Chair’s Message: April Frazier-Camara

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As I embark on my year as chair of the Criminal Justice Section, America is at a pivotal moment in history in terms of civil rights and racial justice. As a nation, we have a choice: remain silent or face our painful history and present reality on race. The recent killing of George Floyd by a police officer marked a new chapter in America’s long struggle for racial equity. It gave birth to an uprising that transcended state and country borders, affirmed the lived experiences of Black people, and shed light on the violence inflicted on Black communities at the hands of police and other government actors. State-sanctioned violence against Black people did not begin with the killing of George Floyd, but rather it is a part of a long legacy of brutality that started with slavery and currently exists within the criminal legal system.

America was built on genocide and the taking of land and lives from indigenous Native Americans, and the enslavement of Africans. The dehumanization of indigenous and African people was institutionalized through systems including, but not limited to, the criminal legal system. We have to acknowledge this history as we look to build a more just and equitable criminal legal system.

As noted by Bryan Stevenson, slavery gave America a fear of Black people and a taste for violent punishment, and both still define our criminal legal system. The video of the callous killing of George Floyd by Derek Chauvin in Minneapolis reminded us that for Black Americans, every contact with the criminal legal system is a matter of life and death. Mr. Floyd’s helpless cries for mercy while being publicly lynched by a white police officer in broad daylight as surrounding officers failed to intervene and answer to his plea for air is painful to watch. His killing depicts the brutal and persistent state-sanctioned violence against Black people and reminds us of the long-standing trauma experienced by Black Americans at the hands of the legal system. And, perhaps what is more painful is that Black America has been crying “I CAN’T BREATHE” for centuries in protesting the death of Emmett Till, Michael Brown, Eric Garner, Tamir Rice, Sandra Bland, Ahmaud Arbery, Breonna Taylor, and thousands upon thousands of others.

I have spent my entire legal career asking the criminal legal system to remove its devastating grip from the neck of my clients and community as a public defender and criminal reform attorney,
and these cries are repeatedly met with silence from the majority, who refuse to acknowledge the horrors and bloodstains of racism and white supremacy.

In the upcoming year, the Criminal Justice Section will confront America’s painful history of racism in the criminal legal system. We will carefully examine how race plays a role in every facet of the criminal legal system, from its design to its current function.

This work is required to move America away from silence and toward reconciliation, and the ABA Criminal Justice Section will model the way as a leader in advancing racial equity in the criminal legal system. The ABA Criminal Justice Section is the Unified Voice of Criminal Justice, and we are uniquely situated with our diverse leadership to bring all the various actors to the table to address today's most pressing criminal justice issue of race.

The time to do this work as the ABA Criminal Justice Section is now! Our country is demanding change. The overwhelming majority of America was awakened by the killing of George Floyd, and they are asking for systemic changes to the criminal legal system. The ABA Criminal Justice Section has been advancing criminal justice reforms for many decades, but these reforms have often fallen short in addressing systemic racism. Many criminal justice reform efforts have achieved broader goals like reducing jail incarceration, but the disproportionate racial disparities in the system remain. These racial disparities will persist until we are ready and willing to do the hard work of addressing the deeply seated issues of white supremacy and systemic racism as a part of our reform efforts.

As we do this work to reform the system, we must remember that we are dealing with human lives. Real people are impacted by racial injustice daily. I want to share with you the real-life story of Pervis Payne, who is currently scheduled to be executed on December 3, 2020, by the State of Tennessee. His case depicts the troubling reality of racial bias and the criminalization of blackness in the criminal legal system. He was wrongfully convicted of the horrific murders of a white woman and her two-year-old daughter and the stabbing of her three-year-old son in 1987. Since the day he was arrested for the murder, Pervis has maintained his innocence and consistently testified that he happened upon the crime scene accidentally and attempted to help the victim.

The horrific crime scene and the allegation that a Black man committed these killings in the 1980s triggered long-standing racial biases in Shelby County, which has the most known lynchings in the state of Tennessee and is responsible for nearly half of the state’s death sentences. The theory of the prosecution’s case is one of a sexually predatory Black man, high on drugs, who attacked a white woman. Prosecutors claimed, without evidence, that Pervis had sexually assaulted the victim, and police purported to find evidence that linked Pervis—who had no history of drug use—to drugs but refused his mother’s request that Pervis be permitted to take a drug test. Pervis was convicted and sentenced to death based on these racially motivated theories, and his case was heard by the U.S. Supreme Court in *Payne v. Tennessee*, which overruled its prior victim-impact decision and permitted Payne’s death sentence to stand. Even in the U.S. Supreme Court decision, Justice Rehnquist played on white fear and advanced the underlying notions of the Black predator by describing Pervis like an animal in the majority
decision: “[He] had ‘a wild look about him. His pupils were contracted. He was foaming at the mouth, saliva.’” 501 U.S. 808, 813 (1991).

This troubling description of Pervis Payne as a Black sexual predator is rooted in a racist narrative that can be linked back to the lynching of Emmett Till, who was killed for allegedly flirting with a white woman. These two instances are a part of a long history of racial bias cases in the South, where sexualized racial prejudices repeatedly sent Black men to death row partly as retribution for interracial attractions. The criminal legal system was one of many tools used to maintain social control and relegate Black people—especially Black men—to second-class status, and the recent film Just Mercy brilliantly brings this pattern to life with the case of Walter McMillian. I share Pervis’s story to remind us that we are talking about real human lives and dealing with deeply rooted issues of race in the criminal legal system.

I also share Pervis’s story because this work is both professional and personal to me. This case happened in my hometown when I was eight years old, and it forever shaped my view of the criminal legal system. Pervis’s family was like my own family. We grew up together and attended church together. I heard their continuous cries for justice for him, and his mother’s unyielding prayers and hopes that he would one day be acquitted.

I also witnessed this case divide our community by racial lines. As the white victim's family struggled to bring closure to their devastating pain and loss by accepting Pervis’s conviction and death sentence, the accused Black family maintained his innocence and decried the use of racism to convict their loved one. I saw racism be used as a tool to convict Black people of crimes while they cried out loudly of their innocence—and the deep Jim Crow South allowed it. This case fueled my desire to become an attorney and to fight for criminal law reform to amplify the unheard voices of my community who were still calling out for justice.

I do not believe it is a coincidence that I am serving as the chair of the American Bar Association Criminal Justice Section at a time when our country is confronting the deep legacy of racism and white supremacy in the legal system.

As I shared through Pervis’s story, I grew up in the South and witnessed firsthand the impact of racism within the criminal legal system. I lost family members at the hands of the police. I have witnessed my loved ones and friends be sentenced as adults while still children and be thrown into the adult system and return home never the same. While I have seen the horrors of the injustices in the system, I have also witnessed amazing stories of redemption and hope.

As CJS chair, I commit to bringing forth all of these experiences and untold stories to the Criminal Justice Section. I vow to use this amazing opportunity to shine a light on our past with the hope of building a better future where we meet the challenges of confronting race in the criminal legal system. But I cannot do this alone. I ask you to join me on the journey.