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THE UNIVERSITY OF ALABAMA®

Reflections on the Killing of George Floyd

Dear Alabama Law Community,

It has been my custom not to comment on events of the day, especially when the President of the University has cogently done so. I am setting aside that custom today. This is not because I have wisdom, insight, or eloquence sufficient to the occasion, but because recent events – notably including the killings of George Floyd and Ahmaud Arbery on public streets and of Breonna Taylor in her home – call on us to declare who we are and with whom we stand as an institution. This is especially important for an institution whose purpose is attached to basic principles that underwrite the rule of law and constitutional democracy. I hope you’ll forgive me if I open with remarks that are somewhat personal.

When I was a child growing up in Alabama in the 1950s and 60s, I saw three faces of law. One was an explicit racial code whose aims were not only to separate “the races” but also to systematically subordinate Blacks. Make no mistake: the ideology of white supremacy was the heart of racial segregation, even if the rhetoric pronounced “separate but equal.” The second was a form of law that gave cover both to officers of law and to self-appointed white vigilantes to enforce the racial code, often with arbitrariness and savage brutality. Over time, I came to recognize a third face of law, given special meaning by the Reverend Martin Luther King, Jr.’s willingness to disobey the code in order to animate white conscience and reconnect law to its core values. The sacrifices of Dr. King and countless others helped pave the way to the dismantling of legal segregation.

It was all too easy for many whites to think that this – combined with Civil Rights Acts, the Voting Rights Act, and a number of decisions of the Supreme Court of the United States – marked the end of “the troubles” and the beginning of a time of equal concern and respect. We could now get on with business. What was difficult for many whites to see were the ways in which Black lives continued to be marked by discriminations, indignities, and worse. What was also difficult for many whites

to see were the ways in which persistent racism was systemically woven into the fabric of social practices and institutions – not only in the South – and the impact this has had on the sense of belonging and of elemental security of Black Americans. The tainted threads of racism have been part of virtually every significant institution in the country, including the University and the School of Law.

In recent years, it has become impossible for even the most sanguine to ignore the persistent assaults on Black lives in America. If the killing of Mr. Floyd, Mr. Arbery, or Ms. Taylor were singular events, they would be troubling enough. But when it becomes apparent that they are three of countless persons whose lives are put in peril simply because of the color of their skin, the state of things is disturbing – even horrifying. When a Black person can be executed in police custody, the rule of law is at risk. When a Black person can be senselessly gunned down in the quiet of her home, the rule of law is at risk. When a Black person can be chased, cornered, and killed by a self-appointed cadre, simply because he had the temerity to jog on a street where whites live, the rule of law is at risk. When a Black person can be unjustifiably killed during a simple vehicular stop, the rule of law is at risk. Add to these things the racially differentiated risk of dying in the most menacing pandemic in more than a century, and the situation is quite grave. If we cannot stand with Black Americans in these times, when can we?

It is one thing to recognize a problem. It is another to do something about it in institutionally responsive and responsible ways, recognizing that our central mission is teaching. I propose the following as first steps.

I will invite regular meetings with the new president of UA-BLSA, Chenelle Jones. In the past, these meetings have been opportunities for me to listen, to learn, hopefully to understand, and where appropriate to take constructive action. I would like to renew them for the same purposes. I invite conversations, too, with the leaders and members of other student organizations and with unaffiliated students. The more persons of good will who are at the table, the better for all.

Beginning this summer, I will elevate the position of Director of Diversity and Inclusion to my Executive Committee. I want to ensure that the values of diversity and inclusion are considerations in the decisions we make as an administrative team.

In partnership with students and our incoming Director of Diversity and Inclusion, Professor Joshua Porter, I will sponsor a series of programs – akin to our Dialogues

in the Dark from a few years ago – in which all members of the Law School community can convene to promote mutual understanding.

In partnership with faculty and students, I will sponsor a series of roundtables on law reform. Among the possible subjects for discussion are policing, health care, housing, education, and the impact of race on all of these social goods.

It is important for entering students to understand the scope and depth of the history of race in America and of its implications for law and the Constitution. I will speak to these during Orientation and encourage further conversation about them in the weeks (and years) that follow.

Again, these are first steps. I hope and anticipate that they will be springboards to further steps. And I hope and believe that we will be stronger when we take these steps together. My door is open to any and all students, faculty, and staff who have concerns or who simply want to talk.

With respect,

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