In Memoriam: Oliver W. Hill, Civil Rights Icon

BY CLARENCE M. DUNNAVILLE JR.

Oliver W. Hill of Richmond, Virginia—one of the nation’s most distinguished lawyers—passed away on August 5, 2007. Three months earlier, on May 1, 2007, Hill had turned 100. Even at that age, his advice and counsel in the area of civil rights was sought by attorneys and individuals who felt that they had been victims of racial discrimination. After his retirement, Hill had continued his active involvement in civic and political matters.

During his remarkable lifetime, Hill contributed greatly to the nation through his civil rights work. He was a participant in nearly all the important civil rights cases of the twentieth century. Hill was part of the small group of lawyers, mostly African American, who changed America through the rule of law.

Hill was born in Richmond, Virginia, on May 1, 1907—a mere 11 years after the United States Supreme Court decided the infamous case of Plessy v. Ferguson,1 which ushered in the Jim Crow era at the end of the nineteenth century. The 13th, 14th, and 15th Amendments, adopted after the Civil War, made slavery unconstitutional; prohibited states from making or enforcing any law that curtailed the privileges and immunities of citizens or denied any person the equal protection of the law; and mandated that the right to vote shall not be denied or curtailed by any state because of race, color, or previous condition of servitude. However, subsequent to Plessy, “Black Codes” mandating segregation by race were enacted throughout the South. Racial segregation in many respects existed throughout the nation until the 1960s.

It is difficult to envision today the racial degradation and atrocities committed against black citizens during the first half of the twentieth century. Black people were substantially deprived of nearly all civil rights. Although the lynching of black people was a common occurrence, Congress refused to enact an anti-lynching statute. Housing, including public housing, was segregated. All forms of transportation were segregated. Black people were excluded from public parks and recreational facilities, and all public places, including drinking water fountains, were strictly segregated by race. Black public employees were paid less than white employees. During the Jim Crow era, state-supported schools, including colleges and universities, were restored.

Restorative Justice: Creating Transformation and Building Communities

BY ARTIKA TYNER

Restorative justice focuses on the interrelatedness of the human experience and offers an alternative framework for addressing crime. Historically, America’s criminal justice system has followed a retributive model that sanctions criminal behavior through penal measures. The restorative justice approach is distinguishable because it draws upon principles of community building, reconciliation, healing, and peacemaking. Restorative justice seeks to address the question of how to “make things right” by identifying the harm suffered by the victim, holding the offender accountable for this harm, and restoring interpersonal relationships within the community. It offers all stakeholders (victim, offender, families, and members of the community) an opportunity to repair the harm suffered as a result of the criminal offense and create a social contract to build a harmonious community.

In a real sense all life is interrelated. All men are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly. I can never be what I ought to be until you are what you ought to be, and you can never be what you ought to be until I am what I ought to be. This is the inter-related structure of reality.

— Dr. Martin Luther King Jr.

Continued on page 13
Breaking New Ground, Boundaries

By Paul L. McDonald, Timothy L. Bertschy, and Raymond B. Kim
Co-Chairs of the Minority Trial Lawyer Committee

As lawyers, we are told that we are part of the “legal tradition.” The very nature of lawyering, such as reliance on legal precedent and the concept of stare decisis, is largely based on the notion of using the past as a guide to deciding the legal issues of today. However, an equally important part of that tradition is breaking with the past and overturning precedent that no longer comports with societal norms, or that never did in the first place. Most of the legal heroes remembered by history are not those whose efforts are spent preserving the status quo. Rather, they are courageous men and women who lend their advocacy skills in the service of change, even in the face of extreme adversity. Thus, although the past should be remembered and given due deference, we as lawyers also should not forget that breaking new ground and smashing through societal barriers, both in the cases that we litigate and the way that we conduct ourselves in our profession, is an equally important contribution to our time-honored legal tradition. In this issue, we are pleased to present articles that honor the past, discuss issues relevant to the present, and provide ideas for the future.

Oliver W. Hill, one of this nation’s most distinguished attorneys and a pioneer of the civil rights movement, passed away on August 5, 2007. In a moving tribute, Clarence Dunnaville Jr. describes Mr. Hill’s early life experiences, including his service to his country during WWII, and the circumstances that led him to devote his life promoting the civil rights of all. Mr. Dunnaville recounts Mr. Hill’s work as one of the principal attorneys for the NAACP Legal Defense Fund, including his seminal work in Davis v. Board of Education of Prince Edward County, one of the five cases that were consolidated as Brown v. Board of Education. The article covers Mr. Hill’s continued service in Virginia as one of the nation’s outstanding lawyers, the many honors rightfully bestowed upon him in his later life, and the work of the Oliver White Hill Foundation in carrying on his legacy.

While tremendous strides have been made in the United States since the “Jim Crow” era, Shawn D. Stuckey’s article on “Collateral Effects of Arrests for African Americans” is a reminder of the continued legacy of unequal treatment under the law. Mr. Stuckey discusses the incidental consequences of an arrest in a case that is either not charged, dismissed, or results in an acquittal. Despite being exonerated of criminal wrongdoing, individuals may unknowingly continue to suffer adverse effects in areas such as employment and housing opportunities unless steps are taken to protect the individual. As Mr. Stuckey notes, the disproportionate arrest rate of African Americans makes them particularly prone to such continued injustices. The article provides useful guidance on the steps needed to avoid such future harms.

“The Minority Lawyer’s Playbook for Elevating Your Game,” by Sandra Yamate, provides 12 key “plays” that all minority trial lawyers should keep in mind in developing their legal careers. Due to the seemingly endless stream of “emergencies” that pop up in our daily lives, we often end up neglecting those matters that are actually the most important in the long term. Ms. Yamate refocuses us on those matters that

Continued on page 5
**Dear Mentor:**

I am currently a 2L at American University Washington College of Law (WCL). A native of Monrovia, Liberia, I moved to the United States when I was 12 years old. As a result, I have a special interest in international human rights issues. While attending college, I further developed an interest in multinational corporations and the work and activities these companies pursue in developing countries. My hope is to combine my knowledge of the legal issues relating to contracts and regulatory matters with my interest in international human rights.

I was drawn to WCL largely because of the variety of internationally known programs offered. I have been accepted into WCL’s International Dual Law Degree Program with the University of Ottawa in Canada. This program was attractive to me because of my interest in international trade, particularly trade between Canada and the United States. I am also interested in Canada’s approach to offering aid to developing countries. The dual law degree program requires that I complete the first two years of law study at WCL and the final two years at the University of Ottawa. Upon completion, I will have earned a J.D. and an L.L.B., Canada’s equivalent of the J.D. I then intend to sit for the Virginia Bar and pursue practice as a litigator.

I am interested in knowing how my choice to pursue law degrees in two countries will affect my employment prospects upon returning to the United States to practice. Would working as an attorney in Canada for a couple of years affect those prospects and how? Any advice would be greatly appreciated.

**Arnette Steele**

**Dear Arnette,**

Amidst an increasingly competitive legal market, dual degrees may make some students more marketable for certain positions. Dual degree programs, however, should not be entered into lightly as they can be very time-consuming and expensive. In addition, such programs can present a student with some interesting challenges involving cultural and academic differences.

For those reasons, thorough research into the pros and cons of enrolling in such a program should be done prior to enrollment. For example, you could conduct informational interviews with actual practitioners who have earned such degrees and subsequently used them in your area of interest.

On the one hand, if you are thinking about working in Canada, there may be opportunities for someone with a Juris Doctor degree given the amount of Canadian businesses that are incorporated in the United States. On the other hand, if you are interested in working primarily in the United States upon graduation or for a few short years thereafter, it may be preferable to obtain your practical experience in the United States after graduating. Of course, you can work in Canada while enrolled in the dual degree program and obtain exposure there while still a law student.

**Marcelyn Cox**

*Arnette Steele is a second-year law student at American University’s Washington College of Law. Marcelyn Cox is Assistant Dean of Career Planning at the University of Miami School of Law in Miami, Florida.*
Minority Trial Lawyer • Fall 2007

Juror Persuasion in a Diverse and Fast-Paced World
BY RAYMOND B. KIM AND CAREN DRAPEAU

The fundamental goal of jury persuasion techniques remains the same: to convince. However, the rapid pace of technological, demographic, and cultural change in American society significantly affects the methods used to accomplish that goal. Research also shows that media images of how the legal system supposedly works have led jurors to expect more of lawyers and trials. Jurors expect that real lawyers will perform as efficiently and effectively as those portrayed on television and in films. Lawyers who fall short of those expectations run the risk of creating an unfavorable impression of themselves and, by extension, their cases. As a result, an understanding of effective jury persuasion techniques in today’s society is an important step in maximizing your chances of winning at trial.

Today’s Jurors Are More Diverse Than Ever
It is not an original observation to note that we live in an increasingly diverse and mobile society, but that observation is true. The United States is a rich tapestry of ethnically and religiously diverse individuals with varying degrees of experience in American society and its institutions. Jury pools throughout the country draw from this increasingly variegated board. These demographic and cultural changes require lawyers to attune themselves to a wide range of backgrounds, beliefs, and life experiences. This is not to say that different geographic areas do not continue to possess certain signature characteristics. However, with increased diversity and mobility comes a need to pay closer attention to each juror as a unique individual and to recognize that broad-brush assumptions about jurors based simply on locality, class, or ethnicity carry significant dangers.

As they receive evidence, they fit it into their story. It is harder to put across evidence that challenges a juror’s tentative story than evidence that supports it.¹

In telling the story, remember that seeing is believing. According to some research, we retain 10 percent of what we hear, 30 percent of what we read, and 70 percent of what we see. This means that visual aids are an important and expected part of today’s trial presentations. This does not mean that every trial must include elaborate graphics, videotaped deposition testimony, and PowerPoint presentations to accompany opening statements and closing arguments. It does mean, however, that in every trial, the use of visual aids to highlight important facts and documents plays a critical role in emphasizing key elements of your case. Without such visual aids, lawyers run the risk of having crucial evidence lost in a swirl of trivial matters and forgotten by jurors when it comes time to decide the lawsuit.

Statistics also show that the use of clear, visual language also aids in a juror’s decision-making process. Thus, careful thought to one’s selection and use of words to describe events, reinforcement of evocative phrases and themes, and avoidance of legalese and technical jargon all pay dividends in getting your story across and allowing jurors to have greater conviction in their positive attitudes toward your case. Confused jurors will not be confident in their decisions when confronted with competing arguments either in the courtroom or during deliberations. Lead jurors to your conclusion by using language they understand and a story they will not only hear but remember and believe.

“Don’t Waste My Time”
Another factor to keep in mind during any trial is that, by and large, jurors do not want to be there with you in court. Unless jurors have prior jury experience, the courtroom and its environs are unfamiliar and perhaps even intimidating. Being called for jury

¹ See, e.g., Daniel Kahneman, Thinking, Fast and Slow (2011).
duty also means that jurors have been required to rearrange employment or personal obligations, often resulting in stress and inconvenience. Thus, regardless of how fascinating and important lawyers and their clients believe their own cases may be, they are usually of secondary importance to jurors themselves. The jurors’ primary focus is how to carry out their responsibilities as quickly as possible so that they can return to their normal lives. This means that lawyers must take pains to streamline their presentations so that they are not perceived to be wasting the jurors’ time.

The fast pace of today’s media presentations also shapes jurors’ expectations of presentations they hear in court. Accustomed to 30-second sound bites rather than political debates, Fox News updates rather than in-depth newscasts, ESPN Sportscenter rather than a nine-inning baseball game, and the abbreviated language of emails and instant messaging rather than the formality and length of letters, jurors have less patience with long, drawn-out examinations and trial tactics, which they perceive to be long-winded and unnecessary. Thus, although most lawyers, by training and perhaps inclination, tend to be detail-oriented and wary of leaving any stone unturned, effective trial presentation requires abandoning such preconceptions. Cut to the chase. Be the jurors’ ally, not their enemy.

What Does This Mean for Minority Trial Lawyers?

“Call to Action” programs by America’s leading corporations are demanding increased diversity among trial teams. This means that minority lawyers have exciting and increasing opportunities to participate meaningfully in trial work. Given such developments, minority trial lawyers will be well-served by learning and implementing the techniques discussed above and heeding lessons learned from experienced trial lawyers and the latest jury research.

Minority trial lawyers, like all other lawyers, also need to be aware that all jurors come to court with an ingrained set of beliefs that shape their perceptions toward the lawyers and their cases. Whether these stereotypes are based on preconceived notions about a particular ethnic group, gender, type of case, or style of advocacy, the most effective means of negating the potentially negative influences of such preconceptions is to remind jurors of their obligations to decide cases based on a notion of justice to the individuals that are before them, rather than broader, less personal considerations.

Again, Michael Tigar’s insightful words on this subject are worth careful consideration and reflection:

You act against stereotype by making sure you are telling the story, and not “another one of those stories.” Your themes must of course be powerful and resonant, but only by weaving them into a unique fabric can you rightly claim the jurors’ full attention.

Raymond B. Kim is a shareholder of Greenberg Traurig, LLP, in Los Angeles, and serves as cochair of the Minority Trial Lawyer Committee. Caren Drapeau is executive director of Creative Services for The Huck Group, a trial support firm with offices in Los Angeles and Chicago.

Endnotes

2. Id. at 468.

Chairs’ Column

Continued from page 2

will eventually pay enormous dividends in both our professional advancement and personal happiness.

We also include in this issue a book review by Terrie L. Robinson of the new legal thriller, In Firm Pursuit, by Pamela Samuels-Young. The protagonist in Ms. Young’s second novel is Vernetta Henderson, a minority trial lawyer in a prestigious Los Angeles law firm whose chances of making partner are seemingly derailed when a wrongful termination case she is handling spirals out of control. However, as one would expect, things are not as they seem. Ms. Samuels-Young’s book provides a rare portrait of the life of a minority lawyer struggling to succeed in today’s big firm environment.

“Juror Persuasion in a Diverse and Fast-Paced World,” by Raymond Kim and Caren Drapeau, covers some of the fundamental principles of jury advocacy in today’s society. With increased diversity comes the need for a more nuanced approach to juries. Likewise, the fast pace of today’s media presentations, as well as the visual nature of data delivery, makes the streamlining of presentations and use of visual aids an important part of increasing the effectiveness of your case.

Finally, we also include two articles that point the way to the future of our profession. In our “Ask a Mentor” column, Marcelyn Cox offers candid and helpful advice to a law student interested in pursuing a dual-degree program that would allow for the practice of law in two countries. In “Restorative Justice: Creating Transformation and Building Communities,” Artika Tyner discusses the restorative justice model of criminal justice, as distinct from our current retributive model. Ms. Tyner’s innovative approach to criminal justice shows that original thinking about important legal issues of the day is very much alive and well.

We hope you enjoy this issue of Minority Trial Lawyer.
Collateral Effects of Arrests for African Americans

SHAWN D. STUCKEY

When an African American is convicted of a crime, he or she is subject to the direct and collateral effects of a conviction. But what happens when the case is either not charged or is dismissed, or he or she is found not guilty? Most citizens believe the arrest record is either thrown out or sealed. The reality, however, is that anyone can have access to that information for years to come, and people do in fact use this information to determine an applicant’s eligibility for employment and housing. There are those who take advantage of this information to publicize the person’s arrest to the community. Citizens in these circumstances must take immediate action, or they run the risk that their arrest record, regardless of the outcome, will be used to deny them employment and housing or subject them to public ridicule.

Collateral effects are invisible; civil punishments attach to any crime and arise immediately following an arrest.1 In the past, access to a person’s criminal history records was not readily available, but technology has greatly increased the public’s access to criminal records. People have access to almost every single arrest record. Only those that are sealed and/or completely removed are protected.

This unfortunate predicament is particularly dangerous to African Americans because studies have repeatedly shown that the prosecution and severity of sentences handed down to African Americans are greatly disproportionate to their numbers in society. A major component of this problem is that African Americans are often arrested and prosecuted for low-level offenses in poorer and predominately African American neighborhoods. African Americans are arrested at rates that are almost three times their percentage of the population. African Americans make up only 12 to 13 percent of the United States’ population, but they “account for more than 30 percent of all arrests.”2 Many of these arrests are not charged at all or result in dismissals. Although arguments can be made against the legitimacy of many of these arrests, criminal records are nonetheless created for these individuals and remain publicly available for many years. There are, however, options available to those who choose to permanently remove this information from the public domain, which will be discussed later in this article.

Zero Tolerance and the Targeting of African Americans

The zero-tolerance policing model began in California and gained popularity during former Mayor Rudy Giuliani’s tenure in New York City. Since that time, it has been adopted by many law enforcement agencies around the country.1 The goal is to deter serious violations by enforcing penalties for small crimes; for example, arresting a person for loitering with the hope of removing the opportunity and/or desire to commit a more serious crime in the future.

Police officers defend these polices by pointing to the vast numbers of arrests that are made—even though many of these are for very low-level offenses. As one Georgia official noted, “When you want to catch fish, you go where the fishing is easiest.”3 These petty crimes enhance the seriousness of later charges and penalties, which often results in the individual’s reliance on public assistance and/or further crime. This policing model places more individuals in jeopardy of the negative consequences associated with the collateral effects of their arrest records.

One example of the effect of this policing model is seen in Hennepin County, Minnesota. Minnesota is one of the nation’s leaders in disproportionate arrest rates for African Americans.1 After Minnesota adopted a zero-tolerance policing model, at one point in 1995, 4500 defendants were arrested in Hennepin County. Of that number, only 1600 were presented to their respective city and county attorney’s office, 1200 were charged, 300 received diversion, and 100 defendants were convicted and sentenced to prison. In the end, more than 90 percent of the defendants were released without convictions, and many of these individuals were released due to a lack of probable cause. In the year 2000 alone, the state arrested and booked almost half of all African American males between the ages of 18 and 30 residing in Hennepin County, Minnesota.4

According to a Hennepin County district court judge, police have been known to arrest individuals in certain situations where they know probable cause is lacking or nonexistent only to release these individuals a few hours later with the goal of dissuading them from participating in future criminal activity. A study of search warrants by the National Association for the Advancement of Colored People and law students in Minnesota confirmed the judge’s observations. The study showed that police officers in Ramsey County, Minnesota, were executing search warrants that often resulted in no charges filed or in a dismissal of the charges for lack of probable cause. This information, however, is not automatically sealed and remains publicly available until the proper steps are taken to seal the record.

Where the Information Goes

After an arrest is made, a record of the arrest, along with any other identifying information, is maintained and reported to the state’s central repository. In most states, anyone may go to the central repository or any authorized dissemination terminal or search online to obtain conviction data on an individual. Making this information publicly available is arguably justifiable considering the criminal and civil liability associated with due diligence requirements. However, this also allows the public to access highly prejudicial and arguably irrelevant arrest data for
incidents that did not result in conviction. Currently, 15 states make the arrest data at their central repositories available to the public. Another 17 states have exceptions to their policies, which ultimately allow the public to obtain the arrest data at the central repository. The exceptions allow access to the arrest information by any individual who has a notarized “Informed Consent Form” signed by the adult subject of the record. These exceptions allow employers and landlords to circumvent any restrictive arrest laws. The arrest information includes the person’s name, age, address, charge, time and place of arrest, place of incarceration—but provides no information on the final disposition of the case.

In addition, information gatherers, better known as “data harvesters” or “data verifiers,” have complete access to a person’s arrest information. Data harvesters are people who go to dissemination terminals in courthouses, law enforcement centers, or central repositories, and gather information on any individual who has been arrested in that particular jurisdiction. The data harvesters visit the dissemination terminals daily, so someone arrested the night before will have his or her information accessed by the data harvester the following day. The data harvesters then sell that bulk information to any willing buyer (e.g., data verification agencies, credit agencies, attorneys).

Furthermore, the media has access to the individual’s arrest information regardless of the outcome of the charge. In other words, someone whose arrest was dismissed many years ago may still have his or her arrest record reported by the media. Because the disposition of that charge is frequently unknown, the media often neglects to report that the charge was ultimately dismissed.

The Collateral Effects of an Arrest
An arrest results in two types of consequences: direct and collateral. Direct consequences flow directly from a conviction (e.g., the sentence and/or fine). In contrast, collateral effects are civil in nature, are imposed in the interest of public safety, and have a legally binding result on arrested individuals.

Collateral effects of arrests can hinder a citizen’s progress in many ways, the most important of which is the denial of employment and housing opportunities. Over 80 percent of large employers rely on criminal history checks during the hiring process. Over 60 percent of employers indicate that they probably or definitely would not hire someone with a criminal record, including those with only an arrest record containing no conviction.

There are significant interests on both sides in making criminal history information available to employers. Employers have several legitimate concerns: Some employers are legally obligated to ask for criminal history information, while others are motivated by civil liability. In addition to the liability involved in the first two instances, employers have a legitimate personal interest in assessing the potential risks to their assets and reputations. On the other hand, criminal background checks can all but eliminate the chances of obtaining and maintaining employment for individuals with criminal records.

Most people think that low-level jobs are a reliable avenue to which convicted persons may turn for employment. Unfortunately, employers whose employees have direct interaction with customers are the most averse to hiring workers with criminal histories. This heavily affects entry-level jobs at fast-food places or department stores. Often an employer will make an offer only to rescind it after completing a background check. If a person is arrested and has not made an effort to expunge his or her arrest data, there is a significant chance that he or she will be denied employment.

Although most believe that an employer cannot make a decision based on an arrest record, this is not the case. In the absence of a state law or regulation, most states (37) are essentially permitted to ask about—and use—arrest information (not leading to convictions) as well as conviction information when making a hiring decision. However, even in states where the practice is illegal, an employer may circumvent the law by using arrest information to judge fitness for a job, the same way an employer would use a person’s answers to questions or demeanor in an interview. Even the Equal Employment Opportunity Commission (EEOC) does not prohibit the use of arrest and misdemeanor information in the hiring process. However, the EEOC states “that employers should not ask applicants about arrests which have not lead to convictions, because such questions may have a ‘chilling effect’ upon minorities and discourage them from applying for a job.” Therefore, if anyone has access to a citizen’s information, there is almost nothing to prevent an employer from accessing the information and using it against that individual.

Similarly, landlords perform background checks that unfairly disqualify an individual for housing. A landlord may access arrest information that may not contain the disposition of the charge. To relieve themselves of civil and/or criminal liability, the landlord may refuse to rent the apartment or house to an applicant who was either justifiably or unjustifiably arrested for a crime and failed to seek the proper corrective measures.

Moreover, applications that ask whether an individual has ever been arrested for a crime may be a hindrance to an individual with an arrest record but not for reasons most may think. Most employers and landlords actually disqualify individuals for reasons relating to truthfulness and “moral turpitude,” when the individuals refuse to reveal the information when asked. Anyone who seals and/or removes his or her arrest information will lawfully be able to deny the arrest.

The effects of a published arrest record can be devastating. Many times people equate guilt with accusation if an accusation is published in any bona fide media outlet. All media outlets have access to arrest information by virtue of the media’s public classification or the ability of the media to be classified as an “aggrieved person.” Because most media outlets do not publish the disposition of the crimes, a person is usually guilty until proven innocent, resulting in a “conviction” in the court of public opinion.

How to Protect the Information
Anyone who would like to seal and, in many cases, completely remove his or her arrest information from the public may do so. Some states offer procedures whereby a person may simply contact an arresting agency and request that the original docu-
ments (not copies) be given to him or her, effectively eliminating the public’s access to that information.17 However, citizens are generally unaware of this option, and many practitioners are unaware of it. More surprisingly, most police stations and government officials (who are responsible for returning this information) have no idea that such an option is available. For example, in Minnesota, the author called to request an individual’s arrest information after the individual’s charges were dropped absent a finding of probable cause. The author was told repeatedly that no such option existed until the author spoke with a city attorney and quoted a copy of the statute to him. The city attorney ultimately agreed to return the original arrest information, but not before expressing significant hesitation at granting the request.

Other options for sealing arrest records are expungement, automatic expungement, and/or pardons. Expungement is the removal of a conviction from a person’s criminal record. In most states, expungement only seals a person’s criminal record; it does not destroy it. Automatic expungement is the automatic sealing of arrest data so that no “non-criminal justice agencies” may access a person’s data and use it against that person before a determination of guilt is made by a court. Automatic sealing of arrest records ensures that proper criminal justice agencies have the necessary, relevant information while providing a justifiable protection to arrested individuals. Most states, however, do not have mechanisms in place that mirror automatic expungement. Judicial pardon is also available in some states to protect arrest information.

African Americans are arrested at much higher rates than any other segment of the population, with many of these arrests resulting in cases being dismissed or not charged at all. The experience creates a criminal record that is available to the public unless proper steps are taken. Technology has increased the public’s access to this information. Recent laws and court decisions have decreased the protection of these records. Any citizen who has been arrested should take immediate steps to protect his or her information. Failure to do so will make arrest information available to the community, resulting in fewer employment opportunities, denial of housing accommodations, and public ridicule. ■

Shawn D. Stucky is a graduate of Vanderbilt University and Troy University, and is a 2008 J.D. candidate at the University of St. Thomas School of Law.

Endnotes

Continued on page 11

Become a Better Advocate Through Training and Experience

The Section of Litigation supports attendance at National Institute for Trial Advocacy (NITA) programs through its allocation of scholarship funds to those who cannot afford the cost of tuition. Information on NITA programs and scholarships can be found at www.nita.org/sol
The Minority Lawyer’s Playbook for Elevating Your Game

BY SANDRA S. YAMATE

Why are some lawyers so much better able to advance themselves and their careers as compared to their peers and colleagues? Why is one lawyer a successful rainmaker and another not? What makes one lawyer a “go-to” trial lawyer as opposed to another? Why is one lawyer regularly invited to speak on panels or serve on prestigious committees while others are not?

For minority lawyers who are interested in advancing their careers, finding the answers can be more than elusive; the answers may seem to be concealed. In large part, this is due to the lack of adequate mentoring. While much of the information is common sense, few busy practitioners have the leisure to contemplate, develop, and then implement the necessary strategies in a timely fashion. A mentor who can raise career development issues, make suggestions, and offer guidance becomes invaluable and, especially for minority lawyers, a rarity.

At the ABA Commission on Racial and Ethnic Diversity in the Profession, we have occasion to talk and work with and observe many minority lawyers. Over the years, we’ve accumulated a wealth of information about do’s and don’ts and strategies for success for minority lawyers. So, here, play by play, are those things a mentor should tell you, even after you’ve been practicing for years.

Play 1: It’s a Career, Not a Job
It’s easy to lose sight of the fact that being a lawyer is a career, not just the job that we currently hold. Each of us is our own product/business/project. We’re ultimately responsible for developing that product, marketing and growing that business, and managing that project. We each need to ask:

• What are my realistic goals and objectives for the next phase of my career?
• What experience, contacts, and visibility do I need to enhance the likelihood of achieving those goals and objectives?
• If I dislike my current employment, what kind of employment would make me happier, and what do I need to do to find that sort of employment?
• What am I good at, and what do I enjoy?
• Where do I need to improve?
• What do I perceive as the obstacles to achieving my goals and objectives?
• What strategies can I implement to overcome those obstacles?

Play 2: Invest in Yourself
It is nice if your employer truly recognizes your value and worth and is willing to invest in your further professional development. When that doesn’t happen, however, you must be willing to invest in yourself.

• Have a professional quality studio photograph of yourself taken so that you always have a “head shot” ready. Likewise, you should have four biographies of yourself ready for publication at any time: short and long versions of a professional biography that emphasizes professional accomplishments and short and long versions of a general biography that would be suitable for use by non-bar association groups.
• Update, rewrite, or overhaul your website biography, as needed and on a regular basis.
• Join at least one organization—professional, civic, charitable, community, political, etc.—with a commitment to participate and a vision for serving in a leadership role.
• Attend at least one bar association meeting where you are unlikely to know the other attendees. Introduce yourself to the lawyers responsible for organizing the program and get to know them.
• Join professional organizations that address facets of your career.

Play 3: BeMentorable
You know all the reasons why you need and want mentors. You, however, also need to be mentorable.

• Listen to what the mentor is telling you, vocally and through other means.
• Ask questions if you need clarification.
• Provide your mentor with the full facts or situation. Your mentor’s advice can only be as good as the information that he or she has.
• Don’t color the situation. It’s fine to share your suspicions, but make it clear that that is what they are.
• Follow your mentor’s advice or be ready to explain why you didn’t. If you find yourself frequently disregarding a mentor’s advice, ask yourself why you want or consider this person to be your mentor.
• Consider how your actions might reflect upon your mentor. Treat what your mentor tells you as confidential.

Play 4: Be Visible
You might be a great lawyer, but if no one knows, it doesn’t help you. Be visible without becoming a marketing monster.

• Volunteer when appropriate. It is perfectly fine to offer yourself as a speaker or an author or to serve on a committee, but it helps if you have previous experience attending the particular conference or reading the publication or are familiar and have previous experience with the work of the committee.
• Be realistic about your suitability for what you are volunteering to do. No one is an expert in everything. When you submit your name for speaker bureaus and clearinghouses, offer specifics about your practice area, areas of experience and expertise, and examples of other programs at which you’ve spoken.
• Be willing to attend programs and events even if you’re not a speaker. You will learn about speakers, good and bad, and will improve your own performance when you hear how others are addressing topics on which you might someday be speaking.
• Attend receptions and other events, and introduce yourself to people you don’t know.
Play 5: Be Generous
Be generous with your money, time, recommendations, and praise. Find ways to support the people, organizations, and principles in which you believe.

- When others seek your advice, make time to talk to them. Likewise, when someone invites you to speak on a program or author an article or otherwise needs your help for an activity, find a way to respond in the affirmative.
- If you absolutely cannot help, suggest someone else who might like to take advantage of the opportunity.
- If you see something positive, praise it. If there is a program or an activity that you like, put it in writing and tell the people responsible for it that you like it and why. If you hear a speaker who you think did an excellent job or you read an article that you particularly like, drop the person a note and tell him or her about it.
- When you offer praise, make sure it's sincere. You don't need to develop a reputation for praising anything and everything. Nor do you want to be known as someone whose standards are so low that you praise things that don't really merit praise.

Play 6: Keep in Touch
Find reasons to interact with people you have met. Keep abreast of what they are doing and keep them informed about what you are doing.

- If they are in the same city, an occasional invitation to lunch is always easy.
- Include them in your annual holiday greeting card mailing list but try to at least write a personal note and handwrite your name.
- Send an occasional email inquiring whether they will be attending an upcoming reception, conference, or bar meeting that you'll be attending and suggesting that you look for each other.
- If you see their names mentioned (favorably) in a newspaper or journal, clip it and send it to them with your congratulations or other appropriate sentiment.
- Pick up the telephone and call them.

Play 7: Stay Focused
With cell phones, PDAs, and laptops, it's too easy to multitask. Make sure, however, that you remain focused upon what you are doing and your objectives.

- If you attend a conference away from the office, keep in mind the reason you are out of the office in the first place. If you spend most of the time in your hotel room on your laptop, or in the hallway on your cell phone, you miss most of the benefits of attending the conference and minimize the networking opportunities.
- Technology should work for you, not the other way around. Don't allow technology to make you appear rude, uninterested, or distracted. Get in the habit of turning off your cell phone when you are in meetings, programs, or restaurants. Avoid interrupting a conversation by answering a ringing cell phone. Don't review and respond to emails via your BlackBerry or laptop during meetings or conference programs or luncheons or other meals.

Play 8: Make Friends
A large part of successful lawyering is all about relationships. The problem is making time for them.

- It's lovely to spend time catching up with old friends. But keep an eye out for the person who seems to be alone, who may not know anyone, or who may be new. Make a point of introducing yourself and including that person in your circle of acquaintances. That new friend could be a new client tomorrow.
- Develop your own 30-second “elevator introduction” where you can quickly and succinctly introduce yourself to someone in such a way as to leave them knowing who you are, how to find you later, and what you do.
- Don't ignore your old friends. Stay in touch with people. Make time to have lunch. Force yourself to get to that cocktail reception or after-work meeting. Use email, even if it's just to say hello and find out how people are doing.
Play 9: Learn to Say No
It’s OK to say no. You don’t need to serve on every board, speak on every program, or join every committee. While you want to be visible, you also want to maintain a strong and credible reputation. Be realistic about what you can do or are willing to do.

- If it is something that you really want to do and you are willing to sacrifice personal time to make sure it gets done well, then go ahead and volunteer.
- If you really don’t think you have the time or inclination, decline the opportunity. Suggest someone else who would welcome the opportunity.
- If it is something you’d like to do, but you aren’t quite certain you’ve got the time or something you’re more ambivalent about, ask yourself: Am I willing to risk my reputation if I do this poorly?
- If you have to renege on a commitment, try to do so early enough so that there is time to find someone else who can fulfill your obligation. If you can suggest someone else who would be willing, that is even better.

Play 10: Ask for What You Want (and Need)
As lawyers, no one would be surprised if we are assertive, determined, and strong advocates. Don’t be afraid to ask for what you want or need. Ask for the plum assignment. Ask for the job you’d like. Ask for the meeting you want.

- Ask for the training and experience you need to be successful. Remember, it is your career. You have to guide it.
- Ask for the support and backing you need for your professional development and community interests. Remember, it’s your reputation. You have to build it.
- Ask for the job or other opportunity you want and know you deserve. Learn to volunteer without resorting to bragging.

Play 11: Look at the Big Picture
Corporate clients often comment upon the importance of retaining lawyers who have an understanding of their business. That means understanding the company’s vision and objectives. The same thing holds true for minority lawyers hoping to be asked to lead bar association programs or serve as speakers.

- Read articles about prospective clients that appear in news media, their annual reports, or on the Internet.
- With volunteer organizations, find out what the expectations are and determine how best to distinguish yourself.

Play 12: Write About What You Know
Writing is important to lawyers. When you write something, write it well. And write about what you know. Whether you are writing a cover letter, a brief, or a newsletter article, your writing reflects upon you and the kind of lawyer you are.

- Always consider your grammar, spelling, and punctuation.
- Consider who the readers are. If they are your peers in your practice area, do you want to write something that is so basic or general that your comprehension of the legal issues is perceived as minimal? Alternatively, if your readers will be lawyers from other practice areas, you may want to be more generalized in your explanations.
- Minority lawyers often find themselves being asked to write about some facet of diversity. If you have a particular point of view or experience that you want to share, by all means do so. Be careful, however, not to allow yourself to be embarrassed by writing as a diversity “expert” only to publicly discover you are not.

None of these suggestions are earth-shaking. None of these plays are particularly difficult. Indeed, whether you’ve been practicing law for 2 years or 20 years, all of these plays most likely are things you’ve thought about at one time or another. Most of this is common sense. Goals can evolve over the years, and things to which we may have aspire can change. And as we gain greater experience and expertise, different and unexpected windows of opportunity may open. Hopefully, we can recognize them when we see them.

Sandra S. Yamate is the Director of the ABA Commission on Racial and Ethnic Diversity in the Profession. This article contains excerpts of the written materials that she developed for the Section of Litigation’s spring symposium: Elevating Your Game: Lawyers of Color Accessing Power.

Collateral Effect
Continued from page 8
16. See Telephone Interview with Kevin Spang, Pres., Verified Credentials, Inc. (Minnesota) (Feb. 21, 2007).
In Firm Pursuit Reflects the Minority Litigator Experience

BY TERRIE L. ROBINSON

In Firm Pursuit
By Pamela Samuels-Young

Karen Carruthers, the star witness in a wrongful termination/sexual harassment case, takes the driving equivalent of a header off Mulholland Drive. Vernetta Henderson’s chances for partnership in her prestigious L.A. law firm appear to have headed off the cliff with Carruthers when the case subsequently spirals out of her control.

Pamela Samuels-Young’s second legal thriller, In Firm Pursuit, spins a plot all too familiar to minority trial lawyers: a seemingly simple case that goes haywire on the eve of trial because a corporate client is keeping secrets that threaten to undermine your case and your career. The judge assigned to the case loves opposing counsel, and a junior associate is eager to shine at your expense. Just another day at a large law firm, some attorneys might say.

However, Vernetta’s corporate client, Micronics, is willing to buy silence with violence against anyone who might expose its misdeeds. This includes anyone who figures out what Karen Carruthers really knew. In a plot to rival John Grisham’s, Samuels-Young turns a tale in which Vernetta slowly realizes that her client’s eagerness to settle has little, if anything, to do with the merits of the case. Again, some would say, just another day at a large law firm.

What makes Samuels-Young’s novel stand out is that she nails with painstaking accuracy the everyday frustrations that a pioneering attorney of color experiences when she is potentially the first of her race to make partner. Vernetta’s lapse in judgment in refusing a $30,000 settlement in the case is magnified because she is up for partner in her firm. Her client’s wavering confidence in her abilities spreads throughout the firm’s partnership ranks like a schoolyard secret, even though Vernetta is the same great trial attorney she has always been. In addition to having to watch her back against her client, Vernetta has to navigate internecine partner warfare in which senior associates are merely pawns and one’s stable of corporate clients is the holy grail of law firm power.

She also has to stay one step ahead of a young, privileged, connected, and blond junior associate who sees the path to success in the firm paved across Vernetta’s back. Just another day in a large law firm?

Vernetta’s personal life is sorely in need of tending, as is often the case with trial attorneys. Her entrepreneur husband is working out of town for an extended period and is faced with temptation that puts their marriage to the test. Her best friend and sidekick, Special Moore, keeps secrets to shield Vernetta from the truth of the state of her marriage. Special also uses her gifts of persuasion with the opposite sex to help Vernetta unravel her client’s secrets. Finally, as is often the case, Vernetta finds an ally in an African American attorney who is her opposing counsel but uses his clout to get Vernetta’s career and march to partnership back on track—although he wouldn’t cry if Vernetta’s marriage failed. When Vernetta’s husband finally grills her about why she so badly wants partnership (and the majority validation it brings), she gives an answer that fails to convince even herself. I suspect that, in future installments, Vernetta’s small doubts about the value of partnership in a majority firm will grow. Just another day for a minority attorney in a large firm.

Although the ending may be a bit too tidy for an attorney’s taste, it’s the journey, not the destination, that makes this novel not only a thrill ride but also a confirmation that the experiences of minority attorneys in majority law firms are pretty universal. Minority attorneys who have taken themselves off the partnership track or wondered how they made it through to partner will see themselves in the protagonist Vernetta—for a much-welcomed change.

Terrie L. Robinson is staff counsel with the Chancellor’s Office of the California Community Colleges.

BOOK REVIEW

Calling All Writers!

Would you like to contribute an article to Minority Trial Lawyer? We are always looking for articles that cover the many areas of interest to our readers, including trends that affect lawyers of color; cases and case law affecting the minority community; challenges faced by lawyers of color in the practice; and stories of opportunities and inspiration.

Send your article or query to baileyk@staff.abanet.org, or call Kevin Bailey with your idea at 312/988-6068.
segregated, and the educational facilities provided to black people were inferior.

As a boy growing up in Roanoke, Virginia, at the dawn of the twentieth century, Hill experienced racial inequalities every day. Roanoke’s separate and unequal public schools for Negroes ended at the eighth grade, whereas a high school education was provided for white children. When Hill completed the eighth grade, it was necessary for him to move to Washington, D.C., to receive a basic high school education. Young Oliver Hill enrolled in Dunbar High School and, upon graduating, entered Howard University.

Hill decided at an early age to devote his life’s work to overturning Jim Crow. While an undergraduate student at Howard University, Hill inherited the law books of a relative who had practiced law in Washington, D.C. Hill read the United States Constitution and the 13th, 14th, and 15th Amendments, and concluded that the Jim Crow laws were inconsistent with the Constitution. He entered the law school at Howard in 1930 with the express purpose of working toward ending racial segregation. Hill studied under Charles Hamilton Houston, the architect of overturning Jim Crow through the rule of law. Hill’s classmate, the late U.S. Supreme Court Justice Thurgood Marshall, became a lifelong friend and associate in most of the important civil rights cases.

Hill graduated from law school in 1933 and was admitted to the Virginia Bar the next year. He began to handle civil rights cases shortly thereafter. In the years prior to World War II, Hill participated in a number of important civil rights cases, the most significant being *Alston v. School Board of Norfolk;* a class action that led to the cases seeking equalization of teachers’ salaries. At that time, the salary of Negro teachers in Richmond, Virginia, started at about $350 per year and was capped at $999. The starting salary for white teachers was $1000 and the top salary was $1800. The Negro teachers alleged violations of the Civil Rights Acts and the Equal Protection Clause of the 14th Amendment. The U.S. Court of Appeals for the Fourth Circuit overturned the lower court decision holding that the black teachers, who had signed contracts, had waived their constitutional rights, thus opening the way to equalization of teachers’ salaries nationwide.

---

**Hill, Justice Marshall, and a small band of lawyers served as counsel in virtually all of the important cases that laid the foundation for the elimination of Jim Crow.**

Serving his country during World War II, Hill was stationed in Wales immediately prior to D-Day. Incredibly, the white chaplain of his regiment circulated to the townspeople the story that the black soldiers had tails and raped white women. Incensed, the black soldiers rioted, and there was an investigation by the Inspector General of the Army. At the conclusion of the investigation, the Inspector General determined that the black soldiers needed more training, and three weeks of training were mandated for the black soldiers in the regiment. As a result, the regiment missed taking part in the D-Day invasion. In retrospect, Hill mused that, in all likelihood, he missed being “fish bait” because of the racist conduct of the white chaplain.

Upon returning to his law practice in Richmond after World War II, Hill became one of the principal attorneys with the National Association for the Advancement of Colored People (NAACP) and the NAACP Legal Defense Fund. Together with his law partner, the late Judge Spottswood W. Robinson III, and Thurgood Marshall, he continued the fight for equality in the courts. Hill was among the lawyers who litigated numerous cases in the pursuit of the end of legal segregation in the aftermath of World War II and beyond.

Hill, Justice Marshall, and a small band of lawyers served as counsel in virtually all the important cases that laid the foundation for the elimination of Jim Crow. Some of the landmark civil rights cases in which Hill participated over the years involved the right to serve on grand and petit juries, free bus transportation for public school children, and the protection of firemen and other railway workers in the right to employment and the right to fair and impartial representation by the statutory bargaining agent. Hill also championed the right to participate in primary elections, the elimination of segregation on common carriers in both intrastate and interstate travel, and the use of public facilities in a nondiscriminatory and integrated fashion, including public schools and places of public assembly and recreation. His efforts led to the ability to secure the housing of one’s own choosing and the right, through an organization such as the NAACP, to assert constitutional rights and seek redress of grievances in courts and otherwise to be free from harassment by legislative investigatory committees.

Hill cofounded the Virginia State Conference of the NAACP in 1935, serving as director for 20 years. In 1942, he cofounded the Old Dominion Bar Association, a first for African American attorneys in Virginia. Hill’s first national recognition came in 1948 when he was elected to the Richmond City Council. He was the first African American elected to serve in a local government in the South since Reconstruction. In the early 1950s, Hill and his law partner Robinson were the attorneys in the Virginia case of *Davis v. Board of Education of Prince Edward County,* one of the five landmark cases that were consolidated and became known as *Brown v. Board of Education.* The *Davis* decision, together with the *Brown* decision the following year, ended segregation in public schools and was the seminal case that led to the end of the Jim Crow era.

Hill practiced law for 64 years from 1934 until his retirement in 1998 at the age of 91. For more than four decades, his law firm, Hill, Martin, and Robinson, which later became Hill, Tucker, and Marsh, was considered by many to be the nation’s leading civil rights law firm. Hill received many honors, including the Presidential Medal of Freedom, which President Bill Clinton...
Restorative Justice

Continued from page 1

Characteristics of the Restorative Justice Model

The principles of restorative justice differ from the punitive nature of the United States’ criminal justice system. Traditionally, the key participants in a criminal matter are the judge, jury, plaintiff, and defendant. The plaintiff is the State; hence, crime is characterized as a threat to public safety and disruption of social order. During the court proceedings, the goal of the State is to establish the elements of the crime, such as the act, intent, and result. The defendant then presents defenses against the crime. The role of the jury is to determine whether the elements of the crime are established to prove guilt beyond a reasonable doubt. Throughout this process, the victim plays a limited role, and the voice of the community is not present. In addition, the offender in most cases is encouraged to remain silent and avoid making admissions or giving an apology.

Restorative justice takes a different approach by focusing on making the victim, offender, and community whole again. Restorative justice draws upon the traditional notions of community building and peacemaking. These foundational tenets can be found in the practices of indigenous cultures around the world. This includes the sub-Saharan African ideology of Ubuntu, which recognizes that a person is a person through others; thus, crime is a threat to the well-being of the entire community. Also, Native American faith traditions of “living in balance with self, community, and the creator” are incorporated into restorative justice practices. By drawing upon these cultural and faith traditions, restorative justice provides an opportunity for the victim to describe the harm suffered, for the offender to take responsibility for the harm, and for the community to offer support during this process.

In the restorative justice model, the focus moves beyond retribution to reconciliation. Restorative justice is a victim-centered approach; therefore, crime is identified as harm to the victim and the community. Restorative justice offers an opportunity for the victim to find healing and answer questions that are often left unanswered, such as, Why did the offender commit the crime? How can the offender be held accountable to make things right? How can the victim and community overcome the fear of revictimization? Through this line of questioning, the victim is given a chance to share his or her story of the harm suffered as a result of the crime and its impact. This storytelling can empower the victim and begin the healing process.

While participating in the restorative justice process, the offender gains a deeper understanding of the gravity of the offense. Throughout the process, the offender is held accountable to both the victim and the community. The offender can discover ways to earn redemption and create a path of reentry into the community. This can be accomplished by offering an apology, performing community service, providing restitution, or a combination of these. The community also plays an integral role by supporting the personal development of the offender. Community members can offer referral to social services and resources, thus drawing the offender into the social fabric of the community and reducing the likelihood of recidivism.

Endnotes

1. 163 U.S. 537 (1896).
2. 112 F.2d 992 (4th Cir. 1940).

Clarence M. Dunnville Jr. is an attorney in private practice in Richmond, Virginia. A former law partner of the late Oliver W. Hill, Mr. Dunnville is co-founder of the Oliver Hill Foundation.

bestowed upon him in 1999, and the NAACP Spingarn Medal. The Richmond Juvenile and Domestic Courts building and a street in Richmond are named in his honor. In addition, the Commonwealth of Virginia recently named the state finance building for Hill. A member of the American College of Trial Lawyers, Hill also received prestigious awards from the American Bar Association’s Standing Committee on Lawyers’ Public Service Responsibility, the Commission on Opportunities for Minorities in the Profession, and the Section of Individual Rights and Responsibilities.

Hill’s many experiences as a litigator in the struggle for equality under the rule of law are set forth in his autobiography, entitled The Big Bang: Brown v. Board of Education and Beyond, which was published in 2000. Edited by Professor Jonathan Stubbins of the University of Richmond School of Law, Hill’s autobiography relates the story of his life and, in a humorous and easily readable style, details the civil rights cases in which he was involved for over four decades. The autobiography provides important insights into the strategies of the attorneys involved in the civil rights struggle of the twentieth century. The 100th Birthday Edition of the autobiography was recently published by the Oliver White Hill Foundation (and may be purchased through the foundation).

The Oliver White Hill Foundation, a 501(c)(3) organization, was founded in 2000 to carry on the legacy of Oliver Hill and to help establish a new generation of lawyers committed to civil rights and civil liberties. The foundation has purchased Hill’s boyhood home in Roanoke, Virginia, which has been designated a national historic site. The building will be renovated and used as a center for law students to provide pro bono legal services under the supervision of practicing attorneys.

Since its inception, the foundation has sponsored law students to serve as interns with the NAACP Legal Defense and Educational Fund and the Lawyers’ Committee for Civil Rights under Law. It is one of the primary goals of the foundation to help develop law students who will be interested in practicing in the field of civil rights. The foundation believes that this mission is urgent in light of the recent developments in the Supreme Court and the attempts to “turn back the clock” on gains made in school integration and other areas of civil rights, for which Oliver W. Hill and his associates sacrificed so greatly.
Benefits of Restorative Justice
Restorative justice offers benefits that may not be derived through the traditional criminal justice system, such as healing for all participants and collective accountability. The greatest benefit is the ability to create a sense of community because “awareness of connections is the foundation of authentic community.” A study conducted in 2006 by the Minnesota Department of Corrections demonstrates that restorative justice can aid in building a sense of community. The study arrived at the following findings:

- The vast majority of participants felt safe and comfortable sharing their experiences in a restorative justice setting.
- Nearly all the participants felt they were treated with respect and that everyone’s comments were given equal time and attention during the process.
- Most participants agreed or strongly agreed when asked if the agreement was fair to them as well as to all parties.
- More than 90 percent of offenders and community participants felt that everyone fulfilled his or her obligations, as did 76 percent of victim participants.
- The percentage of victims who expressed some degree of satisfaction with the outcome was 86 percent, whereas 94 percent of offenders and community participants alike expressed some degree of satisfaction.
- An overwhelming majority of offenders and community participants stated that they would recommend the program to others, while 75 percent of victims stated that they would recommend the programs to others.

Overall, the study illustrates that restorative justice can provide an opportunity for mending the harm to relationships in the context of community building. Each stakeholder is actively involved in restoring peace and obtaining justice.

Examples of Restorative Justice Models
The restorative justice model has been used in various ways to restore communities, build relationships, and prevent future crime.

Creating National Unity
The restorative justice model has laid the foundation of transitional justice for many nations as they seek to transform their turbulent past into a peaceful future. For instance, the Truth and Reconciliation Commission was established in South Africa to deal with what happened during apartheid. The efforts of the commission enabled victims, perpetrators, and survivors to share their stories and effectuate systemic changes. Through the sharing of personal accounts, nations, like South Africa, have learned from the past and united to repair the harm suffered.

Reducing Juvenile Crime
In England and Scotland, “accountability conferencing” has been used to help juveniles understand the impact of criminal behavior on communities. Juveniles are required to perform acts of restitution in the community, such as repairing damaged property, mentoring elementary students, and performing community service.

Addressing Racial Disparities in Incarceration Rates
In Minnesota, African Americans are imprisoned at 21 times the rate of Caucasians. The Summit-University Frogtown Community Circle was founded to minister to the needs of African American male offenders. The Circle takes a holistic approach by reintegrating offenders into the community affected by crime and violence.

Honoring Cultural Heritage
Peacekeeping circles have also been used to incorporate cultural traditions into responses to crime. One such example is the Hmong Community Peacekeeping Circle, which integrates the wisdom of elders into the legal process. The involvement of elders provides a link to the Hmong cultural heritage for future generations.

Remedying Conflict in Schools
Student-led circles have been used to handle school disruption and minimize bullying. Fellow students play an active role as stakeholders in resolving conflicts. Students are provided with an opportunity to develop their conflict response style and use alternative dispute resolution techniques.

Promoting Community Policing
In a growing number of municipalities, restorative justice has also become an integral part of police officer training. Officers work alongside community members to create safe communities and prevent crime. Through this collaboration, relations between community and the police have improved, communities have become unified, and mutual respect has been established.

Restorative justice offers an opportunity for the victim, offender, and community to work together collaboratively to address criminal behavior and create durable solutions. The ultimate goal is to restore a sense of the community where that sense has been diminished by crime and violence. Restorative justice advocate Ahmed Sirleaf suggests that “the broader agency objective for dealing with criminal or other violations issues between the offended and the offender should be the idea of a peaceful societal co-existence.”

This peaceful societal coexistence is a manifestation of the interrelatedness of communities. As we offer a more restorative approach to crime, we will transform our communities by recognizing the interrelated structure of reality.

Artika Tyner is a Clinical Law Fellow at the University of Saint Thomas School of Law, Legal Services Clinic in Minneapolis, Minnesota.

Endnotes

www.acfnsource.org/religion/circle_sentencing.html.
In This Issue

In Memoriam: Oliver W. Hill, Civil Rights Icon .......................1
Resorative Justice: Creating Transformation and Building Communities ......................1
Ask a Mentor ..................................3
Juror Persuasion in a Diverse and Fast-Paced World .........................4
Collateral Effects of Arrests for African Americans .........................6
The Minority Lawyer’s Playbook for Elevating Your Game .....................9
Book Review ..................................12