



Civil Rights Law Section

PRESS RELEASE

June 5, 2020

This letter is written solely on behalf of the Civil Rights Law Section of the Washington State Bar Association. This does not express the views of the Washington State Bar Association, nor its Board of Governors.

The Executive Committee acknowledges the outrageous injustice we are witnessing and living – disrupting the administration of justice.

The killing of George Floyd, Ahmaud Arbery, Tony McDade, Dion Johnson, and Breonna Taylor have rightfully outraged our nation and the cities within Washington State. Breonna Taylor's 27th birthday is today, Friday, June 5th, 2020. She was an emergency medical technician, an essential worker during the current COVID global pandemic. She died from the bullets of three plainclothes officers who arrived in her apartment at 12:30 am. The officers have yet to be arrested or charged.

Here at home, we add the name Manual Ellis, a father of two and talented musician from Tacoma, WA whose last words were also, "I can't breathe." His cause of death: asphyxiation due to physical restraint.

On Monday, we saw images of a 9-year-old girl who was pepper sprayed by police officers in Seattle while she peacefully protested with her parents, signaling a message to Mayor Durken to withdraw her application to wind down federal oversight – reminding us of the unjust killing of indigenous (Ditidaht and Cowichan) gifted carver, John T. Williams – reminding us of Charleena Lyles, a pregnant mother who had called 911 in 2017 to report a burglary and was unjustly killed in front of her own children.

On Tuesday, we saw the resignation of James Miller, former Under Secretary of Defense of Policy, in protest – a rare action – whose letter to Secretary of Defense, Mark T. Esper stated, "You may be asked to take, or to direct the men and women serving in the U.S. military to take, actions that further undermine the Constitution and harm Americans."

On Wednesday, Former Secretary of Defense, James Mattis, who resigned in 2018, wrote, "We do not need to militarize our response to protests. We need to unite around a common purpose." The same day, we saw Mark Esper oppose invoking the Insurrection Act, against the direction of the Executive Branch.

On Thursday, protesters - who were attacked by federal troops as they demonstrated nonviolently against police brutality - sued President Donald Trump, Attorney General William Barr, and Secretary Mark Esper for violating their constitutional rights, namely the 1st Amendment right to peacefully assemble. <https://lawyerscommittee.org/civil-rights-groups-sue-trump-barr-for-tear-gassing-peaceful-protesters-outside-white-house/>

All of this against the backdrop of a global pandemic. The framing of COVID first ignited racism against Asian Americans and now the virus itself spotlights racial disparity in healthcare, racial disparity in the criminal justice system, and racial disparity in access to fundamental political rights. Inmates are 85% more likely to contract the virus given prison conditions. Here at home, Yakima County, WA has the highest rate of the virus on the West Coast due to the unsafe working conditions for farmworkers and agricultural workers. Yakima County also has one of the greatest racial disparities in our state in voting: persons with Spanish surnames are seven times more likely to have their ballots rejected.

As we move toward the November election, it is clear that all voters in the nation must have access to mail-in or absentee ballots in order to uphold the federal Voting Rights Act, our fundamental right to vote, which is preservative of all other rights and directly relates to the administration of justice. Voting and civic engagement promote the development of freedom and liberty, the heart of American democracy codified in the 14th and 15th Amendments.

The places where BIPOC (Black, Indigenous, People of Color) communities are hit the hardest by COVID are also the places where there are no mechanisms in place for people to vote by mail. Lawsuits have been filed in states where it is practically impossible to receive absentee ballots (e.g., *O'Neil v. Hosemann*, a Mississippi case involving undue burden regarding the state's requirement to have both the request for an absentee ballot and the actual ballot itself notarized). Due to COVID, voter registration has plummeted and voting itself has become a life or death decision as we saw in the primary in Wisconsin, where in the peak of the pandemic, people were unable to vote by mail and risked their own health going to the polls.

Our human rights crisis at the border during COVID has become a national shame: EOIR (Executive Office for Immigration Review) and ORR (Office of Refugee Resettlement) have no uniform policy on sanitation, cleaning, social distancing or testing for the virus as we imprison 55,000 refugees on any given day. We are not only endangering those detained and working within detention centers but exporting the virus to countries who are far less resourced to manage it (75% of all deportees in a recent flight to Guatemala tested positive). Although 90% of all people seeking asylum in this country have friends or relatives to be released to, our government is continuing to detain people in hazardous conditions which the United Nations and constitutional scholars nationwide are defining as unlawful detention. ORR is continuing to prolong the detention of children and youth in violation of domestic children's human rights standard, the Flores Agreement.

The Civil Rights Law Section of the WSBA supported legislation this year to prohibit the contracting of private detention centers within WA because of the incentive of profit over human health and safety. On March 20, 2020, the US closed its borders to all people seeking asylum and deported 20,000 people, in violation of international law, Declaration of Universal Human Rights, Declaration of the Rights of the Child, Declaration of the Convention relating to the Status of Refugees.

We are inundated with images, news, town hall meetings, social media, texts, emails, webinars, and videocalls on what's unfolding before our eyes.

We are here. As lawyers, we will continue to work in defense of the United States Constitution and the administration of justice through the trinity of direct action, litigation and policy change. As humans, we will continue to uphold human dignity in times of crisis.

Black Lives Matter.

As Executive Committee members of the Civil Rights Law Section of the WSBA, we undertake the following action:

- Publish this letter to the WSBA Board of Governors, WSBA Section Leaders, statewide and national organizations
- Provide updates on important litigation regarding voting rights, 1st amendment right to peacefully assemble, and police brutality
- Organize volunteer opportunities to assist protesters and advocates working for the release of detainees and inmates within our state institutions during COVID pandemic
- Share information regarding national civil rights organizing calls
- Share resources to assist firms and organizations in responding to our civil rights crisis
- Demand a recommitment of Racial Equity, Diversity and Inclusion at all levels of the WSBA
- Share resources on how to sustain our physical and mental health

In solidarity,

Molly P. Matter, *Chair, Civil Rights Law Section, WSBA*

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