

A Look At The Legal Profession Since Murder of George Floyd

By **Lisa Davis and Khasim Lockhart** (May 24, 2022)

On May 25, 2020, America, like much of the world, was reeling from the impact of the COVID-19 pandemic. Approximately two months into the crisis, Americans struggled to face the reality that a return to normal was far away.

Yet, for Black Americans, the May 25, 2020, murder of George Floyd provided a reminder of an all-too-familiar normal.

Floyd is but one person on the depressingly long list of Black people who have lost their lives at the hands — and knees — of police officers. Floyd's death was not the first of 2020 — Breonna Taylor was killed in her sleep during a no-knock raid two months before him.

Sadly, Floyd was also not the last to be killed by a police officer — in April 2021, Daunte Wright was killed in a traffic stop in Brooklyn Center, Minnesota, approximately 10 miles from where Floyd was killed.

Floyd's Murder Sparked Law Firm Promises

On the heels of Floyd's murder, American companies released statements, social media users took part in Blackout Tuesday and many promises for change were issued. Law firms were among the organizations that announced their commitment to change.

It is no secret that the legal field has long struggled to combat discrimination within the profession. 2021 data from the American Bar Association found that Black attorneys made up roughly 4.7% of all lawyers — compared to 2011, when Black attorneys made up 4.8% of the lawyer population.

Floyd's murder led to law firms making many promises about establishing a new and better normal for Black lawyers within their organizations and Black people across America. There were short-term promises, such as donations, as well as long-term promises to engage in targeted pro bono work and to transform institutional cultures to be more welcoming to Black lawyers.

Promises Regarding Racial Justice Initiatives, Hiring, Development and Retention

After Floyd's murder, nearly 300 law firms, including ours, joined the Law Firm Antiracism Alliance. By joining the alliance, these law firms pledged to address assaults on inequality and social justice, and combat racism in the law.

Many law firms also created inter-firm racial justice affinity groups. Law firms also promised to do a better job of hiring, developing and supporting Black lawyers.

As we approach the second anniversary of Floyd's murder, the targeted killing of 10 Black people by a white supremacist terrorist in a Buffalo, New York, supermarket, is a chilling reminder that, if anything, the challenges faced by those of committed to making this country a multiracial democracy that lives up to our Constitution have become more



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daunting.

The Law Firm Antiracism Alliance and law firm racial justice affinity groups have continued to work toward combating injustice and inequality on the societal level.

But it is also worth examining whether law firms have delivered on their promises regarding changes in hiring, developing and supporting Black lawyers.

According to the National Association for Law Placement, from 2020 to 2021:

Although the percentage of Black associates overall increased by one-tenth of a percentage point to 5.22%, the rate of growth in the proportion of associates who are Black lags behind that of Latinx and Asian associates.[1]

In addition, the ABA's 2021 Model Diversity Survey Report provides shocking yet unsurprising statistics regarding Black lawyers at mid to large law firms.[2]

Black lawyers identified as equity partners ranged from 1.39% to 2.01% of all equity partners. Black lawyers identified as nonequity partners ranged from 2.48 to 2.76% of all nonequity partners. Black lawyers identified as counsel ranged from 2.05% to 2.82% of lawyers identified as counsel. Black lawyers identified as associates ranged between 4.97% and 5.67% of all associates.

Based on these numbers, it is no surprise that the ABA also found that Black attorneys accounted for the highest attrition percentage in law firms —23%. Finally and significantly, the ABA noted that law firm leaders are still mostly white male attorneys.[3]

The numbers speak for themselves. In the main, it has been easier for law firms to seek to tackle structural racism in society at large than to turn the lens inward, and examine how they erect barriers to the advancement of the Black professionals within their own ranks.

Recommendations

The National Association for Law Placement reported an increased number of Black summer associates in BigLaw, and although that represents progress, the Black attorney attrition rate remains alarmingly high. The number of Black lawyers elevated to partner has remained mostly stagnant for more than a decade.

Although each firm's institutional culture is unique, there are common strategies that firms can adopt to set their Black lawyers up for success.

As diversity consultant Paula Edgar advised recently,[4] firms should make sure that they are:

- Engaging in regular diversity training;
- Providing effective mentoring for Black lawyers;
- Providing strategic sponsorship by elevating the names of their Black associates and emphasizing their value; and
- Providing affinity groups for Black lawyers.

It is critical to make sure that these steps are actually being well executed, and are not merely a "check the box" exercise.

Firms should ask themselves the following questions when analyzing their diversity, equity and inclusion efforts:

- Is diversity training mandatory?
- Is it tailored to the firm's specific circumstances and culture?
- Does the training help partners avoid committing microaggressions?
- Is there instruction on how to be an ally if someone observes a microaggression?

Many firms have mentoring programs, but are they (1) providing training for mentors; (2) checking in with their lawyers of color to ensure that the mentors are actually playing that role; (3) talking to practice group leaders about their mentee's review; (4) debriefing with their mentee after reviews; and (5) checking to make sure that their mentee is receiving the kinds of assignments that ensure that they are developing the necessary skills to excel in their practice area?

Are firms coaching their Black lawyers on business development? Are they introducing them to key clients or referral sources, or advising them on how to cultivate the people in their own networks as potential sources of business?

In terms of sponsorship, are firms identifying high-performing Black associates for sponsorship? Are senior partners actively promoting the Black associates with the potential to be promoted? If firms don't believe that any of their Black lawyers have that potential, they should interrogate that assumption.

Law firms need to reexamine their commitment to retaining and promoting Black lawyers if they are unable to answer most of these questions in the affirmative.

Conclusion

The scale of protests that greeted Floyd's murder in 2020 seemed to herald a new era in which the society as a whole, and the legal profession in particular, would grapple with the country's history of structural racism.

Sadly, in the two years since, we have seen attacks on the teaching of Black history, and the pace of killings by police officers has continued unabated.

Our profession is making valiant efforts to address the societal ills caused by racism, but we need to do more to ensure that our own house is in order.

On this anniversary of Floyd's murder, we encourage our profession to look in the mirror and recommit to the hard work of transforming our firms into anti-racist institutions where all lawyers can thrive.

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[1] https://www.nalp.org/uploads/PressReleases/NALPDiversityReport_PressRel_Jan2022.pdf.

[2] <https://www.americanbar.org/content/dam/aba/administrative/diversity-inclusion-center/2021-md-survey-2nd-edition.pdf>.

[3] Note: The ABA 2022 Model Diversity Survey Report will likely provide a clearer indication of whether improvements have occurred.

[4] <https://www.paulaedar.com/law-firms-and-black-history-why-black-associates-leave-firms-and-what-you-can-do-about-it/>.