regulate, as courts and legal experts have struggled to keep up with rapidly evolving AI technologies, making it difficult to establish comprehensive guidelines for their use in jury selection. Furthermore, AI developers may argue that the algorithms' inner workings are proprietary information, limiting transparency and accountability.¹⁰⁸ We recognize the inherent value in examining both sides of the argument as we strive to attain our overarching objective.

Through this expanded research, we explore the potential of artificial intelligence to address the challenges identified in the jury selection process.

By harnessing AI, we aspire to develop innovative methodologies and strategies that hold the promise of a more equitable and representative jury system. As we progress, we hope to navigate the complexities of legal, social, and technological dimensions, ultimately contributing to a more just and unbiased justice system in the states under our scrutiny.

Part III: Analysis of the Survey Results

LexisNexis® partnered with the research agency, Pollfish, Inc. to conduct state-wide surveys of the populations of California, Louisiana, and New York to gather public opinion on the jury selection process and whether the populations trust the incorporation and integration of AI systems as a solution to alleviating racial bias. Additionally, the survey was used to identify barriers to serving on a jury. Residents were randomly sampled via Random Device Engagement, typically via mobile applications.

A. California Survey Results

According to 2020 census data, 39% of Californians are Latino, 35% are white, 15% are Asian American or Pacific Islander, 5% are Black, 4% are multiracial, and fewer than 1% are Native American or Alaska Natives. For the purposes of this research, a total of 653 California residents were surveyed from June 29, 2023 to August 1, 2023. The survey composition was quota sampled to ensure that the result reflects a diverse cross-section of society, encompassing individuals from various age groups, ethnicities, and gender.

¹⁰⁴ James Manyika and Jacques Bughin, *The Promise and Challenge of the Age of Artificial Intelligence*, MCKINSEY GLOBAL INSTITUTE, (Oct. 15, 2018), <https://www.mckinsey.com/featured-insights/artificial-intelligence/the-promise-and-challenge-of-the-age-of-artificial-intelligence>.

¹⁰⁵ Joy Buolamwini, *Artificial Intelligence Has a Problem with Gender and Racial Bias. Here's How to Solve It*, TIME, (Feb. 7, 2019 7:00 AM), <https://time.com/5520558/artificial-intelligence-racial-gender-bias/>.

¹⁰⁶ Jon Kleinberg, et al., *Discrimination in the Age of Algorithms*, 10 JOURNAL OF LEGAL ANALYSIS 113 (2018).

¹⁰⁷ *Id.*

¹⁰⁸ *Algorithms and Collusion: Competition Policy in the Digital Age*, OECD (2017), www.oecd.org/competition/algorithms-collusion-competition-policy-in-the-digital-age.htm.

The age distribution of the participants was as follows: 35.22% were between the ages of 18 and 34, 40.13% were between the ages of 35 and 54, and 24.50% were 54 years old and above. This suggests that the survey had a significant engagement from younger demographics.

Further, 31.85% of respondents identified as white, 28.33% identified as black, 9.19% identified as Latino, 15.31% identified as Hispanic, and 7.35% identified as Asian. Lastly, the survey achieved a balanced gender representation, with 55.59% of respondents identifying as female and 44.41% identifying as male.

To gauge public opinion on certain questions, we analyzed a series of Likert-scale items in which participants rated their agreement or disagreement with a series of statements about the jury selection process in California. The response scale ranged from “strongly agree” to “strongly disagree.”

Figure 1

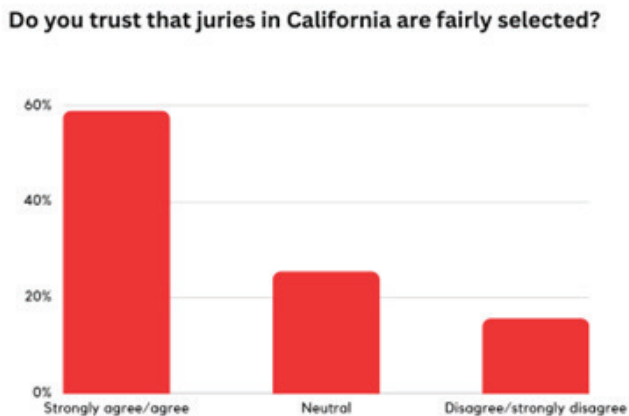
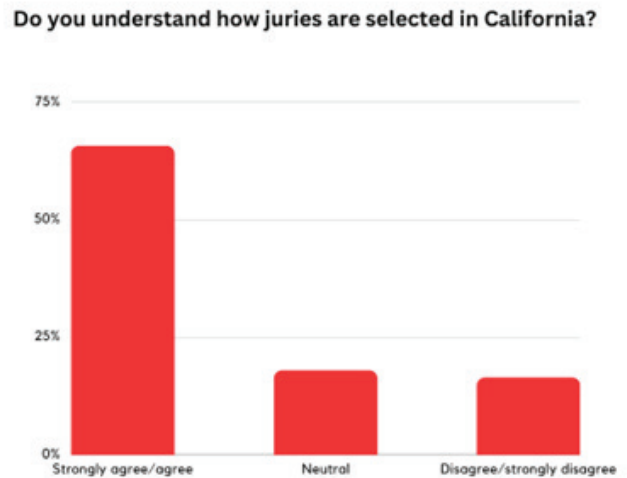


Figure 1 shows that a majority of respondents (58.96%) either strongly agree or agree that juries in California are fairly selected. However, a significant minority (25.42%) neither agreed nor dis-

agreed with the statement, and a small minority (15.62%) either disagreed or strongly disagreed.

Figure 2



As shown in Figure 2, an overwhelming majority of respondents (65.70%) indicated that they understood how juries are selected in California. However, 17.92% neither agreed nor disagreed, and 16.39% disagreed. This result was somewhat encouraging, as awareness of the jury selection process is a key factor in driving up participation and involvement of eligible citizens in a process that depends on them.

In response to the question of whether “the law applies to everyone in the same way, no matter who you are,” the responses of the participants were compared based on their self-identified race. This was important to do given the long history of overrepresentation of the minority communities, particularly African Americans, in the criminal justice system. According to the Sentencing Project, “[b]lack Americans are incarcerated in state prisons at nearly 5 times the rate of white Americans.”¹⁰⁹ By comparing the responses of different racial groups,

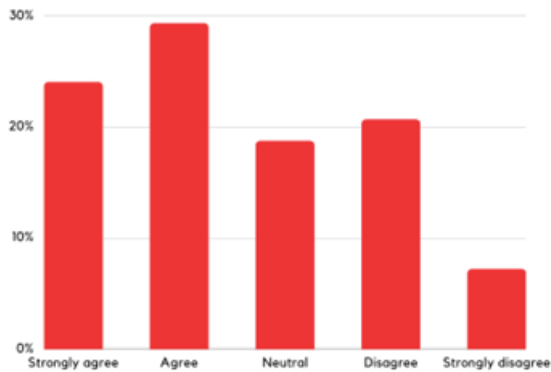
¹⁰⁹ Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, THE SENTENCING PROJECT, <https://www.sentencingproject.org/reports/the-color-of-justice-racial-and-ethnic-disparity-in-state-prisons-the-sentencing-project/> (last visited Aug. 13, 2023).

we can better understand how trust or distrust in the justice system may vary across different communities.

As shown in Figure 3, 53.37% of white respondents in California generally agreed with the statement that “the law applies to everyone in the same way, no matter who you are.” However, 18.75% stayed neutral, and 27.88% generally disagreed.

Figure 3

Do you believe California law applies to everyone equally?

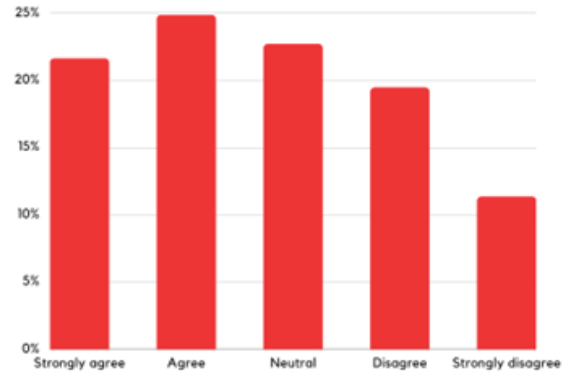


Only white respondents

As shown in Figure 4, a significant minority of black respondents (46.49%) generally agreed with the statement that “the law applies to everyone in the same way, no matter who you are.” However, 22.70% stayed neutral, and 30.81% generally disagreed. This suggests that black respondents are more likely to have doubts about the fairness of the justice system than white respondents.

Figure 4

Do you believe California law applies to everyone equally?

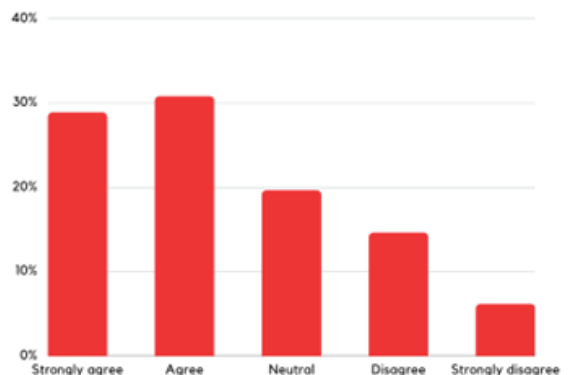


Only black respondents

As shown in Figure 5, respondents of other ethnicities (excluding white and black respondents) were significantly more likely to trust in the fairness of the justice system than black respondents. Specifically, 59.62% of respondents generally agreed with the statement that “the law applies to everyone in the same way, no matter who you are,” while 19.62% remained neutral, and 20.77% disagreed.

Figure 5

Do you believe California law applies to everyone equally?



Other ethnicities

The trends in the response to this particular question are noteworthy. They also correspond with Judge Liu’s concurring opinion in *Harris*, in which he stated that “black citizens are generally more skeptical about the fairness of [the] criminal justice system than other citizens.”¹¹⁰ This result also raises the question of what the government could be doing differently to gain trust in the black community.

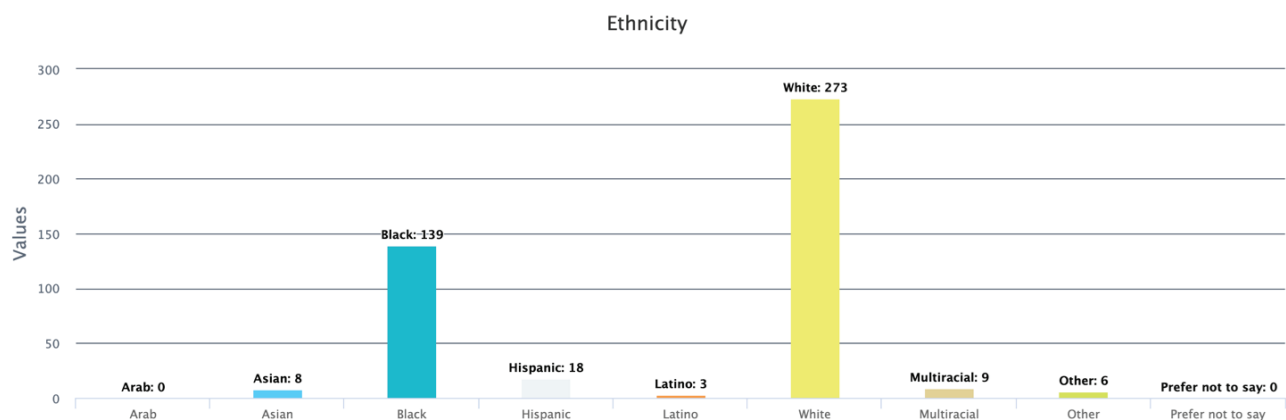
In answering the open-ended question on how the State of California could improve the jury selection process, participants responded with ideas like “make the jury process more convenient,” “provide transportation support for those who don’t have a car,” “pay people more per diem — people can’t afford not to work,” “the process itself can take most of a day (sometimes more) with the end result often being that you don’t get chosen,” “asking more detailed questions to ensure the trial has a fair jury . . . [and] help give multiple perspectives,” “can try select online so don’t need so many people go to the court,” “instead of relying solely on voter registration lists, consider a wider range of demographic factors such as race, ethnicity, and socioeconomic background [in the selection process] . . .,” “[include] felons,” “mail people the jury notice at least a month prior to the official date,” and “change the age limit such as starting at the age of 20 [or 21].”

As shown in the survey results, the public’s main concerns about the jury selection process are the time, cost, and fairness of the process. The respondents believe that the jury selection process could be made more cost-effective and time-efficient if technological advances were integrated into the process. They are also open to the use of AI to ensure a fairer jury selection process. Specifically, when asked about their confidence level in AI’s ability to ensure a fairer jury selection process, 8.88% of respondents were very confident, 38.90% were somewhat confident, 35.68% were not confident, and 16.54% were not at all confident. This indicates that Californians are open to trying out a new system if it will make the jury selection process fairer and better.

B. Louisiana Survey Results

According to the 2020 census, Louisiana’s race composition was 62.5% White, 32.8% Black, 1.9% Asian, 5.85% Hispanic, and 1.9% multiracial.¹¹¹ Thus, the sample population of the survey was a fair cross-section of that racial composition. The sample population was 59.38% White, 30.80% Black, 1.79% Asian, 4.02% Hispanic, 1.56% Multiracial. From this data, it can be concluded that the sample is representative of the Louisiana population. See Figure 6.

Figure 6



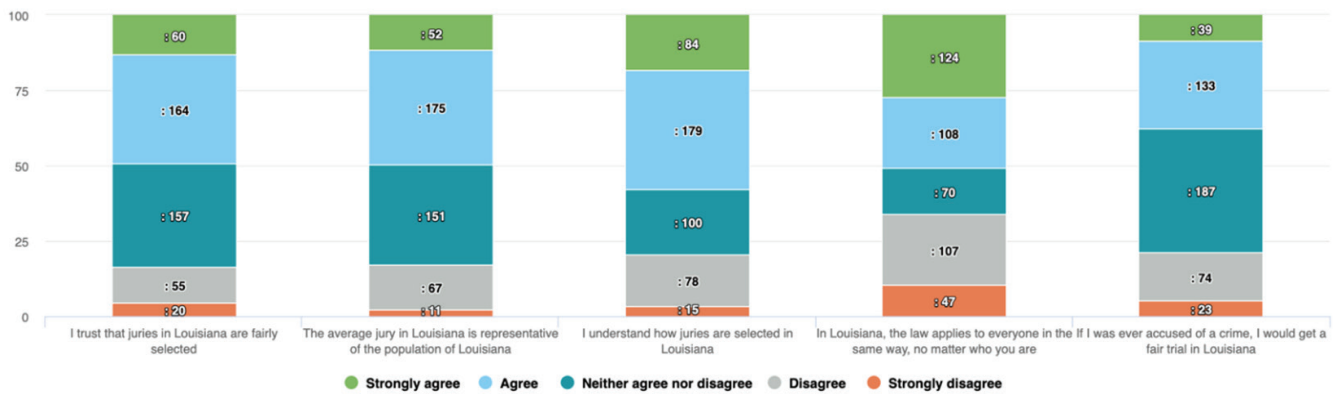
110 *People v. Harris* (2013) 57 Cal.4th 804, 865–66 (Liu, J. concurring).

111 *U.S. Census Data*, UNITED STATES CENSUS BUREAU, <https://data.census.gov/> (last accessed Aug. 14, 2023).

In Louisiana only about 50% of the sample population believe that juries are selected fairly, are truly representative of the population, and that the laws apply to everyone equally. Only 37.72% of people feel they would receive a fair trial. The purpose of

these questions was to assess public trust. From the responses it can be deduced that, as a whole, the sample population does not have tremendous confidence in the Louisiana justice system. See Figure 7.

Figure 7



When the sample is filtered to show the responses of black and Hispanics compared to whites, the numbers show a grave disparity. 52% of white people feel that juries are selected fairly compared to 38% of blacks and Hispanics. 44.76% of black and Hispanic people reported to have received a summons; yet 60% of those reported to have never served on a jury. This highlights the existent issue of peremptory strikes. 60% of this group who received a summons were not selected for a jury. While 46% of the white sample population reports having received a summons and 70% of that group has served on a jury.

The data collected through this survey reinforces the argument that racial bias in jury selection exists in Louisiana; it is a problem; and the public has a general mistrust of the judicial process. This data supports the declaration that something more

should be done to ensure that all citizens are represented and treated fairly during criminal proceedings.

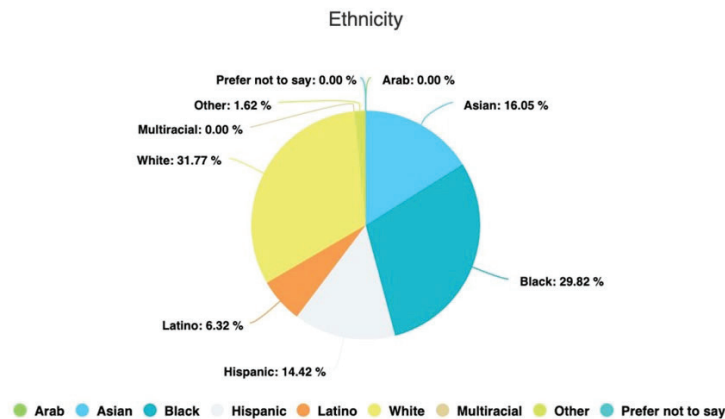
C. New York Survey Results

According to 2020 Census data, the estimated population of the State of New York stood at approximately 20,201,230 individuals. This demographic mosaic consisted of 68.8% of people who identified as White, 17.7% as Black or African American, 1% as American Indian and Alaskan Native, 9.6% as Asian, 0.1% as Native Hawaiian and Pacific Islander, 2.8% as Two or More Races, and 19.7% as Hispanic or Latino. Refer to Figure 8 for a comprehensive visualization of the New York census data, and to Figure 9 for a graphical representation of the cross-sectional composition of the survey respondents, carefully selected to reflect the diverse racial makeup of the state of New York.

Figure 8¹¹²

| Population, Census, April 1, 2020 | | 20,201,249 |
|---------------------------------------------------------------|--|------------|
| PEOPLE | | |
| Race and Hispanic Origin | | |
| White alone, percent | | 68.6% |
| Black or African American alone, percent (a) | | 17.7% |
| American Indian and Alaska Native alone, percent (a) | | 1.0% |
| Asian alone, percent (a) | | 9.6% |
| Native Hawaiian and Other Pacific Islander alone, percent (a) | | 0.1% |
| Two or More Races, percent | | 2.8% |
| Hispanic or Latino, percent (b) | | 19.7% |
| White alone, not Hispanic or Latino, percent | | 54.2% |

Figure 9



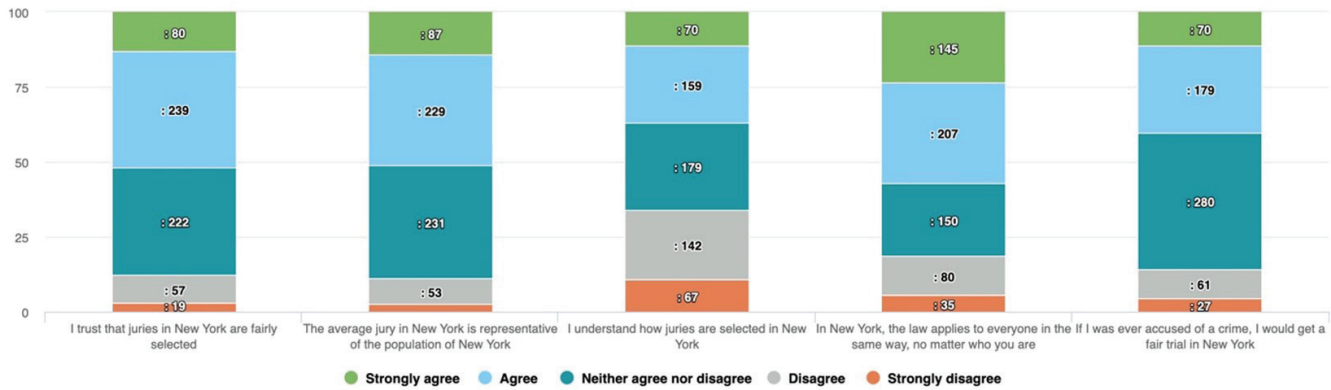
In the context of this demographic landscape, the survey’s sample population was methodically designed to encompass a judicious and proportional cross-section of the varied racial constituents that define the state of New York. This approach ensured a balanced and representative view of the state’s racial diversity in the survey’s results.

In the context of New York, approximately 38% of its residents hold the belief that the process

of jury selection is conducted fairly. An additional 36% of respondents express a neutral stance on the matter. It is noteworthy that around 13% of citizens exhibit a strong conviction in the fairness of jury selection. Conversely, a minority of 9.4% and 3.08% voice their disagreement and strong disagreement, respectively, regarding the equitable selection of juries in New York. *See* Figure 10.

¹¹² United States Census Bureau, *Quick Facts New York*, CENSUS.GOV, <https://www.census.gov/quickfacts/fact/table/NY/POP010220> (last visited Aug. 20, 2023).

Figure 10



Upon conducting a more detailed analysis of the data, specifically by excluding responses from White residents, a comprehensive evaluation of the minority racial groups, encompassing black, Asian, and Latino/Hispanic populations, was undertaken.

The refined examination revealed that a significant majority of these residents, amounting to 88.35%, express either an affirmative stance regarding the impartial selection of juries in New York or adopt a neutral position on the matter. See Figure 11.

Figure 11

| Statements | Strongly agree | Agree | Neither agree nor disagree | Disagree | Strongly disagree |
|-----------------------------------------------------|----------------|-----------------|----------------------------|---------------|-------------------|
| I trust that juries in New York are fairly selected | 60 (14.25%) | 156 (37.05%) | 156 (37.05%) | 41 (9.74%) | 8 (1.90%) |

When asked about the extent to which the typical jury in New York mirrors the state’s population, a substantial portion of respondents, accounting for 37.44%, adopted a neutral stance, signifying a lack of definitive opinion. Impressively, the following prominent group, encompassing 37.12% of participants,

expressed agreement with this assertion. A noteworthy 14% conveyed a resolute endorsement of this perspective, while a distinct minority, comprising 8.59%, voiced disagreement. On the opposite end of the spectrum, a mere 2.76% expressed a strong dissenting viewpoint. See Figure 12.

Figure 12

| | | | | | |
|------------------------------------------------------------------------------|----------------|-----------------|-----------------|---------------|---------------|
| The average jury in New York is representative of the population of New York | 87 (14.10%) | 229 (37.12%) | 231 (37.44%) | 53 (8.59%) | 17 (2.76%) |
|------------------------------------------------------------------------------|----------------|-----------------|-----------------|---------------|---------------|

When asked whether the principle of equal application of the law prevails for all individuals within the State of New York, a substantial 33.55% of residents voiced a resolute agreement, underlin-

ing the significance of this perspective. Additionally, a noteworthy minority, constituting 24.31% of respondents, were neutral, followed closely by 23.50% that strongly agreed.

In contrast, a minority segment of residents, comprising 12.97%, expressed disagreement with this notion, suggesting a divergence in viewpoints. Further reinforcing the polarity of opinions, a mod-

est 5.67% conveyed a strong disagreement, representing a more emphatic dissenting stance. See Figure 13.

Figure 13

| | | | | | |
|---------------------------------------------------------------------------------|-----------------|-----------------|-----------------|----------------|---------------|
| In New York, the law applies to everyone in the same way, no matter who you are | 145 (23.50%) | 207 (33.55%) | 150 (24.31%) | 80 (12.97%) | 35 (5.67%) |
|---------------------------------------------------------------------------------|-----------------|-----------------|-----------------|----------------|---------------|

Surprisingly, the query concerning the prospect of a New York resident receiving a just trial when accused of a crime yielded noteworthy insights. Interestingly, a significant majority of respondents adopted a stance of neutrality, abstaining from definitive agreement or disagreement on the topic. In tandem, a notable 29.01% of participants expressed their concurrence, asserting their belief in the prospect of a fair trial for accused residents. While the remaining minority strongly agreed at 11.35%, disagreed at 9.89%, and strongly disagreed at 4.38%.

Considering the data on the potential use of AI to reduce or eliminate racial biases in New York, 42.14% of respondents expressed uncertainty by selecting “Don’t Know,” indicating a lack of consensus or awareness on the matter. In contrast, 32.74% of participants held a positive perspective, agreeing that AI could serve as a tool to address biases. On the contrary, 25.12% of respondents held a more skeptical view, asserting that AI may not be effective in this regard. This wide spectrum of responses showcases the complexity of residents’ perceptions regarding technological solutions to mitigate racial biases, adding another layer to the intricate landscape of opinions on racial bias in New York. See Figure 14. In the context of inquiring whether residents perceive biases in the jury selection process within the State of New York, a distinct trend emerges. The preponderance of respondents, constituting the majority, expressed a negative viewpoint, contending that biases are absent from the process. Conversely, a noteworthy 45.87% of participants held the belief that such biases indeed exist. See Figure 15.

Figure 14

Do you believe AI has the potential to help reduce or eliminate racial biases in New York?

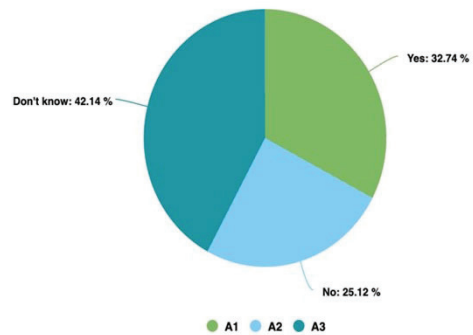
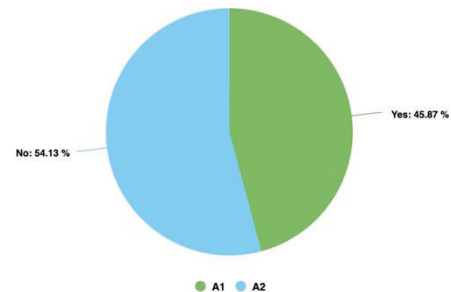


Figure 15

Are you aware of the existence of racial biases in jury selection in New York?



Examining the presented statistics, it becomes apparent that the sentiment among New York residents regarding racial bias is nuanced and diverse. While a considerable portion of respondents remained neutral on certain questions, suggesting a lack of clear consensus, there are indications of both optimism and skepticism. A significant proportion of residents acknowledged the existence of

fairness in various contexts, such as the selection of juries and the equal application of the law. This suggests a certain level of confidence in the justice system’s ability to mitigate racial bias. However, the presence of dissenting viewpoints, particularly those expressing disagreement with the fairness of jury selection and trial outcomes, highlights concerns about potential racial bias within the state. Overall, it can be inferred that New York residents hold a range of perceptions and opinions regarding racial bias, reflecting a complex interplay of trust and skepticism in the state’s legal processes.

Part IV: Exploring AI Solutions

A. Introduction to AI and Machine Learning

Artificial intelligence “is an interdisciplinary branch of computer science that deals with the creation of models and data processing systems” capable of performing tasks that “have been associated with human intelligence, such as reasoning, learning, and self-improvement.”¹¹³ Both the International Organization for Standardization and the International Electrotechnical Commission have defined AI as the “capability of a functional unit to

perform functions that are generally associated with human intelligence, such as reasoning and learning.”¹¹⁴ Artificial intelligence has gained momentum in recent years because of its capabilities.¹¹⁵ Several industries are adopting AI tools into their functions and products.¹¹⁶ Employers are using AI to make hiring decisions. For instance, Jobscan, an automated job search start-up, reported in 2019 that at least 99% of all Fortune 500 companies use AI tools like applicant tracking systems to screen candidates during the recruitment process.¹¹⁷ Furthermore, AI is being used in the automotive industry to develop self-driving cars, optimize manufacturing processes, and personalize the driving experience.¹¹⁸

Machine learning is a subset of AI that deals with the development of systems that can automatically learn from data.¹¹⁹ Machine learning systems are able to “automatically learn and improve from experience . . . overtime ‘without being explicitly programmed’” to do so.¹²⁰ The Department of Energy defines machine learning as “the process of using computers to detect patterns in massive datasets and then mak[ing] predictions based on what the computer learns from those patterns.”¹²¹ Basically, machine learning systems learn by “distilling meaning” from data.¹²² “Through this distillation, the

¹¹³ Emile Loza De Siles, *AI, on the Law of the Elephant: Toward Understanding Artificial Intelligence* 1, 69 BUFFALO L. REV. 1389, 1418 (2021).

¹¹⁴ *Id.*

¹¹⁵ Jose Fumo, *Why Is Everyone Talking About Artificial Intelligence?*, MEDIUM <https://towardsdatascience.com/why-is-everyone-talking-about-ai-73bab31bf9c1> (last visited Aug. 14, 2023).

¹¹⁶ Akash Takyar, *AI Use Cases & Applications Across Major Industries*, LEEWAYHERTZ, <https://www.leewayhertz.com/ai-use-cases-and-applications/#:~:text=From%20healthcare%20to%20retail%2C%20banking,to%20do%20in%20the%20future> (last visited Aug. 14, 2023).

¹¹⁷ James Hu, *99% of Fortune 500 Companies use Applicant Tracking Systems*, JOBSKAN, <https://www.jobscan.co/blog/99-percent-fortune-500-ats/> (last visited Aug. 14, 2023).

¹¹⁸ Akash Takyar, *AI Use Cases & Applications Across Major Industries*, LEEWAYHERTZ, <https://www.leewayhertz.com/ai-use-cases-and-applications/#:~:text=From%20healthcare%20to%20retail%2C%20banking,to%20do%20in%20the%20future> (last visited Aug. 14, 2023).

¹¹⁹ Emile Loza De Siles, *AI, on the Law of the Elephant: Toward Understanding Artificial Intelligence* 1, 69 BUFFALO L. REV. 1389, 1428 (2021).

¹²⁰ *Id.*

¹²¹ DOE Explains...Machine Learning, U.S. DEPARTMENT OF ENERGY, OFFICE OF SCIENCE, <https://www.energy.gov/science/doe-explainsmachine-learning> (last visited Aug. 14, 2023).

¹²² Emile Loza De Siles, *AI, on the Law of the Elephant: Toward Understanding Artificial Intelligence* 1, 69 BUFFALO L. REV. 1389, 1418 (2021).

machine learning system accumulates and refines its ‘understanding’ of its decisional domain.”¹²³

“Machine learning is currently the most significant and impactful approach to [AI],”¹²⁴ and its capabilities can make the jury selection process more efficient and help alleviate racial bias. The availability of “large amounts of high-quality, structured, machine-processable data”¹²⁵ makes it possible for AI systems to assemble a much larger jury pool than traditional methods. This access to big data has not always been the case.¹²⁶ However, as more individuals and companies continue to use the internet, there is more data available, which enables machine learning tools to become more accurate in their predictions and problem-solving capabilities.¹²⁷

There are different types of machine learning techniques, and some of the more common ones “include neural networks[], naive Bayes classifier[s], logistic regression, and random forests.”¹²⁸ The machine learning technique most applicable to the solutions that this paper discusses is neural networks. “Neural networks are [] the method of choice to analyze high-dimensional data, including images of all types, sound, and natural-language text,”¹²⁹ and will most likely work best for an AI-powered jury selection tool.

“A neural network is a structured arrangement of layers of artificial neurons — mathematical units that contain simple mathematical functions.”¹³⁰ The complexity of neural networks can range from simple to complex.¹³¹ “A simple neural network can have only one layer and perform simple classification tasks,” while a complex neural network can have many layers and perform complex tasks, such

“What I’m most excited about during the course of this Fellowship is utilizing the tools that Lexis provides for us in order to eliminate systemic racism, not only in America, but potentially across the world as well.”

**—Jaylon Denkins, Fellow
Technology Solutions
to Alleviate Jury Bias**

as image recognition and natural language processing.¹³² Moreover, neural networks’ strength “resides in their ability to extract patterns from large data sets with relatively little prior knowledge about useful features or variables.”¹³³

For instance, Generative Adversarial Networks (“GANs”) are a type of complex neural network

123 *Id.*

124 Harry Surden, *Artificial Intelligence and Law: An Overview*, 35 GA. ST. U.L. REV. 1305, 1315 (2019).

125 *Id.* at 1316.

126 *Id.* at 1315-16.

127 *Id.*

128 *Id.* at 1311.

129 A. Michael Froomkin, *When AIs Outperform Doctors: Confronting the Challenges of a Tort-induced Over-reliance on Machine Learning*, 61 ARIZ. L. REV. 33, 46 (2019).

130 Jessica L. Gillotte, *Copyright Infringement in AI-Generated Artworks*, 53 U.C. DAVIS L. REV. 2655, 2661 (2020).

131 *Id.*

132 *Id.*

133 A. Michael Froomkin, *When AIs Outperform Doctors: Confronting the Challenges of a Tort-induced Over-reliance on Machine Learning*, 61 ARIZ. L. REV. 33, 46 (2019).

that can be used to generate new data that is similar to the data it was trained on.¹³⁴ GANs consist of two neural networks: a generator and a discriminator.¹³⁵ The generator is responsible for creating new data, while the discriminator is responsible for distinguishing between real data and data generated by the generator.¹³⁶ The two networks are trained simultaneously in a game-like setting, where the generator tries to trick the discriminator into thinking that its data is real, and the discriminator tries to correctly identify real and fake data.¹³⁷

“Natural language processing refers to a host of machine-learning techniques that interpret text using . . . neural networks.”¹³⁸ Due to the complexity in the process of predicting a representative jury based on both past data and the current profile of the jury pool, the AI system would have to be equipped with GANs and natural language processing to function adequately.

Several companies are now offering AI-powered tools that can help lawyers and judges select juries.¹³⁹ These tools use data analytics and machine learning to identify potential jurors who are more likely to be impartial and to understand the case. The section below explores some examples of companies that are leading this AI-driven revolution, shaping the future of jury selection in courts across the nation.

B. Case Studies of Jury Consultants Using AI in Jury Selection

Momus Analytics

Momus Analytics, an AI-powered jury selection software company in Florida, helps lawyers select favorable juries by scraping publicly available records and jurors’ social media posts to assess and to rate traits such as leadership, personal responsibility, and social responsibility.¹⁴⁰ The algorithms used by Momus Analytics are designed to identify potential jurors who are more likely to be favorable to a particular side of a case.¹⁴¹ Although Momus Analytics’ “software does not use race, sex, age, religion, or country of origin as a factor to determine a juror’s rating,”¹⁴² the company acknowledged in its patent application that “a number of characteristics are tied to race.”¹⁴³ For instance, “people of Asian, Central American, and South American descent are more likely to be leaders, and thus more able to influence other jurors, [while] those who identify their race as ‘other,’ [] are less likely to be leaders according to Momus.”¹⁴⁴ According to the company’s website, “[t]he Momus Methodology has led to over \$1 billion in verdicts for plaintiffs.”¹⁴⁵

Voltaire

Voltaire Inc.’s application “help[s] lawyers pick better juries [and] connect with the ones they seat using Big Data analytics, social footprint analysis,

134 *Id.* at 2662.

135 *Id.*

136 *Id.*

137 *Id.*

138 Lindsey Barrett, *Model(ing) Privacy: Empirical Approaches to Privacy Law & Governance*, 35 SANTA CLARA HIGH TECH. L.J. 1, 36 (2018).

139 See e.g., *About*, MOMUS ANALYTICS, <https://momusanalytics.com/> (last visited Aug. 14, 2023); *Voltaire Uses AI and Big Data to Help Pick Your Jury*, ARTIFICIAL LAWYER, <https://www.artificiallawyer.com/2017/04/26/voltaire-uses-ai-and-big-data-to-help-pick-your-jury/> (last visited Aug. 14, 2023).

140 Hon. John G. Browning, *Real World Ethics in an Artificial Intelligence World*, 49 N. KY. L. REV. 155, 170-71 (2022).

141 *Id.* at 170.

142 *About*, MOMUS ANALYTICS, <https://momusanalytics.com/> (last visited Aug. 14, 2023).

143 Hon. John G. Browning, *Real World Ethics in an Artificial Intelligence World*, 49 N. KY. L. REV. 155, 170-71 (2022).

144 *Id.* at 171.

145 *About*, MOMUS ANALYTICS, <https://momusanalytics.com/> (last visited Aug. 14, 2023).

and advanced behavioral models that use online data & behavior to understand a juror's biases in the case at hand."¹⁴⁶ Voltaire's software has the ability to "rapidly analyze potential jurors by crunching public Big Data, including social media posts" of potential jurors.¹⁴⁷ Adopting AI tools like "machine learning and natural language processing (NLP)," Voltaire makes the jury selection process less complex for lawyers and litigation consultants.¹⁴⁸

Voltaire "explores all public data related to the potential juror, correlates the data against known patterns in human behavior and then produces a detailed profile, with indications of the type of person they are and how their views and biases may be a positive or negative factor as part of a jury."¹⁴⁹ This in-depth jury analysis is done with "IBM Watson's Personality Insights AI tool."¹⁵⁰ IBM Watson's Personality Insights is "a cloud-based service that uses machine learning to analyze the emotional content behind unstructured customer communications like emails, social posts, and blogs."¹⁵¹ IBM Watson "uses natural language processing algorithms to categorize jurors" into the "Big Five" personality trait molds: "openness to experience, agreeableness, introversion and extraversion, conscientiousness, and neuroticism."¹⁵² However, IBM Watson does not consider the race of jurors in its analysis.¹⁵³

C. How AI Can Make Jury Selection Process More Efficient and Fairer

While the current use of AI in the jury selection process is a positive step, it is important to balance the goal of winning with the need for adequate racial representation on the jury. The importance of a racially balanced jury cannot be overstated. Studies have shown that diverse juries are more likely to evaluate evidence from multiple perspectives, which is essential for reaching an impartial and fair verdict.¹⁵⁴ AI systems could be used to improve the jury selection process from the very beginning, by enlarging the jury pool beyond data compiled from voter registration lists and Department of Motor Vehicles records. AI could be used to make an accurate analysis of the racial composition of a jury panel in any given jurisdiction based on the population.

In addition, AI systems can be programmed to administer preliminary questionnaires to potential jurors from the comfort of their own homes.¹⁵⁵ This would not only save time and resources, but it would also make the process more efficient and equitable. As some survey participants noted, many people, especially those from low-income communities, cannot afford to take time off work to serve on a jury. Additionally, some people are frustrated when they spend an entire day or multiple days in court only to be dismissed for one reason or the other. These inconveniences could be easily avoided if AI systems were used to eliminate potential jurors who have conflicts of interest or who would not be

146 Voltaire, Inc., *About*, <https://www.linkedin.com/company/voltairejury/about/> (last visited Aug. 14, 2023).

147 *Voltaire Uses AI and Big Data to Help Pick Your Jury*, ARTIFICIAL LAWYER, <https://www.artificiallawyer.com/2017/04/26/voltaire-uses-ai-and-big-data-to-help-pick-your-jury/> (last visited Aug. 14, 2023).

148 *Id.*

149 *Id.*

150 Hon. John G. Browning, *Real World Ethics in an Artificial Intelligence World*, 49 N. KY. L. REV. 155, 171 (2022).

151 *What is IBM Watson™ Personality Insights?*, GIGAOM, <https://research.gigaom.com/brief/what-is-ibm-watson-personality-insights/#:~:text=What%20it%20is%3A%20IBM%20Watson,%2C%20social%20posts%2C%20and%20blogs> (last visited Aug. 14, 2023).

152 Hon. John G. Browning, *Real World Ethics in an Artificial Intelligence World*, 49 N. KY. L. REV. 155, 170-71 (2022).

153 *Id.*

154 See Shari S. Diamond and Valerie P. Hans, *Fair Juries*, U. ILL. L. REV. 879, 884 (2023).

155 *See AI in Jury Selection*, JURY ANALYST, <https://juryanalyst.com/blog/artificial-machine-intelligence/> (last visited Aug. 14, 2023).

able to remain impartial before they showed up at the courtroom at all.

Part V: Limitations of AI Systems

One hard to fathom, yet extremely publicized, downside of AI is the possibility that robots will take over the world. Although it is difficult to picture a reality where humans take orders from robots, the media industry has created many videos and movies that depict this ominous fate. While these movies seem a bit far-fetched, there are several probable cons to implementing AI into roles

"I'm excited just to do my part. Reading the history and the issues with racism in our country and being able to use all of these Lexis tools to help me, to help society to be better, is really exciting. I'm very thankful for the opportunity to do so."

**—Whitney Triplet, Fellow
Technology Solutions
to Alleviate Jury Bias**

that are traditionally held by humans which deserve honest consideration as the world moves towards the age of AI. Built-in bias, loss of human connection, and increased possibility of hacking and terrorism are among the top concerns.

For a computer to “think” it must be given information.¹⁵⁶ The frontrunner of problems with artificial intelligence begins here: who is teaching the computer and what is it being taught? Bias is a part of everyday life. Bias, simply put, is a preference of one thing over another. Implicit biases are those preferences that creep into our daily decisions with very little awareness. Managers tend to hire candidates who have similar values, beliefs, and experiences as themselves, rather than those who share fewer similarities.¹⁵⁷ This is not a purposeful slight to a person with less in common; it is an example of unchecked implicit bias. It has been scientifically proven that people naturally gravitate toward and are more likely to hire those with whom they can relate.¹⁵⁸ It takes a high level of attention and purpose to overcome this natural preference. Defeating implicit bias must be a cognitive effort.

Similarly, AI will produce a thought process utilizing the information it has been fed; thus, if the information is biased, the AI model will also be biased.¹⁵⁹ If an AI model is fed information that is one-sided or strongly suggestive of a particular outcome, the computer’s “brain” will only be comprised of this prejudicial information. This situation could present an even worse outcome for

jury selection than what we have now. Now, prosecutors and defense attorneys strike jurors because they seemingly are more likely to vote in the direction opposite of the party’s interest. If AI is fed the implicit biases of the current society, it is likely it

¹⁵⁶ *How Does it Actually Work*, CSU GLOBAL, <https://csuglobal.edu/blog/how-does-ai-actually-work#:~:text=AI%20systems%20work%20by%20combining,performance%20and%20develops%20additional%20expertise> (last visited Aug. 14, 2023).

¹⁵⁷ Kimberly Giles, *Why You Mistakenly Hire People Just Like You*, FORBES, <https://www.forbes.com/sites/forbes-coachescouncil/2018/05/01/why-you-mistakenly-hire-people-just-like-you/?sh=4e57325c3827> (last visited Aug. 14, 2023).

¹⁵⁸ *Id.*

¹⁵⁹ Sara Brown, *Machine Learning, Explained*, MIT, <https://mitsloan.mit.edu/ideas-made-to-matter/machine-learning-explained> (last visited Aug. 14, 2023).

will exclude potential jurors based solely on the information it “knows” about the group or the class the person is in rather than that person’s individual merits.

Another potential problem with AI is that computers lack the ability to experience and appreciate human emotions and feelings.¹⁶⁰ Many people, on paper, are not ideal; however, they give someone a *feeling*. These connections and feelings lead to life-changing experiences. The use of AI will remove the possibility of making a good off-paper impression. People’s success may be confined to the information dictated on applications or documents. Conversely, people who lie on paper will have a greater chance of success. Many liars are detected by body language and human interaction.¹⁶¹ The implementation of AI in jury selection would need to be confined to those decisions which are limited to data interpretation rather than human experience and interactions. To further the goal of fair-cross section and equitable access to justice, this should be done in the very first stages of jury selection, during the jury pool formation.

The use of computers makes spying a lot easier. Historically, before the age of information, spies had to infiltrate an organization; gain trust; be there physically; now, spies can find the deepest and darkest secrets from their basements using high tech computers and their expert understandings of technology. When information is stored electronically, it can be hacked and altered.¹⁶² This poses a threat to the sanctity of the randomness of the jury selection process. If an outside force can hack the tool being used, this can be detrimental to the fair cross-section requirement because the settings may be altered to benefit one particular cause. There-

fore, it is vital to verify the cyber security of whatever technology is being used.

While the use of AI is inevitable and has the potential to improve efficiency and simplify difficult tasks, the roadblocks that the implementation could present should be addressed. It is essential that the AI models are not taught the biases that currently exist to exclude minorities from jury selection. Computers have the ability to make jury selection an equitable experience for all involved, but it is necessary to highly scrutinize the information that the models are being taught to be careful not to create a tool that will perpetuate the prejudices that are already problematic in our judicial system; they should be used to compile data and randomly select individuals according to the population composition rather than make decisions on specific jury members. If technology can be used to better develop the jury pool, this will work to alleviate the exclusion of black and brown people that currently is at the foundation of racial bias in jury selection.

Conclusion

Trial by jury is a constitutionally protected right of the accused. Although each state has the liberty to implement this requirement, there are some constants. The jury should be a fair cross-section of the community in which the alleged crime occurred. This requirement is meant to provide the accused with a fair jury trial. When racial bias creeps into the jury selection process, the integrity of justice is compromised. Everyone should receive a fair trial regardless of the crime and despite their racial identity; but, unfortunately, across the United States, specifically documented here in California, Lou-

¹⁶⁰ Sudip Bhattacharya, *Artificial intelligence, human intelligence, and the future of public health*, AIMS PUBLIC HEALTH 9(4), 644–650 (Sept. 16, 2022), <https://doi.org/10.3934/publichealth.2022045>.

¹⁶¹ Aldert Vrij, *Guidelines to catch a liar*, in *The Detection of Deception in Forensic Contexts*, 287-314 (P.-A. Granhag & L. Strömwall (Eds.), Cambridge University Press, 2004).

¹⁶² Marcus Comiter, *Attacking Artificial Intelligence: AI’s Security Vulnerability and What Policymakers Can Do About It*, <https://www.belfercenter.org/publication/AttackingAI> (last visited Aug. 14, 2023).

isiana, and New York, people who are not white are systematically marginalized by their continued exclusion from the judicial process. A high percentage of black and brown citizens have a distrust for authority and little faith in the judicial system.

According to the National Artificial Intelligence Act of 2020, artificial intelligence means “a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments.”¹⁶³ Access to “big data”¹⁶⁴ has widened the scope of many technological tools. Consequently, what was once deemed impossible a few decades ago is now seamlessly achievable due to the vast volume of data available to programmers and software developers. AI is rapidly expanding; its capabilities should be harnessed to enhance the jury selection process by eliminating racial bias and improving efficiency.

While artificial intelligence and technological advancements are not perfect, their benefits can be tailored to greatly improve the jury selection process. There is an obvious need for a better process for voir dire, and technology can be used to answer that need. With a strictly numerical, bias-free algorithm, technology can be used to create jury pools that adhere to the fair-cross section requirement. This method will alleviate racial bias from the very first step because it can sort through much larger databases to collect citizen information rather than depending solely on voter registration, where black people and those who identify as others are present at alarmingly lower rates than white people. The justice process should be equitable and accessible to all, and race should not be a determining factor for who receives a fair trial by a jury made up of a fair cross-section of the community. The constitution demands that we do more to protect the integrity of justice.

¹⁶³ See H.R. 6216, National Artificial Intelligence Act of 2020, available at: <https://www.congress.gov/bill/116th-congress/house-bill/6216/text>.

¹⁶⁴ “Big data” is defined as “a combination of structured, semi structured and unstructured data collected by organizations that can be mined for information and used in machine learning projects, predictive modeling and other advanced analytics applications.” Bridget Botelho and Stephen J. Bigelow, *Big Data*, TECH TARGET, <https://www.techtarget.com/searchdatamanagement/definition/big-data> (last accessed Aug. 14, 2023).

Fellows



Jaylon Denkins

Jaylon Denkins is a third-year law student at Southern University Law Center. He currently serves as the Articles Editor on *The Journal of Intellectual Property, Technology & Law*. His legal research interest includes technology law and closing the gaps between policy, law and technology. Jaylon also has experience as a summer associate in a private practice law firm assisting on health, tax, employee benefits law and retirement matters, which is also where he would like to practice upon graduation.



Whitney Triplet

Whitney Triplet is a third year student at Southern University Law Center. Her work there as a research assistant has increased her passion for civil justice. Whitney is interested in playing a role in achieving racial equity for disenfranchised communities in the US. She is also interested in tax law and estate planning. Whitney plans to practice these areas of law in her own private practice.



Favour Okhuevbie

Favour Okhuevbie is a third-year law student at Howard University School of Law. Her active involvement in numerous legal internships and pro bono work has allowed her to hone her legal skills and gain valuable experience in the field. She plans to pursue a career in tax litigation and technology law upon graduation.

Mentors

Tara Diedrichsen

Senior Product Manager



It has been a true privilege to serve as a mentor in the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship program and to help further the foundational work from the previous year around alleviating racial bias in jury selection. This is such a profound topic, that goes to the heart of the rule of law, and Favour, Jaylon, and Whitney led the charge in expanding research in this area and making important data points available for new jurisdictions. In doing so, the Fellows brought the perfect balance between leveraging prior work, whilst still pushing boundaries and embracing opportunities to bring in their own fresh perspectives.

I shall cherish the opportunity I was given to work with and learn from these amazing Fellows. They continuously left me in awe — not just of their huge talent, but their dedication and thoughtfulness in tackling this important topic. This was made even more impressive by everything they were juggling alongside their Fellowship commitments (studies, internships, multiple jobs . . .). I expressed on more than one occasion that I didn't know how they did it all, but as I got to know them better, it became clear to me that they can achieve anything they set their minds to — and I can't wait to see the impact they have on our world!

Tara is a product manager in the Global Product Team at LexisNexis®. She has been in the Global Product Team for 20 years, during which time she has worked with teams launching new research tools for legal markets across the globe. She currently leads a global search relevance testing program, ensuring our products are supporting users through the delivery of high-quality search results.

Tara earned her LLB at the University of Hull in England and her LLM in European Law at the University of Bremen in Germany. She then completed her professional legal exams at the College of Law in London, England. She is currently based in North Carolina.

Olga Mack

CEO of CounselLink CLM and VP, LexisNexis®



Working with the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation has been a transformative experience for me. It has reaffirmed my belief in the power of purpose-driven work and the potential for positive change in the world. Through this Fellowship, I had the privilege of mentoring Whitney Triplet, Favour Okhuevbie, and Jaylon Denkins, all talented law students. However, I must admit that the learning and growth I gained from this experience far exceeded what I could impart to them.

The Foundation's commitment to shaping a more just world resonates deeply with me. It is inspiring to be part of an organization that recognizes the importance of improving access to justice and actively

works towards achieving it. This shared mission is ingrained in the DNA of LexisNexis®, and it permeates every aspect of our work.

The project has been a remarkable endeavor. Collaborating with a dedicated team of volunteers from across LexisNexis®, we conducted rigorous primary research to establish ground truth data on bias. Furthermore, we delved into census data, utilizing it to develop analytical tools that could help identify potential bias. The journey has been truly incredible, and it fills me with pride to witness the Fellows' passion and commitment to this critical cause.

Participating in this program has reignited my energy and enthusiasm for addressing access to justice issues. Witnessing the tangible impact that our collective efforts can have on advancing the rule of law has been immensely rewarding. It has reminded me that even small steps toward justice can make a significant difference in people's lives.

Moreover, the collaboration between the LexisNexis® African Ancestry Network, LexisNexis® Rule of Law Foundation, and our dedicated volunteers showcases the power of collective action. It demonstrates how diverse perspectives, expertise, and resources can be harnessed to drive meaningful change. This collaboration has fostered a sense of community and shared purpose, leaving a lasting impression on me.

In conclusion, my involvement with the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship has been a profound experience. It has instilled in me a renewed commitment to working towards a more just society. I am honored to be part of an organization that not only provides valuable tools for improving access to justice but also actively engages in initiatives that advance the rule of law worldwide. Moving forward, I will carry the lessons learned from this Fellowship with me and continue to contribute my efforts to create a fairer and more equitable world.

Olga Mack is a Digital Transformation Executive at LexisNexis®, and an award-winning general counsel, operations specialist, and tech startup advisor who encourages lawyers to embrace disruptive technologies that make law more functional and accessible. A three-time TEDx presenter with an exceptional blend of legal, technological, and business expertise, Olga is one of today's top speakers and thought leaders. Find her latest insights at Above the Law, Forbes, ACC Docket, MIT Computational Law Report, Newsweek, Venture Beat, and her podcast, Notes to My (Legal) Self. As a board member of the Education Advisory Council (EAC) of CLOC (Corporate Legal Operations Consortium), Berkeley Law lecturer, a fellow of CodeX, the Stanford Law Center for Legal Informatics, and a fellow of the College of Law Practice Management, Olga is confident the law's future is secure in the hands of innovators. Olga's numerous awards include the Silicon Valley Women of Influence, ABA Women in Legal Tech, Make Your Mark, Corporate Counsel of the Year, and Women Leaders in Technology Law. In examining how disruptive technologies impact laws, society, business, and commerce, Olga authored Blockchain Value: Transforming Business Models, Society, and Communities and co-authored Fundamentals of Smart Contract Security. Her next book, Visual IQ for Lawyers (ABA 2023), shows how lawyers can use practical design and visual elements to make law more understandable to all.

Law Clinic Support Tools & Resources to Combat Systemic Racism in the Legal System

Veronica Alba, Paul Campbell, and Larry Futrell

Introduction

Access to legal services in underrepresented and low-income communities is an ongoing problem in the United States. According to the Legal Services Corporation (LSC), nearly one million poor people with civil legal problems are denied legal services.¹ America is full of legal deserts. Legal deserts are places with few or no attorneys.² Around 40% of all counties in the U.S.A. — 1,272 of 3,141 — have less than one lawyer per 1,000 residents.³ Fortunately, legal clinics have

¹ *The Unmet Need for Legal Aid*, LEGAL SERVICES CORPORATION, <https://www.lsc.gov/about-lsc/what-legal-aid/unmet-need-legal-aid> (last visited Aug. 14, 2023).

² *How Legal Deserts Are Affecting Our Country and What to Do About It, Your Law Firm is a Business*, EMERALDCITY, (Aug. 10, 2022), <https://nextlevel.legal/blog/how-legal-deserts-are-affecting-our-country-and-what-to-do-about-it/#:~:text=Legal%20deserts%20are%20geographical%20locations%20with%20very%20few,they%20are%20something%20that%20needs%20to%20be%20addressed.>

³ Elaine S. Povich, *'Legal Deserts': Lack of Rural Lawyers Leaves Much of America Without Support* STLtoday.com (Jan. 26, 2023), https://www.stltoday.com/news/national/crime-and-courts/legal-deserts-lack-of-rural-lawyers-leaves-much-of-america-without-support/article_fa5844a5-ddfa-52dc-9690-1ce2199d24c6.html (last visited Aug. 14, 2023).

This project's mission is to conduct quantitative and qualitative market research regarding the current state of law school legal clinics to identify the challenges and potential solutions to make them more effective in utilizing the legal system to address systemic racism in black communities, and to utilize the research data to make investment recommendations for the LexisNexis® Rule of Law Foundation to consider in further aiding legal clinic efforts.

provided services for over 100 years. Law students in the late 1890s and early 1900s established the first legal clinics as volunteer legal aid organizations to provide learning experiences for law students and legal services for those unable to afford them.⁴ Clinics are still needed because legal services are very expensive. According to Contracts Counsel Inc., the average hourly rate for attorneys across the U.S.A. is \$275.00 per hour.⁵ The average low and high hourly attorney's fee rates are both found in Illinois at \$80.00 and \$550.00.⁶ The high costs often leave low-income and middle-class individuals unable to afford quality legal services.

In an effort to help with the mission of providing legal services to communities in need, the American Bar Association (ABA) approved a proposal in 2014 that requires law students to complete six credits in an experiential course or courses.⁷ Participation in a law clinic is one of the ways to satisfy this requirement.⁸ As a result, multiple law schools now have impactful clinics that provide legal services to those in need and students are more engaged in serving the legal community. For instance, more than 80% of Harvard Law School

students participate in at least one law school clinic and contribute thousands of hours of free legal services.⁹ Participation in a legal clinic is just one way for law students to satisfy their experiential requirements; law schools must find other ways to encourage students to participate in clinical and pro bono programs.

A goal of law schools and legal clinics should be to eliminate the justice gap — “the difference between the level of civil legal assistance available and the level that is necessary to meet the legal needs of low-income individuals and families.”¹⁰ LSC found that 74% of low-income households have experienced at least one civil legal problem in 2021.¹¹ The black and Hispanic communities as a whole are greatly affected by legal problems because 26% of all blacks and 23% of all Hispanics live below 125% of the poverty line.¹² The percentage of black and Hispanic communities living in low-income households is more than double that of the non-Hispanic white community. Therefore, the lack of legal support is a significant issue in black and Hispanic communities.

4 Margaret Martin Barry, Jon C. Dubin & Peter A. Joy, *Clinical Education For This Millennium: The Third Wave*, 7 CLINICAL L. REV. 1 (2000).

5 *How Much Do Lawyers Cost: Fees Broken Down By State*, CONTRACTSCOUNSEL, INC., (Aug. 17, 2021) <https://www.contractscounsel.com/b/how-much-do-lawyers-cost> (last visited Aug. 14, 2023).

6 *Id.*

7 Peter A. Joy, ARTICLE: *The Uneasy History of Experiential Education in U.S. Law Schools*, 122 DICK. L. REV. 551, 576 (2018).

8 *Id.* at 576.

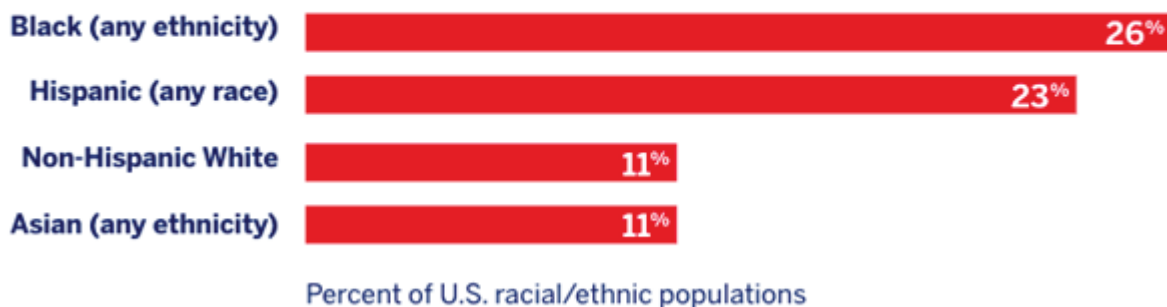
9 *Clinics in Action: A Day in the Life of Harvard Law School's Legal Clinic*, HARVARD LAW TODAY, (Jul. 15, 2022), <https://hls.harvard.edu/today/a-day-in-the-life-of-harvard-law-schools-legal-clinics/> (last visited Aug. 14, 2023).

10 *The Unmet Need for Legal Aid*, LEGAL SERVICES CORPORATION, <https://www.lsc.gov/about-lsc/what-legal-aid/unmet-need-legal-aid> (last visited Aug. 14, 2023).

11 Mary C. Slosar, *The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans*, <https://justicegap.lsc.gov/resource/2022-justice-gap-report/>.

12 *Id.*

Figure 2B. Proportion of racial/ethnic groups with household incomes below 125% of poverty¹¹



Source: *The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans*, LEGAL SERVICES CORPORATION (2022). Prepared by Mary C. Slosar, Slosar Research, LLC.

LSC reported that “low-income Americans did not receive any or enough legal help for 93% of all of their problems.”¹³ Many of these individuals were unaware that a legal professional could help them with their legal issues or were wary of the costs associated with receiving legal assistance.¹⁴ The statistics further emphasize the need for legal clinics in low-income communities. Unfortunately, legal clinics are facing a vast array of issues when trying to serve their communities. Most issues stem from the same source — chronic underfunding.

During June 2023, the authors of this paper, three Historically Black Colleges and Universities (HBCU) law students, conducted a survey of professors and clinicians at law schools to identify clinical needs of law schools across the United States. Throughout this paper, we will examine the results of our research. We learned how underfunded clinics are, and common issues faced by multiple clinics. We will also explore legal solutions such as LexisNexis® and LegalServer that may increase the efficacy of law clinics.

Therefore, this paper will first discuss our survey and statistics gleaned from the clinicians that participated. Part two of the paper goes in-depth into the importance of clinics and the needs of the low-income community and how they have been served, or under-served, in the past. Specifically, it will expand on US history, and the reasons behind a disproportionate percentage of blacks living below 125% of the poverty line. The third part of the paper will focus on the common issues with today’s legal clinics. It will highlight the important findings from our research. The fourth part of the paper will dive into the proposed solutions to address the justice gap that is present in legal clinics. The fifth and final section of the paper will conclude with suggestions for the next cohort.

Part I – The Survey

The goal of the survey conducted by the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellows was to discover the common needs and issues faced by legal clinics. After collecting this data, we are now better

¹³ *Id.*

¹⁴ *Id.*

equipped to suggest tools and resources for legal clinics. Initially, we reached out to over 140 clinicians in Washington D.C., Florida, and North Carolina law schools. However, due to the lack of responses, we expanded our efforts and contacted clinicians in Alabama, Mississippi, Louisiana, Georgia, and Texas. As a result, we received a total of 31 survey responses, all from persons who indicated that they are affiliated with a law school.

A wide variety of legal specialties were represented in the survey. Respondents indicated that their clinics focus on the following areas of law: immigration, disability rights, family law, mediation, tax, patent, First Amendment, elder law, nonprofit organizations, probate, estate planning, affordable housing, community development, health law, domestic violence, military/veteran law, commercial business, bankruptcy, juvenile law, civil rights, environmental law, and criminal defense.¹⁵ The variety of responses in our survey show legal clinics across the United States are helping individuals in almost every area of the law. This reinstates the importance of providing tools and resources to clinics. We are appreciative of those clinicians who took the time to respond to our survey. Due to their contributions, we can identify the most prevalent and demanding needs of legal clinics.

Of the 31 respondents, 48.4% indicated that their clinic has been in operation for more than 10 years and 22.6% said their clinic has been in operation for five to 10 years. Therefore, 71% of the clinics have been in operation for more than five years. Clinics in operation for more years are able to identify the issues that they see year-after-year which allow us to suggest the best resources and tools to aid them. Only 16.2% of respondents indi-

cated that their clinic has been in operation for less than three years. Although the newer clinics are still invaluable to our data and our mission, they may face different issues than more established clinics do, such as obstacles with conducting outreach in the community.

In addition, only two of the 31 respondents indicated that they have more than 20 staff members, students, or volunteers currently working at their legal clinic. The other 29 respondents have less than 20 people currently working at their clinic, with 32.3% having one to five workers and 45.2% having five to 10 workers. This informed us that our survey responses came from smaller legal clinics rather than large legal aid organizations. Smaller clinics face different issues than larger clinics. As a result, the issues that we identified and the solutions that we propose are in response to the needs of smaller clinics. Although some of the solutions may be useful to all legal clinics, regardless of size, it is statistically significant and worth mentioning.

Legal clinics serve different demographic groups or populations, and our data echoes this. There were over 10 different demographic groups or populations indicated by our respondents. However, some demographic groups or populations were covered by multiple clinics whereas others were covered by just a few clinics. For instance, a great majority of clinics, 25 or about 83%, serve the low-income community whereas only three clinics, or about 10%, serve veterans. It is important to note the largest demographic groups or populations served by respondents. Aside from the low-income community, 50% of respondents serve racial/ethnic minorities, 33.3% of respondents serve individuals with disabilities, 30% serve immigrants/refugees,

¹⁵ Our survey received a total of thirty-one responses from clinicians at the following law schools: David A. Clarke School of Law, Dedman School of Law, Duke Law School, Florida A&M University College of Law, Florida International University College of Law, Florida State University College of Law, Georgetown University Law Center, George Washington University Law School, University of Florida Levin College of Law, Norman Adrian Wiggins School of Law, Shepard Broad College of Law, Texas A&M University School of Law, Texas Tech. University School of Law, Thurgood Marshall School of Law, Tulane University Law School, University of Georgia School of Law, University of Miami School of Law, and University of Texas at Austin, School of Law.

26.7% serve incarcerated individuals, 23.3% serve small business owners, 20% serve elderly individuals, and 20% serve LGBTQ+ individuals.

Although we collected invaluable information, there are key pieces of data gleaned from the survey. First, 60% of respondents described their clinics as being in areas with high demand or very high demand for legal services. But 77% of respondents noted that their clinics had 10 or less staff members, students, or volunteers currently working at the clinics. Second, 55% of respondents noted that potential clients were unable to receive services due to unavailability of resources. Third, 44% of respondents claimed that potential clients were unable to receive legal services due to income. Legal clinics focus their services on the low-income community, so it is likely that clients did not qualify because they did not meet the criteria for low-income. This is unfortunate because while a person may earn a salary that exceeds a predetermined limit, they do not necessarily have the disposable income to pay for legal services.

Part II – Why We Need Clinics

Legal clinics greatly aid the low-income community, and there is a disproportionate percentage of blacks classified as low-income. This problem has a strong correlation with the history of slavery and segregation in the United States. The U.S. Census Bureau has measured the economic standing of households, families, and individuals since the 1960s by comparing pre-tax income to a poverty threshold, adjusted by family composition.¹⁶ The

Census Bureau’s most recent report looks at poverty in the United States in 2021. In their report, they found that blacks make up 13.4% of the whole population, yet make up 22.6% of the population classified as poor by the official poverty measure.¹⁷ At the other end of the spectrum, the report found that whites make up 59.2% of the population, yet only represent 41.7% of the population classified as poor.¹⁸ This means blacks are overrepresented in the poverty population. The disproportionate percentage of blacks in poverty is largely due to systemic racism and the history of discrimination in the United States.

Blacks have endured substantial oppression for centuries. When colonists immigrated here, they had the opportunity to position themselves well in society by purchasing and claiming land. Meanwhile, blacks were imported as commodities and were denied similar opportunities to build wealth. Since their arrival, blacks have been subjected to disadvantages when attempting to build generational wealth. Slavery persisted in the US for about 250 years. During this time, slave owners were able “to profit off of the bodies and blood of enslaved people, who by rule of law were unable to live freely, let alone build wealth to pass along to future generations.”¹⁹ Slave labor helped build our country and was a huge income generator for slave owners, with economists predicting that during slavery slaves produced between \$1.4 trillion to \$4.7 trillion, adjusted for inflation.²⁰ Although slaves eventually earned their freedom through the enactment of the Thirteenth Amendment, they were subject to harsh discrimination, and their access to wealth continued to be limited.

¹⁶ John Creamer, Emily A. Shrider, Kalee Burns, and Frances Chen, *Poverty in the United States: 2021*, U.S. CENSUS BUREAU, CURRENT POPULATION REPORTS, 60-277, (Sept. 2022), <https://www.census.gov/library/publications/2022/demo/p60-277.html>.

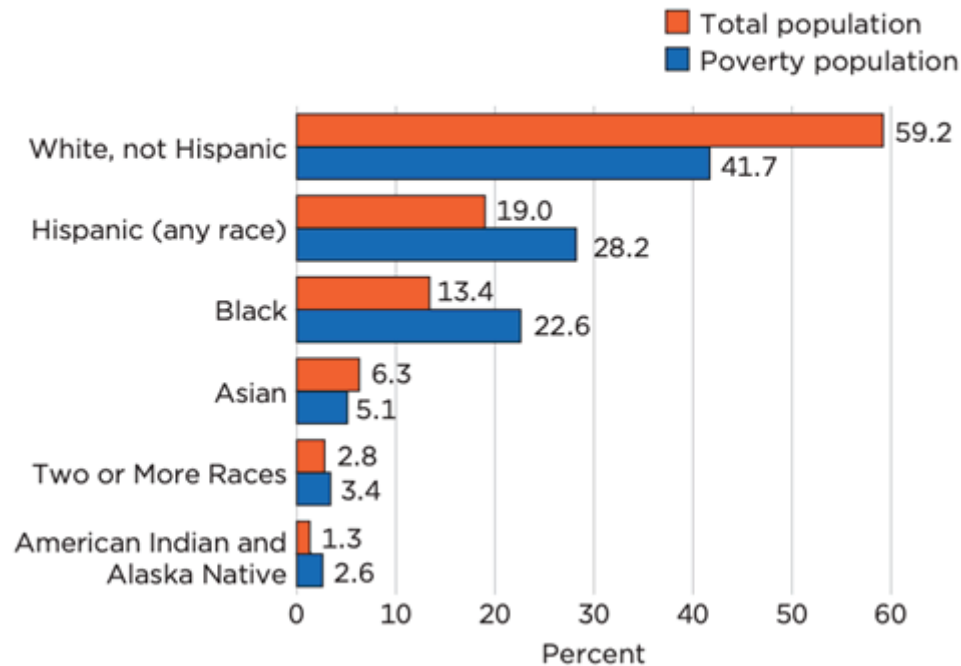
¹⁷ *Id.* at 5.

¹⁸ *Id.*

¹⁹ Angela Hanks, Danyelle Solomon, and Christian E. Weller, *Systematic Inequality: How America’s Structural Racism Helped Create the Black-White Wealth Gap*, CENT. FOR AM. PROGRESS Center (Feb. 21, 2018), <https://www.americanprogress.org/article/systematic-inequality/> (last visited Aug. 14, 2023).

²⁰ Catarina Saraiva, *The Historical Reasons Behind U.S. Racial Wealth Gap*, (May 25, 2021), <https://reparationscomm.org/reparations-news/the-historical-reasons-behind-u-s-racial-wealth-gap/>.

Distribution of Total Population and Poverty by Race Using the Official Poverty Measure: 2021



Source: John Creamer, Emily A. Shrider, Kalee Burns, and Frances Chen, *Poverty in the United States: 2021*, U.S. CENSUS BUREAU, CURRENT POPULATION REPORTS, 60-277, U.S. Government Publishing Office, Washington, DC (Sept. 2022).

In an effort to correct the injustices that former slaves faced, some members of the federal government attempted to implement policies of reparations. However, slaves and their descendants were never provided with appropriate compensation. The most well-known example of the federal government's attempt at reparations was General William T. Sherman's Special Field Orders No. 15, or the "40 Acres and a Mule" order. The orders authorized settlements and required distribution of not more than forty acres of Confederate land, stretching from Charleston, South Carolina, to the St. John's River in Florida, to each family of freed slaves.²¹ "General Sherman's promise of forty acres and a mule to former slaves would have provided

a way to make a living, while integrating into life as a freed citizen."²² In addition, this would have provided freed slaves and their descendants with the land and resources to equip them for future success in the United States. Specifically, one economist found that if all four million slaves at the time were able to take advantage of Special Field Orders No. 15, "[the value of farmland and buildings] would have totaled more than \$486 billion today."²³ Unfortunately, General Sherman's order was revoked, and neither the former slaves, nor descendants of slaves, received appropriate reparations for slavery.

After the Civil War, the United States enacted the Southern Homestead Act of 1866, "to alleviate the

²¹ Hal Clay, *Comment: Forty Acres And A Mule: America's Bill For Reparations Is Long Past Overdue*, 24 SCHOLAR 505, 519-520 (2022).

²² *Id.*

²³ Patricia Cohen, *What Reparations for Slavery Might Look Like in 2019*, N.Y. TIMES (May 23, 2019) <https://www.nytimes.com/2019/05/23/business/economy/reparations-slavery.html> (last visited Aug. 14, 2023).

cycle of debt during Reconstruction.”²⁴ The goal of the Act was to move and settle the Western territory by allowing anyone, including freed slaves, to make a claim for up to 160 acres of federal land.²⁵ Homesteaders had to pay a filing fee of \$18.00 to make a claim for land, or land titles could be purchased for \$1.25 per acre after six months of proven residency.²⁶ Although this program did not specifically exclude blacks, newly “freedmen were crippled by extreme poverty and unable to participate in the program.”²⁷ Freedmen were unable to secure loans due to the lack of resources, and therefore, were unable to benefit from this and similar federal efforts.²⁸ As a result, of the 270 million acres, or 10% of U.S. land, little was claimed and settled by blacks.²⁹ The inability of blacks to take advantage of this program was an obstacle to creating generational wealth.

In spite of this, there are numerous examples of predominantly black communities that were thriving with farms, neighborhoods, families, businesses, and churches, even with the impediments. However, from the Post Reconstruction Era to the Roaring Twenties, black communities were subjected to barbaric rampages and massacres.³⁰ For example, during the Tulsa Race Massacre of 1921, mobs murdered hundreds of people, burned down

numerous city blocks, and left thousands of black residents homeless during the attack on “Black Wall Street.”³¹ In a matter of days the violent attacks on the black neighborhood erased years of black success. The massacre resulted in \$1.8 million in claims for property losses — with a present-day value of \$27 million.³² The fortunes from these thriving black communities could have created “generational wealth that might have shaped and secured the fortunes of [b]lack children and grandchildren.”³³ The “Black Wall Street” never was re-established.

In an effort to restore the country during the Great Depression, the modern mortgage was created in the 1930s, giving the working-class access to the housing market. The term “redlining” originated during this time and refers to the practice in which the Home Owners’ Loan Corporation (HOLC), a federal agency, created color-coded maps to determine the “best” (i.e. green) and the “worst” (i.e. red) neighborhoods for mortgage lending.³⁴ Black communities were most likely to be redlined, and it was extremely difficult to get approval for a home loan in a redlined neighborhood.³⁵ Additionally, black applicants who wanted to purchase a home in white neighborhoods were regularly denied.³⁶ In fact, of the \$120 billion loans made by the federal

24 Hal Clay, *Comment: Forty Acres And A Mule: America’s Bill For Reparations Is Long Past Overdue*, 24 SCHOLAR 505, 519-520 (2022).

25 *Homestead Act: 1862 Date & Definition*, HISTORY (Nov. 9, 2009), <https://www.history.com/topics/american-civil-war/homestead-act> (last accessed Aug. 14, 2023).

26 *Id.*

27 Hal Clay, *Comment: Forty Acres And A Mule: America’s Bill For Reparations Is Long Past Overdue*, 24 SCHOLAR 505, 519-520 (2022).

28 *Id.*

29 *Homestead Act: 1862 Date & Definition*, HISTORY (Nov. 9, 2009), <https://www.history.com/topics/american-civil-war/homestead-act> (last visited Aug. 14, 2023).

30 Cherranda Smith, *We Remember: Chronicling 10 Race Massacres In America*, BLACK INFORMATION NETWORK (May 27, 2021), <https://www.binnews.com/content/2021-05-27-we-remember-chronicling-10-race-massacres-in-america/> (last visited Aug. 14, 2023).

31 Yuliya Parshina-Kottas, *What the 1921 Tulsa Race Massacre Destroyed*, NEW YORK TIMES (May 24, 2021), <https://www.nytimes.com/interactive/2021/05/24/us/tulsa-race-massacre.html> (last visited Aug. 14, 2023).

32 *Id.*

33 *Id.*

34 Brenda Richardson, *Redlining’s Legacy Of Inequality: Low Homeownership Rates, Less Equity For Black Households*, (Jun. 11, 2020), <https://www.forbes.com/sites/brendarichardson/2020/06/11/redlinings-legacy-of-inequality-low-homeownership-rates-less-equity-for-black-households/?sh=4fd9ebb72a7c> (last visited Aug. 14, 2023).

35 *Id.*

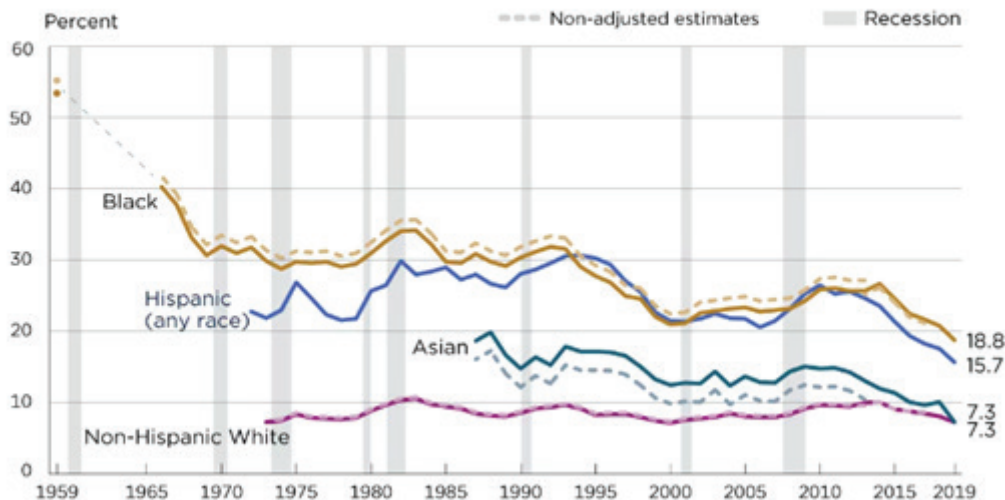
36 Derek Wells, *NOTE: The Price of Diversity: Rent Control and Desegregation of Urban Areas*, 55 SUFFOLK U.L. REV. 155, 159 (2022).

government between 1934 and 1962, only 2% were distributed to non-white borrowers.³⁷ As a result, the HOLC's redlining was another lost opportunity for black families to accrue generational wealth.

The denial of available resources to blacks throughout the history of this country has a strong correlation with the disproportionate percent of blacks living in poverty. The racial wealth gap is a consequence of centuries of discrimination that started with slavery. "Wealth — an individual's or family's financial net worth — can function as a generational stepping stone that older generations pass on and future generations benefit from and build over

time."³⁸ Although there has been progress made over the last few years, there is much work to be done to reduce the number of blacks living in poverty. Still, "[b]lacks receive lower valuations on their homes and earn less money compared to white people performing the same work."³⁹ A 2015 study found that the average hourly rate for black men was \$15 compared with \$21 for white men.⁴⁰ This is not taking into consideration that there are fewer blacks who are college educated. However, the wage gap persists even when looking at those with a bachelor's degree or more where the average hourly rate is \$25 for black men in comparison with \$32 for white men.⁴¹

Poverty Rate by Race and Hispanic Origin: 1959 to 2019



Source: John Creamer, *Inequalities Persist Despite Decline in Poverty For All Major Race and Hispanic Origin Groups*, (Dec. 9, 2021), <https://www.census.gov/library/stories/2020/09/poverty-rates-for-blacks-and-hispanics-reached-historic-lows-in-2019.html> (last visited Aug. 14, 2023).

³⁷ Hal Clay, *Comment: Forty Acres And A Mule: America's Bill For Reparations Is Long Past Overdue*, 24 SCHOLAR 505, 519-520 (2022).

³⁸ Angela Hanks, Danyelle Solomon & Christian E. Weller, *Systematic Inequality: How America's Structural Racism Helped Create the Black-White Wealth Gap*, CENT. FOR AM. PROGRESS (Feb. 21, 2018), <https://www.americanprogress.org/article/systematic-inequality/> (last visited Aug. 14, 2023).

³⁹ Dorothy Robyn, *Closing the racial wealth gap requires heavy, progressive taxation of wealth*, THE BROOKINGS INSTITUTION (Dec. 9, 2020), <https://www.brookings.edu/articles/closing-the-racial-wealth-gap-requires-heavy-progressive-taxation-of-wealth/> (last visited Aug. 14, 2023).

⁴⁰ Eileen Patten, *Racial, gender wage gaps persist in U.S. despite some progress*, PEW RSCH. CTR. (Jul. 1, 2016), <https://www.pewresearch.org/short-reads/2016/07/01/racial-gender-wage-gaps-persist-in-u-s-despite-some-progress/> (last visited Aug. 13, 2023).

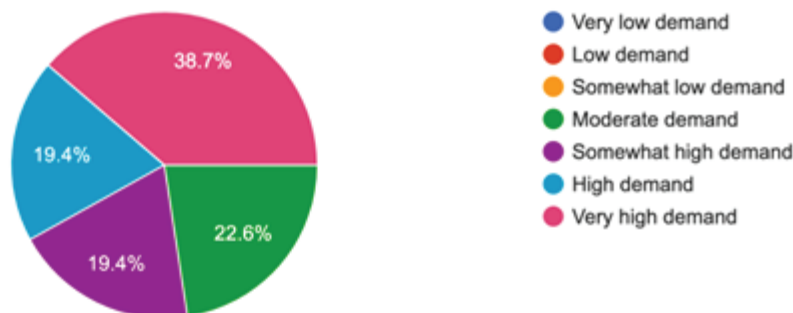
⁴¹ *Id.*

Due to systemic racism, blacks have the highest rate of poverty in America. The U.S. Census Bureau analyzed the poverty rate from 1959 to 2019. It found that the poverty rate for blacks went from an

estimated 55% in 1959 to 18.8% in 2019.⁴² Although this is seen as great progress, more work is needed to further reduce poverty in the black community.

How would you describe the demand for legal services in your community?

31 responses



Legal clinics across the United States provide inexpensive or free services to low-income communities in their surrounding areas. Legal clinics help combat systemic racism that still permeates society. For instance, Professor Mark Dorosin, the clinic director of the Economic Justice Clinic at Florida A&M University College of Law, said, “We’re looking for folks who are working in communities that are in need of economic development and resources — communities that have been historically underdeveloped economically because of the legacy of discrimination and segregation.”⁴³ With the assistance of legal clinics across the United States, there is an opportunity to provide much-needed legal services to low-income communities and to assist them in their journey to building wealth.

Part III – The Issues with Clinics

Legal clinics face different challenges depending on their location and area of practice. However, there are some issues that are evident in a majority of the clinics. 64.5% of respondents stated the main challenge faced is the high demand for legal services with limited capacity. This is an issue impacting clinics nationwide. Harvard Law School reported receiving triple the amount of inquiries for legal services post-COVID-19 pandemic compared to prior years.⁴⁴ Due to the limited number of students and staff working in clinics each semester, it is not possible for clinics to appropriately meet the demand for services. When respondents were asked how they would describe the demand for legal services in their respective communities, 38.7% indicated that there is a very high demand, with no respondents

⁴² John Creamer, *Inequalities Persist Despite Decline in Poverty For All Major Race and Hispanic Origin Groups*, (Dec. 9, 2021), <https://www.census.gov/library/stories/2020/09/poverty-rates-for-blacks-and-hispanics-reached-historic-lows-in-2019.html> (last visited Aug. 14, 2023).

⁴³ Interview with Mark Dorosin, Associate Professor of Law, Florida A&M University, College of Law, Orlando, Florida (Jun. 21, 2023).

⁴⁴ Elaine McArdle, *Practicing Law in the Wake of a Pandemic*, HARVARD LAW BULLETIN (2022), <https://hls.harvard.edu/today/practicing-law-in-the-wake-of-a-pandemic/> (last visited Aug. 14, 2023).

indicating that there is a low demand. The demand for legal services in the low-income community far outweighs the funding available to legal clinics.

As a result, the second notable challenge faced by clinics we surveyed is limited funding, with 48.4% of respondents indicating that it is the main challenge. Multiple clinicians informed us in the survey comments that the lack of funding is an obstacle. Marquette University Law School recognized over a decade ago that “lack of funding for representation of poor people with civil legal issues is an enormous problem that is getting worse.”⁴⁵ Due to the lack of resources, clinicians are forced to do more with less. Certain clinics are forced to reject potential clients or place them on waitlists. Clinicians are also forced to prioritize clients based on the most urgent matter. For instance, some of the immigration clinic respondents indicated that they prioritize asylum-seekers, children near 18 years-old, and those in removal proceedings facing deportation.

The third major challenge faced by respondents is the administrative burden, with 29% of respondents listing this as a major challenge. Lack of funding also leads to various administrative challenges such as lack of adequate supervision (which is very important as student attorneys working in clinics must be supervised), and difficulties with case management, intake, and screening. When respondents were asked what are the key administrative or operative challenges that their legal clinic faces on a day-to-day basis, 35.7% mentioned case management, 35.7% mentioned staffing and supervision, and 25% mentioned client intake and screening. All these day-to-day challenges could be addressed with additional funding. Not only do clinicians have to deal with substantial administrative tasks related to the clients, but also supervise and manage the clinical employees and student attorneys. Further, law students typically must submit a multitude of doc-

uments to clinicians for review to become part of the clinics. Additionally, clinicians must check for conflicts of interest and ensure students are suitable for practicing law. Finally, clinicians typically must grade assignments and monitor the work product of student attorneys which takes a great deal of time and effort.

In sum, all the issues that the respondents described can be addressed with additional funding. Although additional funding will not eliminate the extreme high demand for legal services, it will be able to assist with legal clinics’ limited capacity. Funding will also allow legal clinics to have better administrative processes such as a proper case management system, an automated client intake process, and sufficient staff and attorneys. Legal clinics may have a wide range of issues, but most seem to attribute their issues to a lack of appropriate funds.

Part IV – How to Fix the Issues with Clinics

Legal clinic directors were asked in the June 2023 survey, “If you had a magic wand, what resources would you create?” The majority indicated a need for additional funding. The desired allocation of the funding ranged from hiring more staff, expanding the clinics, professional development and training, or collaborating with community partners. As a result, we propose various solutions to alleviate the stresses associated with managing a clinic.

First, we propose the creation of a website to design and to curate content for legal clinics. This will help with many of the same issues that could be resolved by adding more staff.

Second, we propose building a database of pro bono attorneys and legal clinics. These attorneys

⁴⁵ Michael Gonring, *Funding Civil Legal Aid*, MARQUETTE UNIVERSITY LAW SCHOOL (2012), <https://law.marquette.edu/facultyblog/2012/05/funding-civil-legal-aid/> (last visited Aug 14, 2023).

and clinics should be listed by location and specialty. The database will help legal clinics and pro bono attorneys collaborate with members in their communities.

Third, we propose creating an Artificial Intelligence (AI) tool that will allow firms to offer services at lower costs, with higher efficiency, and a greater likelihood of favorable outcomes.⁴⁶ AI will help draft documents, anticipate legal arguments, conduct analysis, and extract important information rapidly.⁴⁷

Although LexisNexis® currently has a website titled, “Clinic Resources for Faculty and Students,” it can create an improved website for legal clinics to use. The current website has resources dedicated to the following clinics: Appellate Advocacy and Supreme Court, Children and Families, Civil Rights, Criminal Justice, Disability Rights, Medical-Legal Partnerships, & Veterans, Immigration & International Human Rights, Intellectual Property, Juvenile Justice, Landlord Tenant, Legislation and Regulation, Tax and Bankruptcy. LexisNexis® must continue to expand and add clinics to the page and work to increase awareness about these helpful resources. Additional sources that should be explored include Domestic Violence, Environmental Law, and Estate Planning. However, the website can be updated to address the needs articulated by clinicians and to improve the navigability.

This will address some of the issues that were highlighted in our survey such as administrative obstacles. The website could have a readily available

legal library. Such a revolutionary product could be a resource utilized by law clinics to bridge the gap in access to information for low-income citizens. For instance, one of the many products that LexisNexis® offers is the Inmate Law Library Solutions.⁴⁸ It is an external hard drive that innovatively provides inmates nationwide with access to legal information.⁴⁹ As 68% of all male prisoners have not obtained a high school diploma, LexisNexis® created a product that provides prisoners with access to statutes, case law, and secondary resources simplified into layman’s terms.⁵⁰ Ultimately, LexisNexis® has transformed the prison law libraries into a modern media center that is secure and easy for prisoners to use.⁵¹ Analogous to prisons, LexisNexis® could create a similar product for legal clinics to utilize to benefit its clients.

In addition, the website could create an automated client intake form that triages to the appropriate resources. The goal would be that clients will have their first contact with the clinic virtually. After filling out the online intake form, clients will be directed to the appropriate resources and will know if the clinic is able to move forward with their case.

Currently, there are legal organizations that have accomplished this goal. For instance, Legal Aid of North Carolina (LANC) recently established an Innovation Lab that utilizes the Central Intake Unit (“CIU”) to provide legal advice and services to eligible clients.⁵² After a client has been deemed eligible to receive LANC’s legal services, CIU staff refers the client to a local LANC office for an additional case review through LegalServer.⁵³

46 John Villasenor, *How AI Will Revolutionize the Practice of Law*, THE BROOKINGS INSTITUTION (Mar. 20, 2023), <https://www.brookings.edu/articles/how-ai-will-revolutionize-the-practice-of-law/> (last visited Aug. 14, 2023).

47 *Id.*

48 *Inmate Law Library Solutions*, LEXISNEXIS® (2021), <https://www.lexisnexis.com/pdf/corrections/Incorrectionslit.pdf> at 1.

49 *Id.*

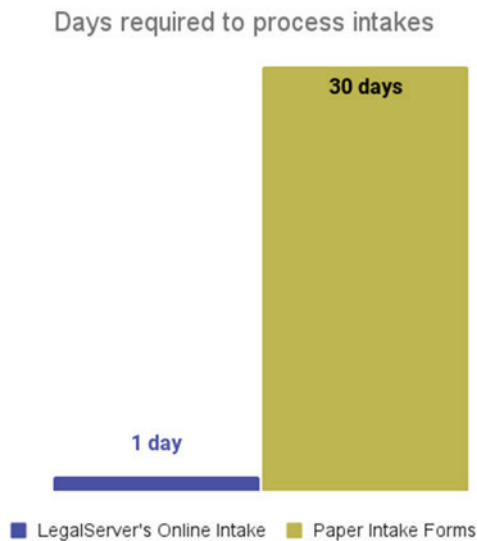
50 Caroline Wolf Harlow, *Education and Correctional Populations*, U.S. DEPT. OF JUSTICE (Jan. 2003).

51 *Inmate Law Library Solutions*, LEXISNEXIS® (2021), <https://www.lexisnexis.com/pdf/corrections/Incorrectionslit.pdf> at 1.

52 *Legal Aid of North Carolina - Central Intake*, LEGAL AID OF NORTH CAROLINA, (Feb. 14, 2022) <https://www.lawhelpnc.org/organization/legal-aid-of-north-carolina-central-intake> (last visited July 24, 2023).

53 *Id.*

LegalServer can significantly decrease the amount of time that legal clinics take to respond to client intake forms.



If legal clinics had a similar system in place, it would help with administrative challenges that they deal with on a day-to-day basis. When asked about what parts of their legal clinics can be automated, about a quarter of respondents indicated that client intake can be automated.

About 33% of respondents indicated that it takes them more than a week to determine whether to move forward with a prospective client, while about 23% can make that determination within a few hours. Thus, LexisNexis® can curate an automated client intake form that can be accessed through the proposed website to enhance the efficiency and functionality to better serve the low-income community.

The website can also include a database of pro bono private attorneys and legal clinics by location. This will provide clients with alternative legal resources in the community which would save legal clinics' time when having to outsource cases. About

36% of respondents indicated that they could not effectively connect potential clients with attorneys or resources unaffiliated with their clinics. It is important that legal clinics can connect clients to other attorneys or legal resources, since they frequently have to turn clients away. For instance, 69% of respondents indicated that a person is ineligible for services because of the case type or practice area, and 48.3% of respondents indicated that a person is ineligible for services due to their geographic location. A legal clinic should easily be able to guide these individuals to a database on the website that lists attorneys by practice area and location.

Finally, LexisNexis® can integrate its new AI features to help the clinics with potential clients' issues. Updated clinic websites on LexisNexis® can be the initial point of contact for potential clients, saving time, resources, and increasing efficiency. AI can help clinicians with drafting documents which will save time and allow more individuals to receive vital services. In addition, AI could also be used to help individuals with questions beyond the clinic's scope so that they may be able to receive some guidance to solve their problems.

With AI, clients would have easy access to a list of attorneys and resources in their respective communities. Additionally, clinics would benefit from help with automated forms and questionnaires facilitated through AI. This could reduce processing time for time-sensitive legal matters. AI may also help translate documents and forms for individuals who have limited English proficiency. With clinics that conduct phone intake, an AI feature called Interactive Voice Response will save processing time and help clinicians to focus their time on other areas of the clinics.

Analogous to LexisNexis®, Zensar Technologies ("Zensar Tech") works with various entities to determine how technology can improve the efficiency

of its clients. Recently, Zensar Tech improved a client's online banking system.⁵⁴ While analyzing the bank's previous system, Zensar Tech determined that the bank possessed more information than it actually disseminated to its customers.⁵⁵ Under the guise of the business's vision, Zensar Tech reimagined the banking system to meet both the needs of the company and the customers.⁵⁶ Since the bank offers vast financial information to aid its customers in financial decisions, part of Zensar Tech's approach included organizing the content for easier client access.⁵⁷ Zensar Tech's modifications increased customer callback by 38%, significantly reduced wait times for marketing, and lowered development costs.⁵⁸ Although Zensar Tech's work with this client dealt with banking, access to financial information in black communities is just as important as access to information regarding legal issues. Therefore, the curation of mediums that succinctly guide clients through legal procedures will be a helpful resource for clinics. Websites that contain information along with fillable court packets may be helpful for clients who are not able to afford an attorney.

Our survey also determined that the lack of funding posed the main challenge for many law clinics. Sadly, about 50% of survey respondents indicated that their main challenge is lack of funding for their clinics. According to LANC's most recent report, 60% of LANC's funds come from community organizations and government grants.⁵⁹ Comparatively, only 29% of respondents indicated that their primary source of funding comes from government grants and contracts. Legal clinics must take advantage of the government grants that are offered throughout the country. For instance, the Florida Bar Founda-

tion has a grant specifically for Florida law school clinics: Law School Civil Legal Clinic Grants.

Additionally, clinics that need more resources must engage in aggressive fundraising outreach. About 75% of respondents also indicated that they primarily receive funding from educational institutions. While our survey only focused on legal clinics that are affiliated with law schools, it is still imperative for law school legal clinics to build a rapport with students, alumni, and the surrounding community. For example, it would be extremely beneficial if alumni give back, whether that is by providing legal services or monetary donations. Further, current law students should be encouraged to participate in the legal clinics to develop their practical skills while aiding low-income communities. With the chronic underfunding of numerous law clinics, it may help to appeal to community donors to increase funding.

Another group clinicians should appeal to is their law school's alumni. At Georgetown Law Center, alumni can apply for Clinical Graduate Teaching Fellowships. Fellows enroll in a two-year clinic program at Georgetown Law Center where they supervise student attorneys, assist in teaching clinic seminars, and perform work on their own cases or other legal matters.⁶⁰ This program allows students to earn money, gain experience, and give back to their law school and the community at large. This program should be duplicated at other law schools.

LexisNexis® may be able to assist in fundraising efforts for legal clinics across the nation. Companies such as LexisNexis® can help by encouraging dona-

⁵⁴ *Building a Banking System Experience Fit for the Future*, ZENSAR TECHNOLOGIES, 2, (2021), https://www.zensar.com/sites/default/files/case-study/Building%20a%20banking%20experience%20fit%20for%20the%20future_0.pdf.

⁵⁵ *Id.* at 4.

⁵⁶ *Id.* at 3.

⁵⁷ *Id.* at 4.

⁵⁸ *Id.*

⁵⁹ *Legal Aid of North Carolina Annual Report 2022*, LEGAL AID OF NORTH CAROLINA, 26-27 (2023), <https://legalaidnc.org/2022-annual-report/>.

⁶⁰ *Graduate Teaching Fellowships*, GEORGETOWN LAW CENTER, (Feb. 14, 2022), <https://www.law.georgetown.edu/experiential-learning/clinics/clinical-teaching-fellowships/>.

tions. For instance, it could expand Lexis for Law Students which allows student users to donate their points to charity, to law clinics. Also, LexisNexis® can create a charitable foundation to support legal clinics in their endeavors to give low-income communities access to legal services. In addition, the technology and resources that LexisNexis® can provide to legal clinics will ultimately help them save time and money. A website with a relevant legal database, automated client intake forms, and AI will be extremely beneficial to legal clinics and will result in lower costs.

The recent technological advancements discussed above indicate that upgrading to case management software specifically created for legal service organizations will likely improve the efficiency of law clinics, since many of their current intake systems are causing processing delays. As technology advances, legal professionals across the spectrum are examining current systems and working toward building a more equitable future. Being a global leader in the provision of legal resources, LexisNexis® has produced a myriad of products that have contributed to bridging the gap between citizens and their access to justice. LexisNexis® can implement and transform some of their already-existing programs, such as Lexis AI and Legal Inmate Library, into a website for legal clinics.

Part V – Suggestions for the Next Cohort

During the completion of our project, we faced a few issues that should be noted for the next Fellowship cohort. The biggest issue we dealt with is timing. After brainstorming and putting together the survey, we began reaching out to clinicians via email in June 2023, which presented some challenges. First, many legal clinics are not operating because many professors do not work during the summer. Since the directors of the legal clinics that we contacted were all professors, we didn't receive as many responses as we would have liked. There-

fore, we suggest that the next cohort should send out the survey to legal clinicians before the end of the Spring semester. This can be easily done because the survey is already created.

Second, a lot of legal clinic directors were wary of clicking a link from an unknown person. Most IT personnel warn against this as a precaution. We received emails back from legal clinic directors that wanted to participate in the survey, but they, understandably, needed to verify our credentials and the legitimacy of the survey. The next cohort of Fellows should contact their respective law school clinic directors in person or by phone and use them to facilitate communication with other clinicians. Most clinic directors have a network of other clinic directors, so this is a great resource. In addition, legal clinic directors gather and plan yearly, around the end of April, at the Association of American Law Schools (AALS) Conference on Clinical Legal Education. Fellows and clinic directors should connect with AALS. The next cohort of Fellows should share our mission and the survey with the participants at the conference via a Quick-Response (QR) code.

If the next cohort is able to collect more data from the survey, then the results will be statistically more significant. They will have more flexibility with the research they conduct. For instance, the next cohort should explore the differences, if any, between HBCU law school clinics and Predominantly White Institution (PWI) law school clinics. Unfortunately, with limited data and time, we focused on all participating clinics, but future research should determine if any disparities exist because HBCU clinics typically do not possess the same resources as their counterparts at PWIs.

Law students can play a vital role in creating positive outcomes for legal clinics. Hopefully, future Fellows will contact additional clinicians using the survey we created. They can easily modify the survey if desired because the foundation has already been created. The next cohort can also follow up

with the clinicians who responded to our survey to see what new information is available. Undoubtedly, AI will be playing a larger role in clinics one year from now, so it will be interesting to see how AI has been implemented in legal clinics, and the challenges that are faced with it.

Conclusion

Centuries of oppression and discrimination have limited opportunities for many blacks and prevented many black families from creating generational wealth. Systemic racism is largely responsible for the disproportionate number of blacks living in poverty. Legal clinics provide valuable services to those who are unable to obtain quality attorneys and can make a critical impact in the lives of those they serve.

These clinics provide various legal services to those in need. However, many legal clinics are limited in their capacity because of lack of funding and support. With additional resources, legal clinics can serve more people and expand their offerings. For example, many clinicians indicated that they would create additional staff positions if given the opportunity. With additional attorneys and paralegals, clinical directors will have more freedom to devote their time to tasks which they feel are vital to clinic growth and success.

Companies such as LexisNexis®, with advanced technology, can provide resources for legal clinics that will improve efficiency allowing them to complete their work with less staff. An automated client intake form eliminates the need for a receptionist

conducting initial client screenings and directing clients appropriately. An automated client intake form and Interactive Voice Response would allow clients to provide information and to receive prompt answers in multiple languages.

Additionally, websites with accurate legal information will save clinicians and student volunteers time and allow them to focus on other pressing legal matters. Clients should be able to access useful, easy to understand information so they can make informed decisions regarding their legal situations. Often clients research their legal issues via the internet, but it is not guaranteed that the information they are obtaining is accurate. This is why clients seek legal advice from clinics. However, if clinics can direct clients to a website that has updated and accurate information, it will give clients' peace of mind while allowing clinics to save time.

AI will help clinics immensely. AI will be used by clinicians and student attorneys to obtain accurate useful information quickly. Most importantly, clients will benefit from AI because they can receive the information they need, on demand.

In sum, legal clinics are invaluable in the fight against systemic racism by providing legal assistance to black communities. However, many legal clinics desperately need help. Socially responsible companies like LexisNexis® should continue to prioritize providing tools and resources to legal clinics in their efforts to eliminate systemic racism and help achieve equity under the law. A partnership between LexisNexis® and legal clinics will be a positive step in creating a better tomorrow.

Fellows



Veronica Alba

Veronica Alba is a third-year law student at Florida A&M University College of Law. Her experience working at Morgan & Morgan, America's largest personal injury law firm, inspired her to pursue a career in personal injury upon graduation. After five years working as a teacher, Veronica hopes to engage, inspire, and lead others in the courtroom as she has in the classroom.



Paul Campbell

Paul Campbell is a fourth-year part-time law student at the University of the District of Columbia David A. Clarke School of Law. He is an Associate Editor of UDC Law Review, Secretary of the Evening Law Students' Association, and Clerk of the Cahn Chapter of Phi Alpha Delta Law Fraternity, International. Additionally, he is a Compliance Officer of the Equal Employment Opportunity Commission and First Lieutenant in the U.S. Army Reserves. After graduation, he plans to practice real estate and military law.



Larry Futrell

Larry Futrell is a third-year law student at North Carolina Central University School of Law. Larry's passion for public service inspired him to serve his community in various capacities. Not only was Larry employed by his local District Attorney's Office before coming to law school, but he also interned with Legal Aid of North Carolina during his law school experience. As someone who understands the needs of his community, Larry is committed to using his legal education for the betterment of his community.

Mentors

Dave Collins

Director, Product Management, Federal & State Codes, Legislation, State Net & Municipal Codes



This is my second year as a mentor in the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship. I am privileged to support talented legal scholars from our country's historically black law schools. The research they are doing is important in combating systemic racism within the U.S. legal system. This is particularly true with the Fellows that I am co-mentoring with Jared Kidd and Valri Nesbit.

Veronica Alba, Paul Campbell, and Larry Futrell have been busy this summer gathering qualitative and quantitative data through live interviews, research on Lexis+®, and an online survey of the needs of law school clinics. These clinics are essential to support other non-profit legal services organizations that provide legal aid to diverse communities in need. Their analysis of the data gathered will build a foundation and roadmap for investments for which our Rule of Law Foundation can fundraise. This will, in turn, support law school clinics in their efforts to provide equal access to justice for all Americans.

Law schools typically do not teach students how to conduct market research. Using the data to write their findings and recommendations, I am extremely impressed with Veronica, Paul, and Larry's work product in preparing an online survey and in-person interview guide. They accomplished this with minimal help from their mentors. In addition to the hours required as Fellows, they are working full-time in a law firm, legal aid organization, and a federal government agency. After seeing them balance all of these efforts, I have no doubt they will be leaders in their respective legal communities and work to build a better and more equal society. Congratulations for all you accomplished in supporting this Fellowship in advancing the rule of law.

David A. Collins is the Director, Product Management for federal and state codes and legislation at LexisNexis®. He and his development team's most recent achievements include LexisNexis® Product Excellence Awards for Code Compare, Cited Law Preview, and Shepard's® Regulation Alert for the Code of Federal Regulations. He holds a Juris Doctor degree from The University of Akron School of Law and a Master of Business Administration degree from The University of Dayton School of Business Administration.

Jared Kidd

Director, Business Agility & Strategic Initiatives for Global Operations



The two best parts of working at LexisNexis® are our work to support the Rule of Law, and getting to work with such great people on a daily basis. A large part of my job involves building great teams and helping them work more innovatively. The best, most creative teams are invariably those with the greatest diversity of backgrounds, experiences, and skillsets, because they are able to examine problems and develop solutions through multiple lenses. This was my first year as a mentor for the LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship. I got to be part of an amazing team with three high performing law students from three historically black law schools, as well as a number of fellow LexisNexis® employees. Our law student Fellows are supremely talented, and their dedication to serve their communities was infectious. It was amazing to see how quickly we came together as a

cohesive team, thought through big problems, and started doing tangible work to combat systemic racism in the legal system. Our Fellows produced quality research on the materials that law clinics and pro bono attorneys need most as they work to increase access to justice in the communities they serve. They also developed a comprehensive business case that the Rule of Law Foundation can use to build out that collection. I am excited to see the results of our Fellows' work, and I am confident that all three of them will have long, impactful careers that help build a better, more equal legal system.

Jared Kidd is the Director, Business Agility and Strategic Initiatives for Global Operations. His team's work involves operations strategy, strategic projects, business experiments, and training and coaching for teams and leadership. He has been at LexisNexis® since 2010, and has a background in primary law content development. He is a former US Army Officer, has a Bachelor's degree from the University of Tennessee at Knoxville, and a Juris Doctorate from Ave Maria School of Law. He is currently based in Colorado.

LexisNexis® African Ancestry Network & LexisNexis® Rule of Law Foundation Fellowship Cohort 3 Project Impact Chart

| FELLOWS | MENTORS | LEGAL ADVOCACY PAPER TITLE | LEXISNEXIS® PRODUCTS AND RESOURCES USED FOR RESEARCH AND SOLUTION IMPLEMENTATION | LEXISNEXIS® TALENT SUPPORT | ADVOCACY PROJECT IMPACT STATEMENT |
|--------------------------------------------------------------|--------------------------------------------------|----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Imani Roberson, Lauren Fleming, and Jai'Ehir Jackson-Hawkins | Margaret Huffman and Silvian Rosario | The Gavel League: An App Providing Legal Education to Adolescents | <ul style="list-style-type: none"> Lexis+® Resource Kits LexisNexis® Certification Shepard's® Citations | <ul style="list-style-type: none"> Legal Editors Attorney Staff Writer Director Research Information Product Managers Project Manager Client Manager UX Designer UX Researcher Visual Designer Practice Area Consultant | This project's mission is to develop a mobile application designed to increase literacy and comprehension of rule of law and critical legal concepts such as Miranda rights for youth and their parents and guardians in the United States. |
| Tatiana Brown-Harper, Zaria Graham, and Skylar Dean | Rhea Ramsey, Liz Christman, and Natasha Newberry | I, Too, Sing America: Uncovering Untold U.S. History Through the Law | <ul style="list-style-type: none"> Lexis+® Law360® Law360® Pulse | <ul style="list-style-type: none"> Legal Editors Attorney Staff Writer Regional Sales Manager Director Product Management Director and Senior Corporate Counsel Content Manager Product Specialist Manager Data Analytics Product Manager Software Engineer Senior Architect | This project's mission is to create an accessible repository of inclusive curriculum resources, with a spotlight on racially diverse case law to help legal educators, students, historians, and others uncover untold stories in U.S. history, and increase overall awareness of minority culture and nuances in the law. The repository would be available to users through Lexis+® and its secondary supplemental materials. To increase accessibility to the repository, a keyword search filter would be added to the LexisNexis® platform which would distinguish racially diverse cases. |

| FELLOWS | MENTORS | LEGAL ADVOCACY PAPER TITLE | LEXISNEXIS® PRODUCTS AND RESOURCES USED FOR RESEARCH AND SOLUTION IMPLEMENTATION | LEXISNEXIS® TALENT SUPPORT | ADVOCACY PROJECT IMPACT STATEMENT |
|----------------------------------------------------------|--------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Christian Wolford, Morigan Tuggle, and Qwantaria Russell | Delaine Poland-Frazier, Brian Kennedy, and Teal Taylor | Pathways to Practice: A Pipeline to Practice for Law Students at Historically Black Colleges and Universities | <ul style="list-style-type: none"> • Resource Kits • LexisNexis® Certification | <ul style="list-style-type: none"> • Attorney Staff Writer • Legal Editors • Corporate Counsel • Director Government Content Acquisition • Relationship Manager • Marketing Supervisor • Brand Marketing Manager • Technical Editor/Writer | This project's mission is to increase the diversity of students in prestigious and lucrative fields of law by providing HBCU law school students with additional professional development, support and exposure to ensure their success. |
| Jaylon Denkins, Whitney Triplet, and Favour Okhuevbie | Tara Diedrichsen and Olga Mack | Technology Solutions to Alleviate Jury Bias | <ul style="list-style-type: none"> • Lexis+® • Legal News Hub • Brief Analysis | <ul style="list-style-type: none"> • Legal Editors • Product Manager • VP and CEO • Parley Pro • VP Customer Insights • UX Designer | This project's mission is to research the possible applications and consequences of leveraging technology, specifically artificial intelligence, to alleviate racial bias in the jury selection process; expand the jury dashboard tool (previously designed for North Carolina) to California, Louisiana, and New York, which provides insight to practitioners and the community at large of what a representative jury might look like on a county-by-county basis; and administer surveys to gauge public sentiments on the jury selection process. |

Project Impact Chart

| FELLOWS | MENTORS | LEGAL ADVOCACY PAPER TITLE | LEXISNEXIS® PRODUCTS AND RESOURCES USED FOR RESEARCH AND SOLUTION IMPLEMENTATION | LEXISNEXIS® TALENT SUPPORT | ADVOCACY PROJECT IMPACT STATEMENT |
|-------------------------------------------------|-----------------------------|------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Larry Futrell, Paul Campbell, and Veronica Alba | Dave Collins and Jared Kidd | Law Clinic Support Tools & Resources to Combat Systemic Racism in the Legal System | <ul style="list-style-type: none"> • Legal News Hub • Lexis+® • Practical Guidance • Lexis® Smart Forms • LexisNexis® Inmate Law Library Solutions | <ul style="list-style-type: none"> • Legal Editors • Product Managers • Director Business Agility and Strategic Initiatives • UX Research Manager • Contractor Analyst • Practice Area Consultant • General Counsel | This project's mission is to conduct quantitative and qualitative market research regarding the current state of law school legal clinics to identify the challenges and potential solutions to make them more effective in utilizing the legal system to address systemic racism in black communities, and to utilize the research data to make investment recommendations for the LexisNexis® Rule of Law Foundation to consider in further aiding legal clinic efforts. |

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