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Cover Page Footnote

James B. Taschner, Martin Luther King Jr.: Legal and Moral Gatekeeper Rights, 45 W. New Eng. L. Rev. 72 (2023)

MARTIN LUTHER KING JR.: LEGAL AND MORAL GATEKEEPER RIGHTS

JAMES B. TASCHNER*

America is more politically divided than ever, especially regarding issues of racial justice. In the wake of the 2020 George Floyd protests, many people became politically active and began speaking out who had previously remained on the sidelines. But joining the conversation on race in America comes with criticism from all sides. Using the case example of Justin Bieber and his 2021 album Justice, which uses audio recordings of Martin Luther King, Jr.'s most famous speeches, this article will explore the question of who has a claim to MLK's legacy. Criticized and praised for his use of MLK's words and ideas, Justin Bieber's foray into racial discourse allows this piece to explore to what extent gatekeeping hinders the advancement of justice.

INTRODUCTION

In Reverend Martin Luther King, Jr.'s famed piece "*Letter from Birmingham Jail*," he wrote, "[i]njustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly. Never again can we afford to live with the narrow, provincial 'outside agitator' idea."¹ This universal and timeless truth indicating the harm of injustice recently surfaced in a surprising form: as part of a Justin Bieber pop song. In Bieber's song "2 Much" from his 2021 album *Justice*, he opens with a deep recording of MLK's voice: "[i]njustice anywhere is a threat to justice everywhere," which then morphs into Justin's crooning "maybe I stare too much, maybe not long enough, funny how I forget to blink when you let down your hair, dancin' like no one's there, I know I'm where I'm supposed to be."² The song, a love story to his wife,³ is a sharp shift from the MLK introduction.

* *New York University. The author is grateful to the staff of the Western New England Law Review, Volume 45.*

1. Martin Luther King, Jr., *Letter from Birmingham Jail* (Apr. 16, 1963), reprinted in ATLANTIC, Aug. 1963, at 78, 78 [hereinafter *Letter from Birmingham Jail*].

2. JUSTIN BIEBER, *2 Much*, on JUSTICE (Def Jam Recordings 2021); *See id.*

3. Natasha Reda, *The Real Meaning Behind Justin Bieber's '2 Much'*, NICKI SWIFT (Mar. 19, 2021, 1:17 PM), <https://www.nickiswift.com/360616/the-real-meaning-behind-justin-biebers-2-much/> [https://perma.cc/K2RA-YWFN].

Further down the album is another nod to MLK, this time in the form of “MLK Interlude.” This is a spoken word piece, cut from a sermon that Reverend Dr. Martin Luther King, Jr. delivered at the Ebenezer Baptist Church in Atlanta, Georgia in November 1967. The interlude begins:

I say to you this morning, that if you have never found something so dear and so precious to you that you will die for it, then you aren't fit to live
 You may be 38 years old as I happen to be
 And one day some great opportunity stands before you
 And calls upon you to stand up for some great principle
 Some great issue, some great cause
 And you refuse to do it because you are afraid
 You refuse to do it because you want to live longer
 You're afraid that you will lose your job
 Or you're afraid that you will be criticized
 Or that you will lose your popularity. . .”⁴

These references were controversially released, as some accused him of performative activism.⁵ In explaining his intention, Bieber said,

I want to keep growing and learning about just all social injustices and what it looks like for me to be better, what it looks like for my friends to be better. And I know I have a long way to go. I love that when people are listening to my album, these conversations are coming up and they're like, “Well, how is he going from Martin Luther King into a love song?” . . . I'm not trying to make a connection between me and

4. JUSTIN BIEBER, *MLK Interlude*, on *JUSTICE* (Def Jam Recordings 2021). The full interlude on the album continues with the following:

Or you're afraid that somebody will stab you or shoot at you or bomb your house
 And so you refuse to take the stand
 Well you may go on and live until you are 90
 But you're just as dead at 38 as you would be at 90
 And the sensation of breathing in your life is but the belated announcement of an earlier death of the spirit
 You died when you refused to stand up for right
 You died when you refused to stand up for truth
 You died when you refused to stand up for justice.

Id.; See Martin Luther King, Jr., Sermon: *But If Not* (Nov. 1967) (recording available at *MLK: But If Not*, INTERNET ARCHIVE, at 18:26 (Oct. 23, 2009, 12:26 PM), <https://archive.org/details/MlkButIfNot> [<https://perma.cc/XT4L-X6YN>]).

5. Callie Ahlgrim, *Justin Bieber Sampling Martin Luther King Jr. Speeches on an Album About His Marriage Is Performative Nonsense*, INSIDER (Mar. 19, 2021, 6:29 PM), <https://www.insider.com/opinion-justin-bieber-mlk-interlude-justice-album-performative-problematic-2021-3> [<https://perma.cc/US4A-XS9K>] (“Instead of examining and engaging with King’s message, much less educating himself on the radical progress that King actually fought for, Bieber isolates and bastardizes his words. He attempts to conflate them with his own personal views on romance, sex, and domesticity.”).

Martin Luther King. That's why I never try to talk about social injustice or I didn't want to be the one to talk about it because I just have so much more learning to do. But I have this man who was ready to die and what he believed to be true. If I'm not willing to face some sort of ridicule or judgment of people wondering my motives or whatever that is, for me, it was a no brainer.⁶

Yet it seems a near impossibility to not face the “ridicule or judgement”⁷ Bieber mentions after the civil unrest following George Floyd's murder at the hands of Minneapolis police officer Derek Chauvin.⁸ While the conversations on racial justice and equality had been swirling for years prior, an explosion of support occurred in 2020.⁹ Practically overnight, people's actions (or lack thereof) were heavily scrutinized and judged in an effort to elicit greater attention for the injustice and encourage people to take action in advocating for the Black community. In talking about his own attempts to step into that conversation on justice, Bieber said,

In a time when there's so much wrong with this broken planet we all crave healing and justice for humanity. In creating this album my goal is to make music that will provide comfort, to make songs that people can relate to and connect to so they feel less alone. Suffering, injustice and pain can leave people feeling helpless. Music is a great way of reminding each other that we aren't alone. Music can be a way to relate to one another and connect with one another. I know that I cannot simply solve injustice by making music but I do know that if we all do our part by using our gifts to serve this planet and each other that we are that much closer to being united. This is me doing a small part. My part. I want to continue the conversation of what justice looks like so we can continue to heal.¹⁰

Even so, some have expressed discontent at the inclusion of MLK in the midst of an album that has been called “a love letter to his wife, Hailey Bieber.”¹¹ However, the naysayers notably do not include those that were

6. Daniel Kreps, *Justin Bieber Addresses Martin Luther King Jr. Sample Controversy*, ROLLING STONE (Mar. 31, 2021), <https://www.rollingstone.com/music/music-news/justin-bieber-martin-luther-king-jr-sample-controversy-1149630/> [<https://perma.cc/VPX9-2U9V>].

7. *Id.*

8. Elliott C. McLaughlin, *How George Floyd's Death Ignited a Racial Reckoning that Shows No Signs of Slowing Down*, CNN (Aug. 9, 2020, 11:31 AM), <https://www.cnn.com/2020/08/09/us/george-floyd-protests-different-why/index.html> [<https://perma.cc/69FW-24FC>] (“as of mid-June [of 2020], as many as 21 million adults had attended a Black Lives Matter or police brutality protest.”).

9. *Id.*

10. Justin Bieber (@justinbieber), INSTAGRAM (Feb. 26, 2021), <https://www.instagram.com/p/CLw1Raunz-z/> [<https://perma.cc/K8DL-G2HV>].

11. Ryan Schocket, *Martin Luther King's Daughter Tweeted About Justin Bieber's New Song After People Criticized It for Using Her Father's Speech*, BUZZFEED (Mar. 20, 2021),

closest to King. His daughter, Bernice King, used Twitter to release her thoughts. She stated: “[e]ach of us, including artists and entertainers, can do something,” and thanked Bieber for his support of The King Center’s work.¹² Despite King’s own daughter publicly vocalizing her support for Bieber’s work, the questions on whether Bieber’s album was appropriate continued.¹³

Thus, a much wider and more significant conversation opened on social issues like justice, race, news, politics, social developments, and more. How is Bieber’s inclusion of MLK’s words on his album different from declaring the third Monday of each January a national holiday in his honor? Who owns Dr. King’s legacy and quotes? How can Dr. King’s likeness and image be used? When is using Dr. King’s likeness and image, or his legacy and quotes, objectionable? Would the backlash have been different if Bieber had not been a white, financially successful, Canadian male? Is there a line between art and gimmick, and if so—which side does Bieber fall on? How can we take hold of Dr. King’s legacy and adumbrate that “injustice anywhere is a threat to justice everywhere”¹⁴ and advocate for justice without being criticized? Where can gatekeeping be damaging in advancing justice?

The conversation about Dr. King’s legacy is advancing, yet it is further complicated by the deep division experienced in America today. As President Biden and his administration supported anti-Asian hate legislation that was passed in 2021,¹⁵ and the George Floyd Justice in Policing Act of 2020¹⁶ was successfully passed by Congress, Marjorie Taylor Greene sent shockwaves throughout the nation—including her own Republican party—by announcing she would begin an “America First” caucus.¹⁷ Although the plan was quickly scrapped after receiving criticism from her own party leaders, the caucus would have called for “a common respect for uniquely Anglo-Saxon political traditions” and “warn[ed] that

<https://www.buzzfeed.com/ryanschocket2/justin-bieber-mlk-interlude-backlash>
[<https://perma.cc/CVN2-6GZ9>].

12. Bernice King (@BerniceKing), TWITTER (Mar. 18, 2021, 3:09 PM), <https://twitter.com/berniceking/status/1372626331972866056> [<https://perma.cc/RM4P-7HS7>].

13. Schocket, *supra* note 12 (discussing posts on Twitter that criticize Justin Bieber’s inclusion of Dr. King’s speeches and sermons).

14. *Letter from Birmingham Jail*, *supra* note 1.

15. Barbara Sprunt, *Here’s What the New Hate Crimes Law Aims to Do as Attacks on Asian Americans Rise*, NPR (May 20, 2021, 4:32PM), <https://www.npr.org/2021/05/20/998599775/biden-to-sign-the-covid-19-hate-crimes-bill-as-anti-asian-american-attacks-rise> [<https://perma.cc/3F4S-NR5B>].

16. George Floyd Justice in Policing Act of 2020, H.R. 7120, 116th Cong. (2020) (enacted).

17. Daniella Diaz, et al., *Marjorie Taylor Greene Launching ‘America First’ Caucus Pushing for ‘Anglo-Saxon Political Tradition’*, CNN POL. (Apr. 17, 2021, 3:37PM), <https://www.cnn.com/2021/04/16/politics/marjorie-taylor-greene-america-first-caucus/index.html> [<https://perma.cc/TM4M-R4WB>].

‘mass immigration’ poses a threat to ‘the long-term existential future of America as a unique country with a unique culture and a unique identity.’¹⁸ The presence of such important legislation passing through Congress simultaneously with attempted development of contrasted ultra-conservative ideals is a prime example of the complex political spectrum developing in America and how far apart galvanizing political parties stand today.

The divide that separates Americans, grounded in race, politics, and individual beliefs, is expanding further day by day. After the storming of the Capitol on January 6th, 2021, questions emerged about whether or not Trump and several of his Republican associates had incited violence.¹⁹ Senator Joe Manchin of West Virginia discussed the impact of the events of January 6 on his approach to politics, saying

January 6 changed me. I never thought in my life, I never read in history books to where our form of government had been attacked, at our seat of government, which is Washington, DC, at our Capitol, by our own people. So, something told me, “Wait a minute. Pause. Hit the pause button.” Something’s wrong. You can’t have this many people split to where they want to go to war with each other.²⁰

The political split Senator Manchin mentions is further evidenced by the events surrounding the trial of Derek Chauvin. The trial concluded with a jury finding Chauvin guilty of all charges—second-degree unintentional murder, third-degree murder, and second-degree manslaughter.²¹ In the lead up to this trial, California Representative Maxine Waters made several statements regarding what she believed the people’s response should be.²² Waters urged a crowd in Brooklyn Center “[w]e’ve got to stay in the streets, and we’ve got to demand justice” and said “[w]e’re looking for a guilty verdict. . . [a]nd if we don’t, we cannot go away, we’ve got to get *more confrontational*.”²³

The Waters rhetoric was heavily scrutinized, as Republicans

18. *Id.*

19. Stephen Collinson, *Scenes of Sickening Violence at the Capitol Open January 6 Committee’s Case Against Trump and His Insurrectionist Conspiracy*, CNN POL. (June 10, 2022, 1:35 AM), <https://www.cnn.com/2022/06/10/politics/january-6-hearing-donald-trump/index.html> [https://perma.cc/6CKS-2ZS9].

20. Grace Panetta, *Joe Manchin Says the Capitol Insurrection ‘Changed’ Him*, MSN NEWS (Apr. 9, 2021), <https://www.msn.com/en-us/news/politics/joe-manchin-says-the-capitol-insurrection-changed-him/ar-BB1ftyCj?ocid=msedgdhp> [https://perma.cc/FXT9-J44R].

21. Eric Levenson, *The Charges Against Derek Chauvin in the Death of George Floyd, Explained*, CNN (Apr. 20, 2021, 5:58 PM), <https://www.cnn.com/2021/04/19/us/derek-chauvin-charges-explain/index.html>. [https://perma.cc/7KJR-FM7Q]

22. Mark Moore, *Republicans Blast Rep. Maxine Waters over Protest Comments*, N.Y. POST (Apr. 18, 2021, 4:47 PM), <https://nypost.com/2021/04/18/republicans-blast-rep-maxine-waters-over-protest-comments/> [https://perma.cc/EL68-JRZV].

23. *Id.* (emphasis added).

questioned her comments inciting violence from the Democratic base.²⁴ The Chauvin trial was no small event, drawing significant national attention and the verdict was immediately weaponized and monetized by both ends of the political spectrum. In mere hours, automated emails were sent out to political mailing lists that used the verdict in the trial as a plea for monetary donations towards their causes.

Amidst the swirling accusations, emotional pleas for change, and chaos across the nation, one factor leaves doubt as to whether lasting change will in fact take place. Despite the division, the movement advocating for justice still lacks one singular central figure during the intensifying divide—a figure like Martin Luther King, Jr.²⁵ The lasting impact of the Chauvin trial, questions about Maxine Waters’ role, and the increasingly complex presence of gatekeeping, advocacy, and privileges shows that we are in a watershed year that will have serious implications for race relations and the legacy left behind by Dr. King and other civil rights leaders of the 1960s.

I. JUSTICE OR GIMMICK?

Music albums themselves are a form of art and expression, meaning that the order of songs is significant and not typically a random assortment.²⁶ Much like the plot line of a book or story, there is a coherent narrative within an album.²⁷ Bieber’s *Justice* album had an unusual placement immediately after the “MLK Interlude”. The song following the interlude was titled “Die for You” and told the story of Bieber being willing to die for a lover.²⁸ If listened to chronologically, the listener would be tuned in to MLK’s impassioned words, from the peak of the civil rights era about dying for justice, and then immediately encounter a song about Bieber’s willingness to die for his wife.²⁹ Could the sequence of songs have been a misplaced judgment call? Perhaps. But in 2021, few are willing to give the benefit of the doubt when it comes to advocating for justice.

24. *Id.*

25. Arwa Mahdawi, *Black Lives Matter’s Alicia Garza: ‘Leadership Today Doesn’t Look Like Martin Luther King,’* THE GUARDIAN (Oct. 17, 2020, 5:00PM), <https://www.theguardian.com/world/2020/oct/17/black-lives-matter-alicia-garza-leadership-today-doesnt-look-like-martin-luther-king> [<https://perma.cc/LTB3-QSP7>].

26. Sheldon Rocha Leal, *The Art of Creating and Listening to an Album*, MEDIUM (Jan. 25, 2022), <https://medium.com/@shelrochaleal/the-art-of-creating-an-album-9e06213c3c87> [<https://perma.cc/5ZET-HXWT>].

27. *See id.* (describing the birth of “the concept album” as a result of artists wanting to tell stories through the albums they release).

28. Reda, *supra* note 3.

29. JUSTIN BIEBER, *JUSTICE* (Def Jam Recordings 2021).

A. *High Stakes Leading to Higher Standards in Expressing Support for Social Justice*

In terms of musical accolades, Justin Bieber has enjoyed one of the most successful careers of his generation.³⁰ In terms of racial and social justice achievements, Justin Bieber is a white, cisgender male from Canada who is not likely to be an appropriate candidate for spokesperson of Black American voices in 2021.³¹ The racial tensions within the past decade have highlighted the stark differences in the Black-American experience vs. the White-American experience. As such, he has faced accusations of being a “white savior”³²—a term used to describe someone who is white and “acts to help non-white people, but in a context which can be perceived as self-serving.”³³ For example, someone who posts images of themselves with children in a developing country in order to push a more charitable image of themselves. However, in a Clubhouse chat, Bieber insisted that he was simply trying to “amplify” King’s powerful speeches.³⁴ He stated, “[b]eing Canadian. . . they didn’t teach us about black history. It was just not part of our education system.”³⁵

He was willing and open to owning up to his past, explaining:

I think for me, coming from Canada and being uneducated and making insensitive jokes when I was a kid and being insensitive and being honestly just part of the problem because I just didn’t know better. For me to have this platform to just share this raw moment of Martin Luther King in a time where he knew he was going to die for what he was standing up for.³⁶

30. Lucas Shaw, *Hold on, Taylor Swift: Justin Bieber Is the Biggest Pop Star in the World*, BLOOMBERG (Apr. 21, 2021), <https://www.bloomberg.com/graphics/pop-star-ranking/2021-april/hold-on-taylor-swift-justin-bieber-is-the-biggest-pop-star-in-the-world.html> [https://perma.cc/6TVP-7APF].

31. Mark Laver, *Opinion: With ‘Justice,’ Justin Bieber Shows He Doesn’t Understand Anti-Racism*, DES MOINES REG. (May 2, 2021, 9:43 AM), <https://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2021/05/02/justin-bieber-justice-review-album-falls-short/7388039002/> [https://perma.cc/C9W6-QCJT].

32. Heran Mamo, *Justin Bieber Addresses Controversy Behind ‘MLK Interlude’ on ‘Justice’: ‘I Want to Keep Growing & Learning,’* BILLBOARD (Mar. 30, 2021) <https://www.billboard.com/music/pop/justin-bieber-addresses-mlk-interlude-justice-9548831/> [https://perma.cc/5KY3-U7CT].

33. Faima Bakar, *What Is a White Saviour Complex?* METRO (Mar. 6, 2019), <https://metro.co.uk/2019/03/06/what-is-a-white-saviour-complex-8793979/> [https://perma.cc/V6Z5-WA37].

34. Kreps, *supra* note 6.

35. *Id.*

36. Josiah Hughes, *Justin Bieber Blames Canada’s Education System for That Martin Luther King Sample*, EXCLAIM! (Mar. 31, 2021), https://exclaim.ca/music/article/justin_bieber_blames_that_awkward_martin_luther_king_jr_sample_on_canadas_education_system [https://perma.cc/U3D2-KMBC].

While Bieber's intentions may have been in accordance with his words—sharing Dr. King's words in a time where he knew he would die—there still remains backlash and suspicion on whether it was simply an act of support.

Performative activism is a relatively recent term,³⁷ but refers to the practice of people, companies, or institutions expressing support for social justice causes without actually taking positive action.³⁸ An example of this would be sharing infographics on Instagram or releasing statements declaring solidarity with a particular community, but not taking legitimate steps forward to ensure change takes place. In July of 2020, L'Oréal came under fire after posting a black square featuring the words “speaking out is worth it” in bold white lettering on Instagram, with a caption reading “L'Oréal Paris stands in solidarity with the Black community and against injustice of any kind.”³⁹ Munroe Bergdorf, a model, responded to the post with her own post, explaining what she believed to be the hypocrisy of L'Oréal's post.⁴⁰ Bergdorf's post explained that L'Oréal dropped her from their True Match diversity campaign in 2017 following her remarks on a Unite the Right rally in Charlottesville about white privilege and ignorance.⁴¹ In instances like this, companies faced accusations that they were simply using the Black Lives Matter movement and pushing for racial justice as a gimmick or way to earn the support of clients, rather than authentic alignment with the ideals of the movement.⁴²

Outside of speculation over what Bieber's authentic motivations were, his choice to engage with the themes of the Black Lives Matter movement is notable. His Twitter account has over 110 million followers,⁴³ his Instagram account has over 270 million,⁴⁴ and within the first

37. See *Performative Activism: Search Term*, GOOGLE TRENDS, <https://trends.google.com/trends/explore?date=today%205-y&q=performative%20activism> (showing in the past five years searches for the term “performative activism” peaked between May 31 and June 6, 2020).

38. See Petiri Ira, *The Difference Between Performative Activism and Genuine Allyship*, MEDIUM (Aug. 2, 2020), <https://medium.com/illumination/the-difference-between-performative-activism-and-genuine-allyship-c1071133d0e0> (stating “[u]sers of performative activism only act as ‘allies’ when it is convenient for them and they use it for their own personal gain.”).

39. Chelsie Henshaw, *Black Lives Matter and Brands: Performative Activism for Personal Gain*, REDBRICK (July 11, 2020, 11:00 AM), <https://www.redbrick.me/black-lives-matter-and-brands-performative-activism-for-personal-gain/> [<https://perma.cc/3ZLV-RS4U>].

40. *Id.*

41. *Id.*; Gwen Aviles, *Munroe Bergdorf Rehired at L'Oréal, 3 Years After Being Fired over White Supremacy Comments*, NBC NEWS (June 9, 2020, 12:58 PM) <https://www.nbcnews.com/feature/nbc-out/munroe-bergdorf-rehired-l-or-al-3-years-after-being-n1228376> [<https://perma.cc/CH5Z-WSU4>].

42. See Henshaw, *supra* note 42.

43. See Justin Bieber (@justinbieber), TWITTER, <https://twitter.com/justinbieber> [<https://perma.cc/FAR3-YPUZ>].

44. See Justin Bieber (@justinbieber), INSTAGRAM, <https://www.instagram.com/justinbieber/?hl=en> (last visited May 25, 2023).

day of *Justice*'s release the album had earned several top ten positions on platforms like Spotify, US Apple Music, and Global Apple Music.⁴⁵ Dr. King is arguably one of the most important characters in American history for his role in furthering equality for Black Americans. Yet despite his significant contributions and leadership, he is not necessarily an everyday topic of discussion amongst the younger Generation Z Americans or similarly aged individuals from around the world. By including Dr. King's words on his *Justice* album, Bieber is creating new opportunities on a global level for people to access Dr. King's inspiring words and message. This is amplification. Listeners who may have never given a second thought to Dr. King's rhetoric or message are now encountering it in one of the most unexpected of places—tucked inside of a White Canadian pop sensation's album.

Bieber's usage of the quote is not immune from objection. Questions of intellectual property rights as to when the quote can be used and who owns the words are important. Still, the public approval of Dr. King's daughter, Bernice, seems to indicate support for Bieber and his inclusion of Dr. King's speeches from both Dr. King's family and the Martin Luther King, Jr. Center.⁴⁶ So, how can it be objectionable? Despite Dr. King's legacy as a public figure, one must still offer credit to him. The words from *MLK Interlude* and *2 Much* are not Bieber's own creation. While some Americans are familiar with Dr. King's words, others may not be. The chances of someone hearing Dr. King's words for the first time increase when one recalls the enormous international following that Bieber has. As such, the quote should be publicly attributed to Dr. King, not Bieber's album.

B. *Is There a Correct Way to Be an Advocate?*

The year 2020 showed that, yes, there is indeed a “socially correct” way to be an advocate for racial justice.⁴⁷ Every January, the United States celebrates Martin Luther King, Jr. Day to commemorate and acknowledge the significant contributions that he made to progress civil rights in the country. Dr. King was adamant that the presence of injustice affects all persons. In spite of this, the manner in which some have negatively responded to others who are “advocating” or “raising awareness” indicates a serious shift in race relations in America.

Some call it accountability culture, some call it “cancel culture”,

45. Brian Cantor, *Justin Bieber Owns Entire Top 7 On US Spotify Streaming Chart with Songs From “Justice,”* HEADLINE PLANET (Mar. 20, 2021), <https://headlineplanet.com/home/2021/03/20/justin-bieber-owns-entire-top-7-on-us-spotify-streaming-chart-with-songs-from-justice/> [https://perma.cc/ZJ9J-VK4J].

46. Bernice King, *supra* note 13.

47. *See* Ira, *supra* note 42.

others have no term for it at all.⁴⁸ But regardless of terminology, it should be agreed upon that people are being held to certain standards when it comes to advocating and standing up for social justice and opposing racism like never before.⁴⁹

What has been evident is that many are willing to acknowledge the lack of racial equality in America.⁵⁰ However, the social attitudes seem to be aligning with the familiar adages about acknowledgment being the first step. The emphasis here is that it is a step. Acknowledging that racism exists in America, and we still have a long way to go, is simply not enough any longer. Legitimate calls to action, demands to get involved through monetary donation, attending protests, or being physically involved in some capacity are becoming more popular.

To address the elephant in the room—race matters when it comes to racial advocacy. Our racial identities often serve as a significant marker for whom we trust, rely on, look to for leadership, etc.⁵¹ Researchers at the Ontario Institute for Studies in Education (OISE) conducted two studies that showed six- to nine-month-old infants already demonstrate racial biases in favor of their own race and against those of other races—demonstrating an important connection between those of similar races from a very young age.⁵² Living your life as a certain race is an experience that other racial identities will never fully relate to. For example, an Asian individual will never fully understand what it is to live as a Black individual, who will never fully understand what it is to live as a White individual, who will never fully understand what it is to live as a Hispanic individual. As such, it is unsurprising that people seek leadership from those that they feel represent them well. Just as a female empowerment nonprofit would be more likely to seek a female leader than a male, so do racial minorities seek advocacy and representation in leadership that reflects their experiences and interests.

While the mainstream media may have strongly judged and speculated on Bieber's intentions in including Dr. King's words in his *Justice* album,⁵³ the ensuing fallout was a prime example of how significant racial

48. See Tommy Delp, *Creating a Culture of Accountability*, REP. (Sep. 9, 2021), <https://reporter.rit.edu/views/creating-culture-accountability> [https://perma.cc/T7MB-DSK4].

49. See *infra* Part IV.A (noting the intense response to the phrase “cancel culture,” despite it generating significant attention over the past year).

50. Juliana Menasce Horowitz, et al., *Views of Racial Inequality*, PEW RSCH. CTR. (Apr. 9, 2019), <https://www.pewresearch.org/social-trends/2019/04/09/views-of-racial-inequality/> [https://perma.cc/3LE2-PLD9] (finding “[m]ost adults, regardless of race or ethnicity, say blacks are treated less fairly”).

51. See University of Toronto, *Infants Show Racial Bias Toward Members of Own Ethnicity, Against Those of Others*, SCIENCE DAILY (Apr. 11, 2017) www.sciencedaily.com/releases/2017/04/170411130810.htm [https://perma.cc/WF3V-UJ6M].

52. *Id.*

53. See, e.g., Laver, *supra* note 34; Kreps, *supra* note 6.

advocacy is during this time of tension in American history. Whether Bieber was simply trying to amplify Dr. King's message at a trying time or truly did make what *Rolling Stone* called "a jarring musical misstep,"⁵⁴ the fact that it was questioned at all is indicative of a shifting approach to racial justice, equality, and advocacy in which race absolutely does matter—contrary to many of Dr. King's beliefs.

Consider the famous *I Have a Dream* speech delivered during the march on Washington in 1963. One of the most famous lines is, "I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin, but by the content of their character."⁵⁵ The events of 2020 and 2021, as well as the expanding chasm of Americans' social justice perspective suggest we may not have yet reached the ideas Dr. King advocated for.

II. THE EVER-EXPANDING DIVIDE: RACIAL IDENTITIES AND GATEKEEPING

Often with the best intentions, some people insist that they "don't see color."⁵⁶ Still, studies suggest that there is absolutely an importance to racial identities. The Pew Research Center stated that "classifying people into racial and ethnic categories is increasingly difficult, yet remains an important aspect of understanding the diversity and values across segments of the public."⁵⁷ In the past, the United States has been frequently referred to as a melting pot, full of diversity and variety of racial backgrounds.⁵⁸ It has more recently undergone a name shift in an effort to avoid the unpleasant idea of immigrants losing or "melting" away some of their unique cultural traits and practices: "[p]erhaps instead of a melting pot. . . we might more accurately call America a vast mosaic, in which colorful individual pieces are fitted together to make a single picture."⁵⁹

Recognizing the value of the individuality of America's ethnicities is a critical factor in understanding the problems with race and racism in the

54. Kreps, *supra* note 6.

55. Jason Murdock, *Martin Luther King Jr. Day 2019: 'I Have a Dream' Speech Full Text and Video*, NEWSWEEK (Jan. 21, 2019, 12:00 AM), <https://www.newsweek.com/martin-luther-king-jr-i-have-dream-full-speech-video-lincoln-memorial-march-1297091> [<https://perma.cc/B3KE-VFVC>].

56. Dana Brownlee, *Dear White People: When You Say You 'Don't See Color,' This Is What We Really Hear*, FORBES (Jun. 19, 2022, 2:17 PM), <https://www.forbes.com/sites/dana-brownlee/2022/06/19/dear-white-people-when-you-say-you-dont-see-color-this-is-what-we-really-hear/?sh=3ae8314e26d6>.

57. Michael Suh, *Classifying Race and Ethnicity*, PEW RSCH. CTR. (Apr. 16, 2012), <https://www.pewresearch.org/2012/04/16/classifying-race-and-ethnicity/> [<https://perma.cc/RP9H-7G8U>].

58. See William Keough, *The View from the Melting Pot; American Mosaic*, THE CHRISTIAN SCI. MONITOR (Oct. 1, 1980), <https://www.csmonitor.com/1980/1001/100102.html> [<https://perma.cc/P3H7-KFUW>].

59. *Id.*

United States.⁶⁰ Each minority tends to experience life differently, as reflected in studies on law and punishment and healthcare.⁶¹ There are undoubtedly outliers, but to remove race entirely from the equation does a disservice to the very real experiences of racial minorities in America.⁶²

A. *The Significance of Racial Identities in Determining Physical Well-being*

After the death of George Floyd, explosive accusations about police's racial bias being further embedded in the legal system gained traction. Reports from the NAACP claimed the following:

A Black person is five times more likely to be stopped without just cause than a white person. . . 65% of Black adults have felt targeted because of their race. Similarly, approximately 35% of Latino and Asian adults have felt targeted because of race. . . 84% of Black adults say white people are treated better than black people by police; 63% of white adults agree based on 2019 research on police relations. . . 87% of Black adults say the U.S. criminal justice system is more unjust towards Black people; 61% of white adults agree. . . Police killings of unarmed Black Americans are responsible for more than 50 million additional days of poor mental health per year among Black Americans. This mental health burden is comparable to that associated with diabetes, a disease that strikes 1 in 5 Black Americans.”⁶³

When it comes to the criminal justice system and racial bias, the arguments can become even more heated. Human biases can interfere with the opportunity for justice to be served, going against virtually everything that Americans are taught our democracy stands for. Yet it is critical to not make blanket statements about race in the United States. Travis W. Franklin's study found

race and ethnicity often play a small to moderate role in key sentence outcomes. Relative to white offenders, those who are African American, Latina/o, and Native American often receive harsher sentences, while those who are Asian often receive similar or more lenient sentences. These findings, however, are not universal and tend to be context specific. The process of criminal sentencing stives for race

60. See Brownlee, *supra* note 66 (discussing how the phrase “I don’t see color” is often interpreted as a way to avoid a discussion of racism, rather than having to confront the inequalities that exist).

61. See e.g., *Criminal Justice Fact Sheet*, NAACP, <https://www.naacp.org/criminal-justice-fact-sheet/> [<https://perma.cc/H2J7-9W7Z>]; Travis W. Franklin, *The State of Race and Punishment in America: Is Justice Really Blind?* 59 J. CRIM. JUST. 18 (2018); Matthew A. Raifman & Julia R. Raifman, *Disparities in the Population at Risk of Severe Illness from COVID-19 by Race/Ethnicity and Income*, 59 AM. J. PREVENTIVE MED. 137 (2020).

62. See Brownlee, *supra* note 64.

63. *Criminal Justice Fact Sheet*, *supra* note 65.

neutrality but does not always achieve this goal.”⁶⁴

Franklin’s findings demonstrate race and ethnicity do indeed play a notable role in criminal justice,⁶⁵ which is backed up by the NAACP’s claims regarding disproportionate impact from police against the Black community.⁶⁶

While there may be disagreement as to the extent to which racial minorities face discrimination in America, it is important to discuss the differences between overt and covert discrimination. Franklin says, “[o]vert racial discrimination has certainly not been eliminated from society (various Ku Klux Klan organizations have remained a stark and visible reminder of this), but American institutions have grown intolerant of such behavior.”⁶⁷ This is not to say that racial discriminations are fully rejected. Rather, simply that it has “undergone notable declines throughout American history.”⁶⁸ We may no longer have segregation or slavery, but indeed much remains to be done in terms of racial justice and equality.

Recently, much discussion has occurred about covert discrimination. Franklin asks a key question: “[o]vert racial discrimination may not be characteristic of our modern justice system, but what about *covert* forms of discrimination? Is it not possible that judges’ biases could remain hidden in the day-to-day practices of American courts?”⁶⁹ It is here that we must return to the claims of the NAACP.

One out of every three Black boys born today can expect to be sentenced to prison, compared [to] 1 out [of] 6 Latino boys; one out of 17 white boys. . . African Americans and whites use drugs at similar rates, but the imprisonment rate of African Americans for drug charges is almost 6 times that of whites. . . 5% of illicit drug users are African American, yet African Americans represent 29% of those arrested and 33% of those incarcerated for drug offenses. . . 32% of the US population is represented by African Americans and Hispanics, compared to 56% of the US incarcerated population being represented by African Americans and Hispanics.⁷⁰

Harvard University created the Implicit Association Test (IAT), which “measures the strength of associations between concepts (e.g., black people, gay people) and evaluations (e.g., good, bad) or stereotypes (e.g., athletic, clumsy). The main idea is that making a response is easier

64. Franklin, *supra* note 65.

65. *Id.*

66. See *Criminal Justice Fact Sheet*, *supra* note 65.

67. Franklin, *supra* note 65.

68. *Id.*

69. *Id.* at 19 (emphasis added).

70. See *Criminal Justice Fact Sheet*, *supra* note 65.

when closely related items share the same response key.”⁷¹ This test demonstrates implicit or subconscious racial biases are widespread among the general public, despite there being less overt racism than a few decades ago.⁷² The IAT was further relied upon to show that, like the general public, white trial judges (and to a significantly lower degree, black trial judges) exhibited a white preference and that these biases could influence judgements.⁷³ However, it was also discovered that “given sufficient motivation, judges can compensate for the influence of these biases.”⁷⁴ Yet, the conditionality of the compensation is rather disheartening when we recognize that judges are as human as the rest of us. It is pleasant and hopeful to believe that justice will be served through our justice system, but these studies demonstrate that these are human-founded and dictated sources of power. For some, justice may indeed be doled out. For others, judges’ implicit biases may win out and justice will never come.

Outside of the criminal justice system, there are also disparities in physical health amongst racial minorities.⁷⁵ These have been particularly highlighted throughout the COVID-19 pandemic as certain populations were attacked with the effects of the virus at a disproportionate rate.⁷⁶ The Centers for Disease Control and Prevention (CDC) compiled a list of medical conditions that they stated could make one more likely to be severely ill.⁷⁷ This list includes cancer, chronic lung diseases, dementia, type 1 or type 2 diabetes, heart conditions, HIV, overweight and obesity, substance use disorders, and more.⁷⁸ Another study examining the racial and socio-economic factors related to severity of coronavirus found that “[p]eople who are black, American Indian, or live in low-income households are more likely to have conditions associated with increased risk of illness from COVID-19 relative to those who are white or are living in higher-income households.”⁷⁹ It also found “[t]hese inequities in risk are compounded by structural disparities in access to medical insurance, wealth,

71. *About the IAT*, PROJECT IMPLICIT, <https://implicit.harvard.edu/implicit/iatdetails.html> [<https://perma.cc/6XKN-P9MR>].

72. See Anthony G. Greenwald & Linda Hamilton Krieger, *Implicit Bias: Scientific Foundations*, 94 CAL. L. REV. 945, 955 (2006).

73. Jeffrey J. Rachlinski, et al., *Does Unconscious Bias Affect Trial Judges?*, 84 NOTRE DAME L. REV. 1195, 1210 (2009).

74. *Id.* at 1195.

75. *Racism and Health*, CDC, <https://www.cdc.gov/minorityhealth/racism-disparities/index.html> [<https://perma.cc/J388-C98L>].

76. See *Understanding Your Risk: People with Certain Medical Conditions*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> [<https://perma.cc/KS7N-QZPR>] [hereinafter *Understanding Your Risk*].

77. *Id.*

78. *Id.*

79. Matthew A. Raifman & Julia R. Raifman, *Disparities in the Population at Risk of Severe Illness From COVID-19 by Race/Ethnicity and Income*, 59 AM. J. PREVENTIVE MED. 137, 138 (2020).

and income volatility.”⁸⁰

This is reinforced with the CDC’s claim that “[l]ong-standing systemic health and social inequities have put people from many racial and ethnic minority groups at increased risk of getting sick and dying from COVID-19.”⁸¹ Not only is there an increased risk, but studies also suggest minority groups die from COVID-19 at a younger age because they develop chronic medical conditions at younger ages—and often times have more than one chronic medical condition.⁸² The CDC has also noted

[m]any factors, such as poverty and healthcare access, are intertwined and have a significant influence on the people’s health and quality-of-life. Racial and ethnic minority populations are disproportionately represented among essential workers and industries, which might be contributing to COVID-19 racial and ethnic health disparities. “Essential workers” are those who conduct a range of operations and services in industries that are essential to ensure the continuity of critical functions in the United States. . . . A majority of these workers belong to and live within communities disproportionately affected by COVID-19. Essential workers are inherently at higher risk of being exposed to COVID-19 due to the nature of their work, and they are disproportionately representative of racial and ethnic minority groups.⁸³

The death tolls throughout the pandemic have unfortunately been substantiating the research regarding the increased risk of illness from COVID-19 for minority groups. Indigenous, Black & Pacific Islander Americans have experienced the highest death rates from COVID-19 throughout the pandemic.⁸⁴

While we may be inclined to make the claim that in the 21st century “race doesn’t matter,” it evidently does. There are significant disparities in the medical and healthcare fields that can be tied to race, just as in the criminal justice system and labor force. Racial identities make up a fundamental part of who we are as humans, and, with the increase in racial and political tensions in America, the questions of who can appropriately

80. *Id.*

81. National Center for Immunization and Respiratory Diseases (U.S.), Division of Viral Diseases, *Health Equity Considerations and Racial and Ethnic Minority Groups*, CDC (July 24, 2020), <https://stacks.cdc.gov/view/cdc/91049> [<https://perma.cc/C249-3GE6>].

82. *Understanding Your Risk*, *supra* note 86.

83. *Health Equity Considerations and Racial and Ethnic Minority Groups*, CDC (Apr. 19, 2021), [<https://perma.cc/6R5X-SE27>].

84. APM Research Lab Staff, *The Color of Coronavirus: COVID-19 Deaths by Race and Ethnicity in the U.S. (March 5, 2021)*, APM RESEARCH LAB, <https://www.apmresearchlab.org/covid/deaths-by-race-03-05-21> [<https://perma.cc/BZ3A-XHCC>] (indicating that as of March 2, 2021 there were 256 Indigenous deaths, 179.8 Black deaths, 176.6 Pacific Islander deaths, as compared to 150.2 White deaths, 147.3 Latino deaths, and 96 Asian deaths).

speak as representatives for racial justice and equality have emerged.

B. *Gatekeeping and Propriety in Racial Equality: Who Can Speak for the People?*

In 2015, head of the Spokane NAACP chapter Rachel Dolezal made headlines after extreme backlash over her choice to portray herself as black.⁸⁵ Her biological parents were both white, but she remained adamant that she “identif[ied] as black.”⁸⁶ The concept that someone could misrepresent their racial identity by claiming they were black and then earn a leadership position in one of the United States’ biggest advocacy groups for African-Americans divided the public.⁸⁷ Some stood up for her by noting her activism and leadership, adding that individuals should not be “barred from being a civil rights leader because they’re white.”⁸⁸ Others attacked her for lying and claimed she had “diminished the real struggles of African-Americans by claiming she had suffered hurtful racism like them, even though she grew up white in Montana, and had used that identity to advance her career as an activist.”⁸⁹ Her story shows that there is real importance to who can and cannot speak for racial minorities as a representative in their interests.

In 2020 and 2021, there was a massive spike in anti-Asian hate crimes.⁹⁰ The incoming Biden administration was criticized for its lack of Asian American representation at the cabinet level, particularly from Senator Tammy Duckworth.⁹¹ She would later back down, but the senator went so far as to say “I’m voting no on all non-diversity nominees until they figure that out.”⁹² She also remarked on a conversation with White House deputy chief of Staff Jen O’Malley Dillon, who referenced Vice-President Kamala Harris’ South Asian American heritage, stating “[t]o be told that, ‘Well, you have Kamala Harris—we’re very proud of her; you don’t need anybody else’ is insulting.”⁹³

85. See Greg Botelho, *Ex-NAACP Leader Rachel Dolezal: ‘I Identify as Black’*, CNN (June 17, 2015, 6:48 AM), <https://www.cnn.com/2015/06/16/us/washington-rachel-dolezal-naacp/index.html> [https://perma.cc/G8RQ-LLZB].

86. *Id.*

87. *See id.*

88. *Id.*

89. *Id.*

90. Joseph Choi, *Anti-Asian Hate Crimes in US Spiked 339 Percent in 2021: Report*, THE HILL (Jan. 31, 2022, 8:05PM), <https://thehill.com/blogs/blog-briefing-room/news/592191-anti-asian-hate-crimes-in-us-spiked-339-percent-in-2021-report/> [https://perma.cc/M3QZ-W4FX].

91. Matt Stieb, *Duckworth Steps Back from Ultimatum to Vote Against Biden Cabinet Nominees*, INTELLIGENCER (Mar. 23, 2021), <https://nymag.com/intelligencer/2021/03/duckworth-acts-to-fix-lack-of-asian-americans-in-biden-admin.html> [https://perma.cc/MT3S-R5MX].

92. *Id.*

93. *Id.*

The idea of needing a “spokesperson” to be an advocate or representative for the cause is not new. Indeed, Dr. King was one of such figures. However, the question in the twenty-first century is “who will that person be?” It clearly cannot be figures like Rachel Dolezal for the Black community or limited solely to Kamala Harris for the Asian American community. During the Derek Chauvin trial, once again the matter of who could be a spokesperson for racial minorities emerged after the comments made by California representative Maxine Waters.⁹⁴

After encouraging her followers to protest and become “more confrontational” if Chauvin was not convicted of murder, a *New York Post* editorial board called for her impeachment.⁹⁵ The editorial stated “Maxine Waters is trying to create a civil war, and her irresponsible rhetoric is inciting violence. House Speaker Nancy Pelosi should strip her of her committee assignments and move for a vote to remove Waters from Office.”⁹⁶ It also noted Waters had voted to convict former President Donald Trump during his second impeachment after he was accused of inciting the insurrection at the Capitol on January 6, 2021.⁹⁷ While she is not likely to be impeached, she may still be reprimanded or expelled from office with a two-thirds majority vote, and House Minority Leader Kevin McCarthy was quick to announce “he would introduce a censure resolution against Waters” for her comments.⁹⁸

I will discuss the wider significance of Waters’ comments in the next section on the Derek Chauvin trial, but her presence as the highest-ranking Black woman in Congress and second most senior member of the California congressional delegation after Nancy Pelosi, demands the public’s attention to her being a leadership figure for the Black community. Does she represent their interests well enough to say that she is what the Black community seeks as a leader advocating for their interests? If so, she is an unmistakably far cry from the peace-driven approach touted by Dr. King. He is remembered for preaching, “[w]e must not allow our creative protest to degenerate into physical violence,”⁹⁹ and “[i]n spite of temporary victories, violence never brings permanent peace.”¹⁰⁰ Such statements appear to be in conflict with Waters’ urging of her followers to become “more confrontational” and should encourage a re-evaluation of

94. See discussion, *supra* Introduction.

95. Natalie Colarossi, *Can Maxine Waters Be Impeached and Removed from Congress Over ‘Confrontational’ Comments?* NEWSWEEK (Apr. 20, 2021, 2:39PM), <https://www.newsweek.com/can-maxine-waters-impeached-removed-congress-over-confrontational-comments-1585125> [<https://perma.cc/FU9C-X4KL>].

96. *Id.*

97. *Id.*

98. *Id.*

99. Murdock, *supra* note 58.

100. *Martin Luther King Jr.: Nobel Lecture*, THE NOBEL PRIZE (Dec. 11, 1964), <https://www.nobelprize.org/prizes/peace/1964/king/lecture/> [<https://perma.cc/5GVU-YRYN>].

where the United States is heading as a country—towards equality and justice, or away from Reverend King’s ideals.

C. *The American Civil Divide Expanding After The Derek Chauvin Trial*

A CBS News poll conducted in the immediate aftermath of the Chauvin verdict discovered that three in four Americans believed that the jury reached the right verdict by deciding he was guilty on all charges.¹⁰¹ While this may seem to be a significant majority, the poll also broke these numbers down further and demonstrated a substantial divide in American ideology. Only 70% of White Americans thought the jury had made the right decision in convicting, compared to 93% of Black Americans.¹⁰² Also seemingly relevant was the partisan divide—90% of Democrats believed the verdict was correct, while 75% of Independents believed it was, and only 54% of Republicans agreed.¹⁰³ The division has been building for years, and tensions are running at a level that has been relatively unmatched since the 1960s Civil Rights Era.¹⁰⁴

USA Today conducted a poll that demonstrates the shift the United States experienced from June 2020 to March 2021.¹⁰⁵ Originally 60% of participants believed the circumstances surrounding Floyd’s death involved murdered, but in March 2021 that number had dropped to 30%.¹⁰⁶ Within that same time frame, the number of participants who reported they did not know how to classify what happened more than doubled, jumping from 4% to 17%.¹⁰⁷

Yet the *CBS News* poll, conducted a month after the *USA Today* poll, shows there is still a significant portion of Americans with strong opinions on the matter—creating a partisan divide.¹⁰⁸ After Maxine Waters faced criticism for telling supporters to “get more confrontational,” Democratic House Speaker Nancy Pelosi voiced her support for Waters, saying

101. Jennifer De Pinto, *CBS News Poll: Widespread Agreement with Chauvin Verdict*, CBS NEWS (Apr. 25, 2021, 10:30 AM), <https://www.cbsnews.com/news/chauvin-verdict-opinion-poll/> [<https://perma.cc/9VB6-9LMN>].

102. *Id.*

103. *Id.*

104. Drew Desilver, *The Polarization in Today’s Congress has Roots that Go Back Decades*, PEW RSCH. CTR. (Mar. 10, 2022), <https://www.pewresearch.org/fact-tank/2022/03/10/the-polarization-in-todays-congress-has-roots-that-go-back-decades/> [<https://perma.cc/UQG8-7KCN>] (“Democrats and Republicans are farther apart ideologically today than at any time in the past 50 years.”).

105. Susan Page et al., *Exclusive: Stark Divide on Race, Policing Emerges Since George Floyd’s Death, USA Today/Ipsos Poll Shows*, USA TODAY (Mar. 5, 2021, 3:00 AM), <https://www.usatoday.com/story/news/politics/2021/03/05/americans-trust-black-lives-matter-declines-usa-today-ipsos-poll/6903470002/> [<https://perma.cc/CA7A-5GGN>].

106. *Id.*

107. *Id.*

108. See De Pinto, *supra* note 106; Page et al., *supra* note 110.

Waters “should not apologize” for her comments.¹⁰⁹ Waters had only been answering a broad query from protestors regarding what they should do.¹¹⁰ In a later interview, Waters attempted to clarify the controversial statement, expressing “she was absolutely not endorsing violence, adding, “‘I am nonviolent.’ When she had used the word ‘confrontational,’ she said that she was only referring to ‘confronting the justice system, confronting the policing that’s going on, [she was] talking about speaking up.’”¹¹¹ It should be noted the criticism faced by Waters paralleled that which former President Donald Trump faced during his second impeachment trial, where he was accused of inciting insurrection from his followers because he urged them to “fight” before they stormed the Capitol.¹¹² Conservative website *American Thinker* posted about the incident, stating

[j]ust to make it clear, a sitting House member traveled to another state and deliberately inflamed a mob that had already (and repeatedly) engaged in violent protests and looting. Within hours of Waters’s demand for “confrontation,” a drive-by shooter attacked a Minnesota National Guard and a Minneapolis police team. Coincidence? Maybe.¹¹³

Lawyer Alan Dershowitz also had strong criticism for her actions, likening them to the Ku Klux Klan’s actions in the 1920s and 1930s:

The Klan would march outside of courthouses and threaten all kinds of reprisals if the jury ever dared convict a white person or acquit a black person. . . Her message was clearly intended to get to the jury: ‘If you will acquit or if you find the charge less than murder, we will burn down your buildings. We will burn down your businesses. We will attack you. We will do what happened to the witness—blood on their door.’¹¹⁴

Jenna Ellis, an attorney for former President Donald Trump’s 2020

109. Kery Murakami, *Nancy Pelosi Backs Maxine Waters’ Call to ‘Confront’ Police, Says No Apology Needed*, WASHINGTON TIMES (Apr. 19, 2021), <https://www.washington-times.com/news/2021/apr/19/nancy-pelosi-backs-maxine-waters-call-confront-pol/> [<https://perma.cc/SQB2-U46P>].

110. Andrew Prokop, *What Maxine Waters Actually Said About the Chauvin Trial*, VOX (Apr. 20, 2021, 4:31PM), <https://www.vox.com/2021/4/20/22393725/chaubin-verdict-maxine-waters-comments> [<https://perma.cc/X9ZX-UE9T>].

111. *Id.*

112. *Id.*

113. Andrea Widburg, *Republicans Try to Get Tough with Maxine Waters*, AMERICAN THINKER (Apr. 19, 2021), https://www.americanthinker.com/blog/2021/04/republicans_try_to_get_tough_with_maxine_waters.html [<https://perma.cc/2MUB-MVN4>].

114. Cheryl Teh, *Alan Dershowitz Accused Maxine Waters of Using ‘KKK Tactics’ to Intimidate the Jury in the Chauvin Murder Trial*, BUSINESS INSIDER (Apr. 21, 2021, 2:54 AM), <https://www.businessinsider.com/alan-dershowitz-accused-maxine-waters-of-using-kkk-tactics-2021-4> [<https://perma.cc/BQ8V-2HHT>].

campaign who worked to challenge the election results, accused leftists of influencing jurors to make Chauvin “pay for the sins of white people” and said “according to Joe Biden, Maxine Waters, BLM incorporated and other leftists, the facts don’t matter and true meaningful justice has been reinvented to mean social justice. The political and cultural retribution for viewpoint sins of the day.”¹¹⁵

While Dr. King frequently spoke of the importance of peace, in a speech titled “The Other America,” he said

[b]ut it is not enough for me to stand before you tonight and condemn riots. It would be morally irresponsible for me to do that without, at the same time, condemning the contingent, intolerable conditions that exist in our society. These conditions are the things that cause individuals to feel that they have no other alternative than to engage in violent rebellions to get attention. And I must say tonight that a riot is the language of the unheard.¹¹⁶

In the 1990s, Representative Waters referenced Dr. King’s words after the riots in Los Angeles when the police officers who beat a Black man, Rodney King, were acquitted and more than 60 people died.¹¹⁷ She stated that “[t]he fact of the matter is, whether we like it or not, riot is the voice of the unheard.”¹¹⁸

Yet by speaking out in such a public way, Waters and other high-ranking Democrats may have tainted their “victorious” ruling.¹¹⁹ President Joe Biden addressed reporters prior to the jury’s ruling, saying “I’m praying the verdict is the right verdict. Which is—I think [the evidence] overwhelming in my view.”¹²⁰ He also noted that he “wouldn’t say that unless the jury was sequestered.”¹²¹ However, President Biden also took the time to personally call the Floyd family by telephone to express his support and sympathy prior to the verdict being announced.¹²² It is

115. Christina Zhao, *Jenna Ellis Says Jury Influenced to Make Derek Chauvin ‘Pay for the Sins of White People,’* NEWSWEEK (Apr. 20, 2021, 7:40 PM), <https://www.newsweek.com/jenna-ellis-says-jury-influenced-make-derek-chauvin-pay-sins-white-people-1585215> [<https://perma.cc/88TR-N3M9>].

116. Rev. Martin Luther King, Jr., *The Other America*, GROSSE POINTE HISTORICAL SOCIETY, (Mar. 14, 1968) <https://www.gphistorical.org/mlk/mlkspeech/> [<https://perma.cc/Z7Q6-UQ8R>].

117. Prokop, *supra* note 121.

118. *Id.*

119. *See id.* (stating the criticism of Waters and other public officials is that their statements “jeopardize the right to a fair trial and risk interfering with [a fair] trial.”).

120. Victor Reklaitis, *Biden Suggests Evidence ‘Overwhelming’ in Chauvin Trial*, MARKETWATCH (Apr. 20, 2021, 12:15 PM), <https://www.marketwatch.com/story/biden-evidence-is-overwhelming-in-chauvin-trial-2021-04-20> [<https://perma.cc/4E6W-CJ38>].

121. *Id.*

122. Glenn Thrush, *President Biden Calls George Floyd’s Family and Says Evidence for a Guilty Verdict Is ‘Overwhelming,’* N.Y. TIMES (Apr. 20, 2021),

“highly unusual” for a sitting American president to comment on an active case, particularly one in which a sentence had not been issued.¹²³ Sentencing would not take place for another several weeks,¹²⁴ allowing for a significant amount of time for the defense team to compile a case to overrule the initial verdict.¹²⁵

Biden’s comments seriously colored and impacted the sentencing. It is not likely a judge would have been able to give a light sentence in Chauvin’s case without triggering significant protests and judicial recall, as took place in the aftermath of the Stanford swimmer assault case.¹²⁶ Subsequently, the protests were successful and the judge in the Stanford case was ultimately recalled.¹²⁷

It is not only those in positions of power within the judicial system that are criticized in the court of public opinion, but also the participants in these high-profile trials. Barry Brodd, a consultant on police practices and use of force, testified in the Chauvin trial as a paid expert witness.¹²⁸ His review of the evidence led him to opine the force Chauvin used on Floyd was justified and Chauvin was “acting with objective reasonableness following Minneapolis Police Department policy and current standards of law enforcement in his interactions with Mr. Floyd.”¹²⁹ After this was made public, police were called to a home in Santa Rosa, California, in the middle of the night.¹³⁰ Homeowners told officers a group of people dressed in black had thrown a severed pig’s head on their front porch,

<https://www.nytimes.com/2021/04/20/us/biden-calls-george-floyd-family.html>
[<https://perma.cc/K8MR-9A8H>].

123. *See id.*

124. *See Timeline of Events Since George Floyd’s Arrest and Murder*, AP NEWS (Jan. 20, 2022), <https://apnews.com/article/george-floyd-death-timeline-2f9abbe6497c2fa4adaebb92ae179dc6> [<https://perma.cc/WGK2-VB77>].

125. *See* The Associated Press, *Judge Rejects Derek Chauvin’s Request for a New Trial in George Floyd’s Death*, NPR (June 25, 2021, 12:15 PM), <https://www.npr.org/sections/trial-over-killing-of-george-floyd/2021/06/25/1010290622/derek-chauvin-new-trial-rejected-george-floyd-murder> [<https://perma.cc/24TU-B3CT>].

126. *See* Jeannie Suk Gersen, *The Unintended Consequences of the Stanford Rape-Case Recall*, NEW YORKER (June 17, 2016), <https://www.newyorker.com/news/news-desk/the-unintended-consequences-of-the-stanford-rape-case-recall> [<https://perma.cc/F3MM-TC2G>] (noting protests designed as a recall effort were instigated “to fire a judge in retaliation for an overly lenient criminal sentence.”).

127. Chris Bumbaca, *Judge in Brock Turner Case, Aaron Persky, Fired from High School Tennis Coaching Gig*, USA TODAY (Sept. 12, 2019, 7:15 AM), <https://www.usatoday.com/story/sports/2019/09/12/brock-turner-case-judge-aaron-persky-fired-tennis-coaching-job-lynbrook/2297795001/> [<https://perma.cc/8LGF-RHFU>].

128. Bill Hutchinson, *Vandals Target Barry Brodd’s Former Home After Testimony in Derek Chauvin’s Defense*, ABC NEWS (Apr. 18, 2021, 12:36 PM), <https://abcnews.go.com/US/vandals-target-barry-brodds-home-testimony-derek-chauvins/story?id=77149729> [<https://perma.cc/YCC2-YFQM>].

129. *Id.*

130. *Id.*

splattered blood on the front of their house, and awakened them.¹³¹ The house in question was the former residence of Brodd, leading police to conclude “[b]ecause Mr. Brodd no longer lives in the city of Santa Rosa, it appears the victim was falsely targeted”.¹³² The pig’s head and blood were in response to an expert’s testimony, leading to genuine concerns for the safety of the judge sentencing Chauvin if the public did not deem the weight to be satisfactory.¹³³

Biden’s comments set the bar high, and the judge may well have caused widespread public outcry if he did not throw the book and maximum sentence on Chauvin.¹³⁴ As Biden is a lawyer, he likely recognizes the significance of his comments, but modern politics and race relations are unfolding in new ways under the Trump-Pence, Biden-Harris, and other administrations to come.¹³⁵ Biden, in a sense, limited the judge from offering Chauvin a shorter or lighter sentence by establishing a presidential—and subsequently public—expectation of the harshest sentence possible based on his belief that there was “overwhelming evidence.”¹³⁶

While he may have believed he was acting with compassion or advocating for justice, Biden’s commentary along with Waters’ statements led to increased judgment against the Democratic party for potentially jeopardizing the Sixth Amendment.¹³⁷ The Sixth Amendment guarantees the right to a fair and speedy trial:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature

131. *Id.*

132. *Id.*

133. Cf. Yelena Dzhanova, *A Judge Ordered the Names of Jurors from Derek Chauvin’s Trial to Be Sealed so They’re Protected Against ‘Unwanted Publicity or Harassment,’* INSIDER (Apr. 24, 2021, 9:26 AM), <https://www.insider.com/judge-sealed-juror-names-derek-chauvin-trial-2021-4> [<https://perma.cc/E5PS-9YBH>] (discussing the protections given to the jury members and the “incendiary, inflammatory, or threatening nature” of the emails received by lawyers involved in the trial).

134. See *‘Happy, But Also Not Happy’: Community Reaction Mixed After Chauvin Sentencing*, CBS MINNESOTA (June 25, 2021, 11:00 PM), <https://www.cbsnews.com/minnesota/news/im-happy-but-also-not-happy-mixed-reaction-from-community-after-derek-chauvins-sentencing/> [<https://perma.cc/438Z-MEA2>] (discussing how some were dissatisfied even with the 22.5-year sentence).

135. See *How America Changed During Donald Trump’s Presidency*, PEW RSCH. CTR. (Jan. 29, 2021), <https://www.pewresearch.org/2021/01/29/how-america-changed-during-donald-trumps-presidency/> [<https://perma.cc/N5YK-6NZD>].

136. Thrush, *supra* note 127.

137. See Robby Soave, *Derek Chauvin Trial Judge Thinks Maxine Waters Gave the Defense an Option for Appeal*, REASON (Apr. 20, 2021, 9:34 AM), <https://reason.com/2021/04/20/derek-chauvin-maxine-waters-trial-appeal-judge/>. [<https://perma.cc/YN6M-TAXJ>].

and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.¹³⁸

A sitting president offering commentary on such a public and controversial trial, creates serious questions as to whether the jury could indeed be unbiased.¹³⁹ With Maxine Waters' comments thrown into the fray as well, the opportunity for Chauvin's initial guilty verdict being overturned continues to grow. The fact Waters spoke at Brooklyn Center, Minnesota, not far from the location of Chauvin's trial is also significant.¹⁴⁰ Shortly after Waters spoke, Chauvin's legal team moved for a mistrial.¹⁴¹ While Judge Peter Cahill denied the motion, saying "[a] congresswoman's opinion really doesn't matter a whole lot,"¹⁴² he granted that Waters "may have given [Chauvin's defense team] something on appeal that may result in this whole trial being overturned."¹⁴³ He also stated, "I wish elected officials would stop talking about this case especially in a manner that is disrespectful to the rule of law and to the judicial branch and our function", calling their refusal to do so "abhorrent."¹⁴⁴ If Chauvin is successful on appeal, the initial guilty verdict may be thrown out.

Despite the severity of the situation, both political parties began to engage in a large-scale finger-pointing battle. Republicans, angered at Waters, accused her of inciting violence and the Republican Party Leader Kevin McCarthy intended to introduce a resolution that would formally condemn her.¹⁴⁵ Meanwhile, Rep. Hakeem Jeffries, chair of the House Democratic Caucus, referred to it as a "frivolous resolution" and called out McCarthy for his failure to condemn other members of the Republican Party, including those who had allegedly incited the January 6, 2021, riot at the Capitol.¹⁴⁶

Meanwhile, in defending herself, Waters said

138. U.S. CONST. amend. VI.

139. *Cf.* Soave, *supra* note 142.

140. *Id.*

141. *Id.*

142. Jennifer Haberkorn, *Rep. Maxine Waters' Police Protest Remarks Cause a Firestorm*, LOS ANGELES TIMES (Apr. 19, 2021, 3:09 PM), <https://www.latimes.com/politics/story/2021-04-19/maxine-waters-under-fire-from-republicans-for-comments-about-police-protests> [<https://perma.cc/Y8BA-HXHT>].

143. Soave, *supra* note 142.

144. Caroline Kelly, *Judge in Derek Chauvin Trial Says Rep. Maxine Waters' Comments May Be Grounds for Appeal*, CNN POL. (Apr. 20, 2021, 6:12 PM), <https://www.cnn.com/2021/04/19/politics/judge-derek-chauvin-maxine-waters-mistrial-appeal/index.html> [<https://perma.cc/L9WW-NMRA>].

145. Marisa Schultz, *House Republicans Prepare to Introduce Resolution to Censure Maxine Waters*, FOX NEWS (Apr. 20, 2021, 1:18 PM), <https://www.foxnews.com/politics/house-republicans-prepare-introduce-resolution-to-censure-maxine-waters> [<https://perma.cc/ML9Q-T2LK>].

146. *Id.*

Republicans will jump on any word, any line and try to make it fit their message and their cause for denouncing us and denying us, basically calling us violent . . . anytime they see an opportunity to seize on a word, so they do it and they send a message to all of the white supremacists, the KKK, the Oath Keepers, the [Proud] Boys and all of that, how this is a time for [Republicans] to raise money on [Democrats'] backs.¹⁴⁷

She further clarified her use of “confrontational” by saying “I talk about confronting the justice system, confronting the policing that’s going on, I’m talking about speaking up. I’m talking about legislation. I’m talking about elected officials doing what needs to be done to control their budgets and to pass legislation.”¹⁴⁸ However, the accusation that the social unrest is being used to raise money is unfortunately true for both parties.¹⁴⁹ As it presently stands, both sides of the aisle are seemingly engaging in similar practices, yet simultaneously blaming the other side for doing so.

Indeed, the United States’ political and social climate continues to be dominated by an “us versus them” mentality, an apparent stark contradiction to many of Dr. King’s ideas. In 2021, Maxine Waters said of her Republican colleagues, “I am not worried that they’re going to continue to distort what I say. This is who they are and this is how they act. And I’m not going to be bullied by them.”¹⁵⁰ In 2021, author and conservative analyst Candace Owens said of the Democrats: “They can create a narrative and they can treat people like pawns and get them to basically say if we don’t get what we want, we will riot, if we lose, we will send these people like soldiers to destroy your neighborhoods, and that is exactly what has happened. . . They are already moving the goalposts because they are saying right now that [Chauvin’s conviction] is not enough. . . what they want is a perpetual revolution. It is why they want people to be ignorant.”¹⁵¹ In 1964, Dr. King said, “[w]e must learn to live

147. Haberkorn, *supra* note 147.

148. Gerren Keith Gaynor, *Maxine Waters Slams GOP Attacks over ‘Confrontational’ Comment: ‘I Am Nonviolent,’* THEGRIO (Apr. 19, 2021), <https://thegrio.com/2021/04/19/maxine-waters-republicans-confrontational-comment/> [<https://perma.cc/85EJ-QKEQ>].

149. See Akela Lacy, *Pro-Cop PAC Tried to Fundraise by Blaming George Floyd for His Own Death*, THE INTERCEPT (Apr. 8, 2021, 7:00 AM), <https://theintercept.com/2021/04/08/george-floyd-derek-chauvin-police-pac/> [<https://perma.cc/VQ9K-UBCD>]; cf. Holly Otterbein & Daniel Payne, *Progressives Swoon over Ellison Role in Chauvin Trial*, POLITICO (Apr. 22, 2021, 7:46 PM), <https://www.politico.com/news/2021/04/22/keith-ellison-derek-chauvin-484362> [<https://perma.cc/STM8-YYYY>] (discussing how Democratic Minnesota Governor, Tim Walz, has been able to break fundraising records in the wake of Republican Attorney General Keith Ellison’s handling of the Chauvin trial).

150. Gaynor, *supra* note 153.

151. Charles Creitz, *Candace Owens Slams Democrats, Media for ‘Mob Justice’ in Derek Chauvin Trial*, FOX NEWS (Apr. 20, 2021, 10:58 PM),

together as brothers or perish together as fools.”¹⁵² Fifty years ago, it was made public on a national scale how far we had to come as a country to battle against racial injustice and pursue equality.¹⁵³ The radical events of 2020 and 2021 have been eye-opening, an uncomfortable awakening to the reality that in the last half-century, despite the passage of new laws and an annual national holiday dedicated to the legacy of Dr. King, we may have continued to miss the mark.

III. SOCIAL SHIFTS ARE ALREADY HERE; BUT WILL THEY LAST?

One of the more unique features of the American democratic system is its ability to overturn rulers. While other governments have virtually uncontested and lifetime appointments for their leaders, the United States hosts an election every four years to determine the next President. Each election cycle, there are often a select few topics that define the platforms on which candidates run. For example, in the years in which Obama was running, healthcare and his Obamacare plan faced heavy media attention.¹⁵⁴ These topics are subject to change and are often contingent on what is happening in the country and the rest of the world. In the 2016 presidential campaign, supporters of Donald Trump and Hillary Clinton disagreed on virtually every idea, including the extent to which Black adults in the United States are disadvantaged because of their race.¹⁵⁵ The last two years have radically changed the demands of the American social landscape, notably in terms of racial identities and perception, education, legislation, and policing.

A. *Changes to American Education*

One of the most controversial moves that the Biden administration attempted to make in the field of education was over the proposed introduction of Critical Race Theory (CRT).¹⁵⁶ Kendall Thomas, a law professor at Columbia University and co-editor of *Critical Race Theory: The*

<https://www.foxnews.com/politics/candace-owens-slams-democrats-media-for-mob-justice-in-derek-chauvin-trial> [<https://perma.cc/KNA8-PQTR>].

152. *Dr. King Urges Special Help for Negroes*, ST. LOUIS POST-DISPATCH, Mar. 23, 1964, at 3A.

153. See Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241.

154. See *What Americans Learned from the Media About the Health Care Debate*, PEW RSCH. CTR. (June 19, 2012), <https://www.pewresearch.org/journalism/2012/06/19/how-media-has-covered-health-care-debate/> [<https://perma.cc/V3D6-YHLP>].

155. *Voters' Attitudes About Race and Gender Are Even More Divided Than in 2016*, PEW RSCH. CTR. (Sept. 20, 2020), <https://www.pewresearch.org/politics/2020/09/10/voters-attitudes-about-race-and-gender-are-even-more-divided-than-in-2016/> [<https://perma.cc/VF9H-VZSV>].

156. Max Eden, *Biden Has Embraced Lunatic 'Critical Race Theory' But You Can Still Fight It*, N.Y. POST (Jan. 25, 2021, 8:17 PM), <https://nypost.com/2021/01/25/biden-has-embraced-lunatic-critical-race-theory-but-you-can-still-fight-it/> [<https://perma.cc/B3FF-YD2R>].

Key Writings That Formed the Movement, said:

CRT maps the nature and workings of ‘institutional racism’. [It] challenges us to see that racial injustice in America is not, and has never been, just a problem of isolated instances of individual bias and private prejudice which we can solve by enacting ‘color-blind’ laws and policies. CRT tracks the ways in which the ‘color-blind racism’ of today’s post-civil rights era entrenches racial disparities, discrimination and disadvantage among Black, Brown and Native American communities without ever explicitly using the language of ‘race’.”¹⁵⁷

Similarly, Ian Haney López, professor at UC Berkeley Boalt School of Law, said:

CRT rests on the insight that race and racism are social dynamics. This is a point about reality: society, and not nature or God, puts people in positions of being over or under other groups. It is also a moral guidepost, for injustices done by society can and should be repaired by society. At root, then, CRT cares about both understanding and repairing racism as a social harm.¹⁵⁸

Biden himself has said that the United States needs to work to end systemic racism, thus emphasizing his administration’s pursuit of racial equality.¹⁵⁹

On the opposite side, former President Donald Trump described diversity training based on critical race theory as “racist” and “teaching people to hate our country.”¹⁶⁰ Representatives Doug Lamborn (R-CO) and Jeff Duncan (R-SC) wrote in a letter to Education Secretary Miguel Cardona, “[o]ur educators should not be encouraging ideologies that undermine the value of individual liberty and America’s founding ideals while further embedding the concept of systemic racism in our children’s education.”¹⁶¹ Noted author and commentator Douglas Murray said “I’m not shocked, but I am worried about [critical race theory being implemented in American schools] and I think all Americans should be worried about it. . . everybody in America is being encouraged to pretend that they’ve

157. Soo Kim, *What Is Critical Race Theory and Why Do Some People Want to Ban It?* NEWSWEEK (Apr. 30, 2021, 12:20 PM), <https://www.newsweek.com/what-critical-race-theory-why-do-some-want-ban-1587389> [<https://perma.cc/4L37-6XR7>].

158. *Id.*

159. Ken Thomas, *Biden Says U.S. Needs to Work to End Systemic Racism*, WALL ST. J. (Apr. 20, 2021, 10:57 PM), <https://www.wsj.com/articles/biden-says-he-is-praying-for-right-verdict-in-murder-trial-of-derek-chauvin-11618938767> [<https://perma.cc/4256-5PJ3>].

160. Kim, *supra* note 163.

161. *Biden Admin’s Race-Related Curriculum Attempts to ‘Change History’*: Douglas Murray, FOX NEWS (Apr. 28, 2021), <https://www.foxnews.com/video/6250866510001> [<https://perma.cc/2E2C-P9HZ>].

all changed their minds, they've all changed the history."¹⁶² The idea of systemic racism has been hotly contested, as even former Civil Rights activists have criticized BLM, Maxine Waters, and Al Sharpton for claiming "systemic racism" while ignoring other issues.¹⁶³

In San Diego, California, healthcare workers participated in a three-day online critical race theory class held by instructor Reginald Caldwell.¹⁶⁴ The contract paid him over \$25,000 and was described by some as depicting the United States as a racist nation.¹⁶⁵ The presentation in question included a photograph that included a sign reading "Republicans United for Peace and Prosperity," beside an image of a Ku Klux Klan rally, racist Jim Crow-era signs, and Confederate flags.¹⁶⁶ While some called it "racist stereotyping," others had far more serious accusations that the training may have violated a federal law that prohibits engaging in political activity while on the job at a government entity.¹⁶⁷

The Hatch Act "prohibits on-the-job partisan expenditures and activities by federal employees or agencies and, by extension, municipalities that receive federal funding."¹⁶⁸ The idea that America is a racist country was also criticized in the government, as Senator Tim Scott (R-SC) said "[h]ear me clearly: America is not a racist country. It's backwards to fight discrimination with different types of discrimination. And it's wrong to try to use our painful past to dishonestly shut down debates in the present."¹⁶⁹ He faced heavy criticism for these comments, yet President Biden stated "I don't think America is racist" and Vice President Harris said "I don't think America is a racist country" to silence and acceptance from their Democratic supporters.¹⁷⁰

Douglas Murray also opened the door to an important topic that has not been heavily discussed in this article thus far—cancel culture. Dr. Jill McCorkel, professor of sociology and criminology at Villanova University explained, "cancel culture is an extension of or a contemporary

162. *Id.*

163. *Bob Woodson Rips BLM, Waters, Sharpton for Falsely Claiming 'Systemic Racism,'* FOX NEWS (Apr. 20, 2021), <https://www.foxnews.com/video/6249586245001> [<https://perma.cc/8KB9-RSBL>].

164. Tori Richards, *EXCLUSIVE: San Diego Critical Race Theory Training Depicts GOP as Racist*, WASH. EXAM'R (Apr. 29, 2021, 10:26 AM), <https://www.washingtonexaminer.com/news/san-diego-critical-race-theory-training-gop-racist> [<https://perma.cc/ZM9Y-BMQF>].

165. *Id.*

166. *Id.*

167. *Id.*

168. *Id.*

169. Becket Adams, *Leftists Silent as Biden and Harris Agree with Sen. Tim Scott That America Is Not a Racist Country*, WASHINGTON EXAMINER (Apr. 30, 2021, 12:51 PM), <https://www.washingtonexaminer.com/opinion/leftists-silent-as-biden-harris-agree-with-sen-tim-scott-that-america-is-not-a-racist-country> [<https://perma.cc/6977-UUZV>].

170. *Id.*

evolution of a much bolder set of social processes that we can see in the form of banishment. [They] are designed to reinforce the set of norms.”¹⁷¹ Meanwhile, Douglas Murray said, “the only people who want it are those who want to bully and push their way in to dominate the entire culture and the political narrative and. . . we’ve just got to resist it.”¹⁷²

Some parents have taken offense to the incorporation of anti-racist curriculums in their children’s schools. Conservatives have frequently criticized cancel culture amidst the social events of the last few years, arguing that they have been silenced and are being “cancelled” simply for exerting their First Amendment rights to free speech.¹⁷³

B. *Changes on the American Legislative and Policing Frontlines*

The bipartisan nature of our democratic system in the United States allows for both sides to be heard and have a voice in creating and enforcing the law. However, Chauvin’s conviction is now putting more pressure than ever to enact nationwide police reform.

In June 2020, the George Floyd Justice in Policing Act of 2020 was introduced in the House.¹⁷⁴ This Act addressed “a wide range of policies and issues regarding policing practices and law enforcement accountability.”¹⁷⁵ The Act sought to enhance transparency and data collection, to eliminate discriminatory policing practices, facilitate federal enforcement of constitutional violations by state and local law enforcement, and establish a framework to prohibit racial profiling, among other measures.¹⁷⁶

Other legislation concerning racial issues in America was produced in California and signed by Governor Gavin Newsom.¹⁷⁷ AB 3121 established “a first-in-the-nation task force to study and make

171. Brooke Kato, *What Is Cancel Culture? Everything to Know About the Toxic Online Trend*, NEW YORK POST (Aug. 31, 2021, 3:19 PM) <https://nypost.com/article/what-is-cancel-culture-breaking-down-the-toxic-online-trend/> [<https://perma.cc/TC5J-FYMX>].

172. *Biden Admin’s Race-Related Curriculum Attempts to ‘Change History’*: Douglas Murray, *supra* note 167.

173. Kelly Kahoe, *‘Cancel Culture’ and the First Amendment*, FIRST AMENDMENT VOICE (Nov. 3, 2021), <https://firstamendmentvoice.org/2021/11/cancel-culture-and-the-first-amendment/>.

174. George Floyd Justice in Policing Act of 2020, H.R. 7120, 116th Cong. (2020).

175. *Id.*

176. *Id.*

177. See A.B. 3121, 2019–2020 Reg. Sess. (Cal. 2019) (codified as CAL. GOV’T. CODE §§ 8301.1–1.4); AB 3070, 2019–2020 Reg. Sess. (Cal. 2019) (to be codified at CAL. CIV. PROC. CODE § 231.7); AB 2542, 2019–2020 Reg. Sess. (Ca. 2019) (Codified as CAL. PENAL CODE §§ 745, 1473, and 1473.7); AB 979, 2019–2020 Reg. Sess. (Cal. 2019) (codified as CAL. CORP. CODE §§ 301.3, 301.4, 2115.6). AB 979 has since been found unconstitutional, precluding the state from enforcing its goal of gender diversity on boards of directors. Harold R. Jones, *California Superior Court Finds AB 979 Is Unconstitutional*, NAT’L. L. REV. (April 6, 2022), <https://www.natlawreview.com/article/california-superior-court-finds-ab-979-unconstitutional> [<https://perma.cc/Y4N2-EWAF>].

recommendations on reparations for slavery.”¹⁷⁸ In 2019, a Pew Research Center survey found that 63% of Americans believed that the legacy of slavery “affects the position of black people in American society today either a great deal or a fair amount.”¹⁷⁹ The same survey found that “Black adults are particularly likely to say slavery continues to have an impact.”¹⁸⁰

More than eight-in-ten say this is the case, including 59% who say the legacy of slavery affects the situation of black people a great deal. By comparison, 26% of whites, 29% of Hispanics and 33% of Asians say slavery affects the position of black people in American society today a great deal, though majorities of each group say it does so at least a fair amount.¹⁸¹

When signing AB 3121, Newsom said:

As a nation, we can only truly thrive when every one of us has the opportunity to thrive. Our painful history of slavery has evolved into structural racism and bias built into and permeating throughout our democratic and economic institutions. . . California’s rich diversity is our greatest asset, and we won’t turn away from this moment to make right the discrimination and disadvantages that Black Californians and people of color still face. While there is still so much work to do to unravel this legacy, these pieces of legislation are important steps in the right direction to building a more inclusive and equitable future of all.”¹⁸²

The law would “inform Californians about slavery and explore ways the state might provide reparations.”¹⁸³

Two additional bills were also signed: AB 2542 and AB 3070. AB 2542, “The California Racial Justice Act,” will “prohibit the use of race, ethnicity or national origin to seek or obtain convictions or impose sentences,” while AB 3070 “aims to eliminate discrimination in jury

178. Governor Newsom Signs Landmark Legislation to Advance Racial Justice and California’s Fight Against Systemic Racism & Bias in Our Legal System, CA.GOV: OFF. OF GOV. GAVIN NEWSOM (Sept. 30, 2020), <https://www.gov.ca.gov/2020/09/30/governor-newsom-signs-landmark-legislation-to-advance-racial-justice-and-californias-fight-against-systemic-racism-bias-in-our-legal-system/> [<https://perma.cc/7F5B-5H4Y>].

179. Juliana Menasce Horowitz, *Most Americans Say the Legacy of Slavery Still Affects Black People in the U.S. Today*, PEW RSCH. CTR.: FACT TANK (June 17, 2019), <https://www.pewresearch.org/fact-tank/2019/06/17/most-americans-say-the-legacy-of-slavery-still-affects-black-people-in-the-u-s-today/> [<https://perma.cc/W6MW-2XC4>].

180. *Id.*

181. *Id.*

182. Governor Newsom Signs Landmark Legislation to Advance Racial Justice and California’s Fight Against Systemic Racism & Bias in Our Legal System, *supra* note 184.

183. *Id.*

selection.”¹⁸⁴ Both of these bills seek to “build on Administration’s work to achieve true equality for all Californians and to acknowledge historical wrongs against people of color and Native people.”¹⁸⁵

While new legislation is indeed being passed in Democratic states, a gridlock of sorts has formed on the federal level. While the House of Representatives has passed police reform bills, the Senate has not yet been able to approach a deal that can get sixty votes. Since bills require bipartisan agreement to pass, little tangible movement has occurred. In discussing the Chauvin ruling and police reform bills, Senator Mitt Romney (R-Utah) said: “The judicial system worked. But a man is dead. So that’s a very high price to pay. And avoiding more circumstances like this, more events like this, is still a huge priority.”¹⁸⁶

A significant portion of the resistance to passing bills on police reforms is because of the monstrous issue of qualified immunity. The George Floyd Justice in Policing Act of 2020 specifically addressed qualified immunity by “limit[ing] qualified immunity as a defense to liability in a private civil action against a law enforcement officer.”¹⁸⁷ The specific wording—“limits”—is critical as it accounts for the overwhelming wave of demands for change to police protections within the legal arena in 2020, without removing all immunity protections and thus leaving officers vulnerable. To rid the country and our nation’s first responders of qualified immunity entirely is an extremely nuanced and complex issue with real economic ramifications. The idea of eliminating qualified immunity fully is also a red line for many Republicans.¹⁸⁸ However, Representative Karen Bass (D-Cal.) said, “If you don’t like qualified immunity, then tell me what we can do to hold police officers accountable. . . . They have to feel that there are consequences to what they do.”¹⁸⁹ Senator Tim Scott (R-S.C.) proposed a policing measure that was filibustered by Democrats and sought to encourage an end to police use of chokeholds, made lynching a crime and increased disclosure requirements for the use of force; while Democrats pushed for a more stringent approach that would ban police from performing chokeholds and no-knock raids.¹⁹⁰

Social demands of defunding the police have also emerged in the last year, particularly among large cities. In response to the overwhelming public backlash, several cities opted to cut funding to police department

184. *Id.*

185. *Id.*

186. Burgess Everett, Marianne LeVine, & Nicholas Wu, *Chauvin Conviction Squeezes Congress on Police Reform*, POLITICO, (Apr. 20, 2021, 8:59 PM). <https://www.politico.com/news/2021/04/20/chauvin-conviction-congress-police-reform-483740> [<https://perma.cc/GRX5-LU3A>].

187. George Floyd Justice in Policing Act of 2020, H.R. 7120, 116th Cong. (2020).

188. Everett, Marianne LeVine, & Nicholas Wu, *supra* note 192.

189. *Id.*

190. *Id.*

budgets.¹⁹¹ The two largest cities in the country, New York and Los Angeles, both approved budget cuts mere weeks after protests began—New York slashed \$1 billion from its 2021 budget and Los Angeles approved a \$150 million cut.¹⁹² Due to the alleged problems with over-policing and racial biases within officers, social cries of moving police allocations elsewhere in the budget have been heard: \$354 million was reallocated to mental health, homelessness and education services in New York.¹⁹³

St. Louis, Missouri, is another city that chose to “defund” police. The city frequently is ranked among the most dangerous cities in America and suffered 194 homicides in 2019 alone.¹⁹⁴ Yet reports show that the St. Louis Metropolitan Police Department “has the highest rate of police killings by population of any police department of the 100 largest U.S. cities.”¹⁹⁵ The Mayor of the city, Tishaura Jones, “proposed a move that would cut \$4 million from the St. Louis Police Department and eliminate 98 vacant officer positions.”¹⁹⁶ The proposed budget also reassigned \$4 million of the \$171 million police budget towards affordable housing, homeless services, a victims’ support program, and civil rights enforcement.¹⁹⁷ Representative Cori Bush (D-Mo.) praised the efforts, saying:

The people have demanded a new approach to community safety—and from the Mayor’s office to the Halls of Congress, we were elected to deliver one. We have a mandate to fully fund our social services. To invest in our communities, not criminalize them. To end police violence. To provide alternatives to police like unarmed mental health professionals or social workers to respond to crisis calls.¹⁹⁸

The claimed predictable formula that is being suggested of forced police reform and less proactive policing will result in 1) fewer arrests, 2) more crime, and 3) decreased business desirability of major metropolitan areas that are adopting reform and no arrest policies. In other words, forcing newfound “respect, restraint, oversight” is a call to not police for law enforcement. Detroit Police Department Chief James Craig and Maryland Fraternal Order of Police President Sargent Clyde Boatwright have both

191. See Jemima McEvoy, *At Least 13 Cities Are Defunding Their Police Departments*, FORBES (Aug. 13, 2020, 3:04 PM), <https://www.forbes.com/sites/jemimamcevoy/2020/08/13/at-least-13-cities-are-defunding-their-police-departments/?sh=43eb8f4a29e3> [https://perma.cc/5NPJ-T8YD].

192. *Id.*

193. *Id.*

194. See Morgan Phillips, *‘Squad’ Dem Cori Bush Praises St. Louis’ ‘Historic’ Vote to ‘Defund’ Police*, FOX NEWS, (Apr. 30, 2021, 4:31 PM), <https://www.foxnews.com/politics/squad-dem-cori-bush-st-louis-defund-police> [https://perma.cc/V6NX-YP3D].

195. See *Police Accountability Tool*, MAPPING POLICE VIOLENCE, <https://mappingpoliceviolence.org/cities> [https://perma.cc/JZE9-YFGA].

196. Phillips, *supra* note 200.

197. *Id.*

198. *Id.* (quoting Cori Bush).

argued that reducing police funding will not make communities safer.¹⁹⁹ New York City councilmember Joseph Borelli blamed the left for abolishing proactive policing in New York, pointing to the fact that there has been a major increase in sexual assault crimes in NYC recently.²⁰⁰ Sexual assault is up 322%, and rapes have increased by 400%.²⁰¹

The conversation is also not limited solely to budget, but also includes legislative policy. After the death of Adam Toledo, a thirteen-year-old boy from Chicago, Illinois, who was shot and killed by a police officer during a foot pursuit, the city's mayor announced that the city would consider a new policy that would restrict when officers are able to pursue a suspect on foot.²⁰²

"Incidents like these are a reminder that we need to work that much harder to prevent tragedy. . . . An adult put a gun in a child's hand. . . a weapon that irreparably changed the course of his life," said Chicago Mayor Lori Lightfoot. "[We] will not push of the foot pursuit reform for another day."²⁰³ Her statements drew criticism from others. Deon Johnson of the Los Angeles Police department claimed that such policy would serve only to "please an irrational sect of society" and "embolden criminals."²⁰⁴

It should be noted the demographics of the population that is crying out for police reforms including defunding are often of a unique demographic: "There are a lot of young white affluent people who are coming in and setting the conversation [to defund the police]."²⁰⁵ The individual who said this was Eric Adams, a former NYPD officer running for New York City mayor.²⁰⁶ At the age of twelve, he was kicked "in the groin

199. See 'Squad' Members Ramp up Calls to Defund Police amid Skyrocketing Crime Stats in Cities, FOX NEWS: THE FAULKNER FOCUS (Apr. 27, 2021) <https://www.foxnews.com/video/6250697888001> [<https://perma.cc/AW2G-9YDE>].

200. See NYC Councilmember: Left Has Abolished Proactive Policing in New York City, FOX NEWS: TUCKER CARLSON TONIGHT (Apr. 22, 2021), <https://www.foxnews.com/video/6249933785001> [<https://perma.cc/LQT9-UA33>] (addressing that Borelli thought the rise of sexual assaults and rape in New York City was based on several factors, including bail reform, defunding police, ending qualified immunity, and criminalizing police actions).

201. *Id.*

202. See Joseph Simonson, *Democrats Move Ahead with Sweeping Police Reforms That Will 'Embolden Criminals,' Critics Say*, WASH. EXAM'R (Apr. 29, 2021, 3:58 PM), <https://www.washingtonexaminer.com/news/dems-move-ahead-sweeping-police-reforms-embolden-criminals> [<https://perma.cc/5H6L-VH78>].

203. *Id.*

204. *Id.*

205. See Jake Lahut, *NYC Mayoral Candidate Eric Adams Says 'Young White Affluent People' Lead the 'Defund the Police' Movement*, INSIDER (Apr. 27, 2021, 11:30 AM), <https://www.businessinsider.com/eric-adams-defund-the-police-young-white-affluent-people-2021-4> [<https://perma.cc/2DDV-UAPJ>].

206. *Id.*

repeatedly” by officers, yet later enlisted as an officer in hopes of reforming the department from the inside.²⁰⁷ His unique insight as a black male, who has faced police brutality, yet not supportive of defunding the police led him to speak to a fellow black male at a Black Lives Matter protest, telling him “[Your white friends] are not living in the community that you are living in. . . . Go back to your community, where there is real violence, and tell me you still want to defund the police.”²⁰⁸ Polling has shown that “[s]eventy percent of African Americans said that law enforcement officers [were] doing a ‘very good’ or ‘somewhat good’ job,” and only “[t]hirty percent of black adults responded that local police [were] doing a ‘somewhat/very bad’ job.”²⁰⁹

The various perspectives on policing and the community were in the headlines again recently after the LAPD union sent a letter to the NBA requesting that the league investigate whether LeBron James’ tweet in regard to the police officer involved in the Ma’Khia Bryant shooting violated any NBA policies.²¹⁰ James tweeted “YOU’RE NEXT [hourglass emoji] #ACCOUNTABILITY” with a photo of Officer Nicholas Reardon, the Ohio Police officer who shot Bryant.²¹¹

After intense backlash, James deleted the tweet, tried to explain that he was “damn tired of seeing Black people killed by police,” and wrote: “I took the tweet down because its being used to create more hate – This isn’t about one officer. it’s about the entire system and they always use our words to create more racism. I am so desperate for more ACCOUNTABILITY.”²¹² Some of the naysayers included ex-football player and former police officer Brandon Tatum, who said:

LeBron James is living on a high horse, he’s in a multimillion-dollar house living around nothing but white people. He is not affected by

207. *Id.*

208. *Id.*

209. Emma Colton, *Black People Overwhelmingly Support Local Police Departments: Poll*, WASH. EXAM’R (Apr. 27, 2021 10:24 AM), <https://www.washingtonexaminer.com/news/black-americans-local-police-support-poll> [<https://perma.cc/RX2F-3CKD>].

210. See Andrew Mark Miller, *LAPD Union Calls for NBA to Investigate ‘Hypocrite’ LeBron James over Tweet Threatening Police Officer*, WASH. EXAM’R (Apr. 30, 2021, 12:40 PM), <https://www.washingtonexaminer.com/news/lapd-union-investigate-hypocrite-lebron-james-tweet-police-officer> [<https://perma.cc/M6ZT-FMF3>].

211. Joseph A. Wulfson, *LeBron James Accused of Inciting Violence with ‘YOU’RE NEXT’ Tweet Targeting Columbus Police Officer*, FOX NEWS (Apr. 22, 2021, 1:18 AM), <https://www.foxnews.com/media/lebron-james-accused-inciting-violence-youre-next-tweet> [<https://perma.cc/PMW4-M9SF>].

212. LeBron James (@KingJames), TWITTER (Apr. 21, 2021, 7:31 PM), <https://twitter.com/KingJames/status/1385013333007343619>; Katherine Fung, *Ex-Football Player Brandon Tatum Says LeBron James Wouldn’t Hesitate to Have White Officers Defend Him*, NEWSWEEK (Apr. 22, 2021, 10:44 AM), <https://www.newsweek.com/ex-football-player-brandon-tatum-says-lebron-james-wouldnt-hesitate-have-white-officers-defend-him-1585676> [<https://perma.cc/W2WQ-4DWW>].

none of this violence. He could care less . . . And at the drop of a dime, he will have white officers at his house doing investigations on false claims if there is some. . . LeBron James and these wealthy people like the BLM co-founder living in million-dollar houses, they don't care. They just want to push a virtue signal because they have nothing better to do . . . [t]hey are not educated enough to look at things from both sides and they continue to want to push a narrative that's just not true. I really wish they would be held accountable and at least ashamed of what they're doing to our country.²¹³

While James may have backpedaled on his initial tweet, the intense language used is indicative of a wider national attitude that is rapidly turning against police presence. Yet the rapid rise of sexual assault in NYC demonstrates to us that the solution cannot be a kneejerk reaction to simply cut funding for police or worse, attack police with vigilante style justice.²¹⁴ Already, police departments are struggling to recruit new hires, and there is a massive number of officers quitting amidst low morale.²¹⁵ This is an intensely nuanced issue that we must all tackle, and not from a MLK or police union perspective.

Amidst these sweeping changes, threats of violence, political gridlock, and bipartisan anger, the poignant question remains: is this the promised land that Reverend Dr. Martin Luther King, Jr. dreamed of?²¹⁶

CONCLUSION

As cities struggle with whether to slash police budgets, the legislative branch attempts to work through whether to make amendments to the current understandings of qualified immunity and police rule of law. The ordinary citizens are increasingly turning on each other, causing the nation to face a rapidly expanding divide. High school teachers are being fired after cursing at students, yelling "I hear people whining and crying about Black Lives Matter, but George Floyd was a f—ing criminal and he got arrested and he got killed because he wouldn't comply and the bottom line is we make him a f—ing hero."²¹⁷ Meanwhile, a group of Black Lives

213. *Id.* (quoting Brandon Tatum).

214. See NYC Councilmember: Left Has Abolished Proactive Policing in New York City, *supra* note 206.

215. See *Police Departments Struggle to Recruit in 'Defund Police' Era*, FOX NEWS (May 3, 2021), <https://www.foxnews.com/video/6252118595001> [<https://perma.cc/9P62-H58A>]; see also *Anti-Cop Climate Decimating Police Forces Across America as Officers Quit amid Low Morale*, FOX NEWS (Apr. 27, 2021), <https://www.msn.com/en-us/news/us/anti-cop-climate-decimating-police-forces-across-america-as-officers-quit-amid-low-morale/vi-BB1g6PHo?ocid=msedgdp> [<https://perma.cc/FSQ9-YCGN>].

216. See Murdock, *supra* note 58.

217. See Cameron Jenkins, *Teacher Fired After Expletive-Filled Rant, Calling George Floyd an 'F—ing Criminal'*, HILL, (Apr. 30, 2021, 2:24 PM),

Matter protesters approached white outdoor diners at a New York City restaurant, telling them to “get the f— out of New York” and that their “white-owned taquerias aren’t welcome.”²¹⁸ Conservative Black pastor E.W. Jackson has said:

The biggest and most destructive racists in America are not the Ku Klux Klan, it’s not the skinheads, it’s not the Proud Boys. . . . The biggest and most destructive racist in America today are the Democrat Party and the left and all of those associated with them. They are the biggest racists on the planet today. They are the biggest racists in America, and they are the most destructive.²¹⁹

Meanwhile, in Reverend Dr. Martin Luther King Jr.’s experience with racial tensions, he said “Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that.”²²⁰

His message was one grounded in peace, unity, and determination. Today, it can at times seem as if the only thing Americans are determined in is to disagree—and to disagree loudly. Both parties’ attempts at reforming the existing systems to advance social justice are met with disdain from across the aisle. Meanwhile, many of our “progressions” are those exact ones that Dr. King spoke against. Race-based affirmative action is one of such movements: he said,

While Negroes form the vast majority of America’s disadvantaged, there are millions of white poor who would also benefit from such a bill. . . . To this day the white poor also suffer deprivation and the humiliation of poverty if not of color. They are chained by the weight of discrimination, though its badge of degradation does not mark them. It corrupts their lives, frustrates their opportunities and withers their education.”²²¹

His belief that inequality must include discussion on socioeconomic status has been all but overlooked during this racially-driven period in American history.

Today, racial divides are dominating education, economics, politics, legislation, social justice, and social attitudes. As we look around and

<https://thehill.com/homenews/state-watch/551204-teacher-fired-after-expetive-filled-rant-calling-george-floyd-an-f-ing/> [<https://perma.cc/LRC9-VHJW>].

218. See Michael Lee, *BLM Protesters Surround White NYC Diners and Demand They Leave the City*, WASH. EXAM’R. (April 21, 2021 11:49 AM), <https://www.washingtonexaminer.com/news/blm-protesters-white-diners-leave-city> [<https://perma.cc/WSZ4-EQEE>].

219. Christina Zhao, *Black Pastor E.W. Jackson Says ‘Demonic’ Democrats More ‘Racist’ than KKK, Proud Boys*, NEWSWEEK (Apr. 27, 2021, 4:13 PM), <https://www.newsweek.com/black-pastor-ew-jackson-says-demonic-democrats-more-racist-kkk-proud-boys-1586910> [<https://perma.cc/4Q4E-3EY9>].

220. MARTIN LUTHER KING, JR., *Loving Your Enemies*, in STRENGTH TO LOVE 41, 45 (1963).

221. Martin Luther King Jr., *Why We Can’t Wait*, LIFE, May 15, 1964, at 98.

watch politicians from both sides pointing fingers across the aisle at the other party, while racial barriers continue to persist and news of police brutality cases are screamed across the headlines on the daily, it seems evident that despite our efforts—we have failed to acknowledge some of the most basic of the fruit of Reverend Dr. Martin Luther King, Jr.’s teachings.

Controversy over policing, racial identities, politics, news, and various other social spheres will not die down. The fact that such vocal outcry emerged during the Derek Chauvin trial, before he was sentenced, shows that the tensions are far from over. Maxine Waters’ comments may well have earned a mistrial for Chauvin, showing that even the well-intended efforts to push a social justice agenda may have deep repercussions that end up hurting the cause in the long term.²²² Inciting violence is not an effective option. While Reverend King did not stand for sitting idly by as social injustices permeated American society, neither did he encourage violence.²²³ Yet at times, the United States of today seems to be being pulled further into a dangerous chasm of violence and politicization.

The politicization gap between parties has divided households, workplaces, friends, neighbors, and fundamental human relationships. This, amidst a pandemic that removed many traditional social avenues, has had a lasting fracture upon the wellbeing of many Americans. Indeed, how can we return from this? How can we come together in unity and peace to ensure that Reverend King’s dream that his “children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character” comes true?²²⁴

As Americans, we celebrate King’s legacy every January. Yet many other days of the year fail to adequately push forth his ideals of justice and equality without shifting the blame for the lack of such ideals to someone else. While police violence is indeed a serious and troubling issue, we cannot expect the problems to be eliminated when the primary proposed solution is to defund the police. While social justice and equality is typically perceived as an intrinsically altruistic ideal, when it comes at the expense of isolating and attacking others for participating in an unusual or different way, then it loses its power. While we have the right as Americans to use free speech, our leaders cannot speak so boldly that they encourage violence during a divided time. There are still certain rules, expectations, and decency practices that we must follow as we seek to make America a better place.

The diversity and acceptance of diversity in the United States is one of its most rare and valuable traits. Yet acceptance of other views has lately been challenged, in favor of “standing up” for a one-dimensional

222. Caroline Kelly, *supra* 149.

223. See Murdock, *supra* note 58; see also *Letter from Birmingham Jail*, *supra* note 1.

224. See Murdock, *supra* note 58.

perspective of justice. If we are to ever grasp hold of King's dream of equality and make it a reality, then we must let go of the gatekeeping and disdain for the other side that has been popularized in recent years.

As one of King's more famous quotes goes:

Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly. Never again can we afford to live with the narrow, provincial "outside agitator" idea.²²⁵

Where there are holes in the opportunities to achieve equality in our nation for one individual, there are holes for all of us. The "individualism" myth cannot be maintained. Social attitudes have had a serious ripple effect, as can be seen in policing. As anti-police attitudes gain traction in America, a mass exodus of officers has occurred, it is becoming increasingly difficult to attract new hires, and sexual assault has escalated enormously. There is no "simple solution" by which the United States can solve its problems with inequality, injustice, and various political, racial, and socioeconomic divisions. Indeed, the complexities of the facets of these individual issues must be carefully and deliberately examined in order to make real progress that would honor the Reverend Dr. Martin Luther King, Jr.'s legacy.

225. *Letter from Birmingham Jail, supra* note 1.