



Supreme Court

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June 8, 2020

To My Colleagues in the Judicial, Executive and Legislative Branches:

Recent tragedies have compelled me to write this letter today.

The Coronavirus pandemic has quickly caused disruption in our world, taking over one hundred thousand American lives, causing millions of hardworking people to lose their jobs, and destroying countless small businesses in our communities. In Louisiana, the Coronavirus pandemic has disproportionately killed African Americans. In addition, we have once again witnessed the brazen killing of another African American, George Floyd, by police officers before our very eyes. His life is but one of countless others, including Ahmaud Arbery and Breonna Taylor, that has been senselessly taken by a system that espouses equal rights under the law.

As a result, millions have taken to the streets to protest around our state, our nation, and the world. The protests—though triggered by recent events—are not about one or two isolated incidences of police violence. Rather, the protests are the consequence of centuries of institutionalized racism that has plagued our legal system. Statistics show that the Louisiana criminal legal system disproportionately affects African Americans, who comprise 32% of our population in Louisiana, but 70% of our prison population. African American children in Louisiana are imprisoned at almost seven times the rate of White children. Our prison population did not increase fivefold from 7,200 in 1978, to 40,000 in 2012 without decisive action over many years by the legislature and by prosecutors, juries and judges around the state. We are part of the problem they protest.

I am writing to urge all of us who administer the law to hear the voices of the protesters. So many feel our criminal legal system is part of the problem. I entreat all of us to resolve to be part of the solution. We all pledge allegiance to the American flag and pledge support of our national creed that we are one nation, under God, indivisible, with liberty and justice for all. Like all of you, I firmly believe in the rule of law. But its legitimacy is in peril when African American citizens see evidence every day of a criminal legal system that appears to value Black lives less than it values White lives.

As Chief Justice and chief administrator of our state's courts, I readily admit our justice system falls far short of the equality it espouses. And I see many of its worst injustices meted out in the criminal legal system. Inequities there range from courts being funded with fines levied on poor, disproportionately African American defendants, to our longtime use of Jim Crow laws to

June 8, 2020

silence African American jurors and make it easier to convict African American defendants. We need only look at the glaring disparities between the rate of arrests, severity of prosecutions and lengths of sentences for drug offenses in poor and African American communities in comparison to those in wealthier White communities, to see how we are part of the problem. Is it any wonder why many people have little faith that our legal system is designed to serve them or protect them from harm? Is it any wonder why they have taken to the streets to demand that it does?

I have had the great honor of serving this state as a judge for 35 years alongside a diverse array of dedicated men and women who serve as judges. I want to thank each of you for striving every day to dispense justice fairly and to faithfully implement our laws. I am honored to call you my colleagues. But, I also ask all of you to acknowledge with me the part we each play in maintaining a system that leaves many of our fellow citizens, especially our African American citizens, feeling that they cannot breathe. Of course this is not our intention, but our benign and noble motivations do not matter to those who feel our criminal legal system is suffocating them.

As judges, lawyers, legislators, and law enforcement officials, we have real power to change the African American community's lived experience of the legal system. But we can only accomplish it by honestly and objectively examining our past in order to understand our present, and then critically examining our present in order to create a better future. Those examinations will reveal an ugly truth: Louisiana was built on principles of racism which have been written into our laws for centuries – often through “race neutral” language. Throughout history, we have only seen changes in the form of short-term policy decisions made in response to tense moments of conflict, rather than thoughtfully crafted long-term plans to dismantle systemic discrimination. And so—as all the data shows—our laws and courts continue to perpetrate the originally-intended racial inequities and injustices.

It is deeply uncomfortable to step back and acknowledge the role we play. As your Chief Justice, and as a Black woman, it is especially difficult for me to acknowledge that the courts I am so proud of are often part of the problem. But I implore my colleagues *of all races* to examine the role we play. If we continue to deny the problem, we can never expect to reach a solution.

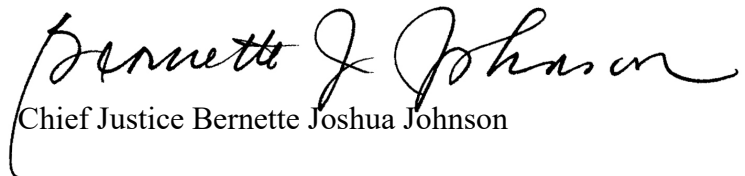
The very real grievances of the protestors, including some I have mentioned, may seem like insurmountable problems—at once too granular, too complex, or too abstract—for us to solve. But let us not forget how far we have come; how insurmountable it once felt for African Americans to have equal civil rights and the right to vote without being terrorized or jailed. I personally remember when that felt insurmountable, as I spent much of my early career working to ensure that the Civil Rights Act of 1964 and the Voting Rights Act of 1965 were enforced in the places they were most needed. We have been propelled forward as a nation because of the sacrifices of so many Civil Rights heroes – sung and unsung – who fought when it was unpopular. We owe an enormous debt of gratitude to all of them. I have had the privilege of counting many of those heroes as my friends. And I believe we also owe a debt of gratitude to the peaceful protestors today, who are asking us to keep pushing, to boldly imagine how we can do better.

June 8, 2020

In my final year as Chief Justice of this state, I want to remind each of us that laws are not the same as justice. Slavery and segregation were both legal, after all. And I want to invoke the words of Dr. Martin Luther King, Jr., who wrote: "It is hardly a moral act to encourage others patiently to accept injustice which he himself does not endure."

I urge all of you to spend some time reflecting on the ways in which we ask others to accept injustices that we would not. I also ask that you engage in discussions about ways we can improve our criminal justice system here in Louisiana and insist on true equality in our courts, our offices, and in our lives every single day. Please join me in recognizing that we have been part of the problem, so that we may all today become part of the solution in achieving equal justice for all.

Yours very truly,

A handwritten signature in black ink that reads "Bernette J. Johnson". The signature is written in a cursive style with a large, sweeping initial "B".

Chief Justice Bernette Joshua Johnson