

Lawyers Must Address Racial Injustice With Radical Candor

By **Tiffani Lee**

This is a time for radical candor and bitter truth. The recent killings of George Floyd by the Minneapolis Police and Breonna Taylor by the Louisville Metro Police make clear that America still has not dealt with its issues of race and racism. These police killings of black people make clear that the "vestiges of racism in America" are not vestiges at all; rather, racism is a pervasive, present-day reality.



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The bitter truth is that all objective indications confirm that persons of color in America are suffering under tremendous disparities in all aspects of life — health, life expectancy, home ownership, wealth creation, education, job opportunities, and the list goes on. And most of those disparities can be traced back to unresolved issues of race and racism. As I write this, I can think of no American institution that is not infected by systemic racism.

Moments like this create opportunity for the courageous among us. In my opinion, this moment creates a tremendous opportunity for lawyers and the legal profession. We are the guardians of justice. Our bar licenses give us a monopoly but also create an obligation to "do good" and work for the greater good.

That includes promoting the rule of law. It also includes donating pro bono legal service to individuals and organizations for whom our system of justice will not work without our voluntary help. But our response to the grave injustice of this moment must be informed by radical candor.

In her book "Radical Candor," which is actually about becoming a better boss, Kim Scott persuasively argues that radical candor is about building trusting relationships by working concurrently on two dimensions:

1. Care personally: Bring your whole self to work and care about each of your team members as whole persons with lives and aspirations beyond their work.
2. Challenge directly: Give and receive feedback, make tough decisions and uphold high standards. She posits that eventually, trust and understanding is built and people feel safe to challenge one another to solve problems and uphold standards.

Why radical candor to address issues of race and racism in America?

Because it will require our ability to care personally and challenge directly. Because it is difficult if not impossible to address and resolve such a complex, intractable problem if you are not willing to deal in truth. It is difficult if not impossible to address and resolve such a problem if you are not willing to be uncomfortable.

Because the time for polite conversation about race and racism in America has come and gone. By "polite conversation," I mean the conversations where we pat ourselves on the back for all of our "efforts," acknowledge that there is more work to be done, but congratulate ourselves on how far we've come.

Lawyers and law firms are uniquely positioned, and indeed obligated, to meet this moment.

Below is my top 5 list (in reverse order) of actions lawyers and law firms can and should take.

5. As individuals, pause for some self-reflection. Ask yourself whether you contribute to the problem or the solution in your personal and professional life. Identify some concrete actions you will take to be part of the solution.

Can you commit to contribute a set amount of pro bono hours each year toward the cause of racial justice in America? Can you commit to speak up when you see or experience things in your organization that are inconsistent with the organization's stated values of diversity, equity and inclusion? Can you commit to use your influence and position to help someone who is from a traditionally underrepresented group?

4. As individuals and law firms, replace polite conversations about unconscious bias with courageous conversations about race and racism. A courageous conversation is one that is often difficult to have but necessary, and when done effectively, can have a dramatic impact on how we lead ourselves, our teams and our organizations. They require us to step out of our comfort zones to discuss a topic that might well cause an emotional response.

Because of the emotional response, which is generally disfavored in the workplace, people tend to avoid courageous conversations, but they can be instrumental in building an inclusive workplace. To work, they require an atmosphere of trust and respect. Participants must feel free to share their views openly and truthfully. All participants must come with an openness to learn and a desire to understand others' perspectives.

A courageous conversation can happen in both informal and formal settings.

Informally, it can happen when a colleague makes the decision to pop into another colleague's office to discuss that behavior or comment in the recent team meeting that seemed to exclude the young associate. It can happen between two colleagues over lunch or coffee as long as they agree to honor the ground rules.

It can also happen in more formal, organized settings, such as in small-group discussions facilitated by members of a firm's diversity and inclusion or professional development teams. Toolkits and guidebooks are generally available online and can be customized for use within your organization.

3. As individuals and law firms, be intentional about pro bono and community service activities. Designate a significant portion of time, resources and talent to the organizations that are doing the yeoman's work to address these racial justice issues, such as the Lawyers Committee for Civil Rights Under Law, the REFORM Alliance, [NAACP Legal Defense & Educational Fund](#), [Southern Poverty Law Center](#), [Equal Justice Initiative](#) or other similar organizations.

Lawyers and law firms can provide direct financial support to their important work as well as valuable pro bono hours to help with their research, litigation and advocacy initiatives.

2. As law firms, ramp up on the empathetic leadership during these challenging times. Recognize that these police killings of black people impact our colleagues and their overall health and well-being.

Devise a plan for enhanced support and intervention. This can include the usual employee assistance resources, but ideally should include more targeted and varied interventions.

As with most trauma, individuals will process this and respond to it differently. Some will want more regular check-ins. Others will want more opportunities to vent and share frustrations with like-minded individuals. Others will want to channel all of that frustration into meaningful work. To the extent possible, law firms should be nimble and offer several options.

1. As law firms, examine our systems (top to bottom) to identify systemic issues that create barriers to inclusion and develop solutions to mitigate or eliminate those hidden barriers. Consistently ask, "What more can we do?" We should also regularly audit our efforts to identify what is and is not working, and revamp or overhaul our strategies as appropriate.

Rather than starting with recruiting strategies, law firms should first examine the systems that most impact retention — work allocation and distribution of meaningful opportunities, feedback and evaluation, mentorship and sponsorship, and promotion practices. If you don't first make sure the systems and processes that impact retention are debiased, equitable and fair, improvements in recruiting and hiring will not move the needle. I have often thought that we, law firms, started at the wrong point by becoming hyperfocused on recruiting and hiring and not equally hyperfocused on the systems and processes that impact retention.

One useful marker that can be readily measured and monitored over time is the diversity demographics of each and every partnership class. If a firm's strategies are effective, you would expect those demographics to improve over time. If your audit reveals that the diversity demographics of your partnership classes are not improving over time, it may be time to revamp or overhaul some of your strategies.

In short, this moment requires that lawyers and law firms recommit to being the agents of social change this noble profession uniquely positions us to be. As Dr. Martin Luther King Jr. said in his 1963 "Letter from a Birmingham Jail," "[i]njustice anywhere is a threat to justice everywhere."

We have a common enemy; it's racism. We must do what we can to eliminate this threat.

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