

Summary of Findings and Information on Law School Name Issue

February 28, 2022

To: Laura Bloomberg, Provost, Cleveland State University

From: Lee Fisher, Dean, CSU Cleveland-Marshall College of Law

The Issue

The primary issue before the University is whether to remove the reference to U.S. Supreme Court Chief Justice John Marshall from the name of Cleveland-Marshall College of Law at Cleveland State University (“Law School”).¹ In short, should the University keep the existing Law School name or change the Law School name? The secondary issue is what the new name of the Law School should be if the University decides to change the name of the Law School.

Contents of the Summary of Findings and Information

While the ultimate authority for deciding whether to change the name of the Law School rests at the University level, our Law School has a responsibility to provide our University partners with as much relevant information as possible so that an informed decision can be made. Accordingly, I have prepared this Summary of Findings and Information on the Law School Name Issue which reflects careful study and research of the issue for 18 months, the input of scholarly expertise, and the wide diversity of views and feedback from Law School students, staff, faculty, alumni, and community members. Many of those views are deeply and powerfully felt and have been passionately articulated.

This Summary includes:

- Background and historical context
- The separate recommendations of the Law School Faculty and the Law School Name Committee (“Name Committee”)
- Summary of online Stakeholder Feedback
- A summary of the substantial research that was undertaken by the Name Committee including:
 - A 45-page Law School Name Framing Document (“Framing Document”)
 - Links to six Public Forums
 - An extensive Resource Guide
- Exhibits containing more detailed information.

¹ Within the Cleveland State University community, Cleveland-Marshall College of Law at Cleveland State University is referred to as “CSU Cleveland-Marshall,” “CSU C|M|LAW”, or the “Law College” However, outside the University, the Law College is more often referred to as the “Law School.” Throughout this document, we use the term “Law School.”

Background and Historical Context

This year is the 125th anniversary of our Law School. Cleveland-Marshall College of Law at Cleveland State University is a historic and iconic institution that is the direct descendant of two law schools, the Cleveland Law School founded in 1897, and the John Marshall School of Law, founded in 1916. In 1946, the two law schools merged to become Cleveland-Marshall Law School. In 1969, the Law School joined Cleveland State University and was renamed the Cleveland-Marshall College of Law at Cleveland State University. The Law School's mission is to ***Learn Law, Live Justice***. We consistently have been the law school for many women and men who have broken gender, race, ethnic, economic, and generational barriers to make change and advance progress in social justice, civil rights, and public service.

The Petition

In the summer of 2020, the Law School received an online [petition](#) urging CSU Cleveland-Marshall and UIC John Marshall Law School in Chicago² to remove any reference to Chief Justice John Marshall in both law schools' names because of Marshall's association with slavery. Chief Justice Marshall was the nation's fourth and longest serving Chief Justice.

The primary basis for the petition to change the name of the Law School is a 2018 book, ***Supreme Injustice, Slavery in the Nation's Highest Court***, by Paul Finkelman. In his book, Finkelman acknowledges that there are good reasons why John Marshall is considered our greatest chief justice, noting "***he is central to our constitutional development and an icon of our constitutional history.***" But he documents that "***in his personal life, Marshall bought and sold slaves, gave them to relatives, and actively participated in the business of human bondage.***"

The Law School Name Committee Process

After receipt of the petition, I formed a [Law School Name Committee](#).³ The Name Committee consists of 12 students, 10 alumni, 6 faculty, and 3 staff. The students were selected by the Student Bar Association and the Black Law Students Association. The alumni were selected by the Law Alumni Association and the Board of Visitors. The faculty and staff members were self-selected or appointed by me. I determined that law students and alumni, as the two largest stakeholder groups, should have the largest representation.

² See Exhibit 6 for the February 18, 2021 UIC John Marshall Law School Report of Task Force to Consider Renaming the Law School and the May 20, 2021 Decision of University of Illinois Board of Trustees.

³ Before forming the Name Committee, I researched how other higher education institutions have faced and addressed similar issues and found that virtually every college, university, and law school formed a committee, task force, or study group to address the issue. Most conducted a process that ranged from one to two academic years with all relevant stakeholders having the opportunity to express their views.

The Name Committee created a [Law School Name Website](#) and agreed early on that its charge was to seek wide input, develop findings and options, and make a recommendation or alternative recommendations for consideration about whether “Marshall,” named after Chief Justice John Marshall, should be removed from our Law School’s name. Since removing any reference to Chief Justice John Marshall’s name from our Law School would be a very consequential decision, the Name Committee’s process incorporated wide input, drew on scholarly expertise, and studied how other educational institutions have dealt with naming and renaming issues. The process modeled what we teach our students including the importance of due diligence, due process, inclusiveness, transparency, and the need to understand the viewpoints of others.

Faculty and Law School Name Committee Recommendations and Stakeholder Feedback

Law School Faculty: A majority of the Law School Faculty who were present and voted on the law school name issue, voted to recommend to the Cleveland State University Board of Trustees (“Board”) that the Law School no longer be named after Chief Justice John Marshall and that the Board act expeditiously to effectively remove the reference to John Marshall from the name of the Law School at its March meeting but in any event before the Law School’s graduation ceremony on May 15, 2022. The Law School Faculty also recommended that the Board change the name of the Law School to Cleveland State University College of Law. There are 30 full-time faculty members, four of whom are on leave this semester. The vote was 11 for no longer naming the Law School after John Marshall and for changing the name to Cleveland State University College of Law, and 5 for keeping the Law School named after John Marshall.

Law School Name Committee: After having engaged in a careful study of the issue for more than 18 months and taking into consideration scholarly expertise and the wide array of viewpoints and feedback gathered during this process, a majority of the Name Committee also voted to recommend to the Board that the Law School no longer be named after Chief Justice John Marshall and that the Board act expeditiously to effectively remove the reference to John Marshall from the name of the Law School at its March meeting but in any event before the Law School’s graduation ceremony on May 15, 2022. There are 31 members of the Name Committee. The vote was 21 for changing the name, 6 for keeping the name, and 1 abstention. A majority of the Name Committee who voted, also voted not to recommend an alternative name, by a vote of 14-13.

Online Stakeholder Feedback: The feedback process was designed to be a stakeholder engagement and feedback tool to gather information for the overall discussion. The Law School’s largest constituency is our alumni,⁴ but, of course, our students, staff, faculty, and alumni each are extremely important stakeholders regardless of their size. Therefore, the feedback was not meant to be a “survey” or a

⁴ 58.4% of all the feedback form respondents were alumni (789 of 1,349 respondents). The next largest group was students. 22.5% of all respondents were students (303 of 1,349 respondents)

“poll” whereby votes would be cast and counted, nor was it meant to be singularly dispositive, but rather one consideration in the Board’s overall decision-making process. Additional details are provided in Exhibits 3 and 4.

On December 15, 2021, an online Feedback Form was sent to approximately 4,500 Law School alumni, students, staff, faculty, and community stakeholders. There were 1,349 stakeholder respondents, representing the following stakeholder groups.

- Law alumni: 58.4% (n = 789)
- Law students: 22.5% (n = 303)
- Legal community: 6.7% (n = 90)
- CSU community: 3.7% (n = 50)
- General community: 3.6% (n = 49)
- Law faculty (full-time, adjunct, or emeritus): 2.9% (n = 39)
- Law staff: 2.1% (n = 29)

No stakeholder group spoke with a single voice, and some members of each group were undecided.⁵ A majority of alumni who responded (60.9%) indicated that they want to keep the Law School name, while a majority or plurality of all the other stakeholder groups indicated that they want to change the Law School name (students: 49.5%; staff: 72%; full-time, adjunct, and emeritus faculty: 61.5%; CSU community: 64%; legal community: 50%; and general community: 51.2%)

The major themes expressed by those stakeholders who want to keep the name were:

- We should evaluate Chief Justice Marshall by the standards/values of his time.
- Changing the name is erasing Chief Justice Marshall’s history as a jurist.
- Stakeholders associate the Law School name with the Law School’s identity.
- Changing the Law School name is symbolic change, not substantive change.

The major themes expressed by those stakeholders who want to change the name were:

- We should evaluate Chief Justice Marshall by present day standards/values.
- Changing the name is facing Chief Justice Marshall’s history as a slave owner.
- Chief Justice Marshall had no connection with the Law School.
- We must consider the unique impact of the Law School name on people of color.

Law School Name Framing Document and Resource Guide

I recommend consulting the 45-page [Law School Name Framing Document](#)⁶ written by members of the Drafting Subcommittee, which delves into the controversy surrounding Chief Justice John Marshall’s name. The reader is provided with information about his role both as a jurist and a slave owner and expertly developed

⁵ See Exhibits 3 and 4 for more detailed Quantitative and Qualitative Results of the Stakeholder Feedback Form.

⁶ See Exhibit 1.

arguments both for and against changing the name of our Law School. The Framing Document also suggests some alternative names if the University decides to change the name of the Law School, but as noted above, the Name Committee did not recommend any specific alternative name. In addition, the Framing Document offers a set of guiding principles⁷ to inform the University's ultimate decision-making process. Finally, the Framing Document makes some recommendations how the Law School and University should make this a permanent teachable moment no matter what is ultimately decided with respect to our Law School's name.

The Name Committee also created a comprehensive [Law School Name Resource Guide](#) (including [Other University and Law School Guiding Principles and Processes](#)).

Public Forums

I also recommend watching the six public forums held by the Name Committee. Three virtual public forums were held in the 2021 Spring semester with experts on naming and renaming issues and experts on the legacy of Chief Justice Marshall. *Below are links to the three Spring 2021 Forums:*

[April 27, 2021 - The Legacy of Chief Justice John Marshall](#)
[April 23, 2021 - Guiding Principles for Naming Institutions](#)
[March 22, 2021 - Facing and Confronting Our History](#)

In the 2021 Fall semester, three Town Halls were held. Two were open to all students, staff, and faculty, emeriti faculty and associates, leaders-in-residence, and members of the Board of Visitors and Law Alumni Association Board. The November 19, 2021 Town Hall was for students only. *Below are links to the three Fall 2021 Town Halls:*

[November 23, 2021 - Law School Name Community Town Hall](#)
[November 19, 2021 - Law School Name Student Town Hall](#)
[November 17, 2021 - Law School Name Community Town Hall](#)

Conclusion

I respectfully recommend that the University review these materials with due regard for **the Law School's and University's educational missions and core values, including our commitments to teaching, quality research, truth-seeking, and inclusivity.**

⁷ See Exhibit 2. The Law School Name Committee's recommended Guiding Principles are based in large part on research into guidelines used by other institutions when deciding to name or rename a building, school, college, university, or law school. See [Other University and Law School Guiding Principles and Processes](#)

EXHIBITS

- **EXHIBIT 1 - Law School Name Framing Document**
- **EXHIBIT 2 - Recommended Guiding Principles**
- **EXHIBIT 3 – Stakeholder Feedback Quantitative Data**
- **EXHIBIT 4 – Stakeholder Feedback Qualitative Data and Methodology**
- **EXHIBIT 5 - October 26, 2020 Letter from Community Stakeholders / November 4, 2020 Dean Fisher Response**
- **EXHIBIT 6 - February 18, 2021 UIC John Marshall Law School Report of Task Force to Consider Renaming the Law School / May 20, 2021 Decision of University of Illinois Board of Trustees**
- **EXHIBIT 7 - June 16, 2021 Letter from Norman S. Minor Bar Association / June 21, 2021 Sonali Wilson Response**
- **EXHIBIT 8 - November 22, 2021 CSU-National Lawyers Guild Student Association Statement**
- **EXHIBIT 9 - January 26, 2022 Cleveland City Council Resolution**
- **EXHIBIT 10 - Students Against Marshall (SAM) Public Statement & Demand**
- **EXHIBIT 11 - Endorsements and Community Support (SAM webpage)**
- **EXHIBIT 12 - February 3, 2022 Black Law Students Association (BLSA) Statement / February 3, 2022 Dean Fisher Response**
- **EXHIBIT 13 - February 17, 2022 OUTlaw Student Association Statement**
- **EXHIBIT 14 - February 22, 2022 Arab Law Student Association Statement**
- **EXHIBIT 15 - February 22, 2022 Cleveland-Marshall Alumni Association Minority Outreach Committee Statement**
- **EXHIBIT 16 -Media coverage of the CSU Cleveland-Marshall name issue**

EXHIBIT 1

Law School Name Framing Document

Law School Name Framing Document

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I. Introduction/Guiding Principles

The History of CSU Cleveland-Marshall

We are an historic institution and are very proud of our iconic history. The Cleveland-Marshall College of Law at Cleveland State University ¹ is the direct descendant of two law schools, the Cleveland Law School founded in 1897, and the John Marshall School of Law, founded in 1916. In 1946, the two law schools merged to become Cleveland-Marshall Law School. In 1969, the law school joined Cleveland State University and was renamed the Cleveland-Marshall College of Law at Cleveland State University. We consistently have been the law school for many women and men who have broken gender, race, ethnic, economic, and generational barriers to make change and advance progress in social justice, civil rights, and public service.

The Petition

In the summer of 2020, Cleveland-Marshall College of Law at Cleveland State University was presented with a petition that C|M|LAW change its name so that it no longer be named after Chief Justice John Marshall, the fourth Chief Justice of the U.S. Supreme Court. The petition is at this link: <http://renamejohnmarshall.com/>

The basis for the petition to change the name of C|M|LAW is a 2018 book, **Supreme Injustice, Slavery in the Nation's Highest Court**, by Paul Finkelman. In his book, Finkelman acknowledges that there are good reasons why John Marshall is considered our greatest chief justice, noting *“he is central to our constitutional development and an icon of our constitutional history.”* But he documents that *“in his personal life, Marshall bought and sold slaves, gave them to relatives, and actively participated in the business of human bondage.”*

In Finkelman's [article in The Atlantic](#), he states:

John Marshall is America's most important jurist. Biographers are universally laudatory of the “Great Chief Justice.” . . . But the country must now reevaluate this venerated figure in American history . . . Though some will surely deride these decisions as “cancel culture,” they are part of an earnest and deserved reckoning, the result of an effort to fully understand Marshall's jurisprudence and his personal life, and to examine whether his profound impact on American law was not as honorable as we have previously believed . . .

¹ Throughout this document we refer to Cleveland-Marshall College of Law at Cleveland State University as “CSU Cleveland-Marshall” or “C|M|LAW” or “Law School.” Within the CSU community, Cleveland-Marshall College of Law is referred to as the “Law College,” but because we are better known outside the CSU community as the “Law School,” we use the term “Law School” in this document.

UIC John Marshall Law School

The same petition that was submitted to CSU Cleveland-Marshall was also submitted at about the same time to UIC John Marshall Law School in Chicago which traced its name to its founding in 1899 as The John Marshall Law School. Hanna Kassis, an alumnus of UIC John Marshall Law School, is the main drafter of the petition. He resides in Cleveland.

UIC John Marshall Law School Dean Darby Dickerson appointed a “Task Force to Consider Renaming the Law School” (“**Task Force**”) **consisting of seven** people. Dean Dickerson did not serve on the Task Force. The Task Force held several forums with students, staff, faculty, and alumni but did not hold any forums with experts on the legacy of Chief Justice Marshall or with any institutions that considered renaming themselves. The Task Force allowed for comments on its website but did not conduct any survey.

Following the Task Force’s 6-1 vote to recommend to rename the law school in February 2021, the UIC John Marshall faculty voted in favor of a new official name in March 2021. On May 20, 2021, the University of Illinois Board of Trustees approved changing the name of the UIC John Marshall Law School to the University of Illinois Chicago School of Law.

The Task Force report submitted to the UIC Board of Trustees **noted, “that despite Chief Justice Marshall’s legacy as one of the nation’s most significant U.S. Supreme Court justices, the newly discovered research regarding his role as a slave trader, slave owner of hundreds of slaves, pro-slavery jurisprudence, and racist views render him a highly inappropriate namesake for the Law School.”** Associate Dean Samuel V. Jones, who headed the task force, stated that another important consideration was that Chief Justice Marshall and his descendants had no connection to the law school other than its name. **“He was not an alumnus of the school and his family didn’t give any money to the school,”** he said.

UIC Chancellor Michael Amiridis stated, “The university has arrived at this new name following a thorough and carefully studied process that included input from all corners of the institution and beyond, considered issues of racial injustice and aimed to ensure that our university continues to be a place where diversity, inclusion and equal opportunity are supported and advanced.” See <https://today.uic.edu/board-approves-new-name-for-uic-law>.

The C|M|LAW Law School Name Committee and its Charge

Soon after the petition was presented, C|M|LAW Dean Lee Fisher formed a [C|M|LAW Law School Name Committee](#) (“**Committee**”) of students, staff, faculty, and alumni as each of these constituents have a vital stake in the ultimate decision. Before forming the Committee, Dean Fisher conducted research to determine how other higher education institutions who have been faced with similar issues have addressed them. He

found that virtually every college, university, and law school formed a committee, task force, or study group to address the issue. Most conducted a thorough, deliberate process, usually ranging in length from one to two academic years, to ensure all relevant stakeholders had the opportunity to express their views.

The charge to the Law School **Name Committee** is “**to seek wide input, develop findings and options, and ultimately make a recommendation, or a set of alternative recommendations, to the university for consideration about whether ‘Marshall,’ named after Chief Justice John Marshall, should be removed from our Law School’s name.**”

It should be noted that the primary issue before us now is whether to retain or remove the name of John Marshall from our Law School. We have, however, included a brief section in this document devoted to some possible alternative names simply for context and discussion.

The Committee includes people opposed to the name change, people in favor of the name change, and those who are undecided. Dean Fisher asked all members of the Committee to do their best to keep an open mind throughout the process. Ultimately, the question is, based on all we know about Chief Justice Marshall, should we remove his name from the Law School or continue to honor his legacy by maintaining his name in the title of our Law School.

The Committee developed an excellent Resource Guide which is updated regularly: <https://guides.law.csuohio.edu/lawschoolnameguide>. We also have a Law School Name Committee website page: [C|M|LAW Law School Name Committee](#).

The Law School Name Committee met several times in the Fall 2020 semester and determined that a series of public forums should be held in 2021. It was also determined that a Framing Document would be written in 2021 that addressed the reasons for and against a name change. The Committee held some moderated virtual public forums in the 2021 Spring semester open to all students, staff, and faculty as well as alumni groups, to provide context for the fact-finding and decision-making process. The Committee asked the speakers to address how institutions such as ours should approach **important decisions like the one before us and how we should understand our nation’s** history and its legacy. One session focused specifically on the legacy of Chief Justice Marshall. *Below are links to the three Spring 2021 Forums:*

[April 27, 2021 – The Legacy of Chief Justice John Marshall](#)

[April 23, 2021 - Guiding Principles for Naming Institutions](#)

[March 22, 2021 - Facing and Confronting Our History](#)

In the 2021 Fall semester, the Committee held three Town Halls. The Town Halls on November 17 and 23, 2021 were open to all students, staff, and faculty, emeriti faculty and associates, leaders-in-residence, and members of the Board of Visitors and Alumni Law Association Board. The November 19, 2021 Town Hall was for students only. Each

of the Town Halls were well attended with active participation and diverse viewpoints. *Below are links to the three Fall 2021 Town Halls:*

[November 23, 2021 - Law School Name Community Town Hall](#)

[November 19, 2021 - Law School Name Student Town Hall](#)

[November 17, 2021 - Law School Name Community Town Hall](#)

As lawyers we are trained to listen and learn, and to withhold judgment until we have a chance to evaluate what we have heard. The process followed by the Law School Name Committee models what we teach our students. After each of the 2021 Spring and Fall Forums and Town Halls, Dean Fisher received communications from people opposed to the name change and those in favor, most praising the Forums and Town Halls. Many commented that they appreciated **the Committee making this a “teachable moment”** where even if someone does not change their mind, they are better educated and informed about all the competing viewpoints and considerations.

Guiding Principles²

Below are Guiding Principles that a majority of the Law School Name Committee approved to not only assist the **reader’s** review and analysis but also to inform the Law **School’s** and **University’s** ultimate decision-making process. These are meant to inform and assist in the decision-making process and as such are not meant to be limiting or prescriptive in nature.

Consequential Decision

- **Removing “Marshall” from our** name or renaming the Law School after another individual would be a very consequential decision by both the Law School and Cleveland State University that requires careful study and thoughtful consideration of different viewpoints.
- Names matter. It cannot be that a naming in honor of a person never should be changed. We all can imagine naming a building or institution in honor of a person that we would want changed. But it also cannot be that such names should be easily changed.
- We should study how other institutions have approached naming and renaming issues, while understanding that each case differs and needs to be decided on its own merits.
- Whatever decision is finally made by the University Board of Trustees, our goal is that those on all sides of the issue will respect the process that the Law School and University undertook.

² These Guiding Principles are based in large part on research about guidelines used by other institutions when deciding to name or rename a building, school, college, university, or law school.

Reckoning With Our History

- In considering a name change, we should conduct a thoughtful and inclusive process, informed by deep and careful historical research.³
- History comprises both facts and interpretations of those facts. To change the name of a school is not to erase history, but rather to expand on a previous interpretation of history in light of new facts or circumstances. A naming is not history itself; a naming commemorates an aspect of history, representing a moment in the past when a decision defined who would be honored.⁴
- Naming decisions should complement and supplement other initiatives to achieve equity and inclusivity. Names and symbols matter to our campus and community, but the addition, removal, or contextualization of names and images are neither the sole nor the primary ways by which the Law School and University fulfill its aspirations to become more fully inclusive to people from all backgrounds.⁵
- History is the past that affects our present and future realities. A primary reason we study history is for a moral purpose: to learn from past behaviors and actions – good and bad – with the hope of adjusting future behaviors to reflect the positive actions and avoid past moral mistakes. History often involves painful recollections of our past, but we are shaped and influenced by that history and must allow ourselves to learn from it. We must take care in the process of discernment related to contested names not to obfuscate our history and thus avoid challenging conversations that could result in a healing dialogue in our communities.⁶
- Naming articulates the Law School, University, and community values, identifying a person whom the Law School and University have chosen to honor for their accomplishments, recognizing that few, if any, individuals can meet a standard of perfection.⁷

³ AMERICAN HISTORICAL ASSOCIATION, AHA LETTER EXPRESSING SUPPORT FOR THE NEW ORLEANS CITY COUNCIL STREET RENAMING COMMISSION (Mar. 2021), [https://www.historians.org/news-and-advocacy/aha-advocacy/aha-letter-expressing-support-for-the-new-orleans-city-council-street-renaming-commission-\(march-2021\)](https://www.historians.org/news-and-advocacy/aha-advocacy/aha-letter-expressing-support-for-the-new-orleans-city-council-street-renaming-commission-(march-2021)).

⁴ AMERICAN HISTORICAL ASSOCIATION, AHA STATEMENT ON CONFEDERATE MONUMENTS (Aug. 2017), <https://www.historians.org/news-and-advocacy/aha-advocacy/aha-statement-on-confederate-monuments>.

⁵ PRINCETON UNIVERSITY COMMITTEE ON NAMING, PRINCIPLES TO GOVERN RENAMING AND CHANGES TO CAMPUS ICONOGRAPHY, <https://namingcommittee.princeton.edu/principles>.

⁶ RHODES COLLEGE, PRINCIPLES FOR THE PROCESS OF DISCERNMENT RELATED TO CONTESTED NAMES (Apr. 13, 2018), <https://www.rhodes.edu/about-rhodes/palmer-hall-discernment-committee/principles-process-discernment-related-contested>.

⁷ AMERICAN HISTORICAL ASSOCIATION, SCHOOLS, HISTORY, AND THE CHALLENGES OF COMMEMORATION (Feb. 2021), [https://www.historians.org/news-and-advocacy/aha-advocacy/schools-history-and-the-challenges-of-commemoration-\(february-2021\)](https://www.historians.org/news-and-advocacy/aha-advocacy/schools-history-and-the-challenges-of-commemoration-(february-2021)).

- Many of our historical figures after whom institutions are named led **contradictory lives that serve as a constant reminder of our nation’s** contradictions. Many of their stories hold multiple truths—that they did truly great things and they did reprehensible things that we should unequivocally condemn and never excuse.

Chief Justice Marshall’s Complex Legacy

- We should encourage a robust debate about the way Chief Justice Marshall should or should not be memorialized.⁸
- When considering the naming or renaming after Chief Justice Marshall, we should examine his principal legacy in light of multiple criteria. These should include his actions during his lifetime, and, most significantly, his principal legacy in the present. His history and legacy should be appropriately chronicled and explained.⁹
- **Allegations of Chief Justice Marshall’s relationship with slavery should be** supported by documentary evidence that demonstrates both the extent and the intentionality of his actions.¹⁰
- **The removal of Chief Justice Marshall’s name should not fail to acknowledge the** historical complexity or holistic contributions of Chief Justice Marshall.¹¹
- Regardless of the decision whether to change the name, the law school and the university should actively acknowledge Chief Justice John Marshall’s **association** with slavery and the harmful impact on marginalized communities.

Wide Input

- In considering a name change, we should incorporate wide input. We should consider the perspectives of students, staff, faculty, alumni throughout the world, the broader CSU community, and the Greater Cleveland and Northeast Ohio legal and general communities.
- We have a special responsibility to listen to and respect Law School and University community members who are particularly affected by and sensitive to **Chief Justice Marshall’s association with slavery.**

⁸ *Id.*

⁹ WILLIAM & MARY, FINAL REPORT OF THE WORKING GROUP ON PRINCIPLES OF NAMING AND RENAMING (Feb. 2021), https://www.wm.edu/about/history/reconciliation/naming-renaming/_documents/naming-renaming-final-report.pdf.

¹⁰ UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, BOARD OF TRUSTEES’ POLICY FOR THE CONSIDERATION OF THE REMOVAL OF NAMES ON UNIVERSITY BUILDINGS AND PUBLIC SPACES (July 16, 2020), <https://bot.unc.edu/wp-content/uploads/sites/160/2020/07/Final-Policy-Adopted-7.16.2020.pdf>.

¹¹ *Id.*

- We also have a responsibility to listen to and respect those graduates for whom the name of the Law School has meant access to careers and life-long accomplishments.

Our Mission, Vision, and Values

- We should be guided by our proud history, our **guiding values, our Law School’s** present mission Learn Law, Live Justice, and the present values and mission of Cleveland State University.
- Decisions about naming and renaming must be made with due regard for the Law **School’s and University’s educational mission and core values, including its** commitments to teaching, quality research, truth-seeking, and inclusivity.¹²
- The name of the Law School should foster an inclusive space for all students that affirms and respects their identity. Our campus naming practices should indicate our goal that all students, faculty, and staff be welcomed and their presence valued on our campus especially those groups of people who may feel isolated or alienated as a result of their underrepresentation on our campus.¹³

Contextual Considerations

- Consideration should be given to whether the namesake of the law school has any ties, connection, or relationship to the law school, the university, its graduates, and the community.¹⁴
- Consideration should be given to whether the namesake undertook specific acts that mitigated, or led to the mitigation, of the historical harms done.
- **Consideration should be given to whether the namesake’s actions/behaviors had** the effect of, oppressing groups of people based on their race, ethnicity, gender or sexual orientation, and the oppressive actions, behaviors or viewpoints in **question are inextricably connected to the namesake’s career, public persona, or** life as a whole.¹⁵

¹² PRINCETON UNIVERSITY COMMITTEE ON NAMING, PRINCIPLES TO GOVERN RENAMING AND CHANGES TO CAMPUS ICONOGRAPHY, <https://namingcommittee.princeton.edu/principles>.

¹³ RHODES COLLEGE, PRINCIPLES FOR THE PROCESS OF DISCERNMENT RELATED TO CONTESTED NAMES (April 13, 2018), <https://www.rhodes.edu/about-rhodes/palmer-hall-discernment-committee/principles-process-discernment-related-contested>.

¹⁴ GEORGE WASHINGTON UNIVERSITY NAMING TASK FORCE, GUIDING PRINCIPLES FOR RENAMING CONSIDERATIONS, <https://trustees.gwu.edu/sites/g/files/zaxdzs2786/f/downloads/Naming%20Task%20Force%20Recommendations%20Final.pdf>

¹⁵ UNIVERSITY OF SOUTH CAROLINA PRESIDENTIAL COMMISSION ON UNIVERSITY HISTORY, CRITERIA FOR REMOVING NAMES, https://sc.edu/about/our_history/university_history/presidential_commission/commission_reports/final_report/appendices/appendix-10/index.php

- **Though other aspects of the namesake’s life and work are noteworthy to the Law School or the greater community, consideration should be given to whether the namesake exhibited offensive behavior or viewpoints outside of their career or public persona.**¹⁶
- Consideration should be given to whether honoring the namesake significantly contributes to an environment that excludes some members of the law school community from opportunities to learn, thrive, and succeed and contradicts our mission of diversity, equity, and inclusion.¹⁷
- Consideration should be given to whether removal of the name would impede viewpoint diversity or fail to acknowledge the historical complexity or holistic contributions of the individual to the Law School or the public.¹⁸
- The case for renaming is strengthened where a name undermines the ability of a significant number of students, faculty, or staff of a particular gender, sexual orientation, race, religion, national origin or other protected characteristic, to engage in or belong to the university community.¹⁹
- The case for renaming is considerably more compelling where the conduct in question became widely known after the initial naming decision, or where the university has not previously examined the issue with reasonable rigor, as determined by members of the special committee. The case for renaming is less compelling, and names more appropriately left to stand, where the university was **aware of the namesake’s behavior and, based on reasonable diligence and research, nonetheless decided to confer the honor; or where the university has previously examined and rejected another request to change the name.** While decisions following previous reconsideration of a name should be shown some deference, such decisions should receive less deferential treatment where decision-makers ignored, or were not aware of, history of the behavior in question.²⁰

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ GEORGE WASHINGTON UNIVERSITY NAMING TASK FORCE, GUIDING PRINCIPLES FOR RENAMING CONSIDERATIONS, <https://trustees.gwu.edu/sites/g/files/zaxdzs2786/f/downloads/Naming%20Task%20Force%20Recommendations%20Final.pdf>

²⁰ *Id.*

II. Why We Should Keep our Name

Professor David F. Forte and Professor Stephen R. Lazarus

A. Executive Summary

There are different reasons for naming an institution in the first instance, in contrast to reasons to decide on retaining the name of an institution. To decide upon a name is to consider a number of factors, such as whether the name bearer is worthy of being recognized, whether the name bearer will have a relevance to the institution and its **mission, and whether the name bearer will be a cognizable “brand” for the institution.** Once an institution is named, different considerations apply in deciding whether to retain the name, most particularly what the name or brand has become to the community. John Marshall was worthy of being the name of our predecessor law school in 1916. He is deserving of his continued association with the law school by what **“Marshall” has come to mean to** generations of students and graduates, as well as to the larger community.

In 1916, with the founding of John Marshall Law School, “Marshall” became an honored name in Cleveland. The Law School opened its doors to women and men, minorities, immigrants, and the children of immigrants. Since 1901, “John Marshall Day” was celebrated throughout the United States. In 1916, the year of the founding of the Law School, Albert Beveridge’s magisterial biography of Marshall appeared, giving even greater luster to the name of the great Chief Justice.

John Marshall fought for the independence of the country in the Revolution, fought for the Constitution in the Virginia ratifying Convention, fought for the emancipation of slaves as lawyer, fought for peace as Secretary of State, and fought for the independence of the Supreme Court as Chief Justice. He extended diplomatic relationship of the United States to what would become the first black republic in world history. He preserved the power of the Court to examine the constitutionality of Congressional and Presidential Acts. He grounded the government of the country in the people, not the **states, and blunted the southern drive towards secession. He affirmed Congress’s** legislative power over commerce and through the application of the Necessary and Proper Clause. He protected Indian tribes against the states, and individuals and corporations against state control, and he limited the unilateral power of the presidency.

In Cleveland, the name “Marshall” became synonymous with opportunity. Many of the graduates of John Marshall Law School became prominent lawyers, business leaders, judges, and politicians. This included minorities and women. “I graduated from Marshall,” was the proud boast of thousands. “Marshall” became their law school for life.

Enscorced in the economy and culture of the South, John Marshall was a slave owner. **But the charge that he “bought and sold slaves” all his life like a slave dealer are simply not true, as a renowned historian has shown. Moreover, in the handful of slave cases he decided as chief justice, he did not show bias against the slave. Rather, straightforward**

unbiased legal analysis led to the results that he arrived at. In any event, against the fewer than eight instances where his actions resulted in a person remaining in slavery, there were hundreds of slaves he was able to emancipate by his legal acumen. Moreover, **the legal principles he concretized in our law helped to ground Lincoln's defense of the Union during the Civil War, resulting in the expungement of slavery.** The independence of the Court that Marshall brought about and the institution of judicial review that he preserved gave later Supreme Courts the power to overturn segregation and affirm equal rights for African Americans. Though he personally owned many slaves, an action that **cannot be defended, John Marshall's life led to freedom and liberty under our laws for millions of our citizens.**

Particularly for those in Cleveland who achieved so much through an institution bearing his name, John Marshall should remain an honored name among us. Moreover, in our quest to bring justice to issues of racial equality, it would be ironic to remove the name of a man who provided the means today for achieving that racial justice. We should not distract ourselves from this quest by removing the Marshall brand, which has meant so much to the advancement of minorities as well as many from our ethnic communities.

There are many good reasons to honor a person after death, but the greatest is the esteem we have for the gifts that he or she left for posterity, for us.

B. The Name of John Marshall

In 1916, John Marshall became an honored "brand" in Cleveland legal education. In that year, David C. Meck, Sr., Alfred Benesch, and Frank Cullitan founded the John Marshall Law School, open to men and women, those who wished a career in the law or business, and offering day and evening classes. Adopting the name of John Marshall was a wise marketing choice. In 1916, to great acclaim, the first two volumes of Albert Beveridge's Life of John Marshall were published. Beginning in 1901, "John Marshall Day" was observed nationally, and he was universally recognized as the "great Chief Justice." The new law school was raised to compete with the Cleveland Law School, which had been founded in 1897. The new law school had an ambitious plan. It would institute, instead of lectures, the "case method" of instruction, which was becoming more popular nationally among law schools. It would be a three-year course of study, in contrast with Cleveland Law School's four-year plan. It would have day classes, while Cleveland Law School's classes were solely in the evening. And it would ally with a university, like many established nationally known law schools. These were the new law school's ambitions, and they sought to ally the law school with others nationally. "John Marshall" was the name chosen because of his *national* notoriety, and likely also because he represented how the law grew through the study of his *cases*."

C. The Great Chief Justice

The first “John Marshall Day,” February 4, 1901, on the centenary of his accession to the Chief Justiceship, was observed by exercises held in the hall of the House of Representatives, and attended by the President, the members of the Cabinet, the Justices of the Supreme and District courts, the Senate and House of Representatives, and the members of the Bar of the District of Columbia. Even today, with doubts raised about Marshall because of his ownership of slaves, the brand of the great Chief Justice remains. And as we learn more about him, actually spurred on by viewing the flaws in his life, the more we have come even more to understand and acknowledge the gifts that he left to us, our country, our Constitution, and our law.

The late Michael Uhlmann, astute scholar of the American founding, counts Marshall **among the “big four” of the Founding, alongside Washington, Jefferson, and Hamilton. Marshall’s modest manner, brilliant mind, commodious disposition, willingness to sacrifice, and perseverance make what he gave to the country an incomparable gift.**

John Marshall was born and raised on the Virginia frontier in a two-room log cabin. Born in 1755, he lived until he was nearly 80. Like Benjamin Franklin and Abraham Lincoln, John Marshall was self-taught, having little formal schooling. He read **constantly, being provided by his father with many books, including Blackstone’s** Commentaries. In the Revolution, he fought in a number of battles, including the battles of Brandywine and Germantown, where he was wounded. At Valley Forge, George Washington took notice of him and appointed Marshall chief legal officer. In 1780, on furlough, he enrolled in the College of William and Mary and studied law under George Wythe, and then soon passed the bar.

In 1788, he was elected to the Virginia Ratifying Convention, where along with James **Madison, he is credited with having blunted Patrick Henry’s arguments against ratifying the Constitution. Meanwhile, John Marshall’s law** practiced blossomed. He had a number of high-profile cases, including one before the Supreme Court, and others in favor of slaves seeking their freedom and a testator seeking to emancipate his slaves.

Specifically, Marshall obtained emancipation for the children of Indian mothers and slave fathers, on the basis that descent in Indian law was matrilineal. In *Pleasants v. Pleasants*, Marshall argued in favor of a bequest that emancipated slaves but could only **take effect at a time after Virginia’s law against manumission had been repealed. At that point, the slaves awaiting manumission had increased to hundreds, and the descendants of the testator did not want to give up the slaves. The common-law rule against perpetuities was argued to be a barrier to the slaves’ freedom. Before the Virginia Court of Appeals, Marshall argued that the rule against perpetuities applied only to land and not to something as fundamental as the freedom of a person. He prevailed. Marshall won the largest court-ordered manumission decree in the history of the United States. Over 400 slaves were freed.**

Marshall also intervened successfully to seek the pardon of Angelica Barnett, a free woman of color. Her home was invaded by a slavecatcher, who threatened Barnett and

charged at her, clearly intending violence. In the presence of her family, Barnett defended herself with an ax, inflicting mortal wounds on her assailant. She was tried for murder, convicted, and sentenced to hang. While imprisoned in a cell with a man, she was raped and became pregnant. The governor temporarily stayed the execution, and Marshall and others submitted a petition for clemency. The petition emphasized that **Barnett's home was invaded and her life threatened**, justifying self-defense, and that **Virginia's law preventing blacks from testifying deprived the jurors of dispositive** eyewitness accounts. The governor granted a full pardon.

Shortly after John Adams became President, he sought to reach an agreement with France, whose navy had been capturing American merchant ships. Adams dispatched a three-**man commission, one of whom was John Marshall. Marshall's perseverance in** rejecting French demands for bribes and a loan gained him prestige as a strong diplomat. With the French still preying on American shipping, the two countries began a naval war. Meanwhile George Washington, in retirement, asked Marshall to run for Congress in a hard to win district, which he captured in 1799 with the endorsement of his former adversary, Patrick Henry.

In June 1800, after American naval successes against the French, President Adams asked Marshall to be Secretary of State and lead a second attempt at a reconciliation with France. Marshall accepted and directed negotiations to a successful conclusion. He **also extended the Adams' administration's relationship with Toussaint Louverture, the** former slave who was leading what would soon be the first black republic in San Domingue (later Haiti). Marshall pressed forward on relations with Louverture despite **objections from the South and from Thomas Jefferson's Republican Party. After 1801, the Jefferson administration abruptly put a halt to Adams' and Marshall's policy.**

Meanwhile, in 1800, Martha Washington asked Marshall to write a biography of her husband, George, who had died in 1799. Marshall eventually wrote the biography in five volumes, completed in 1805. It has long been regarded as an admirable work of history.

In February of 1801, John Adams appointed Marshall Chief Justice of the United States. Adams later wrote, "My gift of John Marshall to the people of the United States was the **proudest act of my life.**" **Marshall's work at preserving the place of the Supreme Court in** the separation of powers and in buttressing the union against state assertions of sovereign dominance became part of what has been his invaluable legacy to his country and to all future generations.

Here are some of the familiar highlights.

- In *Marbury v. Madison*, he preserved the institution of judicial review and the **independence of the Supreme Court from the Jefferson administration's attempt** to reduce the court to impotence and irrelevancy in our constitutional system. Jefferson would have appointed Spencer Roane, who would have opposed judicial review as Chief Justice. Further, Marshall initiated the practice of a **unitary "opinion of the Court," giving the Court a more authoritative stance in** relation to Congress and the President. He wore a plain black robe, in contrast to

the previous practice of ermine and scarlet that justices wore in imitation of British judges. The Court gained prestige not from pomp, but by the power of **Marshall's analytical reasoning.**

- **Marshall's defense of judicial review** has directly influenced many other nations to include the principle in their constitutions.
- In *McCulloch v. Maryland*, he affirmed the flexibility of Congressional legislation under the Necessary and Proper Clause. At the same time, he defeated the attempt by Maryland to have the states be recognized as the superior sovereignty in the union. **"The Government of the Union," Marshall wrote in 1819, "is emphatically and truly, a Government of the people. In form and in substance, it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit."** Spencer Roane, following on from the position of Thomas Jefferson, would have held that the Constitution was a **creation of a compact of the states. Without Marshall's decision and the defense of the Constitution as emanating from the people as opposed to state governments, the South's attempt at secession would have had constitutional warrant, Abraham Lincoln's views notwithstanding. The Civil War, and the expungement of slavery, might well have had a different outcome.**
- In *Gibbons v. Ogden*, **he defined the extent of Congress' power to regulate truly commercial activities that "concerned more states than one."**
- In *Fletcher v. Peck*, *Dartmouth College v. Woodruff*, and *Sturges v. Crowninshield*, he prevented the states from aggrandizing themselves by holding that they could not impair contracts to which they were a party.
- In *Cohens v. Virginia*, **following the Court's opinion in *Martin v. Hunter's Lessee*, he confirmed the Supreme Court's power to review state laws on federal questions.** On the other hand, in *Barron v. Baltimore*, he affirmed the right of the states to legislate for the welfare and safety of their own people.
- While on Circuit, John Marshall presided over the trial of Aaron Burr for treason. He narrowly interpreted the constitutional requirements for a conviction of treason, lessening the opportunities for the government to target political opponents. Moreover, his insistence that President Jefferson honor a subpoena **for relevant documents led directly to the Supreme Court's decision in *United States v. Nixon* and the resignation of Richard Nixon from the Presidency.**
- **When Marshall died in 1835, a Baltimore newspaper, the Niles's Register, which had long attacked Marshall for his decisions, declared, "Next to Washington, only, did he possess the reverence and homage of the heart of the American people."**

D. Opportunity

With adoption of John Marshall as the eponym of the new John Marshall Law School in 1916, **"Marshall" took on a new branding: *opportunity*. "I graduated from Marshall,"**

became the proud claim of hundreds of lawyers for over a century, even after John Marshall merged with Cleveland Law School in 1946. The new law school of opportunity had a dynamic history from the time of its founding. For a few years, it allied with Ohio Northern University, and then in 1923, it offered an LL.M. degree. It fielded its own basketball team, which engaged in intercollegiate play. Students flocked to enroll in Marshall for the new opportunities that it offered—457 in 1922 and 500 in 1925.

John Marshall Law School became the conduit for women, minorities, and first generation college graduates to enter the legal profession, the judiciary, major law firms, **and politics. Many of John Marshall's illustrious graduates have been recognized in Cleveland-Marshall's Hall of Fame. For example,**

- Charles V. Carr, class of 1926, worked for greater employment opportunities for African-Americans. He was a member of the Cleveland City Council for 13 years;
- Frank Lausche, Judge of the Cleveland Municipal; Court, Common Pleas Court, Mayor of Cleveland, and United States Senator;
- Grace Doering McCord, LL.M., first female Professor of Law in Ohio, served on the faculty of Cleveland Law School;
- Lawrence O. Payne, class of 1923, first African-American assistant city prosecutor of Cleveland, co-founder of the Call & Post newspaper;
- Jane Edna Hunter, class of 1940, was a sharecropper's daughter and founded the predecessor of the Phyllis Wheatley Association.

The John Marshall Law School was also a conduit for our citizens to become judges, including Joseph Lo Presti, Daniel J. Wasserman, Manuel M. Rocker, Joseph Stearns, Ray C. Miller, T.M. Williams, John Maxwell, and many others.

After John Marshall Law School merged with Cleveland Law School in 1946, "Marshall" continued to be the opportunity brand for thousands to make their lives, their careers, and their contributions. "I am a graduate of Marshall" remained a proud boast. "Marshall" had become their law school for life.

E. Slaveowner

In 2018, a new brand was affixed to the name of John Marshall: John Marshall, slaveowner. In a series of lectures turned into a monograph, Paul Finkelman lumped Marshall in with Roger B. Taney (and Joseph Story, as well) and asserted that **John Marshall was a major slaveowner, that he actively "bought and sold" slaves, and that he took the side of the slaveowner in the cases that he decided.**

Unhappily, Finkelman fails to note, as an historian is bound to, facts that may be opposed to his thesis. Let us describe his position on Marshall and what the historical and legal facts reveal.

- 1) According to Finkelman, Marshall “aggressively” bought and sold slaves all his life. The record does not support Finkelman. Renowned historian Charles Hobson has shown that, at best, the assertion is an unjustified exaggeration. The last recorded purchase of a slave by Marshall was in the 1790s well before he **developed his “farm” at Chickahominy. Finkelman, contradicting himself, does admit that Marshall only “occasionally” sold “some” slaves.**
- 2) Finkelman also suggests that Marshall bought and sold slaves as a means of income. Finkelman knows that Marshall (and his brother) bought a huge tract of land in the 1790s in the upper neck of Virginia, and that it provided him alone **with 50,000 acres of “prime Virginia land,” according to one biographer. Sales** from that land investment gave Marshall more than sufficient income in addition to his rather large salary (for that time) as the Chief Justice, and the royalties he received from his multivolume Life of Washington. Also, Marshall did not have a large estate as did Washington, Jefferson, and Madison. He had a modest home in Richmond, and although he was a generous host, he never put on lavish **entertainments. All indications are that his “farm” at Chickahominy was also modest. Like Washington, Marshall’s slaveholding numbers towards the end of** his life came from natural increase, which shows that, like Washington, he kept his slaves and did not willy-nilly sell them, nor bought and sold them for profit.
- 3) A responsible historian brings to light facts that differ from his thesis even if has to distinguish them. Finkelman was aware of the *Pleasants v. Pleasants* case in which Marshall persuaded the court to free over 400 slaves. Finkelman never mentions that case in his attack on Marshall.
- 4) According to Finkelman, Marshall always took the side of the slaveowner in his seven Supreme Court opinions when he easily could have decided otherwise. In a number of reported cases (not all), Finkelman’s **analysis is strikingly superficial** and, from a straightforward reading of the cases, one finds that **Marshall’s** opinions were decidedly stronger than Finkelman alleges. For the most part, Finkelman omits the times when Marshall assisted slaves in their quest for **freedom. In fact, Marshall’s legal actions emancipated hundreds of slaves, even** while he sat as Chief Justice.
- 5) Marshall was a major slaveowner and, in his later years, an uneven supporter of emancipation. This last assertion is true and Finkelman appropriately calls to account historians of the last century who failed to look into the documentary **records that attest to Marshall’s holdings** of slaves. Beyond that, Finkelman’s charges hold little water.

The fact that great persons of renown lived in societies that tolerated slavery (which means every civilization on every continent on earth) does not mean that we today can relieve them of participating in a moral wrong, but it does mean that we should understand their historical and social situation, meriting praise and honor for the good that they did accomplish.

In America, the era of voluntary emancipation essentially passed by the end of the 1790s. The cotton gin, slave rebellions, a growing sense that the South possessed a separate culture, took hold. Marshall, like many others, such as James Madison, became ensconced in the economic and social structure of the South, which only grew more particularized as the decades passed and the dependency on slave labor became ever more pronounced. In addition, although Marshall had hoped his sons would aspire to one of the professions, they became landowners—southern landowners—as equally dependent on slave labor as their neighbors. A paternal desire to assist his sons also impelled Marshall to hold to and gift slaves to them.

F. Honored

In deciding upon the honors due to a person like John Marshall, we are justified in gauging the whole man, including his flaws, his accomplishments, and the gifts he bequeathed to the generations who came after.

- John Marshall fought for the independence of the country in the Revolution, fought for the Constitution in the Virginia ratifying Convention, fought for the emancipation of slaves as lawyer, fought for peace as Secretary of State, and fought for the independence of the Supreme Court as Chief Justice.
- He was a slaveowner, ensconced in the economic and familial structure of the antebellum South.
- He was a Revolutionary veteran, wounded in the service for his country.
- He effectively assisted the victory, in a very close contest, of the Constitution in the Virginia ratifying Convention.
- He was a consummate diplomat, effected peace with France, persuaded the great **powers to recognize America's non-alignment**, and, in the face of foreign and **domestic opposition, extended the United States' diplomatic relations with what** would become the first black republic, born of a slave rebellion.
- In 1801, he and his political adversary, Thomas Jefferson, worked to bring about the first peaceful transition of power from one party to another. Later, he worked to limit the unconstitutional pretensions of the same Thomas Jefferson.
- As an advocate, he obtained liberty for mixed offspring of Indian/slave unions.
- He assisted in obtaining the pardon of a free woman of color, brutally victimized.
- He obtained the largest court-ordered emancipation of slaves in United States history—more slaves than he ever owned in his entire life.
- Without his resolute defense of the union as a creation of the people and not of the states, secession would have been a logical outcome, and if brought about, would have resulted in the failure to expunge slavery across the land.

- Without his affirmation of judicial review, and the institutional prestige of the Supreme Court that he brought about, *Brown v. Board of Education* almost certainly would not have happened.

Marshall has been the name of a law school that thousands of students have proudly owned as the source of their advancement, their furtherance of justice, and their status as full citizens. In this debate, we have discovered wrongs, and we have discovered ever more numerous great accomplishments and gifts of that man. With honest acknowledgement that the great are capable of ungreat things, we can go forward with honoring Marshall in our law school name.

G. Justice

Our country is a great one. We can all take pride in what we as a nation have accomplished. We are fortunate to live here. But some of us are more fortunate than others, because our greatness cannot be separated from our flaws. Our original sin was slavery and that sin, followed by Jim Crow segregation and Ku Klux Klan terror, has lasting effects today in racial inequality. Those effects prevent us from achieving the equality that we promised ourselves in the Declaration of Independence. Changing the name of our law school does not work toward that goal, and in fact is counterproductive to it, for two reasons:

First, changing our name will give us the feeling that we have accomplished something concrete that works to counter our racial history and therefore our current inequality. That feeling will lessen our concentration on the truly important tasks that we face: voting rights, police reform, bail reform, education reform, Medicare expansion, minimum wage, right to organize, affirmative action. Those areas are where our focus should be.

Second, focusing on the name change provides rhetorical cover for the forces that resist important reform and will always resist it. Rather than claim there is no need to change things (because that argument is so obviously weak) they will liken any significant reform to the name change so that they can lump all reform into what they will call **“woke” attitude and “cancel culture,” hoping that by doing that they can cast aspersion** on significant reform and therefore prevent it.

We have been considering a name change because John Marshall, in addition to providing the judicial review that allows the judiciary to protect our rights to liberty and equality, was also a slave holder. He was part of our original sin. So was George Washington, without whom we would not have won our independence. So was Thomas Jefferson, who wrote our Declaration. So was James Madison, who wrote our Constitution. Many of the founders of our freedom, even those who were not slaveholders, were willing to acquiesce in slavery; Alexander Hamilton, Benjamin Franklin, John Adams. Even Abraham Lincoln was willing to guarantee southern states the right to maintain slavery, in perpetuity, if they did not leave the Union. When they **did secede it was Lincoln’s leadership that preserved the Union and led to the end of**

slavery in 1865 rather than having it last, in all likelihood, until well into the 20th century. But the names of those individuals should not be scratched out. To the extent we remember them and rely on the gifts they left us, we enable ourselves to recognize the evil in their acts, in their lives. Erasing their names makes it easier for us to see slavery as something that once existed but is no longer a problem. There are many people who already think that. We should not encourage them.

III. Why We Should Change our Name

Judge Ronald Adrine '73, Judge Patricia A. Blackmon '75, Terry Billups '05

A. Executive Summary

CSU Cleveland-Marshall College of Law should remove all references to Chief Justice **John Marshall from its name based on Marshall's** participation and involvement in the institution of slavery and his pro-slavery Supreme Court jurisprudence. John Marshall was a prolific slaveholder who enslaved hundreds of human beings during his lifetime and actively participated in the buying and selling of Black men, women, and children. He did so despite acknowledging that slavery was immoral and wrong, and he did so the entire 34 years he served as chief justice of the Supreme Court. Marshall became extremely wealthy accumulating slaves and bartering in free Black labor, and he consistently upheld the institution of slavery from the bench to protect his vast wealth.

When institutions commemorate and honor dead slaveholders and confederate soldiers it causes an undeniable toll on the psyche of Black men, women, and children and can result in emotional and psychological harm to Black students, faculty, staff, alumni, and other people of color in the local community who must encounter these symbols of racism, oppression, and slavery on a daily basis. Thus, why would we, as a public institution, knowing all that we now know, continue to honor and commemorate a man who enslaved hundreds of human beings, who considered and treated Black people as inferior and nothing more than chattel property, and who went out of his way on the Supreme Court to protect, defend, and uphold the institution of slavery? There is no good reason why.

For one, there is no evidence of any connection or ties between John Marshall and **Cleveland's legal community. He was not an alumnus** of any of the Cleveland law schools that bore his name. No evidence appears that any relative or descendant of **Marshall's had any role in his name being affixed to any of the Cleveland law schools.** There is no evidence of any monetary donations, contributions, grants or bequests, significant or otherwise, to the predecessor legal scholastic institutions or to Cleveland State University that were premised on either naming, retaining or maintaining the **association of John Marshall's name with any of the colleges.** In fact, CSU did not name **the law school after John Marshall. It inherited the "Marshall" name after the John Marshall School of Law merged with the Cleveland Law School in 1946 to form the Cleveland-Marshall College of Law.** However, the merged law school did not become affiliated with CSU until 1969 at which time the law school retained its Cleveland-Marshall name.

Second of all, it is widely agreed and essential that the namesake of your institution should accurately represent and reflect the present-day mission and values of your institution. The mission of C|M|LAW is to *Learn Law, Live Justice*, and its stated values include a strong commitment to diversity, equity, inclusion, and antiracism. However, **John Marshall's blatantly racist and pro-slavery viewpoints and values are diametrically at odds with the current values of our law school and the broader society in general.**

The bottom line is that Marshall was on the wrong side of history, and if this law school continues to honor and commemorate the legacy of a slaveholder, we will soon find ourselves on the wrong side of history as well.

- B. John Marshall was a prolific slaveholder who made a fortune buying and selling other human beings and who used his position on the Supreme Court to protect his vast wealth by denying freedom to those who he enslaved

The fact that Chief Justice John Marshall, the namesake of CSU Cleveland-Marshall College of Law, was a slaveholder has been mostly overlooked by historians in the past. Most historians either were unaware or purposely and conveniently ignored the fact that John Marshall was a prolific slaveholder who enslaved hundreds of human beings during his lifetime. Only a few historians even acknowledged that John Marshall was a slaveholder and, those who did, incorrectly claimed that Marshall enslaved no more than a “few” so-called “domestic servants” at his private residence in Virginia. It was not until author and distinguished historian, Professor Paul Finkelman,²¹ discovered the **true extent of Marshall’s** slaveholdings that we began to learn who Marshall truly was as a jurist and a person. In his latest book, Professor Finkelman reveals through his extensive research that Marshall not only enslaved hundreds of human beings, but he actively participated in the buying and selling of Black men, women, and children.²² As a **result of Professor Finkelman’s work**, members of the C|M|LAW Law community and Greater Cleveland area petitioned CSU and the Law School to remove any reference to John Marshall from the **Law School’s name because of his extensive slaveholdings and his pro-slavery jurisprudence** while serving as the Chief Justice of the U.S. Supreme Court.²³

Up until the time of the petition, most people associated with CSU and the Law School, including its faculty, staff, students, alumni, and other members of the community, had **no clue about John Marshall’s involvement in slavery in either his private or public life.** In fact, many members of the CSU and Law School community had no idea that the Law School was even named after John Marshall – the Great Chief Justice – at least, not

²¹ Paul Finkelman is President of Gratz College. He received his M.A. and Ph.D. in history from the University of Chicago. He was later a Fellow in Law and Humanities at Harvard Law School, where he also taught one course. Before coming to Gratz, he taught in history departments and law schools at a number of universities including Duke Law School, LSU Law Center, Washington University in St. Louis, and the University of Texas. Most importantly, he held the Baker and Hostetler Chair at Cleveland-Marshall Law School. Prof. Finkelman is the author of more than 200 scholarly articles and the author or editor of more than fifty books. In 2018, Harvard University Press published his book *Supreme Injustice: Slavery in the Nation’s Highest Court*. The U.S. Supreme Court has cited him in 5 decisions involving civil rights, affirmative action, and the bill of rights.

²² See Paul Finkelman, *Supreme Injustice: Slavery in the Nation’s Highest Court* (2018).

²³ The petition can be found at the following link: <http://renamejohnmarshall.com/> and has been signed by more than 1,500 people.

until recently. Now, it is fair to say, most people associated with the Law School are clearly aware that the school is named after Chief Justice John Marshall and that Marshall was a slaveholder.

So, what do we know about Chief Justice John Marshall? We know that John Marshall **was the fourth and longest serving chief justice in our nation's history (serving 34 years from 1801-1835)** and is generally considered the greatest chief justice to serve on the High Court. He helped to develop long-standing doctrines of constitutional law that are still followed today and is considered the father of judicial review. Marshall authored some of the most seminal and well-known cases in the history of the Supreme Court, many of which are still cited and relied upon throughout our federal courts today.

But we also now know that Chief Justice John Marshall was a prolific slaveholder who was **“buying and selling human beings his whole life” and was “still doing it from his position in the center chair of the Supreme Court.”**²⁴ Ultimately, Marshall enslaved more than 200 people during his lifetime and **“would have been in the top 10%, if not higher, of all Virginia slaveowners.”**²⁵ Marshall discovered early on in life that **“the way to get rich in America [was] to buy human beings and, when you're short of cash, to sell human beings.”**²⁶ In fact, **“40 slaves would make you a millionaire many times over in those days. It's an enormous amount of wealth,”** exclaimed Professor Finkelman.²⁷ Thus, **“John Marshall, while living modestly, is an exceedingly wealthy man”** during his lifetime.²⁸

As a result of Marshall's conflicting interests and vast personal investments in the labor and subjugation of Black bodies, **“it makes him sympathetic to the slaveowner, not the slave.”**²⁹ To avoid such conflicts of interest on the bench, Alexander Hamilton warned all jurists that: **“No man ought certainly to be a judge in his own cause, or in any cause in respect to which he has the least interest or bias.”**³⁰ Nevertheless, Chief Justice John Marshall ignored Hamilton's warning, despite the obvious personal and financial conflicts of interest he had in deciding cases involving the institution of slavery, for which he heavily profited. Rather than recuse himself from such cases, Marshall participated in deciding roughly fifty cases involving slavery during his tenure as Chief Justice of the Supreme Court.³¹ Thus, when Marshall is faced with deciding the fate of

²⁴ JOHN MARSHALL: THE MAN WHO MADE THE SUPREME COURT (Documentary Film Released Aug. 1, 2020) (Remarks by Historian Prof. Paul Finkelman) (<https://vimeo.com/440507592>)

²⁵ *Id.*

²⁶ C|M|LAW Forum on The Legacy of Chief Justice John Marshall (April 27, 2021) (Remarks by Expert Panelist Prof. Paul Finkelman) (<https://guides.law.csuohio.edu/c.php?g=1157047&p=8445447>)

²⁷ JOHN MARSHALL: THE MAN WHO MADE THE SUPREME COURT (Finkelman Remarks), *supra*

²⁸ C|M|LAW Forum on The Legacy of Chief Justice John Marshall (Finkelman Remarks), *supra*

²⁹ JOHN MARSHALL: THE MAN WHO MADE THE SUPREME COURT (Finkelman Remarks), *supra*

³⁰ The Federalist No. 80 (Alexander Hamilton)

³¹ Finkelman, *supra* at 52

slaves who petitioned for their freedom in the cases in which he authored the opinion of **the Supreme Court, “the slaves lost in every one.”**³² Astonishingly, even in cases in which all-white southern juries found in favor of the slave, Marshall overturned the decisions and ruled in favor of the slaveholder.³³

Unlike judges today, who generally interpret the law based on previous precedent, **during Marshall’s reign as the 4th and longest serving chief justice, he “doesn’t have to work his way through previous precedent as modern courts do; he gets to make the precedent” and create new law.**³⁴ **And although “Marshall extended judicial authority in a lot of cases” and was considered “a genius at extending judicial authority,” he refused to extend judicial authority on behalf of humanity and those who he and other slaveholders like himself kept in bondage.**³⁵ Thus, when deciding legal issues concerning slavery, Marshall was not constrained by the law or previous court precedent. Instead, he simply put his personal and financial interests first and chose to uphold the stench of **slavery, despite declaring it “contrary to the law of nature.”**

C. Present-day commemorations to dead slaveholders and confederate soldiers cause emotional and psychological harm to the Black community and Americans in general.

For far too long, when talking about slavery and its devastating effects, some in society **have insisted that the rest of us simply “get over it” and “move on” to other so-called “more important things.”** However, the ill-begotten gains and sins of slavery from two centuries ago and its Jim Crow remnants still have a major impact on our society and the lives of Black people today. You simply cannot divorce one from the other.

As Dr. Ashley Woodson³⁶ discussed during the April 2021 **forum on “Facing and Confronting Our History,”** oftentimes **lost in these conversations are the real-world effects of the emotional and psychological harm these slaveholder and confederate commemorations have on the mind, body, and soul of Black students, faculty, staff, alumni, and other people of color in the local community who must encounter these**

³² *Id.* at 27

³³ *Id.* at 30; *see also* C|M|LAW Forum on *The Legacy of Chief Justice John Marshall* (Finkelman Remarks), *supra*

³⁴ JOHN MARSHALL: THE MAN WHO MADE THE SUPREME COURT, *supra*

³⁵ *Id.*

³⁶ Dr. Ashley N. Woodson was recently appointed the Dean of the School for Public Purpose and Professional Advancement at Albion College. Prior to this appointment, she served as the Assistant Director of the National Center of Institutional Diversity at the University of Michigan. Dr. Woodson received her Ph.D. in curriculum and instruction from Michigan State University. She also completed her master’s degree at MSU, in African and African American Studies, counseling and educational psychology, and special education. She is also co-editor of the volume, *The Future Is Black: Afropessimism, Fugitivity and Radical Hope in Education* with Carl A. Grant and Michael Dumas.

symbols of racism, oppression, and slavery on a daily basis.³⁷ These racist commemorations inflict cultural and structural harm on the descendants of slaves and **have an undeniable toll on the psyche of Black men, women, and children.** “When Black children are aware that their schools are named after individuals who enacted intentional or severe or intentional and severe harms on their communities, it affects how they want to participate in schooling as a system [and] how they understand themselves – [their] positive racial identity, [their] positive self-regard – and it affects their long-term investment and fidelity to the democratic process that purportedly we all hold as central and valuable in the United States,” explained Dr. Woodson.³⁸

For example, when UC Berkley Law School made the decision to remove John Boalt’s name from the largest building on campus because of his strongly held racist viewpoints, the school made sure to point out and address the present-day harm racist symbols have on people of color: **“It’s incredibly important to confront racist symbols, like John Boalt’s name on a building, because these symbols act to reinforce the history of white supremacy in our institutions”** and **“they can make students who learn about this history then feel excluded, like there is an endorsement of that racism by the institution itself.”**³⁹

Thus, it is crucial that we address and prioritize the present-day harm these commemorations continue to have on people of color over our apparent need in society to honor and commemorate controversial and dead figures of the past. Indeed, many Black people understand and share the sentiments expressed by Dr. Woodson during **the forum, when she explained just how difficult it is as a Black person “to live in a country where the possible sentiments or good deeds of white men who have been dead for centuries override the hopes of the Black [and minority] students [trying] to increase their sense of psychological safety ... on the campus they pay to attend.”**⁴⁰

However, the harmful effects of slaveholder and confederate commemorations are not isolated to people of color. As Professor Jacqueline Jones⁴¹ made certain to point out during one of the forums, as a white woman, she too was astounded to see statues of Jefferson Davis, Robert E. Lee, and Albert Sidney Johnston when she first stepped foot on campus at the University of Texas. She exclaimed:

³⁷ C|M|LAW Forum on Facing and Confronting Our History (March 22, 2021) (Remarks by Expert Panelist Dr. Ashley Woodson) (<https://guides.law.csuohio.edu/c.php?g=1157047&p=8445447>)

³⁸ *Id.*

³⁹ <https://news.berkeley.edu/2020/01/30/boalt-hall-denamed/>

⁴⁰ C|M|LAW Forum on Facing and Confronting Our History (Remarks by Dr. Ashley Woodson), *supra*

⁴¹ Professor Jacqueline Jones is President of the American Historical Association and the Ellen C. Temple Professor of Women’s History and Mastin Gentry White Professor of Southern History at the University of Texas at Austin, where she teaches courses in American history. Before coming to UT, she taught at Wellesley College, Brown University, and Brandeis University. She is president of the American Historical Association. Prof. Jones is also the author of several books, including *A Dreadful Deceit: The Myth*.

*I was offended; I was shocked as an American citizen that people who had committed treason and taken up arms against the United States were given this place of honor on the campus.... I knew who Jefferson Davis was and what he had done, but I had a visceral reaction. I was just so appalled by the sight of him. It was an offense. I was offended deeply as a citizen.*⁴²

Thus, confronting and addressing the harm slavery and symbols of slavery and oppression have had and continue to have on the Black community is not only necessary to the well-being of Black folks, but to all Americans.

D. Confronting the complex history of John Marshall and addressing the pain and sorrow his legacy has on people of color does not amount to “cancel culture” or the erasure of history.

Those who advocate for the removal of confederate statutes and the names of slaveholders from public buildings and spaces are routinely accused of trying to erase **America’s history. Such a narrative, however, misconstrues the issue before us and the nature of the petitioners’ demand for accountability regarding the law school’s namesake.**

We have not been asked to “erase” John Marshall from our country’s history or from the history of this Law School. Nor have we been asked to alter or eliminate the significant and profound role John Marshall played in the development of judicial review or our **legal system in general. Frankly, any suggestion that we can somehow “erase” John Marshall** from our history books or from the history of this college, not only smacks of arrogance, but drastically overstates the power and influence we have over historical figures. John Marshall will always have his distinct place in history as the founding father of our legal system and will always be a significant figure in the legacy of this Law School.

What we have been asked to do, instead, is to confront the complex history and legacy of John Marshall and to recognize the pain and sorrow that Black Americans feel on a daily **basis when they are constantly reminded of our nation’s** tendency to celebrate and honor, at their expense, those who have held in bondage their ancestors and dedicated their lives to protecting, defending, and upholding slavery and oppression. It is one **thing to be an unapologetic racist; it’s a whole different** level of callousness to enslave another human being and deprive him or her of all freedom, dignity, and respect – all **while fully comprehending the magnitude of one’s actions and acknowledging the** evilness of slavery.

As Professor Jones stated: “Confronting history does not mean erasing history. I’ve heard too often people say, ‘well, if we take down a monument or if we change a name, we’re trying to deny a part of our history that happened or trying to erase that history.’ I

⁴² C|M|LAW Forum on Facing and Confronting Our History (Remarks by Expert Panelist Prof. Jacqueline Jones), *supra*

would say to the contrary.... Look at other efforts related to considerations of renaming. They encourage people to confront history, to grapple with it, to come to terms with it, **and that's a great process. And that's the opposite really of erasing history.... Each generation revisits its own history [and] revisits the past; not to erase it, but to understand it and to confront it.**"⁴³

Indeed, the fear of so-called “cancel culture” is a complete red herring in this debate. No one is erasing or attempting to eradicate the names of our founding fathers from our textbooks simply by removing the name of a prominent slaveholder from above the doors of a law school that purports to welcome with open arms people of color and **descendants of slaves. It's a false notion and misleading comparison.** As Professor Garrett Epps⁴⁴ commented: “Whoever coined the term ‘cancel culture’ is kind of a genius of propaganda because it suggests that a very normal social [and] historical process of re-examining history has become some sort of nefarious, sort of Orwellian process.... The idea that somehow we're going to erase the history of the Civil War is laughable.” While symbols and names of our institutions may change, the actual contributions or lack thereof of these controversial figures remain. There's no “erasing” or “cancelling” John Marshall or his contributions to the development of the federal courts or our legal system. While Marshall's name may be removed as the namesake of the law school, there's no chance that his name will be removed from our textbooks or from constitutional law courses taught right here on our campus. His place in history is truly etched in stone. Anyone who claims or suggests otherwise is purposely trying to muddy the waters of this debate and to shift focus from rectifying the harm Marshall's name and likeness continues to have on the Black community today.

E. The various guidelines used by institutions when determining whether to change its name based on historical controversies all lead to the same conclusion that CSU Cleveland-Marshall College of Law should change its name and remove all references to John Marshall.

So, based on all we now know about Chief Justice John Marshall and how commemorations to slaveholders and confederate soldiers have a negative effect on the mind and well-being of Black Americans, how does this guide us in deciding whether to **remove the reference to John Marshall from the law school's name? Well, fortunately** (and unfortunately), C|M|LAW is not the first and only law school faced with this dilemma. **Of the two other law schools in the country bearing John Marshall's name,** one has already made the decision to remove it (University of Illinois Chicago School of Law – formerly UIC John Marshall Law School) and removal is currently under consideration at **the other (Atlanta's John Marshall Law School).**

⁴³ *Id.*

⁴⁴ Professor Garrett Epps is Legal Affairs Editor of The Washington Monthly. He is Professor Emeritus at the University of Baltimore School of Law. He has also taught Constitutional Law at American University, Boston College, Duke, and the University of Oregon. His books include Democracy Reborn: The Fourteenth Amendment and the Fight for Civil Rights in Post-Civil War America and American Epic: Reading the US Constitution.

When UIC announced its decision to change the name of its law school, it explained **“that despite Chief Justice Marshall’s legacy as one of the nation’s most significant U.S. Supreme Court justices, the newly discovered research regarding his role as a slave trader, slave owner of hundreds of slaves, pro-slavery jurisprudence, and racist views render him a highly inappropriate namesake for the Law School.”**⁴⁵ As part of its process, UIC identified and adopted the following three principles to guide its decision:

1. **The Law School’s official name should align with UIC Diversity Initiatives.**
2. **The Law School’s official name should be responsive to the needs of an increasingly diverse public to resist the vestiges of slavery and confront white supremacy.**
3. **The Law School’s namesake should have some connection or relationship to the Law School or provide some concrete benefit to the School.**⁴⁶

Moreover, the concept of renaming institutions that were originally named after controversial historical figures, including slaveholders and other unabashed racists, is not new.⁴⁷ For many decades, institutions have revisited their names to ensure that the **namesake accurately reflects the institution’s current mission and values. As institutions** that have gone through the process have made clear, the decision to remove the name of a slaveholder or a racist figure from association with the institution has nothing to do with so-called **“cancel culture” or trying to erase history. Rather, it has everything to do** with upholding the mission and values of the institution and embracing a more accurate and inclusive history. For C|M|LAW, that includes directly confronting the atrocities

⁴⁵ <https://today.uic.edu/board-approves-new-name-for-uic-law>

⁴⁶

https://m.box.com/shared_item/https%3A%2F%2Fuofi.box.com%2Fs%2F8r9dzgsfuc7xshrrb6uboruc8r3hfsj0

⁴⁷ The following is a brief list of schools that have changed their names due to the namesake being a slaveholder or a blatant racist:

- Yale University renamed Calhoun College because “John C. Calhoun’s legacy as a white supremacist and a national leader who passionately promoted slavery as a ‘positive good’ fundamentally conflict[ed] with Yale’s mission and values.”
- Georgetown University changed the names of at least two buildings that had been named for university leaders who sold 272 slaves to finance Georgetown University campus operations.
- Princeton University removed the name of Woodrow Wilson from both the School of Public and International Affairs and Wilson College because “Woodrow Wilson’s racist thinking and policies ma[d]e him an inappropriate namesake for a school or college whose scholars, students, and alumni must stand firmly against racism in all its forms.”
- Duke University removed former Governor Charles B. Aycock’s name from one of its dormitories because despite his “notable contributions to public education in North Carolina, his legacy is inextricably associated with the disenfranchisement of black voters.” Duke officials noted, “the values of inclusion and nondiscrimination are key parts of the university’s mission. After careful consideration, we believe it is no longer appropriate to honor a figure who played so active a role in the history that countered those values.”

committed by the namesake of our beloved law school and putting an end to the undeserved honorarium bestowed upon a man who bought, sold, and enslaved hundreds of other human beings and who had no affiliation at all with C|M|LAW or CSU.

To further assist in the process of evaluating whether to remove or retain the John Marshall name, the Law School hosted a series of forums on the topic featuring some of the top experts, scholars, and historians in the country.⁴⁸ While moderating the forum on the “Guiding Principles for Naming an Institution,” Dean Lee Fisher asked each expert panelist the following question: “Do we make these [naming] decisions using the values of today or the values of when that historical figure lived?” To a person, all three expert panelists agreed that we must make these naming decisions based on the values of today, while recognizing the historical context.⁴⁹ As the Dean of UC Berkley Law School, Erwin Chemerinsky,⁵⁰ carefully explained:

*We have to make the choices from the values of today. Those are the only values that we have. I certainly agree that we have to contextualize our decisions in history. I certainly agree that we need to be sensitive to all of the constituencies. But, to go back to the decision that I faced, I knew that my students, faculty, staff, and alumni of color – especially those of Asian descent – felt great offense to having a building named for somebody who had said such racist things. That’s using the values of today.*⁵¹

To further emphasize the importance of using the present values of today in naming decisions, Professor Danielle Moretti-Langholtz⁵² discussed, during the forum, the

⁴⁸ See <https://guides.law.csuohio.edu/c.php?g=1157047&p=8445447>

⁴⁹ See *C|M|LAW Forum on Guiding Principles for Naming an Institution* (April 23, 2021) (<https://guides.law.csuohio.edu/c.php?g=1157047&p=8445447>)

⁵⁰ Erwin Chemerinsky is the Dean of Berkeley Law and the Jesse H. Choper Distinguished Professor of Law. Prior to assuming his current role as Dean, he was the founding Dean and Distinguished Professor of Law at University of California, Irvine School of Law. He is the author of fourteen books, including leading casebooks and treatises about constitutional law, criminal procedure, and federal jurisdiction. His most recent books are *The Religion Clauses: The Case for Separating Church and State*, and *Presumed Guilty: How the Supreme Court Empowered the Police and Subverted Civil Rights* (to be published by Norton in 2021). He also is the author of more than 250 law review articles. He frequently argues appellate cases, including in the United States Supreme Court. In 2017, *National Jurist* magazine again named Dean Chemerinsky as the most influential person in legal education in the United States. In January 2021, he was named President-elect of the Association of American Law Schools.

⁵¹ *C|M|LAW Forum on Guiding Principles for Naming an Institution* (Remarks by Expert Panelist Dean Erwin Chemerinsky), *supra*

⁵² Professor Danielle Moretti-Langholtz is the Thomasina E. Jordan Director of the American Indian Resource Center in the Department of Anthropology at William & Mary. A cultural anthropologist with a doctorate from the University of Oklahoma, she is the administrator of the interdisciplinary Native Studies minor, and teaches a variety of courses on indigenous history and culture. Additionally, she

following guidelines⁵³ adopted by the College of William & Mary when considering the naming and renaming of an institution or parts thereof:

1. **The naming and renaming process must represent the college's diverse constituencies.**
2. Names associated with the institution should represent the present mission and values of the college. **To demonstrate the college's commitment to inclusion, equity, and justice, we should focus our attention on the institution's present values – not the past.**
3. Naming or changing names associated with the institution should contribute to the increase in diversity of commemorations across the college campus. Naming and renaming provides unique opportunities to foster a more welcoming, equitable, and inclusive campus environment that embraces diverse individuals and perspectives across a broad spectrum of differences (i.e., race, gender, religion, etc...).
4. The decision to rename an institution (or portions thereof) associated with a historic figure should meet a high standard and should only be done after undertaking thorough and comprehensive research and deliberation that takes into account the present mission and values of the college.
5. Where appropriate, the name should be relevant to the institution or program. Strong consideration should be given to whether the person had any ties or connection to the institution or program in question.⁵⁴

In addition to the above guidelines, Professor Allen C. Guelzo⁵⁵ recommended during the same forum that the law school use the following 5-Step Decision-Tree to determine whether to disassociate ourselves with the John Marshall name:

serves as the Curator of Native American Art at the Muscarelle Museum of Art on William & Mary's campus.

⁵³ Note that all three research guidelines are combined into Guideline #4 above and that the college signage/digital content and campus landscape/master plan guidelines were omitted since they are inapplicable to our scenario.

⁵⁴ *C|M|LAW Forum on Guiding Principles for Naming an Institution* (Remarks by Expert Panelist Prof. Danielle Moretti-Langholtz), *supra*

⁵⁵ Professor Allen C. Guelzo is the Senior Research Scholar in the Council of the Humanities and Director of the Initiative on Politics and Statesmanship in the James Madison Program at Princeton University. He is the author of *Abraham Lincoln: Redeemer President* (1999), *Lincoln's Emancipation Proclamation: The End of Slavery in America* (2004), *Lincoln and Douglas: The Debates That Defined America* (2008) and *Fateful Lightning: A New History of the Civil War and Reconstruction* (2012). His book on the battle of Gettysburg, *Gettysburg: The Last Invasion* was a New York Times best seller in 2013. He has produced six lecture series for The Teaching Company, on topics ranging from Mr. Lincoln to The American Revolution to (most recently) America's Founding Fathers. His most recent book is *Reconstruction: A Concise History* (Oxford University Press, 2018) and he is currently at work on a biography of Robert E. Lee.

1. *Does the naming commemorate an individual who inflicted harms on a living person that would be actionable in a federal court? If so, remove the name; if not, move to the next question.*
2. *Did that individual institute or order the commission of treason, capital crimes, slavery, genocide, or terrorism (as defined by the International Court of Justice) on his personal authority? If so, remove the name; if not, next question.*
3. *Did the individual have a specific connection to the institution for which it is named? In other words, was the person born or raised there, or did a momentous event in their life happen there? If not, remove the name. If so, think hard about what kind of event this was and whether it merits a naming, then go to the next question.*
4. *Does use of the name mandate or induce the institution to serve as an active venue for promoting treason, capital crimes, slavery, genocide, or terrorism? If not, go to the next question.*
5. *Did the individual undertake specific acts that mitigated, or led to the mitigation, of the historical harms done? By this point, we are close to concluding that the naming could stay. But only, after this question, with this caveat: Itemize those mitigations on a plaque or other public installation and do it clearly.⁵⁶*

If we were to adopt Professor Guelzo’s decision-tree above, the outcome would be clear – remove all references to John Marshall from the Law School’s name. **In fact, we wouldn’t even need to move beyond question 2 to reach that conclusion. Marshall** personally bought, sold, and enslaved more than 200 human beings of African descent. **As such, he “personally” instituted slavery at the many properties he owned throughout Virginia and “personally” ordered the commission of slavery by those individuals who** were charged with the upkeep of his properties. Based on the above decision-tree and the answer to the second question, C|M|LAW should remove all references to John Marshall’s name.

But, even if we were to continue to the third question, the result would be the same – **John Marshall’s** name should be removed from C|M|LAW. Chief Justice John Marshall had no affiliation whatsoever with the Law School or CSU. He did not graduate from or attend C|M|LAW or CSU. There is no evidence that any relative or descendant of John Marshall played any role in **Marshall’s name** being affixed to the Law School. There is no evidence of any monetary donations, contributions, grants, or bequests to the Law School or CSU that were premised on naming the institution after John Marshall or **maintaining Marshall’s** name in association with the Law School. John Marshall was not born or raised in Cleveland, nor did he live in Cleveland. He never attended school in Cleveland or taught in Cleveland. He did not practice law in Cleveland or make any other direct contributions to the Cleveland-area. Bottom line, John Marshall had no

⁵⁶ C|M|LAW Forum on Guiding Principles for Naming an Institution (Remarks by Expert Panelist Prof. Allen Guelzo), *supra*; see also Allen C. Guelzo, *What’s in a Name? A Lot of History* (2021) (<https://guides.law.csuohio.edu/c.php?g=1157047&p=8445511>)

known affiliation or connection to the current or previous configuration of this Law School.

And if that wasn't enough, the answer to the fifth question also dictates that Marshall's name be removed from the Law School. John Marshall took no steps or action whatsoever to mitigate the historical harms he caused to enslaved people and their descendants. Marshall had every opportunity in the world to redeem himself for his active participation in slavery and for his pro-slavery jurisprudence, but he never did. As Professor Finkelman points out, despite the many slave cases that came before him, **“Chief Justice Marshall never wrote an opinion supporting black freedom.”**⁵⁷ And unlike some slaveholders who later sought redemption by freeing their slaves,⁵⁸ Marshall never freed any of the hundreds of Black men, women, and children that he personally **enslaved over the years. Not even one. Not even upon his death. Thus, Marshall's failure** to seek redemption for his historical harms is just one more of the many reasons why **John Marshall's name should be removed from the Law School.**⁵⁹

Moreover, in the guidelines articulated above by UIC and the College of William & Mary, three themes run constant: (1) that the namesake of your institution should have some deeply rooted ties or connection to the institution; (2) that the namesake of your institution should accurately represent and reflect the present-day mission and values of your institution; and (3) that if you purport to advocate for social justice and racial equality and claim to value and foster an institution that represents diversity, equity and inclusion, then your namesake should be representative of those principles and values as well. However, as fully discussed above, John Marshall had no ties or connection whatsoever to C|M|LAW or CSU. Also, when you look at the current mission and values of C|M|LAW, it is clear that the John Marshall name does not accurately reflect the

⁵⁷ Finkelman, *supra* at 28

⁵⁸ For instance, in his will, George Washington freed every single person who was still enslaved by his estate upon his death. See *C|M|LAW Forum on The Legacy of Chief Justice John Marshall* (Finkelman Remarks), *supra*. Likewise, by the end of the American Revolution, Benjamin Franklin had freed all his slaves, had become the President of the Pennsylvania Abolition Society, and later specified in his will that his estate would only pass to his heirs if they freed all their slaves. *Id.* Chief Justice John Marshall, on the other hand, freed no one.

⁵⁹ The irony and hypocrisy of Marshall's decision to not free any of the people he enslaved either during his life or upon his death should not be lost on anyone. This is because Marshall was a prominent life member of the American Colonization Society (“ACS”) and the president of the Richmond branch. Many in the ACS readily acknowledged that slavery was immoral and wrong, but its members (including Marshall) nonetheless harbored racist and unjustified viewpoints that free Blacks were incapable of living alongside White people in harmony and they feared that newly freed Blacks would rebel against their former enslavers and start a race war. Marshall even petitioned the Virginia legislature for funds to send free Blacks to Liberia, arguing “that free blacks in Virginia were worthless, ignorant, and lazy” and amounted to “‘pests’ who should be removed from the state.” Finkelman, *supra* at 51. Thus, Marshall and other members of the ACS oftentimes encouraged other slaveholders to voluntarily free their slaves and send them to Africa to re-colonize in Liberia. Despite spending his own money to fund these efforts, Marshall never heeded his own advice to free any of the people he enslaved and to re-colonize them in Africa.

present mission and values of this institution, nor does it align with the recent and heightened commitments made by both the Law School and CSU to foster an environment that is welcoming and supportive of all people and to work towards a goal of antiracism.

- F. The present-day mission and values of CSU Cleveland-Marshall College of Law demonstrate a strong commitment to social justice, diversity, equity, inclusion, and antiracism, which are diametrically at odds with John Marshall’s blatantly racist and pro-slavery viewpoints.

The mission of C|M|LAW is to *Learn Law, Live Justice*. The Law School’s **vision statement is: “To be the leading student-centered public law school, committed to both excellence and opportunity, with an ethos of social justice and a national voice.”**⁶⁰ Some of the guiding values of the Law School include: civic engagement and leadership; diversity, inclusion, and opportunity; professionalism and integrity; and social justice and civil rights – among others.⁶¹

The Law School also markets itself as a leader in social justice movements that is committed to diversity and fighting for racial and social equality. As stated on the Law School’s website:

*CSU Cleveland-Marshall graduates have a history that is strong in social justice, leading at the forefront of major social movements **including women’s suffrage and civil rights**. Committed to diversity, we have admitted women since we were founded in 1897, and were one of the first law schools in Ohio to admit African Americans. Today, our students learn to recognize injustice through hands-on work for reform through our Criminal Justice Center, **multiple opportunities to help clients in our clinics, and through the school’s commitment to fight for racial and social justice.***⁶²

Furthermore, in the wake of the murder of George Floyd and the civil rights protests that followed thereafter, both CSU and the Law School issued multiple statements reconfirming their values and commitments to diversity, equity and inclusion and promising to strengthen their commitments to address racial equity, social justice, and the impact of systemic racism on students, faculty, and staff of color. The Law School also created a Racial Justice Task Force,⁶³ a Social Justice and Antiracism Resources

⁶⁰ <https://www.law.csuohio.edu/meetcmlaw/mission>.

⁶¹ See <https://www.law.csuohio.edu/sites/default/files/newsevents/strategic-plan-4-page-reduced.pdf>

⁶² See <https://www.law.csuohio.edu/meetcmlaw>. This paragraph also links to a social justice and anti-racism webpage. See <https://www.law.csuohio.edu/meetcmlaw/noroomforsilence>.

⁶³ <https://www.law.csuohio.edu/meetcmlaw/noroomforsilence/racialjusticetaskforce>

Guide,⁶⁴ and a social justice and antiracism webpage entitled: “No Room for Silence | Live Justice.”⁶⁵

Included on the social justice and antiracism webpage are the following messages from C|M|LAW Dean Lee Fisher and President of Cleveland State University, Harlan M. Sands:

- **“A challenge for all of us: let’s look inside of ourselves. Consider our own conscious and unconscious racial biases by questioning everything, listening more closely, and then – most important – becoming an active participant in changing our collective path forward.”**⁶⁶
- **“[M]any of our students came to CSU Cleveland-Marshall not only to learn law but, as our mission cries out, to ‘live justice.’ To advocate for fixing what’s broken. To forcefully call out injustice and decry inequality....** Those of us who have not lived the experience of racism that defines the lives of so many must dedicate ourselves to using the privilege of our life experiences to bring about change. We must pledge to examine our own conscious and unconscious biases and how we can better stand in solidarity and alliance with communities of color and the disenfranchised. Last week, we sent messages offering our unequivocal support and affirmation to our students of color, and reaffirming our law school’s **commitment to our mission to ‘Live Justice’.... We recognize that this has impacted our brothers and sisters of color in our law school community, especially our Black students, faculty members and staff in ways that those of us who are not Black or of color, cannot fully understand. But we do know one thing. We are with you.**”⁶⁷
- **“AT CSU, WE STAND TOGETHER AGAINST RACISM – AND ARE COMMITTED TO ACTION: Suppose... we finally did something more than just had another** conversation about racism and police brutality and pervasive discrimination. Imagine if we truly listened and learned, intent on understanding. And then we took what we learned and replaced hate, fear, hostility, or indifference with empathy, compassion, goodwill, opportunity, and change. Real change.... **This kind of change must stir our collective conscience, acknowledge our implicit biases, and address the impact of our country’s troubled history of systemic racism and its contemporary manifestations. This kind of change requires each of us to act.... Today, we begin our commitment to go beyond words. Step 1 – We will take a good, hard look at ourselves to make certain our house is in order.**”⁶⁸

⁶⁴ <https://guides.law.csuohio.edu/SocialJusticeAntiRacism>

⁶⁵ <https://www.law.csuohio.edu/meetcmlaw/noroomforsilence>

⁶⁶ <http://newsletter.csuohio.edu/president/200347/index.html> (posted June 1, 2020).

⁶⁷ <https://www.law.csuohio.edu/meetcmlaw/noroomforsilence> (posted June 8, 2020).

⁶⁸ <http://newsletter.csuohio.edu/president/200366/index.html> (posted June 12, 2020).

These are the foundations, principles, and values that are at the core of C|M|LAW. It is these principles and values upon which we recruit students and hire faculty and staff. Yet, the namesake of our Law School failed to live up to these principles and values. In fact, the decisions made by Chief Justice John Marshall from the bench and in his personal life were diametrically opposed to the principles and values adopted and expressed by this Law School.

Are Black faculty, staff, students, alumni, and other people of color of the Law School community simply supposed to forget about the above promises and renewed commitments made by the Law School and CSU to “truly listen” to the lived experiences of people of color and “to go beyond words” to bring about “real change” to “address the impact of our country’s troubled history of systemic racism and its contemporary manifestations” and to “stand in solidarity and alliance with communities of color” by “creating a community where all feel supported and valued”? It would be nothing short of hypocrisy if the Law School were to retain the Marshall name despite the strong and renewed commitments made by both the Law School and CSU to carefully listen, understand, and take immediate action to address systemic racism.

G. John Marshall knew and acknowledged that slavery was immoral and wrong but he lacked the moral character and fortitude to do what was right and prioritized his own wealth over the freedom of Black people.

Any decision to retain John Marshall as the namesake of our Law School not only ignores the brutal reality of slavery and its past and current harms, but also serves to co-sign the false notion that slavery was a “necessary evil” universally accepted during Marshall’s lifetime. That simply is not true. As nearly every competent historical scholar agrees, many people (both White and Black alike) were adamantly opposed to slavery during Marshall’s lifetime and worked tirelessly to abolish the immoral and inhumane practice. As Professor Jacqueline Jones explained in greater detail:

Often you will hear people say, ‘well, everybody should be judged according to their own times in history’.... Well, I would argue against that.... The abolitionist movement goes way back to the mid-18th century. These were all people, North and South, who understood that slavery was a great crime against humanity. Most of them didn’t care. But they certainly understood the argument against slavery. So, I think we do make a mistake in a historical sense if we just let a lot of people off the hook because they were the ‘product of their times’ and assume they didn’t or weren’t aware of, you know, the tremendous debate that was going on really from the mid-18th century on about slavery and social justice.⁶⁹

Even the current Chief Justice of the U.S. Supreme Court, John Roberts, has refuted the claim that people weren’t concerned about slavery during Marshall’s lifetime and that it was generally acceptable. In the documentary *John Marshall: The Man Who Made the*

⁶⁹ C|M|LAW Forum on Facing and Confronting Our History (Remarks by Expert Panelist Prof. Jacqueline Jones), *supra*

Supreme Court, Chief Justice John Roberts had the following to say about John Marshall's time on the bench: **"I don't think he revealed any real sensitivity to the slavery problem, and I'm not sure he can rely on the justification that 'well, nobody was concerned about it at the time' because people were, and he was not."**⁷⁰

In fact, John Marshall even knew the practice of slavery was immoral and wrong during his lifetime. We know this to be certain because Marshall told us so, himself, from the center chair of the Supreme Court. In *The Antelope* case, Marshall declared slavery to be **"contrary to the law of nature" and that "every man has a natural right to the fruits of his own labour" and "that no other person can rightfully deprive him of those fruits, and appropriate them against his will...."**⁷¹ Marshall understood at the time that the **"law of nature" was considered the source of moral values and norms in society and that under the law of nature all men have inherent rights, conferred not by man or an act of legislation, but by God, nature, or reason and that such rights were immutable and generally applicable to all mankind from the beginning of creation to the end of time.** Thus, Marshall was of the opinion, himself, that slavery was immoral and wrong and ran contrary to the inherent rights conferred upon all mankind by God or nature. Despite recognizing and acknowledging the immorality of slavery, Marshall still chose to uphold the practice from the center seat of the highest court and chose to personally participate in the inhumane practice of buying, selling, and enslaving Black men, women, and children and separating Black families.

H. Conclusion

Thus, even if we were to judge and evaluate John Marshall's voluntary and active participation in slavery under the values and standards of his time, he would still fail to be worthy of the namesake of our Law School. Slavery is not only immoral and wrong today, but Marshall knew it to be wrong during his lifetime, when he served as the Chief Justice of the Supreme Court.

Marshall was very much a man of the ilk, "do as I say, not as I do." The blatant hypocrisy between Marshall's public statements regarding slavery versus his actions and inactions towards slavery in his private life are blaringly obvious today but was much easier to keep tamped down and under wraps during his lifetime, when there was no radio, no television, no internet, no social media, no Facebook, no Twitter, and no investigative journalists exposing the private lives of the nation's **Founding Fathers.** This made it easier for Marshall to criticize slavery and declare it immoral in his written opinions from the High Court, all while upholding its legality and knowingly participating in the evilness of slavery when he returned home to his private life in Virginia. According to historians, Marshall kept the fact that he was a prolific slaveholder hidden from his

⁷⁰ JOHN MARSHALL: THE MAN WHO MADE THE SUPREME COURT (Remarks by Chief Justice John Roberts), *supra*

⁷¹ *The Antelope*, 23 U.S. 66, 120 (1825).

fellow jurists on the Supreme Court.⁷² Likewise, even President John Adams had no clue Marshall was enslaving hundreds of people back in Virginia when he appointed Marshall to the Supreme Court.⁷³

Marshall's ability to keep his slaveholdings largely unknown also made it easier for Marshall to publicly advocate that slaves be freed and shipped to Africa for re-colonization in Liberia, all while privately refusing to free any of the hundreds of people he enslaved throughout his lifetime. So, again, Marshall had no problem encouraging other slaveholders to free their slaves and send them to Africa, but he was unwilling to do so himself.

Clearly, Marshall knew slavery was immoral and wrong and that the right thing to do would have been to free his slaves and to declare from the bench that the inhumane practice of slavery was illegal under the laws and the Constitution of the United States. However, Marshall lacked the moral character and fortitude to do what was right concerning slavery. He was unwilling to sacrifice his own wealth, which was amassed through slavery, and he harbored racist viewpoints and beliefs that the Black men, women, and children he enslaved were unable to live in harmony with White people and would violently rise-up and attack their former enslavers if freed and not sent back to Africa.⁷⁴

Thus, with all we currently know about John Marshall, why would we continue to honor and commemorate a man who enslaved hundreds of human beings, who considered and treated Black people as inferior and nothing more than chattel property (both in his personal life and as the Chief Justice of the Supreme Court), who refused to use the power of his almighty pen to free slaves and declare slavery illegal, and whose racist and oppressive viewpoints and values are diametrically at odds with the current values of our Law School and the broader society in general? Why?

The bottom line is that Marshall was on the wrong side of history, and if this Law School continues to honor and commemorate the legacy of a slaveholder, we will soon find ourselves on the wrong side of history as well. As Professor Finkelman brilliantly **reminded us**: “We honor people not because they are just like everybody else; we honor people because they are better than everybody else. And on this issue, there is no honor **for John Marshall.**”⁷⁵

⁷² C|M|LAW Forum on *The Legacy of Chief Justice John Marshall* (Finkelman Remarks), *supra*

⁷³ *Id.* (Remarks by Finkelman and Prof. Kevin Walsh).

⁷⁴ Marshall's feelings and viewpoints on Native Americans were no better.

⁷⁵ *Id.* (Finkelman Remarks).

IV. Some Alternative Naming Options

Judge Ronald Adrine '73, Judge Patricia A. Blackmon '75, Terry Billups '05, P. Kelly Tompkins '81

It should be noted that the primary issue before us now is whether to retain or remove the name of John Marshall from our Law School. We have, however, included this brief section devoted to some possible alternative names simply for context and discussion.

The imperative for changing the name of the Law School and removing all references to Chief Justice John Marshall is brought into sharper focus when you consider that there are other viable and appropriate naming alternatives available that align with the Law School's current values and mission. Four excellent alternatives are described below, each of which provides a unique opportunity to foster a more welcoming, equitable, and inclusive campus environment that embraces diverse individuals and perspectives across a broad spectrum of differences. However, this is not intended to be an exclusive list; there are, of course, other possible alternative names that could be considered if the Law School is no longer named after Chief Justice John Marshall.

A. Thurgood Marshall (submitted by Judge Ronald Adrine '73)

It is not necessary to change our Law School's name at all. In a post George Floyd America, it is only necessary to change for whom the school is named. Instead of naming the Law School for U.S. Supreme Court Chief Justice John Marshall it could be named for U.S. Supreme Court Associate Justice Thurgood Marshall. Among other things, Thurgood Marshall was an exemplary appellate advocate. As a civil rights litigator, he argued 32 cases before the U.S. Supreme Court, more than any other individual in the history of the republic. Of those cases he prevailed in 29. The most consequential of those victories was, of course, *Brown vs. Board of Education of Topeka* in 1954. In it, **the Supreme Court unanimously ruled that "separate educational facilities are inherently unequal," thus transforming American society forever.**

In 1961, President John F. Kennedy appointed Marshall to the U.S. Court of Appeals. As a member of the U.S. Second Circuit Court of Appeals, Marshall wrote over 150 opinions, including support for the rights of immigrants, limiting government intrusion in cases involving illegal search and seizure, double jeopardy, and cases involving issues of rights to privacy. None of his 98 majority opinions was ever reversed by the Supreme Court. In 1965, President Lyndon Johnson appointed Judge Marshall to serve as U.S. Solicitor General, representing the federal government before the Supreme Court. Prior to his subsequent nomination to the United Supreme Court, Thurgood Marshall won 14 of the 19 cases he argued on behalf of the government. Indeed, he represented and won more cases before the United States Supreme Court than any other American. In 1967, following the retirement of Justice Tom Clark, President Johnson appointed Thurgood Marshall to become the first Black justice to serve on the Court. On the Supreme Court, Justice Marshall developed a reputation as a passionate member of that body who

supported expanding civil rights, enacting affirmative action laws, and limiting criminal punishment.

Renaming the Law School after Justice Thurgood Marshall benefits our institution in several ways:

- It honors a truly deserving giant of U.S. Supreme Court jurisprudence.
- It honors an **individual whose entire life embodied our moto**, “*Learn Law, Live Justice.*”
- It allows us to retain our brand without disruption.
- It sets a tone for examining and resolving issues of racial inequity, at home and abroad.

Following his death, in 1993, the U.S. Supreme Court approved a special resolution honoring him. In it, Chief Justice William Rehnquist wrote:

The majority of the Supreme Court Justices are almost always remembered for their contributions to constitutional law as a member of this Court. Justice Marshall, however, is unique because his contributions to constitutional law before becoming a member of the Court were so significant.

*Inscribed above the front entrance to this Court building are the words, ‘**Equal Justice Under Law.**’ Surely no individual did more to make these words a reality than Thurgood Marshall.*

Given our institution’s current name, some may see this suggested alteration as, “too convenient” or as “a disingenuous and expeditious way of disposing of an inconvenient problem.” We see it as a happy coincidence, that not only resolves the problem, but also directly addresses the seminal issue that brought the matter before us for resolution in the first place: the historic racial inequities promulgated, advanced and/or tolerated by the founders of this country.

Thurgood Marshall is quoted as saying:

*I wish that racism and prejudice were only distant memories. We must dissent from the indifference. We must dissent from the apathy. We must **dissent from the fear, the hatred and the mistrust...** We must dissent because America can do better, because American has no choice but to do better.*

Renaming CSU Cleveland-Marshall College of Law after Thurgood Marshall would allow us to expeditiously move on to spend our time identifying and addressing concrete and **substantive concerns that implicate racial inequality in our school’s environment and**

experience and in the surrounding community at-large, to allow us, in short, “to do better.”

B. Louis and/or Carl Stokes (submitted by Terry Billups ‘05)

Whom better to name the Law School after than the Honorable Louis Stokes or the combination of Louis and his younger brother, Carl Stokes? Both brothers are iconic and heroic figures in Cleveland and throughout the country. Their legal and political contributions over the years to the Cleveland community and towards social justice everywhere is unequivocal. Throughout their careers and lives, both brothers **exemplified the law school’s motto: “Learn Law, Live Justice.”**

Louis Stokes was the older brother. Carl was two years younger. Both were born and raised right here in Cleveland, Ohio. Both brothers served in the Army and experienced the cruel reality of racism and discrimination first-hand while stationed in the Jim Crow south.

Eventually, they both returned to Cleveland to “Learn Law” and earned their *juris doctorates* from the Cleveland-Marshall Law School – Louis in 1953 and Carl in 1956. This is just one of many reasons why Louis and/or Carl Stokes are perfect candidates to be bestowed with the honor and recognition of having the Law School named after one or both legendary figures.

As proud alumni, the two brothers initially teamed up to establish a successful law practice in Cleveland. However, it was not long before both recognized they were called **to a life of social justice and public service; they were called to “Live Justice” and that’s** what they did.

Louis quickly became a prominent civil rights attorney and was heavily involved in the Cleveland chapter of the National Association for the Advancement of Colored People (NAACP), where he took on several important civil rights cases on behalf of the NAACP. In 1967, Louis Stokes argued one of the most seminal cases in all of criminal law before the U.S. Supreme Court in *Terry v. Ohio*. This landmark case established the **“reasonable suspension” standard that is now controlling precedent in police “stop-and-frisk” cases governed by the 4th Amendment’s prohibition on unreasonable search and seizures.**

In the meantime, Carl dabbled in politics and by 1967, he too had become a prominent public figure. That year, Carl Stokes became the first Black mayor of Cleveland and of any major metropolitan city in the United States. Carl won re-election in 1969 but decided not to run again in 1971. In 1972, he became the first Black news anchorman in New York City before returning home to his roots in Cleveland in 1980. From 1983 to 1994, Carl Stokes served as a municipal court judge in Cleveland. He was then appointed as the U.S. Ambassador to the Republic of Seychelles by President Bill Clinton in 1995. Unfortunately, one year later in 1996, Carl died of cancer.

Not to be outdone by his little brother, Louis Stokes also made a name for himself in politics. Just one year after Carl was elected Mayor of Cleveland, Louis became the first Black U.S. congressman from the State of Ohio in 1968. He represented his congressional district for 15 consecutive terms (30 years).

During his tenure in the U.S. House of Representatives, Congressman Stokes was one of the founders of the Congressional Black Caucus (CBC) and served as chairman of the CBC for two consecutive terms. He was the first Black representative to chair the House Intelligence Committee and to serve on the influential House Appropriations Committee, which oversees all federal spending bills. Representative Stokes also chaired the House Ethics Committee and the Special Committee assigned to investigate the assassinations of President John F. Kennedy and Martin Luther King Jr.

Two years after his brother Carl died, Louis Stokes announced his retirement from Congress in 1998. After his retirement from public service, Congressman Stokes returned to his roots as a lawyer and became senior counsel at the Cleveland-based law firm of what was then Squire, Sanders & Dempsey (now Squire Patton Boggs).

Throughout his life, Louis Stokes was committed to the Law School and was an inspiration to students, alumni, faculty and staff. A prime example of his commitment to the Law School was his establishment of the Louis Stokes Scholarship Fund for minority students seeking law degrees. I know first-hand of his commitment because I was one of those students. As a Black C|M|LAW student seeking my juris doctorate, I was a past recipient of the Louis Stokes Scholarship Award. This is how I first met the Honorable Louis Stokes. He was giving back to the students and to the law school that thought him **how to** “*Learn Law, Live Justice.*”

Even in his later years, Congressman Stokes was still focused on the law and social justice issues and remained committed to the Law School by serving on its the Board of Visitors until his death in 2015 due to cancer. He was 90 years old.

If Louis Stokes and his brother, Carl, are not the embodiment of what this Law School is all about, then no one is. Both brothers were trailblazers and helped open the door and create a path for many Black lawyers and politicians to come. For these reasons and others, the Law School should be renamed after the Stokes brothers or at least after the Honorable Louis Stokes.

C. Judge Ann Aldrich (submitted by Judge Patricia A. Blackmon’75)

In 1968, Ann Aldrich came to CSU Cleveland-Marshall College of Law to teach constitutional law. During her 12-year tenure, she was a powerhouse for the Law School. **Consequently, at this historic moment in the school’s history, Cleveland State University should consider renaming its Law School after the Honorable Ann Aldrich.**

During her tenure at the Law School, Professor Aldrich gave so much to the school and improved its reputation internationally. She was a legal advisor to the Moot Court Team

and the Black American Law Students Association in the 1970s. She developed many moot court competitions over the years, including the Frederick Douglas Moot Court Competition and the International Moot Court Competition.

Ann Aldrich might have been the first professor at CSU Cleveland-Marshall to develop various Institutes of Law, such as the Environmental Law Institute and the Appellate Law Institute. Through the Appellate Law Institute, she wrote appellate briefs for the late Stanley Tolliver and John Carson. She sued Republic Steel for violating environmental law with its coke ovens.

There is so much more, but one of her greatest accomplishments was the Legal Career Opportunities Program, affectionately referred to as LCOP. This program continues to this day. Many law students are admitted to the Law School through this program who would not have had the opportunity.

Professor Aldrich once said that when she approached Dean Craig Christensen about the lack of students of color at CSU Cleveland-Marshall College of Law, he pushed back with the retort that there were none interested. She then told him that she would be willing to bet that many of the Black teachers in the public schools in the Cleveland area probably dreamed of being lawyers but were discouraged because of the lack of opportunity and availability, and thus they became teachers. There are many examples which proved her case. The following come to mind, Judges Una Keenan and Mabel Jasper, and attorney Betty Pinkney to name a few. She then explained to him that she knew where there were plenty of eligible graduates for the Law School. Ann Aldrich, Bruce Elfin, and David Forest set out to visit historically Black colleges and universities in the south. Judge Patricia A. Blackmon was one of those students chosen from Tougaloo College in Tougaloo, Mississippi to attend CSU Cleveland-Marshall in 1972.

In 1964, Ann Aldrich worked on the United Church of Christ and Tougaloo College lawsuit against the Lamar Life Insurance Company, who owned one of the local television stations in Mississippi, for race discrimination and sought to deny Lamar its F.C.C. license-renewal. They eventually won that case before United States Supreme Court. She went to Jackson, Mississippi to participate in the trial of that case at the request of Everett Parker of the United Church of Christ. He would later say it was the best decision he ever made. Justice Warren Burger would say that case was the best decision of his judicial career.

Ann Aldrich also opened her home to many students of color who came to the Law School. She was instrumental in making sure that James Douglas was recruited as a professor of law, adding him as maybe the second African American professor at CSU Cleveland-Marshall- College of Law. He eventually became the Dean at Thurgood Marshall School of Law at Texas Southern University. **Ann Aldrich's greatest** accomplishment was later becoming the first female Federal judge at the United States District Court for the Northern District of Ohio.

Finally, Ann Aldrich taught many lawyers constitutional law, mass communications law, and was probably the first in the country to teach a course she wrote called Black

Jurisprudence in America. That course started with Rev. Dr. Martin Luther King's letter from the Birmingham Jail. Judge Blackmon was her law clerk at the time and worked on the draft of the course.

Renaming the Law School after Judge Ann Aldrich would truly be an honor for the school, the Cleveland community, the State of Ohio, and the nation.

D. Cleveland State University College of Law (submitted by P. Kelly Tompkins '81)

Since 1969, CSU Cleveland-Marshall College of Law has been affiliated with and an integral part of Cleveland State University. Appropriately, the formal name of the Law School on its website, marketing material and related literature reaffirms this affiliation: **“Cleveland-Marshall College of Law of Cleveland State University.”** While many stakeholders understandably refer to and know the law school simply as **“Cleveland-Marshall,”** our 50 plus year historical tie to Cleveland State University is undeniable and inextricably linked to our identity as a law school. **Indeed, we are Cleveland's Law School.**

As the debate over whether to remove the reference to Chief Justice John Marshall in our name and various renaming options are evaluated, serious consideration should be **given to shortening our name to “Cleveland State University College of Law”** for the following reasons:

- By tying the name of the Law School to an institution (in this case Cleveland State University) rather than an individual, we would effectively eliminate the potential **for any further, future controversy that can occur with the use of an individual's name irrespective of that person's historical significance or current prominence** in the local community. With the exception of a distinguished few, such as Justice Thurgood Marshall who powerfully reflects our social justice heritage and ethos as well as the strength of our historically diverse student body, any other individual naming option will likely risk alienating some segment of our stakeholder base at some point in time.
- While the name Cleveland State University College of Law may at first blush seem too generic, in reality it would be a very unique name as no other law school in the country would carry this name. On the other hand, even though adopting **Justice Thurgood Marshall's name is a compelling if not convenient choice,** we know there is already at least one other law school bearing the name of Justice Thurgood Marshall (i.e. Thurgood Marshall School of Law, Texas Southern University).
- If we were to change our name to Cleveland State University College of Law, we would not foreclose other naming options that may arise in the future. Indeed, we would preserve the flexibility of considering and adopting at a later date another name especially if a major donor were to come forward with a significant gift coupled with naming rights. If this were to happen, the transition to a new name

would be logistically easier and less controversial assuming appropriate diligence was done with **respect to the donor’s proposed name.**

- **The ease of implementing the “Cleveland State University” name alternative is** compelling as the affiliation with the overall university is already well known thus making the marketing and branding effort relatively straightforward.
- In view of the ongoing work of exploring various alliances or partnerships with the University of Akron School of Law (let alone the prospect of a future merger), making the change to Cleveland State University College of Law could work as a **“placeholder” pending the outcome of these collaborative discussions which** might, albeit not near term, present new naming considerations not presently foreseeable.
- By more affirmatively highlighting our ties to Cleveland State University, we may be better positioned to secure financial assistance and political support from the university in rolling out the marketing communications effort that will be needed **to support any new name or “brand” strategy that may ultimately be selected.**

E. Conclusion

Any one of the aforementioned names would serve as an excellent and appropriate **replacement for the law school’s current namesake. While, in our judgment these names** offer some of the best options for change, there are nonetheless many other great alternatives. The only option that would be unacceptable is if the law school were retain its current namesake and continue to honor and commemorate Chief Justice John Marshall.

V. Why We Should Make this a Teachable Moment

Professor Reginald Oh, James P. Sammon '94, P. Kelly Tompkins '81

Background and Context

In July 2021, our Law School received a petition requesting that the name of the Law School be changed because of John Marshall's connection to slavery. In response, a Law School Name Committee was formed comprised of a diverse group of faculty and alumni. In order to more fully inform all internal and external stakeholders, a series of educational forums were held with several nationally recognized guest speakers. Each of the speakers were affiliated with prominent educational institutions who have dealt with similar "name" related challenges.

After completing these forums, the Law School Name Committee was charged with preparing a comprehensive document that presents the petition; summarizes the history of the Law School whereby it became known as the CSU Cleveland-Marshall College of Law; the formation of the Law School Name Committee; the experience of other higher education institutions dealing with challenges to their name; and recommended guiding principles for decision-making to ensure broad stakeholder engagement. Importantly, the Committee report will also contain arguments in favor of not changing our name as well as arguments in support of a name change along with various potential naming options.

Our charge is to ensure that no matter what is ultimately decided with respect to our Law School's name, we should make this a permanent teachable moment. We do not want to see this "name issue" become a "one and done" moment in time. Moreover, the complex legacy of Chief Justice Marshall should be documented and appropriately remembered to preserve this moment in the history of our Law School.

We believe it is fitting to ensure there are lasting lessons learned not only about John Marshall's contribution to this nation's founding and the creation of its body of jurisprudence but as well from his controversial ownership of slaves. Ideally this controversy can be a springboard to discuss and think about the broader issues of law, culture, racial equality, and social change and in so doing engage a broader audience well beyond the Law School community.

To that end, we propose to create:

- A dedicated, appropriate and poignant area or place in the building to physically recognize and highlight for future generations of students the complex legacy of Chief Justice Marshall. Accordingly, this area would not only reflect his contributions to the development of constitutional law but equally so this area would acknowledge the stain to his legacy from his ownership of slaves and how **these competing considerations impacted the Law School's name change process** and ultimate decision. If the Law School does change its name, we recommend there also be a dedicated area that documents how and why the new name was

selected for the benefit of both the current Law School community and future generations of students. Simply put, we must not only document and celebrate **this important moment in our school's history** but do all we can to learn from it.

- An ongoing conversation: We do not want this controversy to end the **dialogue once a decision is made about the Law School's name. We want this** moment to create an ongoing, enduring dialogue about the broader issues of how we process and reflect on our history particularly when it impacts current societal issues and controversies. Our overriding goal is to encourage, learning, **knowledge, and understanding, consistent with this Law School's core values and mission – Learn Law, Live Justice.**
- A Constitutional Law Center focused on exploring issues of constitutional law, racial justice, and social change. This Center may do the following:
 - Consider seeking a joint venture with the John Marshall Institute at Marshall University in West Virginia. This venture could be modeled loosely after the initiative recently begun by George Mason University in **focusing new research on the lives of its namesakes's enslaved persons.** Their project, with notable student involvement, seeks to foster a fuller comprehension of the consequences of slavery and thus bring a more complete and true understanding of issues of race in the United States. Such a venture would be in line with and supportive of **our school's** mission – Learn Law, Live Justice.
 - Hold a bi-annual conference or symposium asking provocative questions to stimulate an informed discussion about law, culture, racial equality, and social change, and about how we confront and understand **this nation's complex history.**
 - The conference will be multi-disciplinary, involving the entire CSU community, which includes other departments, faculty, staff, and students.
 - Format of bi-annual conference: A conference which may include 2 or 3 panel discussions along with a nationally recognized keynote **speaker. We want to especially include CSU's Urban Affairs, Political Science, Sociology, History, Business, and Ethnic Studies** departments.
 - The Law School is well positioned as a citadel of free speech and inquiry. We may seek partnerships with local community organizations such as the City Club, Bar Associations (CMBA, Norman Minor Bar), the Diversity Center of Northeast Ohio, and the Facing History organization to expand our reach and perhaps solicit sponsorships.
 - Audience and reach: We want to reach a national audience and **enhance this Law School's reputation as a national facilitator of** these complex and challenging issues.

- Hold Periodic Forums or Panel Discussions: We want to periodically hold smaller forums or panels to address current or prevailing hot topics about these broader issues.
- Foster Student Initiated Dialogues: We want to encourage student participation and leadership in this ongoing conversation. We envision a student organization or committee helping to develop programs about the broad issues of racial equality and social justice. For example, The Black Law Student Association and/or the Dean’s Leadership Fellows group could be considered.
- Promote Leadership and civic engagement: Our ongoing dialogue seeks to promote good leadership on these issues. A good leader learns how to listen and synthesize conflicting opinions and views, then take appropriate and effective **action. We also believe in the vital role of the “citizen lawyer”** who is not only competent in their chosen practice area but is engaged from a civic standpoint in their communities promoting civil discourse particularly with respect to matters of legal, social, cultural and political controversy.
- We envision faculty (perhaps from the Law School and College of Urban Affairs) and students working collaboratively to encourage civil dialogue and civic engagement with respect to the most pressing issues facing this nation, the state of Ohio, and the Cleveland metropolitan area.

EXHIBIT 2

Guiding Principles

Guiding Principles¹

Below are Guiding Principles that a majority of the Name Committee approved to not only assist the **reader's** review and analysis but also to inform the Law **School's** and **University's** ultimate decision-making process. These are meant to inform and assist in the decision-making process and as such are not meant to be limiting or prescriptive in nature nor should any one Guiding Principle be given more weight than another.

Consequential Decision

- **Removing “Marshall” from the Law School’s name or renaming the Law School** after another individual would be a very consequential decision by the Law School and Cleveland State University and requires careful study and thoughtful consideration of different viewpoints.
- Names matter. It cannot be that a naming in honor of a person never should be changed. We ² all can imagine naming a building or institution in honor of a person that we would want changed. But it also cannot be that such names should be easily changed.
- We should study how other institutions have approached naming and renaming issues, while understanding that each case differs and needs to be decided on its own merits.
- Whatever decision is finally made by the Board, our goal is that those on all sides of the issue will respect the process that the Law School and University undertook.

Reckoning With Our History

- In considering a name change, we should conduct a thoughtful and inclusive process, informed by deep and careful historical research. ³
- History comprises both facts and interpretations of those facts. To change the name of a school is not to erase history, but rather to expand on a previous interpretation of history in light of new facts or circumstances. A naming is not

¹ These Guiding Principles are based in large part on research about guidelines used by other institutions when deciding to name or rename a building, school, college, university, or law school. See [Other University and Law School Guiding Principles and Processes](#)

² The references in the Guiding Principles to “We” are meant to refer to the Law School and the University.

³ AMERICAN HISTORICAL ASSOCIATION, AHA LETTER EXPRESSING SUPPORT FOR THE NEW ORLEANS CITY COUNCIL STREET RENAMING COMMISSION (Mar. 2021), [https://www.historians.org/news-and-advocacy/aha-advocacy/aha-letter-expressing-support-for-the-new-orleans-city-council-street-renaming-commission-\(march-2021\)](https://www.historians.org/news-and-advocacy/aha-advocacy/aha-letter-expressing-support-for-the-new-orleans-city-council-street-renaming-commission-(march-2021)).

history itself; a naming commemorates an aspect of history, representing a moment in the past when a decision defined who would be honored.⁴

- Naming decisions should complement and supplement other initiatives to achieve equity and inclusivity. Names and symbols matter to our campus and community, but the addition, removal, or contextualization of names and images are neither the sole nor the primary ways by which the Law School and University fulfill its aspirations to become more fully inclusive to people from all backgrounds.⁵
- History is the past that affects our present and future realities. A primary reason we study history is for a moral purpose: to learn from past behaviors and actions – good and bad – with the hope of adjusting future behaviors to reflect the positive actions and avoid past moral mistakes. History often involves painful recollections of our past, but we are shaped and influenced by that history and must allow ourselves to learn from it. We must take care in the process of discernment related to contested names not to obfuscate our history and thus avoid challenging conversations that could result in a healing dialogue in our communities.⁶
- Naming articulates the Law School, University, and community values, identifying a person whom the Law School and University have chosen to honor for their accomplishments, recognizing that few, if any, individuals can meet a standard of perfection.⁷
- Many of our historical figures after whom institutions are named led **contradictory lives that serve as a constant reminder of our nation's** contradictions. Many of their stories hold multiple truths—that they did truly great things and they did reprehensible things that we should unequivocally condemn and never excuse.

Chief Justice Marshall's Complex Legacy

- We should encourage a robust debate about the way Chief Justice Marshall should or should not be memorialized.⁸
- When considering the naming or renaming after Chief Justice Marshall, we should examine his principal legacy in light of multiple criteria. These should

⁴ AMERICAN HISTORICAL ASSOCIATION, AHA STATEMENT ON CONFEDERATE MONUMENTS (Aug. 2017), <https://www.historians.org/news-and-advocacy/aha-advocacy/aha-statement-on-confederate-monuments>.

⁵ PRINCETON UNIVERSITY COMMITTEE ON NAMING, PRINCIPLES TO GOVERN RENAMING AND CHANGES TO CAMPUS ICONOGRAPHY, <https://namingcommittee.princeton.edu/principles>.

⁶ RHODES COLLEGE, PRINCIPLES FOR THE PROCESS OF DISCERNMENT RELATED TO CONTESTED NAMES (Apr. 13, 2018), <https://www.rhodes.edu/about-rhodes/palmer-hall-discernment-committee/principles-process-discernment-related-contested>.

⁷ AMERICAN HISTORICAL ASSOCIATION, SCHOOLS, HISTORY, AND THE CHALLENGES OF COMMEMORATION (Feb. 2021), [https://www.historians.org/news-and-advocacy/aha-advocacy/schools-history-and-the-challenges-of-commemoration-\(february-2021\)](https://www.historians.org/news-and-advocacy/aha-advocacy/schools-history-and-the-challenges-of-commemoration-(february-2021)).

⁸ *Id.*

include his actions during his lifetime, and, most significantly, his principal legacy in the present. His history and legacy should be appropriately chronicled and explained.⁹

- **Allegations of Chief Justice Marshall’s relationship with slavery should be supported by documentary evidence that demonstrates both the extent and the intentionality of his actions.**¹⁰
- **The removal of Chief Justice Marshall’s name should not fail to acknowledge the historical complexity or holistic contributions of Chief Justice Marshall.**¹¹
- Regardless of the decision whether to change the name, the law school and the **university should actively acknowledge Chief Justice John Marshall’s association with slavery and the harmful impact on marginalized communities.**

Wide Input

- In considering a name change, we should incorporate wide input. We should consider the perspectives of students, staff, faculty, alumni throughout the world, the broader CSU community, and the Greater Cleveland and Northeast Ohio legal and general communities.
- We have a special responsibility to listen to and respect Law School and University community members who are particularly affected by and sensitive to **Chief Justice Marshall’s association with slavery.**
- We also have a responsibility to listen to and respect those graduates for whom the name of the Law School has meant access to careers and life-long accomplishments.

Our Mission, Vision, and Values

- **We should be guided by our proud history, our guiding values, our Law School’s present mission Learn Law, Live Justice, and the present values and mission of Cleveland State University.**
- Decisions about naming and renaming must be made with due regard for the **Law School’s and University’s educational mission and core values, including its commitments to teaching, quality research, truth-seeking, and inclusivity.**¹²

⁹ WILLIAM & MARY, FINAL REPORT OF THE WORKING GROUP ON PRINCIPLES OF NAMING AND RENAMING (Feb. 2021), https://www.wm.edu/about/history/reconciliation/naming-renaming/_documents/naming-renaming-final-report.pdf.

¹⁰ UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, BOARD OF TRUSTEES’ POLICY FOR THE CONSIDERATION OF THE REMOVAL OF NAMES ON UNIVERSITY BUILDINGS AND PUBLIC SPACES (July 16, 2020), <https://bot.unc.edu/wp-content/uploads/sites/160/2020/07/Final-Policy-Adopted-7.16.2020.pdf>.

¹¹ *Id.*

¹² PRINCETON UNIVERSITY COMMITTEE ON NAMING, PRINCIPLES TO GOVERN RENAMING AND CHANGES TO CAMPUS ICONOGRAPHY, <https://namingcommittee.princeton.edu/principles>.

- The name of the Law School should foster an inclusive space for all students that affirms and respects their identity. Our campus naming practices should indicate our goal that all students, faculty, and staff be welcomed and their presence valued on our campus especially those groups of people who may feel isolated or alienated as a result of their underrepresentation on our campus.¹³

Contextual Considerations

- Consideration should be given to whether the namesake of the law school has any ties, connection, or relationship to the law school, the university, its graduates, and the community.¹⁴
- Consideration should be given to whether the namesake undertook specific acts that mitigated, or led to the mitigation, of the historical harms done.
- **Consideration should be given to whether the namesake’s actions/behaviors had the effect of, oppressing groups of people based on their race, ethnicity, gender or sexual orientation, and the oppressive actions, behaviors or viewpoints in question are inextricably connected to the namesake’s career, public persona, or life as a whole.**¹⁵
- **Though other aspects of the namesake’s life and work are noteworthy to the Law School or the greater community, consideration should be given to whether the namesake exhibited offensive behavior or viewpoints outside of their career or public persona.**¹⁶
- Consideration should be given to whether honoring the namesake significantly contributes to an environment that excludes some members of the law school community from opportunities to learn, thrive, and succeed and contradicts our mission of diversity, equity, and inclusion.¹⁷
- Consideration should be given to whether removal of the name would impede viewpoint diversity or fail to acknowledge the historical complexity or holistic contributions of the individual to the Law School or the public.¹⁸

¹³ RHODES COLLEGE, PRINCIPLES FOR THE PROCESS OF DISCERNMENT RELATED TO CONTESTED NAMES (April 13, 2018), <https://www.rhodes.edu/about-rhodes/palmer-hall-discernment-committee/principles-process-discernment-related-contested>.

¹⁴ GEORGE WASHINGTON UNIVERSITY NAMING TASK FORCE, GUIDING PRINCIPLES FOR RENAMING CONSIDERATIONS, <https://trustees.gwu.edu/sites/g/files/zaxdzs2786/f/downloads/Naming%20Task%20Force%20Recommendations%20Final.pdf>

¹⁵ UNIVERSITY OF SOUTH CAROLINA PRESIDENTIAL COMMISSION ON UNIVERSITY HISTORY, CRITERIA FOR REMOVING NAMES, https://sc.edu/about/our_history/university_history/presidential_commission/commission_reports/final_report/appendices/appendix-10/index.php

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

- The case for renaming is strengthened where a name undermines the ability of a significant number of students, faculty, or staff of a particular gender, sexual orientation, race, religion, national origin or other protected characteristic, to engage in or belong to the university community.¹⁹
- The case for renaming is considerably more compelling where the conduct in question became widely known after the initial naming decision, or where the university has not previously examined the issue with reasonable rigor, as determined by members of the special committee. The case for renaming is less compelling, and names more appropriately left to stand, where the university was **aware of the namesake’s behavior and, based on reasonable diligence and** research, nonetheless decided to confer the honor; or where the university has previously examined and rejected another request to change the name. While decisions following previous reconsideration of a name should be shown some deference, such decisions should receive less deferential treatment where decision-makers ignored, or were not aware of, history of the behavior in question.²⁰

¹⁹ GEORGE WASHINGTON UNIVERSITY NAMING TASK FORCE, GUIDING PRINCIPLES FOR RENAMING CONSIDERATIONS, <https://trustees.gwu.edu/sites/g/files/zaxdzs2786/f/downloads/Naming%20Task%20Force%20Recommendations%20Final.pdf>

²⁰ *Id.*

EXHIBIT 3

Feedback Form Quantitative Data

EXHIBIT 3

Stakeholder Feedback Quantitative Data

The Feedback Form asked participants to respond to the following prompts:

- Optional Name and Email.
- Participant Affiliation.
- Do you believe we should keep or change the name of our law school?
- Please explain why you believe we should keep or change the name of our law school.
- If you believe we should change our name, what name would you suggest?

Stakeholder Participants

A total of 1,349 stakeholders responded out of approximately 4,500 individuals who were sent the on-line Feedback Form representing the following stakeholder groups:

- Law alumni: 58.4% (n = 789)
- Law students: 22.4% (n = 303)
- Legal community: 6.6% (n = 90)
- CSU community: 3.7% (n = 50)
- General community: 3.6% (n = 49)
- Law faculty (full-time, adjunct, or emeritus): 2.8% (n = 39)
- Law staff: 2.1% (n = 29)

Name Change Responses

Participants were asked whether they thought the Law School name should be changed, remain the same, or whether they were undecided. The results are represented in Figure 1.

- Keep the Name: 50.6% (n = 683)
- Change the Name: 40.6% (n = 548)
- Undecided: 8.7% (n = 118)

SHOULD WE CHANGE OUR NAME?

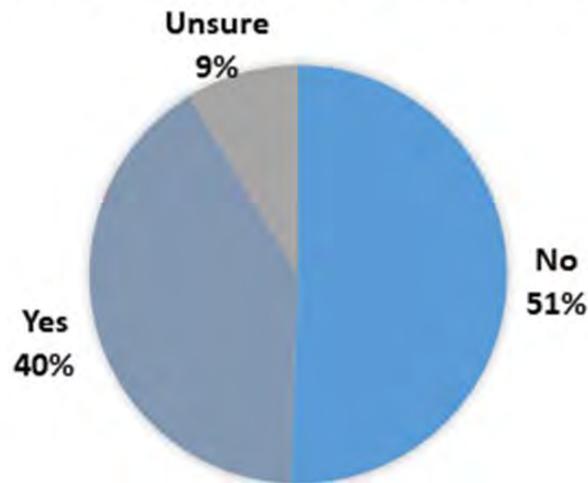


Figure 1. Responses on the Name Change.

Members of each stakeholder group gave responses to keep the name, to change the name, or were undecided.

- 50.6% of all stakeholder responses supported keeping the name. The only stakeholder group that had a majority of participants supporting this position was law alumni.
- The majority or plurality of law students, law staff, law full-time, adjunct, and emeritus faculty, and the CSU, legal, and general communities supported changing the name.
- Figures 2, 3, and 4 indicate the demographic break down of responses.

Stakeholder Group Responses to Keep the Name



Figure 2. Responses to keep the name.

Of the total number of stakeholder participants, 683 indicated the Law School should keep the name. The break down by stakeholder group was as follows:

- Law alumni: 70.4% (n = 481)
- Law students: 17.5% (n = 120)
- Legal community: 5.4% (n = 37)
- CSU community: 2.3% (n = 16)
- General community: 2.1% (n = 15)
- Law faculty (full-time, adjunct, emeritus): 1.6% (n = 11)
- Law staff: 0.4% (n = 21)

Stakeholder Responses to Change the Name

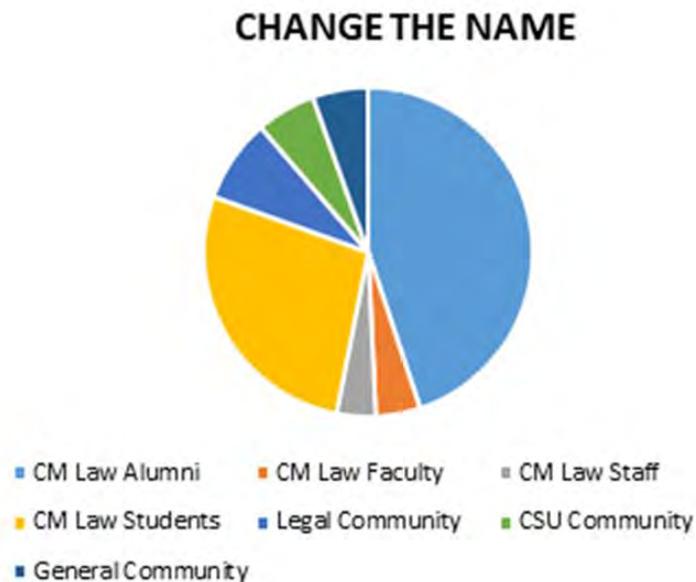


Figure 3. Responses to change the name.

Of the total number of stakeholder participants, 548 indicated the Law School should change the name. The break down by stakeholder group was as follows:

- Law alumni: 44.8% (n = 246)
- Law students: 27.3% (n = 150)
- Legal community: 8.2% (n = 45)
- CSU community: 5.8% (n = 32)
- General community: 5.4% (n = 30)
- Law faculty (full-time, adjunct, emeritus) 4.3% (n = 24)
- Law staff: 3.8% (n = 21)

Stakeholder Responses who were Undecided

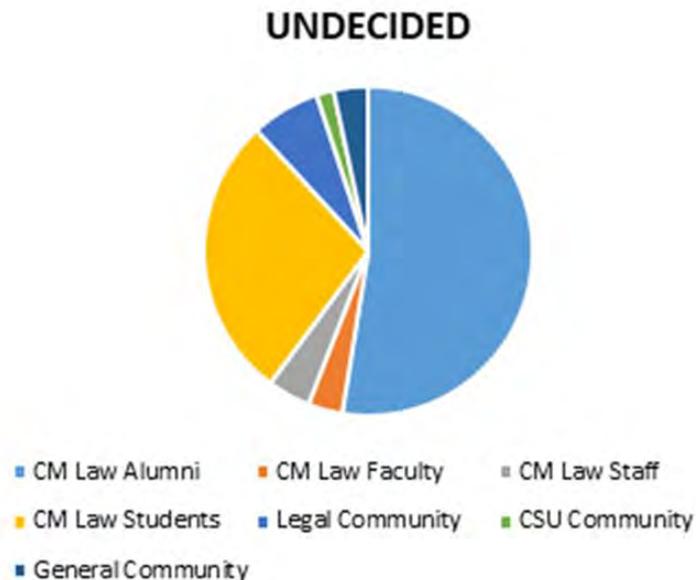


Figure 4. Undecided responses.

Of the total number of stakeholder participants, 118 were undecided. The break down by stakeholder group was as follows:

- Law alumni: 52.5% (n = 62)
- Law students: 27.9% (n = 33)
- Legal community: 6.7% (n = 8)
- Law staff: 4.2% (n = 5)
- Law faculty (full-time, adjunct, emeritus) 3.3% (n = 4)
- General community: 3.3% (n = 4)
- CSU community: 1.6% (n = 2)

Responses by Stakeholder Groups

As shown by the following data, each stakeholder group included responses to keep the name, change the name, or were undecided.

- Law Alumni: 789 responses
 - Keep the name: 60.9% (n = 481)
 - Change the name: 31.1% (n = 246)
 - Undecided: 7.8% (n = 62)

- Law Students: 303 responses
 - Keep the name: 39.6% (n = 120)
 - Change the name: 49.5% (n = 150)
 - Undecided: 10.8% (n = 33)

- Legal Community: 90 responses
 - Keep the name: 41.1% (n = 37)
 - Change the name: 50% (n = 45)
 - Undecided: 8.8% (n = 8)

- CSU Community: 50 responses
 - Keep the Name: 32% (n = 16)
 - Change the Name: 64% (n = 32)
 - Undecided: 4% (n = 2)

- General Community: 49 responses
 - Keep the Name: 30.6% (n = 15)
 - Change the Name: 61.2% (n = 30)
 - Undecided: 8.1% (n = 4)

- Law Full-Time, Adjunct, and Emeritus Faculty: 39 responses
 - Keep the name: 28.2% (n = 11)
 - Change the Name: 61.5% (n = 24)
 - Undecided: 10.2% (n = 4)

- Law Staff: 29 responses
 - Keep the name: 10.3% (n = 3)
 - Change the name: 72.4% (n = 21)
 - Undecided: 17.2% (n = 5)

EXHIBIT 4

Feedback Form Qualitative Data and Methodology for Examining Qualitative Data

EXHIBIT 4

Stakeholder Feedback Qualitative Data and Methodology

The Feedback Form prompted each participant to offer their comments as why they believed we should keep or change the name of our Law School. A committee consisting of law alumni, full-time law faculty, law staff, and law students conducted a qualitative analysis of the 143 pages of narrative commentary. The methodology is outlined below.

In reviewing the narrative commentary, several major themes that supported keeping the name or changing the name were identified. A list of these major themes and some representative quotes are shown below.

Representative Themes for Keeping the Name

We Should Evaluate Chief Justice Marshall by the Standards and Values of his Time.

“Justice John Marshall was literally the father of the US Judicial System. We are all fallen in the eyes of God and holding every historical figure to current standards is a slippery slope. Under that standard, virtually no one will rise above that bar. Analyzing their accomplishments and, above all, positive impact on culture and history is the standard. Under that standard, Chief Justice Marshall was a giant and created and cemented true separation of powers and judicial supremacy.” – Law Faculty

“People need to be judged in their times. It is completely unfair to judge someone from 200 years ago using today’s standards. We will look back to how society behaved today and will grow, learn, and realize that people did some pretty stupid things in 2021. It is unreasonable to argue that we need to judge past behavior by today’s standards.” – Law Alumnus

Changing the Law School Name Is Erasing Chief Justice Marshall’s History as a Jurist.

“In naming an institution after a person, one should look to the lifetime of contributions of the person whose name will honor the institution. Despite his involvement with slavery, Chief Justice John Marshall made substantial contributions to the law and to our country. Though apparently a hypocrite regarding slavery, he did not spend his life trying to destroy our country through war and secession (as did Lee, Davis, Calhoun, and many others). Marshall was a much-revered jurist and a fitting choice for the name of the new John Marshall Law School in the 1920s. He is part of our law school’s legacy, and we should be as reluctant to remove his name as we would hopefully be to remove the names of other Founding-era people who were also

flawed but who have received similar honors (e.g., Jefferson, Washington, Madison, Monroe)." – Law Faculty Member

"It is sad to say that the formation of this country has not always been the prettiest story ever told, but that is the history for any country. We must learn from our history, but there is no reason to erase everything associated with our history no matter how unpleasant. The owning of slaves was a way of life that none of us can in present day understand but did not live during that period of time. We must not erase all our history with the removal of statues, name changes and one person's ideology." – CSU Community Member

Stakeholders Associate the Law School Name with the Law School's Identity.

"Everyone in the local legal community associates the law school as being Cleveland-Marshall. Even those who aren't alumni or members of the legal community refer to the school with its "Marshall" affiliation. As an alumnus, I feel like a name change would impact some of the school's identity within the legal community. Cleveland-Marshall is really its own identity, separate from the identity of its namesake. Why rob the school of its identity because of the inspiration for its name?" – Law Alumnus

*"There are many CMLAW graduates who associate their legal career with the name Cleveland-Marshall. Changing the name would cause for confusion between alums and future alums -- making it seem as though we have all graduated from different schools, despite being from the same community. In short, I think that the **law school name should not be changed.**"* – Law Alumnus

Changing the Law School Name Is Symbolic Change, Not Substantive Change.

"I am one of a [number] African American graduates of the class of [class]...Cleveland-Marshall has a long history of encouraging, nurturing, and facilitating minority graduates especially those that are at a financial disadvantage, but have the tenacity and intelligence to be great attorneys. I think that the school would be better suited to attack racial justice issues by hiring more minority professors, allowing them to get tenure, and really using the student/professor appeal process in a way that defends students, rather than rubber stamping professors' decisions regarding certain students. I am staunchly opposed to a name change, and believe that Cleveland-Marshall would be doing its graduates a disservice by making this change." – Law Alumnus

"The arguments on both sides of the issue are compelling. However, I worry that a name change will serve as a divisive issue in the CM Law School community and the Cleveland community at large. It seems to me that more productive activity can be concentrated on furthering the already outstanding CM Law School efforts on

diversity and in finding ways to bridge the widening social and economic gaps in our communities.” – Law Alumnus

Representative Themes for Changing the Name

We Should Evaluate Chief Justice Marshall by Present Day Standards and Values.

“I believe the school should change the name because it is traumatizing and ostracizing to the black students who are supposed to feel comfortable and included in the CMLaw community. Also, I believe that as a school we need to stand behind our motto of Learn Law Live Justice and I think that having the name of someone who was a past slave holder does not allow us to do that. The school should stand for something greater and not allow its reputation to be tarnished by having the name of someone who did not stand for the same things that our school stands for.” – Law Student

“Though Marshall is an important historical figure, keeping the name suggests we value history over more modern concepts of true justice and equality. That sends the wrong message to our students and the community.” – Law Faculty Member

Changing the Law School Name Is Facing Chief Justice Marshall’s History as a Slave Owner.

“I think the name should be changed in recognition of the ongoing harm resulting from slavery, despite that it supposedly ended long ago. Slavery gave rise to Jim Crow, and Jim Crow is alive and well today, as evidenced across the country, particularly in states such as Texas, Georgia, Florida, and many more. While changing the name does not erase the legacy of slavery, it will at least implicitly recognize the ongoing legacy of slavery, and the harm that is ongoing to all Black people in the U.S. as a result. I regret the necessity to make such a change, given the legal legacy of John Marshall. But we must recognize the harms that have been going on for 400 years.” – Law Alumnus

“Honors should be reserved not for people of their time, but people who rose above their time. Learning law and living justice is not about falling into the flaws of the society that we have right now, but rather about understanding what injustices exist in our world and doing what is necessary to dismantle them rather than perpetuate them.” – Law Faculty Member

Chief Justice Marshall Had No Connection with the Law School.

“Marshall's long ownership of hundreds of slaves, and active slave trafficking, was a truly terrible act of cruelty and a profound moral failing -- at a time when many of his contemporaries recognized the evil of slavery and renounced it. His opinions will always be studied, and rightly so, but he does not deserve

*to be honored in this way. Other than the name he has no connection to our school, and historically our school has done little to emphasize the John Marshall legacy. Many of our students of color, and alumni of color, have made it very clear that the continued use of this name is a serious affront to their dignity, and those views must be taken extremely seriously. It is time for a **change.***" -Law Faculty Member

"Marshall has no relationship to Cleveland State, and, to my knowledge, never even stepped foot in Ohio his entire life. Additionally, his status as a slaver and his legacy as a justice (for instance, his unconstitutional invention of judicial review) do not seem to recommend naming an Ohio law school after him." – Law Student

We Must Consider the Unique Impact of the Law School Name on People of Color.

"When institutions commemorate and honor dead slaveholders and confederate soldiers it causes an undeniable toll on the psyche of Black men, women, and children and can result in emotional and psychological harm to Black students, faculty, staff, alumni, and other people of color in the local community who must encounter these symbols of racism, oppression, and slavery on a daily basis. Thus, why would we, as a public institution, knowing all that we now know, should not continue to honor and commemorate a man who enslaved hundreds of human being." – Law Student

*"This issue is larger than Justice Marshall. This is also about who we are and who we endeavor to be in the community. Do we strive not just for some amorphous sense of "diversity and inclusion" or do we strive to be an institution that is actively anti-racist. I think some members of our community feel a sense of harm (and not pride) walking into an institution everyday named after such a figure. It seems to me, we should be more concerned about how we attend to those harms than the concerns of holding on to a name that may no longer serve us... **My conversations with various constituents have led me to a few conclusions: 1) that the debate is about, in part, that we are not sure who we are as an institution and who we strive to be; and 2) that the African American students and other students of color feel deeply wounded and unheard.**"* – Law Faculty Member

Qualitative Data Methodology

Qualitative Coding Committee

- Nine people were selected to serve on the qualitative coding committee.
- They represented Law School students, faculty, staff, and alumni.

Organization of the Data

- **Quotes were sorted by participant group, and assigned a letter (“Group A”) to prevent identification and bias.** There were seven groups of quotes that reflected the seven participant groups.
- The Committee members were unaware of the identity of the group they were coding to prevent bias. All identifying information was removed.

Coding

- Committee members were trained on the coding process.
- Committee members were assigned groups of quotes to review and identify themes.
- Each group was coded by at least two committee members to identify themes.

Review of Data

- A comprehensive list of themes was generated from the coded data.
- Themes were reviewed and revised according to committee consensus.
- The most prevalent and recurring themes across all stakeholder groups were identified for inclusion in the Report

EXHIBIT 5

**October 26, 2020 Letter
from Community
Stakeholders / November 4,
2020 Dean Fisher Response**

Dear Dean Fisher:

Would you attend a “Roger Taney School of Law”? Or a school named for the man who wrote the *Dred Scott* majority opinion declaring that “the negro has no rights which white men are bound to respect”? A laughably racist notion. And yet many generations of students of Cleveland’s public law school have done much the same. For Cleveland-Marshall is named after a Virginian slave lord who owned 200 slaves and at one point auctioned off some of them to pay off his son’s debts.

Cleveland and its public law school’s alumni and alumnae did not know that their namesake was on the wrong side of history. How could they, given the extent to which John Marshall’s previous biographers whitewashed his slaveholding? Everybody knew that *Dred Scott* was wrong. But it seemed an historical anomaly. Who knew that the infamous case was the culmination of the Court’s racist patterns that Marshall had set?

During his 34 years on the Court (1801 – 35) Chief Justice Marshall heard roughly 50 cases involving slavery. His jurisprudence was always proslavery, even when legal precedents favored the Black litigant. Nor did public policy, insofar as it supported Black freedom, ever persuade him to rule for the Negro. He always ruled as we would expect a man with massive investments in human beings to rule.

John Adams said that ours is “a government of laws and not of men.” We the People replaced the divine right of kings with the rule of law. Alexander Hamilton stated a relevant legal maxim while discussing federal courts: “No man ought certainly to be a judge in his own cause, or in any cause in respect to which he has the least interest or bias.” In other words, no “conflicts of interest” on the bench.

John Marshall systematically judged in his own slaveholding cause. His conflict of interest is clear. The “Great Chief Justice” thus betrayed our nation’s trust. Moreover, his proslavery jurisprudence set the paradigm of institutional racism in America’s courts that persists to this day.

Understand: George Floyd is a martyr to the institutional racism that has metastasized in the 185 years since Marshall left the bench. As our nation reckons with its legacy of slavery, we must come to terms with history books that have censored the slave-trafficking of many “founding fathers.” We call for a new semantic order not to erase history. For when Cleveland State University disavows “John Marshall,” it will make history.

Our nation needs a new reconstruction. Yet and still three of our nation’s law schools are named “John Marshall.” CSU will not bring about a paradigm shift, from institutional racism to “equal justice under law,” when it renames its law school. But CSU will take one long step towards the right side of history.

Sincerely,

Molly Andrews-Hinders, Artistic Associate at Cleveland Public Theatre
Brian Bardwell, Attorney at Chandra Law Firm
Eva May Barrett, Cleveland resident
Robert S. Belovich, Attorney and Cleveland-Marshall Class of 1976
Dana Beveridge, Attorney and Cleveland-Marshall Class of 2019
Greg Coleridge, Outreach Director, Move To Amend Coalition
McClellon Cox, Esq.

N.B. institutional affiliations of personal signatories are for identification purposes only. Organizational signatories are listed after personal signatories.

Robert Dinkins Jr., Cleveland-Marshall Class of 2023
Miguel Eaton, Esq.
Dallas Eckman, Public School Teacher, Cuyahoga County
Nivi Engineer, SAJE Organizer
Emily Forsee, Cleveland-Marshall Class of 2023
Margot Frazier, Public School Teacher, Cuyahoga County
Ann Ghazy, Dept. Assistant, CWRU University Technology
Jacqueline Greene, Partner at Friedman & Gilbert
Kareem Henson, Black Lives Matter Cleveland
B. Jessie Hill, Associate Dean for Research and Development, Judge Ben C. Green Professor of Law, CWRU School of Law
Rebecca Joseph, Board member, Jewish Federation of Cleveland
Hanna Kassis, Rename John Marshall
Madeleine Keller, Licensed Professional Clinical Counselor
Amanda King, Shooting Without Bullets
Lisa Kollins, Administrator, CWRU Schubert Center for Child Studies
Raymond Ku, Professor of Law, Laura B. Chisholm Distinguished Research Scholar, CWRU School of Law
James Levin, Founder and Director of LegalWorks
Terry J. Lodge, Esq.
Christopher McNeal, Attorney and Cleveland-Marshall Class of 2017
Cleophus Miller Jr., President-General UNIA-ACL and former Cleveland Brown
David B. Miller, Associate Professor, Director of International Education Programs, CWRU Mandel School of Applied Social Sciences
Tish O'Dell, CELDF Organizer
Frank Marvin Perkins, Cleveland State University College of Sciences and Health Professions Class of 1991
L.S. Quinn, Reading Room Cleveland
Terrance Rounds, Retired Public School Teacher, Cuyahoga County
Libby Rutherford, Public School Teacher, Cuyahoga County
Alyssa Sidelka, Attorney and Cleveland-Marshall Class of 2016
Robert Strassfeld, Professor of Law, CWRU School of Law
Chrissy Stonebraker-Martinez, Co-Director, IRTF Cleveland
Taru Taylor, City of Cleveland tax-payer
Jameson Tibbs, Midwest Regional Chair National BLSA and Cleveland-Marshall Class of 2021
Brooke Tyus, Attorney at Benesch, Friedlander, Coplan & Aranoff LLP

Black Belt Chess Academy
Black Lives Matter Cleveland
Community Environmental Legal Defense Fund
Cuyahoga County Progressive Caucus
Friedman and Gilbert
InterReligious Task Force on Central America and Colombia (IRTF Cleveland)
Latinos Unidos for Black Lives
Move To Amend
Ohio Chapter of the National Lawyers Guild
Puncture the Silence
South Asians for Justice and Equity
Standing Up for Racial Justice, Northeast Ohio Chapter
Standing Up for Racial Justice, Ohio Chapter
The Coalition to Stop the Inhumanity at the Cuyahoga County Jail
The Reading Room CLE
Universal Negro Improvement Association & African Communities League

N.B. institutional affiliations of personal signatories are for identification purposes only. Organizational signatories are listed after personal signatories.

Sent: Wednesday, November 4, 2020 3:38 PM

To: Taru Taylor <tarutaylor@gmail.com>

Subject: Letter explaining why "John Marshall" should not name Cleveland's public law school

Dear Taru,

My thanks to you and the signatories of the attached letter. I want you to know that we take your letter calling for a change in the name of our law school and the spirit in which it was written very seriously.

We have a process in place to address this issue that includes regular meetings with participation from our faculty, staff, students, and alumni.

In considering a name change, we will incorporate wide input and will be guided by our proud history, our guiding values, our law school's mission *Learn Law. Live Justice*, and the values and mission of Cleveland State University.

Thanks very much.
Lee

Lee Fisher

Dean, [Cleveland-Marshall College of Law](#) | Cleveland State University

Joseph C. Hostetler-Baker Hostetler Chair in Law

1801 Euclid Avenue, LB 138 | Cleveland, Ohio 44115 -2214

216-687-2300 | lee.fisher@csuohio.edu

From: Taru Taylor [<mailto:tarutaylor@gmail.com>]

Sent: Monday, October 26, 2020 8:56 AM

To: Taru Taylor <tarutaylor@gmail.com>

Subject: letter explaining why "John Marshall" should not name Cleveland's public law school

Dear Dean Fisher and President Sands:

Good morning! Attached you'll find a letter from the greater Cleveland Community explaining why "John Marshall" should be expunged from the name of Cleveland-Marshall College of Law. We, the signatories of this letter, present to you an opportunity to right a wrong and thus make history.

Best,
Taru

EXHIBIT 6

**February 18, 2021 UIC John
Marshall Law School Report
of Task Force to Consider
Renaming the Law School /
May 20, 2021 Decision of
University of Illinois Board
of Trustees**



Board approves new name for UIC Law

May 20, 2021

The UIC John Marshall Law School will change its name to the University of Illinois Chicago School of Law after receiving approval from the University of Illinois Board of Trustees today.



With all required approvals and agreements obtained in accordance with university processes and contractual obligations with

the Legacy Law School Corporation and the Foundation Legacy Corporation (the successor legal entities that owned and operated the law school, and fund-raised for the school, before it became a part of UIC), the name change will be effective July 1, 2021.

The vote comes after months of review by a task force that gathered input from students, faculty, staff, and alumni, conducted research and proposed principles to guide the institution in evaluating a potential name change.

The task force report noted, “that despite Chief Justice Marshall’s legacy as one of the nation’s most significant U.S. Supreme Court justices, the newly discovered research regarding his role as a slave trader, slave owner of hundreds of slaves, pro-slavery jurisprudence, and racist views render him a highly inappropriate namesake for the Law School.”

“The university has arrived at this new name following a thorough and carefully studied process that included input from all corners of the institution and beyond.”

aimed to ensure that our university continues to be a place where diversity, inclusion and equal opportunity are supported and advanced,” said UIC Chancellor Michael Amiridis.

Following the task force’s report in February and its 6-1 membership recommendation to rename the school, law school faculty voted in favor of a new official name in March. Approval from the Legacy Law School Corporation and the Foundation Legacy Corporation was received last week by the University of Illinois System.

The John Marshall Law School, formerly an independent law school that was established in 1899, merged with UIC in 2019 to create UIC John Marshall Law School. Since its founding, the school has upheld a tradition of diversity, innovation and opportunity and consistently provided an education that combined an understanding of the theory, philosophy and practice of law.

“The name of the school has changed, but it doesn’t erase its proud history or the impact of its faculty, alumni and students. As Chicago’s first and only public law school, our mission continues to center on academic excellence, diversity, student success and bettering the lives of the people of Chicago and beyond,” said Darby Dickerson, dean of the Law School.

To learn more about the University of Illinois Chicago School of Law, which is based at Jackson and State streets in the heart of the Loop and the city’s legal district, visit go.uic.edu/uiclaw.



Contact

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MEMORANDUM

From: Task Force to Consider Renaming the Law School

To: Darby Dickerson, Dean, UIC John Marshall Law School

Re: Summary Findings and Recommendation that the John Marshall Name be Removed from UIC Law's Official Name

Date: February 18, 2021

I. Situation:

UIC Law's official name is UIC John Marshall Law School ("Law School"). That name, until August 2025, is controlled by a Premises Covenant in the Asset Transfer Agreement between the University of Illinois Board of Trustees and The John Marshall Law School. In addition, another Premises Covenant requires UIC to refer to the Law School campus as the John Marshall campus until August 2025.

The Law School's name traces to its founding, in 1899, as The John Marshall Law School. John Marshall was the fourth Chief Justice of the United States Supreme Court; he also served as Secretary of State and as a member of the House of Representatives. John Marshall owned and traded slaves. He also wrote opinions that address slavery and indigenous sovereignty.

Some alumni, students, and faculty called for the name John Marshall to be removed from the Law School's official name as expeditiously as possible and before the Premises Covenants expire. Therefore, Dean Darby Dickerson appointed the *Task Force to Consider Renaming the Law School* ("Task Force") to make findings and recommendations about the Law School's official name.

The Task Force was advised that if it recommends a name change, Dean Dickerson will send the recommendation to UIC's Chancellor. The Chancellor will make a recommendation to the President and Board of Trustees of the University of Illinois. Dean Dickerson will also provide the Task Force's findings and recommendation to the Law School Legacy Corporation a/k/a The John Marshall Law School so that its board may consider whether to waive the two Premises Covenants that require use of the John Marshall name until August 2025.

The Task Force is led by co-chairs, Samuel V. Jones, Associate Dean & Professor of Law and John Richards Lee, '73, and comprised of Samuel Olken, Professor of Law and Constitutional Law scholar, Hanna Kassis, '14, Cashmere Cozart, 2L, Brandy Johnson, 2L, and Michael Huggins, Executive Director of Marketing & Communications. Anne Abramson, Law Library Instructor, serves as the research liaison for the Task Force.

II. Task Force Objectives:

The Task Force was charged with developing findings and a recommendation about whether the name, “John Marshall,” should be removed from the Law School’s official name. In doing so, the Task Force was asked to: (a) gather input from our law students, faculty, staff, and alumni regarding the Law School’s name; (b) conduct research regarding Chief Justice Marshall’s personal and professional history regarding slavery, indigenous Americans, and related matters; and (c) conduct research regarding why the Law School was named for Chief Justice John Marshall. Further, the Task Force was advised that if it recommends removing the John Marshall name from the Law School’s official name, it should propose the principles that should be recommended to the Law School Legacy Corporation when evaluating whether to release the University of Illinois from the Premises Covenants related to the John Marshall name and that the University of Illinois Board of Trustees use when evaluating whether to accelerate removal of the John Marshall name from the Law School’s official name.

III. Findings regarding proposed principles:

The Task Force proposes that the Law School Legacy Corporation and University of Illinois Board of Trustees consider the following principles in their respective deliberations:

I. The Law School’s Official Name Should Align with UIC Diversity Initiatives.

UIC is lauded as a minority-serving institution and one of the most ethnically diverse national universities. It is widely known as a university where many races and ethnicities are represented. Its undergraduate student population reportedly comprises of approximately 26% White; 34% Hispanic; 20% Asian American; 8% African American; 7% International students, and 5% Other. Some reports place UIC within the top 5% of the most racially diverse universities in the U.S. In 2020, UIC received the Higher Education Excellence in Diversity (HEED) award for “outstanding commitment to diversity and inclusion.” The Task Force finds that the Law School’s official name should not conflict with UIC’s Diversity, Equity and Inclusion (“DEI”) initiatives and should reflect the values imbued in the principles that coincide with UIC’s award-winning practices regarding DEI, and stated initiatives to improve enrollment and graduation rates for African American students.

In recommending Principle I, the Task Force considered that when Berkeley Law School voted to remove John Boalt’s name from its law school, Berkeley officials found that the law school’s continued use of the name did not align with the university’s mission of fostering diversity and equal opportunity on campus:

“It’s incredibly important to confront racist symbols, like John Boalt’s name on a building, because these symbols act to reinforce the history of white supremacy in our institutions... And, they can make students who learn about this history then feel excluded, like there is an endorsement of that racism by the institution itself.”

The Task Force finds that the Law School should not continue to use a name that does not align with its role as a college of law within a minority-serving institution whose objectives include fostering a safe educational climate that invites intellectual inquiry for students of all races and denounces the history and legacy of white supremacy and slavery.

II. *The Law School's Official Name Should Be Responsive to the Needs of an Increasingly Diverse Public to Resist the Vestiges of Slavery and Confront White Supremacy*

In adopting Principle II, the Task Force recognizes the unalterable fact that the Law School, like other accredited law schools, has a responsibility to confront racial injustice in a manner that is appropriate both in scope and conception. It has a duty to add a voice to the ongoing national conversation regarding racial injustice that ensued after the killings of George Floyd and Breonna Taylor, and take action that sufficiently communicates to the public the Law School's desire to eradicate the vestiges of slavery and racial segregation and to equip and inspire future generations of attorneys to confront racial injustice.

The Task Force further notes that one of the core justifications for UIC and the Law School merging to create Chicago's first public law school was for both schools to continue their longstanding traditions of advancing the public interest. Such a mission lends itself to initiatives that are designed to be responsive to the public's passion for eradicating racial injustice. It cannot be ignored that citizens today of virtually every ethnicity and race have begun to express zero tolerance for institutional racism and to call for robust improvements in the way legislatures, courts, universities and other institutions respond to monuments, honors, and names that celebrate the vestiges and badges of slavery under the guise of applauding personal achievement.

The Task Force notes that some of the nation's most prestigious universities are now bravely defending the right of all Americans, but particularly their students, faculty and staff, to live free from the threat of racial subordination and white supremacy by correcting the way they honor personal achievement or celebrate American historical figures.

For example, the Task Force found that:

- (1) Georgetown University changed the names of at least two buildings that had been named for university leaders who sold 272 slaves to finance Georgetown University campus operations;
- (2) Yale University renamed Calhoun College because "John C. Calhoun's legacy as a white supremacist and a national leader who passionately promoted slavery as a 'positive good' fundamentally conflict[ed] with Yale's mission and values;"
- (3) Columbia University removed the name of its medical school founder and George Washington's personal physician, Samuel Bard, from its dormitory building, after 90 years, because "he was a slave owner" and "for many students, staff and faculty in the broader Columbia community... the contradiction between the egalitarian health service norms they cherish and slavery's denial of the full human standing is starkly blatant and offensive;"

- (4) Princeton University removed the name of Woodrow Wilson from “both the School of Public and International Affairs and Wilson College” because “Woodrow Wilson’s racist thinking and policies make him an inappropriate namesake for a school or college whose scholars, students, and alumni must stand firmly against racism in all its forms;” and
- (5) Duke University removed former Governor Aycock’s name from one of its dormitories because despite his “notable contributions to public education in North Carolina, his legacy is inextricably associated with the disenfranchisement of black voters.” Duke officials noted, “the values of inclusion and nondiscrimination are key parts of the university’s mission. After careful consideration, we believe it is no longer appropriate to honor a figure who played so active a role in the history that countered those values.”

The Task Force further notes that there has been a significant degree of public objection to the continued use of Chief Justice Marshall’s name given news of his significant role as a slave trader and slave owner. For instance, in *30 Public schools in Chicago are Named for Slaveholders; Surprised CPS Promises Changes*, the Chicago Sun-Times reported that John Marshall had “200 slaves” and that a Chicago high school was named after him. In response to the findings and public objection, CPS officials promised that “they are reviewing school names and that changes will be made.” Additionally, in, “*No School Should Be Named After John Marshall*,” a commentator described Chief Justice Marshall as “a slave lord who bought and sold other human beings to support his plutocratic lifestyle” and pointed to a petition calling for the three law schools named after Chief Justice Marshall to change their names on account of his slaveholding. The Task Force further found that the petition had garnered nearly 1,500 signatures as of February 1, 2021. In *Cleveland State Considering Renaming Cleveland Marshall College of Law Due to its Racist Roots*, 19News reported that “Research by historians has revealed Marshall owned hundreds of slaves. Some suggest the Supreme Court justice made decisions in favor of slave owners because of his ties to the slave trade.” The Task Force finds that there has been a significant shift in the way the public views Chief Justice Marshall that is blatantly at odds with the way the public perceived Chief Justice Marshall when the Law School was founded and that growing negative opinions regarding Chief Justice Marshall run contrary to the Law School’s desired public image.

III. The Law School’s Namesake’s Should Have Some Connection or Relationship to the Law School or Provide Some Concrete Benefit to the School

In adopting Principle III, the Task Forces notes that when Duke University decided to remove former North Carolina governor Charles B. Aycock’s name from a dorm, it considered Aycock’s connection to the school and whether anyone provided funds for the cost of the name on the understanding that the name would be permanent:

“When a building is named at Duke, there must be the strongest possible presumption that the name will be permanent. However, the history of Aycock Hall is unusual and singular. Governor Aycock was not a graduate of Trinity College, nor was he personally involved in the college’s affairs. Neither he nor anyone else provided funds for the cost of the building on the understanding that the name would be adopted.

The Task Force notes that Chief Justice Marshall was not a graduate of the Law School and held no ties or affiliations with the Law School. Further, the Task Force research revealed no record of anyone ever requesting or providing the Law School with any compensation or donation to name the Law School after Chief Justice Marshall.

The Task Force is mindful of the possibility that the Law School's renaming could yield much needed benefits to UIC. In *A Brief History of Law School Names*, 56 J. Legal Educ. 388 (2006), Robert Jarvis notes that when the University of Florida sold its name to Fredric G. Levin for \$10 million, it received "as much as \$20 million because it qualified for a matching state grant;" and that "Ohio State University, Southern Methodist University, Temple University, the University of Denver, the University of Nevada-Las Vegas, and the University of Utah, reportedly received \$20-\$30 million from their namesakes." Similarly, as a result of J.B. Pritzker and wife M.K. Pritzker donating \$100 million to Northwestern University's School of Law, reports indicate that the 156-year-old Northwestern law school was renamed Northwestern Pritzker School of Law and that the donation it received was used, in part, to support the college's social justice, entrepreneurship, and civil and human rights initiatives.

The Task Force finds that not only is the removal of Chief Justice Marshall's name from the Law School official name morally obligatory and consistent with UIC's DEI imperatives, a potential renaming might result in increased funding for UIC that better positions it to: (1) provide adequate financial support for thousands of deserving UIC students; (2) provide critically needed funding for scholarships for law students from underrepresented racial minority groups in the legal profession, particularly African American students, who cannot afford to obtain a legal education despite being qualified to do so; (3) adequately position the *Bridge to Faculty* Program to move from 10 to 30 positions, a program designed to diversify UIC faculty; (4) adequately fund incentives to increase the enrollment and graduation rates of African American students; (5) increase the Law School's Antiracism and Social Justice Fund from \$20,000 to \$250,000; and (6) establish a Center for Anti-racism and Social Justice at the Law School that employs staff and faculty dedicated to the reestablishment of anti-racism civil rights and reforms necessary to prioritize anti-racism and respect for the human dignity of communities that have been marginalized by systemic racism; and (7) increase funding for Law School pipeline and admissions programs, such as the SCALES program, which have proven successful in providing promising college graduates, including those from racially underrepresented groups in the legal profession, with genuine opportunities to earn admission into the Law School.

IV. Performance & Feedback:

The Task Force held multiple meetings with students, faculty, staff, and alumni of the UIC John Marshall Law, including, but not limited to, meeting with faculty and staff on Monday, October 12, 2020; meeting with alumni on Wednesday, October 14, 2020; with students on Tuesday, October 20, 2020; and again with faculty, staff, alumni, and students on Tuesday, October 27, 2020. The discussion forums provided Task Force members an opportunity to learn, first hand, how students, faculty, staff, and alumni felt about a possible removal of the John Marshall name from the Law School's official identity and proved highly fruitful for the Task Force.

Members of the Task Force, as well Ms. Abramson, also gathered and considered numerous letters, articles, chapters, documentaries, and published interviews relative to Chief Justice Marshall and mounting concern over racial injustice in the United States. Additionally, the Task Force established a website for interested parties to submit their perspectives and views directly to the Task Force. The Task Force received numerous written comments, via the website, with the vast majority of them being from Law School alumni. The web link went live on October 8, 2020 at 11a.m. and went offline on February 2, 2021. The web link garnered approximately 192 responses.

The Task Force also established a Box by which interested parties could review the publications considered by members of the Task Force.

V. Key findings relative to the charge to gather input from our law students, faculty, staff, and alumni:

A. Alumni perspectives:

During the Task Force open forum with the alumni, the vast majority of alumni expressed support for removal of the John Marshall name. However, there appeared to be fewer than 50 alumni who attended the open forum. Nonetheless, the alumni in attendance felt that given Chief Justice Marshall's racist views, his newly discovered role as a slave trader and slave owner of hundreds of African slaves, and various positions he took as a chief justice in cases involving slave freedom, it would be immoral and counter-productive to the Law School's stated commitment to racial equality to retain his name. Some alumni reasoned that continued use of the "John Marshall" name would deeply offend students, particularly African Americans, and impede them from escaping the legacy of slavery and Jim Crow and would undermine the Law School's goal to attract and retain a diverse and highly qualified student body.

A small minority of the alumni during the open forum expressed the view that the Law School should retain the John Marshall name. They reasoned that the naming of the Law School was presumably undertaken to honor Chief Justice Marshall's immense contributions to Constitutional Law, his role as one of the founding architects of the practice of judicial review, and his notoriety as one of our nation's greatest chief justices. This small minority of alumni contended the Law School should continue to honor Chief Justice Marshall's legacy as a justice on the U.S. Supreme Court without regard to his slave trading, slave ownership, and pro-slavery jurisprudence. Some alumni contended that while they were sensitive to racial issues around the country, the problems associated with retaining the John Marshall name, and the potential trauma it could cause African Americans at the Law School, the name should be retained because so many alumni would have to change their degrees, resumes, business cards, and perhaps, some alumni would stop giving money to the law school.

The Task Force noticed that of the alumni who submitted responses via the Task Force website, the responses were overwhelmingly opposed to the removal of the John Marshall name from the Law School's official name. The website garnered approximately 136 responses from alumni who did not support renaming compared to approximately 41 alumni who support renaming.

The Task Force further notes that some alumni expressed the view that while slavery is repugnant, it was socially acceptable for that time period in our nation's history, and that it is not appropriate to apply modern-day standards of conduct and morality to Chief Justice Marshall as a basis for removing his name. Other alumni expressed the view that the Law School's rich history and identity are separate and apart from Chief Justice Marshall and that the Law School should continue with its current name.

Many alumni expressed views via the web link that did not appear sensitive to the inhumanity of slavery, need to address racial inequality or promote DEI. Some representative comments include:

- Alumni: "That is profoundly ignorant and a glaring demonstration of weakness by pandering to the liberal cry babies who pretend to be self-righteous."
- Alumni: "This exercise seems like a ridiculous waste of time."
- Alumni: "I find it unbelievable that the school is even willing to entertain changing the name."
- Alumni: "This is pathetic."
- Alumni: "This is an example of, to be blunt, a terribly, stupid instance of "Cancel Culture.""
- Alumni: "This is ludicrous!!"
- Alumni: "...Frankly in my considered opinion only an idiot would want to change the name...."
- Alumni: "It is ridiculous in my opinion to consider any name change of JMLS. We cannot succumb to every group who feels that JMLS (Chief Justice Marshall) ever supported or condoned racism."
- Alumni: "This is yet another example of how deranged our current "woke," politically correct culture has become."
- Alumni: "You've got to be kidding me...This is absurd.... Changing the name will not do anything except waste time."

Given the nature of the responses the Task Force received from alumni during the open forum and via letters or web link responses, the Task Force estimates that 55%-65% of alumni oppose renaming the Law School.

B. Student perspectives:

With the exception of roughly a handful of students, student feedback overwhelmingly favored the removing the John Marshall name from the Law School's official name on grounds expressed by the alumni that supported renaming the Law School. The open forum student attendance neared 100 students.

The student community was almost uniform in their view that the John Marshall name should be removed from the Law School's official name. Many students made clear their unwillingness to continue to support a school that knowingly honored Chief Justice Marshall after becoming

aware of his slave ownership, slave trading, and pro-slavery jurisprudence. Some students expressed the view that they could no longer wear the name “John Marshall” on their person or take pride in any degree or item that celebrated the name, “John Marshall.” Other students expressed the view that they would not feel comfortable attending the Law School if it decided to retain “John Marshall” in its official name after learning of his long history as slave trader and slave owner.

Although students were aware of the web link, they did not appear to want to make use of it. The web link garnered only 10 student responses, with 6 opposing renaming and 4 favoring renaming.

Given the responses the Task Force received from students in the open forum and via letters and web link responses, the Task Force estimates that 90% to 95% of the UIC Law students support removing the John Marshall name from the Law School’s official name, with a significant portion of them strongly urging it be removed.

C. Faculty perspectives:

The Task Force met with full-time faculty during the open forum and 100% of the feedback the Task Force received from the full-time law faculty supports removing “John Marshall” from the Law School’s official name on grounds that retaining the name would be strikingly inconsistent with the Law School’s stated commitment to DEI and potentially marginalize certain students. The faculty appeared highly concerned about the welfare of the large number of students that voiced strong objections to retaining the John Marshall name. Some faculty members found retaining the John Marshall name to be morally objectionable given the new discoveries regarding his slave trading and slave owner activities.

The faculty members also felt the Law School would be better positioned to attract the highest caliber students and faculty if it were sensitive to the perspectives of its racially diverse student body. The Task Force received a couple of responses from faculty with emeritus status who did not support removal of the John Marshall name. The web link did not garner any responses from full-time faculty who opposed renaming.

Given the responses the Task Force received from faculty in the open forum and via letters and web link responses, the Task Force estimates that approximately 95%-100% of the full-time faculty support removing the John Marshall name from the Law School’s official name.

D. Staff perspectives:

The overwhelming majority of the feedback from Law School staff weighed in favor of removing the John Marshall name from the Law School. While some staff expressed strong pride in the Law School, the staff, as a group, seemed overwhelmingly guided by the need to embrace all students and to quell any perceptions among students that the Law School was insensitive to the needs, values and concerns of the student body, which overwhelmingly expressed a desire for the John Marshall name to be removed from the Law School’s official name.

All web link responses from staff were 100% in favor of renaming. Given the responses the Task Force received from staff in the open forum and via letters and web link responses, The Task Force estimates that approximately 95%-100% of the staff support removing the name “John Marshall” from the Law School’s official name.

VI. Key findings relative to the charge to conduct research regarding Chief Justice Marshall’s personal and professional history regarding slavery, Indigenous Americans, and related matters:

Members of the Task Force became aware of literature regarding Chief Justice Marshall’s personal and professional history with slavery that did not appear to be available or known to scholars until several years ago, and certainly was not known to the founders of the Law School at the time they decided to name the Law School. While the Task Force recognizes that there are strong opinions regarding Chief Justice Marshall, the Task Force found recent work by noted historian Paul Finkelman, and a 1987 op-ed by Professor Olive Taylor, to be most compelling. The Task Force was particularly moved by new research in Paul Finkelman’s work, *Master John Marshall and the Problem of Slavery*, (University of Chicago Law Review *Online* (2020)) and his book, *Supreme Injustice: Slavery in the Highest Court*, which the Task Force recognizes as providing the most detailed and compelling discovery regarding Chief Justice Marshall’s role as a slave trader and slave owner, some of which, we enunciate below. In doing so, the Task Force accepts that Chief Justice Marshall is a towering figure in our nation’s history and rightly considered one of the greatest chief justices in the history of the U.S. Supreme Court. His contributions to constitutional jurisprudence may be unmatched in many regards. With regard to Blacks, however, his conduct and jurisprudence are reprehensible.

Chief Justice Marshall’s “jurisprudence shaped national policy” and “was fundamental in forging the new nation and in determining the status blacks would have in it.” According to Professor Taylor, Chief Justice Marshall intended the United States “to be a beacon, a haven for white people to fulfill their desire for freedom and self-determination” but that “Blacks had no place in it -- except of course, as slaves. And if by chance blacks should fall through the cracks of slave law and become free, they would be sent back to Africa, through the Colonization Society.” Professor Taylor points to the “roll call of slavery cases: *Scott v. Negro London*, 1806; *Scott v. Negro Ben*, 1810; *Wood v. Davis*, 1812; *Mima Queen v. Hepburn*, 1813; and *Negress Sally v. Ball*, 1816, observing that, “[i]n not one of the cases in which Blacks petitioned for their freedom did Chief Justice Marshall free them. He remanded them back to the oblivion of slavery.”

Professor Taylor further observes that Chief Justice Marshall’s pro-slavery jurisprudence legitimized slavery under the guise of elevating the “protection of the doctrine of vested rights and the sanctity and sacredness of property” as “superior over other rights,” and “slaves were property and property was sacred,” and that he could not condone “attacks on property.” Professor Taylor points to “the *Antelope* case of 1825, which dealt with the disposition of slaves on a ship that came into American waters,” and notes even as Chief Justice “Marshall condemned the slave trade as immoral and against the law of nature he insisted that such concerns were for ‘moralists,’ and found that the international slave trade was legal.” Professor Taylor further reasons that Chief Justice Marshall’s theory of slaves as property was, “the fatal blow for Blacks both slave and free,” and the jurisprudential basis for “the *Dred Scott* decision of 1857 delivered by Chief Justice Roger

Brooke Taney,” which held that Blacks were a "subordinate and inferior class of beings" and had no rights and privileges that white people were entitled to respect. In a Wall Street Journal op-ed titled, “*Worse Than Dred Scott*,” Professor David S. Reynolds observed, however, that Chief Justice Marshall’s opinion in *Antelope* may be worse than Justice Taney’s *Dred Scott* opinion on grounds that the “Antelope case left a dark legacy....The court’s ruling that the U.S. could not interfere with the slave laws of other nations opened the way for almost continuous international slave trafficking between 1825 and 1866, during which time more than 1.5 million enslaved Africans were transported to the Americas.”

Professor Reynolds and Professor Taylor’s findings align with those of Professor Finkelman. Drawn from his work *Supreme Injustice*, Professor Finkelman summarized his research regarding Chief Justice Marshall in *Master John Marshall and the Problem of Slavery* (University of Chicago L. Rev. *Online* (2020)), in which he introduces numerous historical facts that were largely unpublished prior to his research. Most notably:

- (a) Chief Justice Marshall wrote the majority opinion in 7 of 14 cases involving slaves right to freedom and in every case, the slaves lost. Finkelman notes that in “six other cases, decided from 1829 to 1835—when Marshall no longer totally dominated the Court—other justices, including two southern slave owners, wrote opinions upholding Black freedom.”
- (b) “Chief Justice Marshall *never* wrote an opinion supporting Black freedom” and in “some of these cases Marshall overturned lower court decisions, from slaveholding jurisdictions, emancipating the slave plaintiff” and almost always sided with defendants who “participated in the African slave trade in violation of U.S. law.”
- (c) Chief Justice Marshall’s “jurisprudence on slavery and race similarly reflected Marshall’s life as slave owner and his deep hostility to the very presence of free blacks.”
- (d) Chief Justice Marshall’s “massive personal investment in human bondage and his nonjudicial public life inform his slavery jurisprudence.”
- (e) Chief Justice Marshall could “have shaped American jurisprudence to uphold freedom claims of Black petitioners and to vigorously suppress the illegal African slave trade,” but he chose not to do so. He “emphatically denied natural law had any place when considering violations of laws banning the African slave trade,” and “despite a federal statute declaring slave trading to be piracy, he “found that kidnapped Africans illegally brought to the United States would remain slaves.”
- (f) Chief Justice Marshall was remarkably inconsistent in his claims that “every man has a natural right to the fruits of his own labour,” while refusing “to apply natural law to the [*Antelope*] case or vigorously uphold the federal ban on the [slave] trade,” and “even when statutes and precedent were on the side of freedom,” Chief Justice Marshall “adjusted his jurisprudence when slavery cases were before him” and “rigidly applied technical niceties, protecting slave traders from suffering for their illegal and immoral commerce.”

- (g) Chief Justice Marshall’s biographers largely ignored his “massive slaveholdings,” with some authors wrongly claiming that Chief Justice Marshall owned only “a modest number of slaves,’ ‘maintained a small holding of slaves,’ or that he “experienced slavery primarily as an urban slave owner,’ with about a dozen “house servants” in Richmond.” Contrary to the position of early researchers and biographers, Professor Finkelman found that “Marshall owned hundreds of slaves,” and “plantations” and “unlike his distant cousin Thomas Jefferson, Marshall did not inherit these slaves; rather, he bought them throughout his life.”
- (h) Chief Justice Marshall’s “hostility” towards Blacks wasn’t limited to his jurisprudence. “In the Virginia constitutional convention, he vigorously supported counting slaves for representation in the state legislature to preserve the power of the planter aristocracy. When he died, he did not free the dozen or so personal slaves who had loyally served him throughout his life, much less any of those toiling on his plantations,” and “never considered manumitting his own slaves and resettling them in Liberia.”
- (i) Chief Justice Marshall “spent a lifetime in the business of buying, giving away, and sometimes selling slaves” and participated in slave auctions that he knew would inevitably destroy slave families—separating husbands, wives, children, and siblings, in “contrast with his hero, George Washington, who famously refused to sell slaves ‘as you would do cattle at a market,”” and unlike Jefferson, “who inherited his hundreds of slaves.”
- (j) Chief Justice Marshall’s jurisprudence contributed to the growth of slavery in the U.S. Finkelman notes that there “were eight southern slave states and about 900,000 slaves in the U.S. when Marshall came on the Court and about 2,250,000 slaves and twelve slave states when he died.”
- (k) Chief Justice Marshall’s huge investment in slaves appears unmatched by any other member of the U.S. Supreme Court.
- (l) Chief Justice Marshall harbored a deep-rooted hostility for “free blacks” and “argued the entire nation ‘could be strengthened’ by the “removal of our colored population.” He believed the “danger” from free blacks “can scarcely be estimated,” and “he petitioned the Virginia legislature for funds to support colonization, because of the “urgent expedience of getting rid in some way, of the free coloured population of the Union,” and “declared that free blacks in Virginia were worthless, ignorant, and lazy and that in Richmond half the free blacks were ‘criminals.’”
- (m) Chief Justice Marshall’s investment in slavery enabled him to purchase more than 215,000 acres of land and made him one of the wealthiest men in the U.S.

The Task Force further notes that when Chief Justice Roberts of the U.S. Supreme Court was questioned during an interview about Chief Justice Marshall’s slave ownership and life as a slave trader, Chief Justice Roberts noted that Chief Justice Marshall was not simply a product of his time period as some have asserted, but deeply invested in the business of slave trading, unlike many

Virginians at that time, and that Chief Justice Marshall simply was not sensitive to the horrors of slavery or plight of Blacks during slavery era.

VII. Findings regarding Chief Justice Marshall and Native Americans:

The Task Force notes that there is some indication Chief Justice Marshall was hostile towards Native Americans and made “racist statements about Native Americans, such as characterizing them in *Johnson’s and Graham’s Lessee v. M’Intosh*, as fierce savages, whose occupation was war.” The Task Force finds that Chief Justice Marshall’s jurisprudential treatment of Native Americans, however, is sparse and subject to reasonable debate.

VIII. Key findings regarding the reason the Law School was named after Chief Justice Marshall:

Although research did not reveal any formal document indicating the reason the Law School was named after Chief Justice John Marshall, the matter was addressed by Robert M. Jarvis in *A Brief History of Law School Names*, 56 J. Legal Educ. 388 (2006), wherein Jarvis posits that the Law School’s decision to name the Law School after Chief Justice John Marshall was not due to any relationship Chief Justice Marshall had with the Law School or to an intricate research-oriented tribute to Chief Justice Marshall but to mere happenstance:

Of the four law schools that bear John Marshall's name, only CWM's has an actual connection to him. For the others, the choice is merely honorific. In all likelihood, however, [The John Marshall Law School in Chicago], established in 1899, would not have selected Marshall as its namesake had it not been for a quirk of the calendar:

The name for the school had been suggested by the Hon. Luther Laflin Mills, reputedly one of the foremost advocates of the day, and at that time, the youngest man to have occupied the office of State's Attorney for Cook County. He would become a member of the original faculty and lecture on legal ethics. He suggested that the new school be named after John Marshall since at that time the nation, and especially the American legal profession, were preparing to celebrate the centenary of Marshall's installation as chief justice in 1801.

Research has not revealed any evidence that the founders of the Law School or Hon. Luther Laflin Mills were aware, in the late 1800s, of Chief Justice Marshall’s investment in slavery or his reported racist views. As Professor Finkelman points out, narratives and biographies regarding Chief Justice Marshall omitted mention of Chief Justice Marshall’s slave ownership and his role as a slave trader.

IX. Recommendation

The Task Force finds, by a 6-1 majority, that despite Chief Justice Marshall’s legacy as one of the nation’s most significant U.S. Supreme Court justices, the newly discovered research regarding his role as a slave trader, slave owner of hundreds of slaves, pro-slavery jurisprudence, and racist views render him a highly inappropriate namesake for the Law School. The Task Force

recommends that the John Marshall name be removed from the Law School's official name without delay.

Sources:

Professor Olive A. Taylor, *Blacks and The Constitutional (II) Chief Justice Marshall*, Washington Post (July 4, 1987)

Paul Finkelman, *Master John Marshall and the Problem of Slavery*, Chicago Law Review Online (2020)

Statement of the Deans of the Ten Law Schools (June 10, 2020)

Taru Taylor, *No School Should Be Named After John Marshall* (September 10, 2020)

Duke Today, *Aycock Hall Restored to Original Name, East Residence Hall* (June 17, 2014)

Gretchen Kill, Berkeley News, *UC Berkeley Removes Racist John Boalt Name from Law School* (January 30, 2020)

Office of the President, Yale University, *Decision on the Name of Calhoun College* (February 17, 2017)

Office of the President, Columbia University, *Announcement Regarding Bard Hall* (August 28, 2020)

Office of Communications, *President Eisgruber's message to community on removal of Woodrow Wilson name from public policy school and Wilson College* (June 27, 2020)

Robert M. Jarvis, *A Brief History of Law School Names*, 56 J. Legal Educ. 388 (2006)

Report of the Trustee Committee on Woodrow Wilson's Legacy at Princeton

UIC Today, UIC Earns National Acclaim for Diversity, Inclusion Efforts (September 19, 2019)
C-Span3, *Slavery and the Supreme Court: 1801-1864*, American History TV

Richard Brookhiser, *John Marshall: The Man Who Made the Supreme Court*

Paul Finkelman, *Supreme Injustice, Slavery in the Nation's Highest Court* (Harvard University Press, 2018)

Tara Taylor, Op-ed: *The Case for Changing the Name of Cleveland-Marshall College of Law*, Scene (Dec. 17, 2020)

DeNeen L. Brown, *Removing a Slavery Defender's Statute: Roger B. Taney Wrote One of Supreme Court's Worst Rulings*, The Washington Post (August 18, 2017)

The Antelope, 23 U.S. 66 (1825)

David Reynolds, *Worse than 'Dred Scott'*, Wall St. J. (Aug. 8, 2015)(reviewing Jonathan Bryant, DARK PLACES OF THE EARTH (2015)

William Wleklinski, A CENTENNIAL HISTORY OF THE JOHN MARSHALL LAW SCHOOL (1998)

Office of the Vice Provost for Diversity, Data, UIC Undergraduate Student Enrollment by Race/Ethnicity, Fall 2020 <https://diversity.uic.edu/data/>

Tara Patel, *Distant Voices Then and Now: The Impact of Isolation on the Courtroom Narratives of Slave Ship Captives and Asylum Seekers*, 23 Michigan J. Law & Race, n40 (2018)(“By affirming that while slaves might be human beings, at law slaves were property, John Marshall’s Court shaped American jurisprudence on these issues for the next thirty-five years”)

Dred Scott v. Sandford, 60 U.S. 393 (1856)

EXHIBIT 7

**June 16, 2021 Letter from
Norman S. Minor Bar
Association / June 21, 2021
Sonali Wilson Response**

Norman S. Minor

BAR ASSOCIATION

Blazing trails
Building leaders
Serving the community

Direct: (216) 200-7102
Email: President@nsmba.org

1379 E. 9th Street, Floor 2
Cleveland, Ohio 44114
www.nsmba.org

June 16, 2021

OFFICERS

Ciera M. Colon
President

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First Vice President

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President Emeritus
Hon. Ronald B. Adrine

*"In recognizing the humanity
of our fellow beings, we pay
ourselves the highest tribute."*

-- Thurgood Marshall

Founded – 1980

Affiliate Chapter of the
National Bar Association

To: The Cleveland State University Board of Trustees and President Harlan Sands

Re: Renaming Cleveland-Marshall College of Law

We are writing on behalf of the Norman S. Minor Bar Association ("NSMBA"), the premier bar association for African American legal professionals in Northeast Ohio, to urge you to remove Chief Justice John Marshall's name from the title of Cleveland State University's College of Law.

Cleveland-Marshall College of Law has existed under its current name since merging with Cleveland State University in 1969, and prior to such merger, some iteration of Justice Marshall's name has been associated with the College of Law since 1916. It is unacceptable for an institution of higher learning to continue to allow an honorific for a man who built his great personal wealth and family fortune on trafficking in the enslavement of human beings. This institution cannot continue to hypocritically require its students to "Live Justice" while its namesake did anything but.

There is no doubt that Justice Marshall made an incredible impact on the American judicial system through multiple groundbreaking decisions, including establishing judicial review as a check on legislative power. However, such positive impact does not overshadow, nor excuse, the unfathomably negative impact Justice Marshall had on Black lives by buying, owning and selling individual enslaved people and crafting legal opinions and precedents that allowed for the continuation of slavery for millions of others, for decades. Justice Marshall participated in, reinforced and strengthened the greatest restriction on personal freedom in our country's history.

Justice Marshall's repeated decision to be and to remain on the wrong side of history was his most egregious fault. He proudly walked and opined himself there. According to Paul Finkelman, author of Supreme Injustice: Slavery in the Nation's Highest Court, "Marshall was obsessively committed to slavery." In *Scott v. Negro London* (1806), Justice Marshall did not miss an opportunity to support slavery, even going so far as to overturn a jury decision granting freedom to a Black individual. John Marshall refused to acknowledge the freedom of Black petitioners on multiple occasions. John Marshall was not just an acquiescent Southerner; he

Norman S. Minor

BAR ASSOCIATION

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of our fellow beings, we pay
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-- Thurgood Marshall

Founded – 1980

Affiliate Chapter of the
National Bar Association

was a powerful perpetrator of the system. Continuing to honor his name as the eponym of Cleveland State University's College of Law, while also claiming to champion diversity and the growth of oppressed populations, is an unconscionable affront to those values and populations.

There is a difference between "cancel culture" and accountability. Justice Marshall cannot be held personally accountable for his deplorable actions, but we can engage in "enhancement culture," by accurately refining how we view Justice Marshall as a leader and a role model. On May 20, 2021, the University of Illinois Chicago College of Law made the right decision by voting to remove Justice Marshall's name from the title of its institution. Cleveland State University must follow this path as well – Justice Marshall's name must be removed from the name of Cleveland State University's Law School. Otherwise, while it will always continue to be an institution of learning, the words "Live Justice" in its motto will forever ring hollow.

Sincerely,

Ciera M. Colon, Esq., President
Delante Spencer Thomas, Esq., First Vice President
Brandon E. Brown, Esq., Second Vice President
Erin James, Esq., Membership Secretary
Martine Wilson, Esq., Recording Secretary
Phillip Turner, Esq., Treasurer
Valissa Turner Howard, Esq., Immediate Past President
The Honorable Ronald B. Adrine, Esq., President Emeritus

From: BOT Secretary <botsecretary@csuohio.edu>
Date: Monday, June 21, 2021 at 1:52 PM
To: "cieracolon.esq@gmail.com" <cieracolon.esq@gmail.com>
Subject: RE: Renaming Cleveland-Marshall College of Law

Dear Ciera:

On behalf of the University and its Board of Trustees, I am responding to your and the Norman S. Minor Bar Association's letter regarding the renaming of the Cleveland-Marshall College of Law. As you might expect, we have received numerous messages from various stakeholders, community, and Law School family members regarding the renaming, some sharing the Norman S. Minor Bar Association's view and others with varying views, including those not favoring a name change.

The University takes matters of racism and discrimination very seriously and condemns them in all forms and effects. The Law School, through its Dean, Lee Fisher, has formed a Law School Name Committee consisting of CSU Cleveland-Marshall faculty, staff, students, and alumni representing diverse backgrounds and diversity of thought to conduct a comprehensive and inclusive examination of the petitions and demands for renaming the Law School.

No decision will be made without careful consideration of all diverging views and factors, including those set forth in your letter. We appreciate your input on this very important matter and hope to arrive upon a solution befitting of the Law School's "Live Justice" mission.

Sonali B. Wilson
General Counsel and Board Secretary
Cleveland State University

EXHIBIT 8

**November 22, 2021 CSU-
National Lawyers Guild
Statement**



**LEARNING LAW
IN PURSUIT OF JUSTICE
FOR THE PEOPLE**

The National Lawyers Guild is the oldest and largest progressive bar association in the country. Our mission is to use law to function as an effective force in the service of the people by valuing human rights and the rights of ecosystems over property interests.

**2021-2022
EXECUTIVE BOARD**

Dakota Rench

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Julian Gilbert

Internal Relations Chair

Dalya Oprian

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Robert Dinkins

Treasurer

Nabelh Manaa

Community Relations Officer

Emily Forsee

Media Officer

Dakota Rench

Recruitment Officer

Nov 22, 2021

On Friday, as many of us were attending the town hall on removing the name *Marshall* from our college, the Rittenhouse verdict was announced. In the near future, we can expect the verdict from the murder trial of the three white men who gunned down Ahmaud Arbery. For any justice-minded person, the Rittenhouse verdict confirmed their knowledge that two systems of justice still exist in this country: one for white people and one for everyone else.

As future attorneys, the NLG wants to draw the student body's collective attention to the issue of Institutional Racism and acknowledge the impacts it has on individuals within C|M|Law.

Our institution is named after a slave lord, a man who earned his wealth by owning human beings, making his other accomplishments irrelevant. C|M|Law alumni and leadership have known about his legacy for decades, yet it took outside influences to force them to finally face his legacy in July 2020. The CSU Board of Trustees alone has the legal power to remove the name, by calling a single vote, but the Board has been waiting on C|M|Law for 18 months to recommend if we should. In fact, the C|M|Law committee, tasked with making this recommendation, has repeatedly postponed deadlines and sat with empty seats for months.

On Friday, for the *first time* in these 18 months, students, much less, Black and students of color, had the opportunity to voice their lived experiences about attending an institution under the pressure of such a name. We heard words like "trauma," feeling "erased," and feeling as if "no one cares." These words were met with staggeringly apathetic arguments from the administration such as needing to weigh "both sides," that this was a "teachable moment," and to "trust the process." It's unsettling witnessing efforts by Marshall apologists to vindicate his legacy as though redemption might be achieved by reducing one's "subjugative footprint" of slavery.

We affirm that there are only two sides to this institutional moral crisis; one that stands by its students and refuses to capitulate to thinly veiled arguments exonerating Marshall of his crimes and adhering to the motto "*Learn Live Justice*", or we can succumb to the trusted tool of institutional white supremacy: diminishing the student's voice by further prioritizing bureaucratic process and fiscal power over their lived experience. Rather than spending time on empty branding campaigns such as the so-called "Guardians of Justice," this issue could have and should have been acted upon swiftly, as the ethical emergency it is.

The CSU-NLG wants to acknowledge to our Black colleagues and other students of color, the tremendous emotional pressure of these two trials, as well as the egregious behavior of our collective legal community on the naming issue. We stand in solidarity with you, extend friendship, and commit to putting action behind words whenever and wherever we can.

EXHIBIT 9

**January 26, 2022 Cleveland
City Council Resolution**



City of Cleveland
Clerk of Council

RESOLUTION NO. 25-2022

By Council Member Conwell.

An emergency resolution urging the Law School Name Committee at Cleveland-Marshall College of Law to change the name of the law school to eliminate any reference to John Marshall.

WHEREAS, although John Marshall believed slavery was evil and opposed the slave trade, he nevertheless owned slaves most of his life; and

WHEREAS, in the early 19th century, Marshall expressed reservations about large-scale emancipation of slaves, in part because he feared a large number of freed slaves would rise up in revolution; and

WHEREAS, in 1817, Marshall joined the American Colonization Society, which favored sending freed blacks to Africa; and

WHEREAS, historians believe that Marshall owned hundreds of slaves on his several properties in various states, and bought and sold slaves throughout his life;

WHEREAS, this Council believes that because of John Marshall's life-long association with slavery, the Law School Name Committee should eliminate any reference to him regarding the college of law; and

WHEREAS, this resolution constitutes an emergency measure for the immediate preservation of public peace, property, health or safety, now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That this Council urges the Law School Name Committee at Cleveland-Marshall College of Law to change the name of the school to eliminate any reference to John Marshall.

Section 2. That the Clerk of Council is directed to transmit a copy of this resolution to Dean Lee Fisher, Chair of the Law School Name Committee.

Section 3. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Adopted January 24, 2022.

Effective January 26, 2022.

I, Patricia J. Britt, City Clerk, Clerk of Council, do hereby certify that the foregoing is a true and correct copy of Resolution No. 25-2022, adopted by the Council of the City of Cleveland on January 24, 2022.

EXHIBIT 10

Students Against Marshall (SAM) Public Statement & Demand

Students Against Marshall Public Statement & Demand

We, the Students Against Marshall, the current students of Cleveland-Marshall College of Law, demand the CSU Board of Trustees immediately remove Chief Justice John Marshall from all aspects of the law college prior to Spring 2022 Commencement, May 15th, 2022, ensuring no other student graduates with the name of a brutal slave owner on their diploma.

HISTORICAL CONTEXT. Our institution is named after a slave lord, a man who accumulated wealth by owning human beings, exploiting his sacred responsibility to the people of the United States as a Supreme Court Justice repeatedly to protect his own financial interests in the trade of human lives. In addition to his cruelty against enslaved people, the historical record is clear on his deep racism against First Nations people. Arguments upholding Marshall’s contributions to the judicial system as somehow “outweighing” his lifelong personal and political commitment to upholding the criminal institution of slavery are morally corrupt and continue to cause harm.

FAILED PROCESS: Historians, Cleveland State University, C|M|Law leadership, and alumni have known about his legacy for decades, yet, it wasn’t until the Summer of 2020, amid a national racial uprising, that an outside influence forced this institution to face his legacy. The CSU Board of Trustees alone has the legal power to remove the name by holding a single vote. In July 2020, President Harlan Sands tasked C|M|Law’s leadership to issue a single report to CSU’s Board with their recommendation. Since that time the students have waited patiently, in good faith, for this process to unfold, while the public-facing messaging put forth from C|M|Law has been one of “diversity, equity & inclusivity.” However, the student’s lived experiences on this and other related matters have been much different.

RESPONSIBILITY TO ACTION: As yet, no report has been issued to the CSU Board, and the leadership of C|M|Law refuses now, nor have they ever committed to a timeline. Students have been strategically excluded, misled, and watched as the process of producing a single report persists for over a year and a half, far beyond any reasonable expectation. Students Against Marshall affirm that this is an institutional failure and a moral crisis that needs to be dealt with swiftly. As legal professionals, future leaders within the Cleveland community, and those who take our commitment to justice and each other seriously, we will not be complicit while yet another class of our colleagues graduate with a brutal slave trader’s name on their diploma.

Students Against Marshall (S.A.M.) formed in November 2021 as an ad hoc working group consisting of current C|M|Law students from various demographic and academic years who, after 18 months of individual petitioning to the law school for action, had grown frustrated with the lack of clear, quantified progress toward resolution. We collectively believe that C|M|Law and CSU leadership have not treated this matter with the sense of urgency it deserves, have not dealt in good faith with the students, and seek to communicate on a resolution with the Board of Trustees directly.

EXHIBIT 11

Endorsements and Community Support (SAM webpage)

Endorsements & Community Support

Community Support Initiatives:

[Community Letter](#) Urging C|M|Law to Remove John Marshall - led by Taru Taylor & Emily Forsee, delivered to Dean Lee Fisher October 2020

[Norman S. Minor Bar Association Letter](#) to President Sands and CSU Board of Trustees

[Rename John Marshall Petition](#) - led by Hanna Kassiss, currently includes over 1500 signatures

Organizations:

Black Belt Chess Academy

Black Lives Matter Cleveland

C|M|Law: Black Law Students Association

C|M|Law: Arab Law Students Association

C|M|Law: CSU-National Lawyers Guild - [Statement](#)

Community Environmental Legal Defense Fund

Cuyahoga County Progressive Caucus

Friedman and Gilbert

InterReligious Task Force on Central America and Colombia (IRTF Cleveland)

Latinos Unidos for Black Lives

Move To Amend

Ohio Chapter of the National Lawyers Guild

Puncture the Silence

South Asians for Justice and Equity

Standing Up for Racial Justice, Northeast Ohio Chapter

Standing Up for Racial Justice, Ohio Chapter

The Coalition to Stop the Inhumanity at the Cuyahoga County Jail

The Reading Room CLE

Universal Negro Improvement Association & African Communities League

Individuals

Molly Andrews-Hinders, Artistic Associate at Cleveland Public Theatre

Brian Bardwell, Attorney at Chandra Law Firm

Eva May Barrett, Cleveland resident

Robert S. Belovich, Attorney and Cleveland-Marshall Class of 1976

Dana Beveridge, Attorney and Cleveland-Marshall Class of 2019

Greg Coleridge, Outreach Director, Move To Amend Coalition

McClellon Cox, Esq.

Robert Dinkins Jr., Cleveland-Marshall Class of 2023

Miguel Eaton, Esq.

Dallas Eckman, Public School Teacher, Cuyahoga County

Nivi Engineer, SAJE Organizer

Emily Forsee, Cleveland-Marshall Class of 2024

Margot Frazier, Public School Teacher, Cuyahoga County

Ann Ghazy, Dept. Assistant, CWRU University Technology
Jacqueline Greene, Partner at Friedman & Gilbert
Kareem Henson, Black Lives Matter Cleveland
B. Jessie Hill, Associate Dean for Research and Development, Judge Ben C. Green Professor of Law, CWRU School of Law
Rebecca Joseph, Board member, Jewish Federation of Cleveland
Hanna Kassis, Rename John Marshall
Madeleine Keller, Licensed Professional Clinical Counselor
Amanda King, Shooting Without Bullets
Lisa Kollins, Administrator, CWRU Schubert Center for Child Studies
Raymond Ku, Professor of Law, Laura B. Chisholm Distinguished Research Scholar, CWRU School of Law
James Levin, Founder and Director of LegalWorks
Terry J. Lodge, Esq.
Christopher McNeal, Attorney and Cleveland-Marshall Class of 2017
Cleophus Miller Jr., President-General UNIA-ACL and former Cleveland Brown
David B. Miller, Associate Professor, Director of International Education Programs, CWRU Mandel School of Applied Social Sciences
Tish O'Dell, CELDF Organizer
Frank Marvin Perkins, Cleveland State University College of Sciences and Health Professions Class of 1991
L.S. Quinn, Reading Room Cleveland
Terrance Rounds, Retired Public School Teacher, Cuyahoga County
Libby Rutherford, Public School Teacher, Cuyahoga County
Alyssa Sidelka, Attorney and Cleveland-Marshall Class of 2016
Robert Strassfeld, Professor of Law, CWRU School of Law
Chrissy Stonebraker-Martinez, Co-Director, IRTF Cleveland
Taru Taylor, City of Cleveland tax-payer
Jameson Tibbs, Midwest Regional Chair National BLSA and Cleveland-Marshall Class of 2021
Brooke Tyus, Esq.

EXHIBIT 12

**February 3, 2022 BLSA
Statement / February 3, 2022
Dean Fisher Response**



Black Law Students Association

Cleveland-Marshall College of Law

1801 Euclid Ave. LB 138

Cleveland, OH 44114

@CMLawBLSA

Dear C|M|Law and Cleveland State University Leadership,

The C|M|Law Black Law Students Association Chapter joins Students Against Marshall in requiring immediate action to remove the brutal slaver U.S. Supreme Court Chief Justice John Marshall from all references of the name Cleveland-Marshall College of Law at Cleveland State University. While we believe that Chief Justice Marshall's legacy and contributions to the legal profession should be acknowledged and taught, he should not be given the highest honor this institution can bestow. His actions in promoting an inhumane institution should trump his accomplishments, no matter how significant the achievement.

Black attorneys represent only 4.7% of all lawyers in the United States. Yet, institutions around the country continue to place a higher value on memorializing a history that should not be celebrated, over increasing access by Black and other minority students, and addressing emotional traumas caused by slavery and the very laws that were designed to continue its effects. We are the legal profession's future, yet we must learn the Law within a context where the vestiges of slavery and those who promoted them continue to be celebrated. We, however, refuse to allow this to continue.

Current Impact on Students C|M|Law was the first school in Ohio to admit women and racial minorities, and its public-facing messaging boasts the contributions of its minority leadership such as Secretary of Housing and Urban Development Marcia L. Fudge, and the first Black woman Ohio Supreme Court Justice Melody Stewart. While we are proud of these achievements, this does not address the full lived experiences of students. In 2021 the LSSE Diversity Report revealed troubling trends after current students were polled on various questions relating to diversity within C|M|Law. Further, for nearly two years, students have repeatedly gone to the administration to inform them of the emotional harm of learning under the name Marshall, as well as the stress of having to endure this unfruitfully but lengthy process. They have been dismissed with chastising language such as, to "consider the other side". The voices and concerns of students, especially minority students, have gone unheard for too long and many must deal with those impacts daily. The fact that students would be harmed by daily navigating within an institution whose namesake bounded their ancestors in slavery should be obvious to the administration. It is one thing to learn about this history, but knowing that it is celebrated in the present weighs on the backs of the students and interferes with their studies.

The C|M|Law Black Law Students Association Chapter fully endorses Students Against Marshall and the working group's efforts so that no other C|M|Law student graduates with the name of a slave-owner on their diploma. After careful review of the Chair's public response to Students Against Marshall's formal request, it is clear that the C|M|Law Naming Committee could have honored multiple requests made in the students' letter, but chose not to, using as justification, the committee's self-imposed process and/or timeline, which ensured they would not be able to comply.

Leaders' Act. C|M|Law Black Law Students Association Chapter and alumni will continue to uphold our law school's legacy of producing entrepreneurs, educators, attorneys, politicians, judges, and future

leaders. Removing Marshall from C|M| Law has already been endorsed by members of the community including The Norman S. Minor Bar Association's endorsement, the Cleveland Metropolitan School District, Cleveland City Council, Black Lives Matter Cleveland, the Cuyahoga County Progressive Caucus, Standing Up for Racial Justice Ohio Chapter, Ohio Chapter National Lawyers Guild, Cuyahoga County Jail Coalition, Puncture the Silence, and many others. In addition, here in the law college, the Arab Law Student Association, the CSU-National Lawyers Guild, and OUTLaw have publicly endorsed the removal.

We will be working to build public support at C|M|Law, at CSU, within our professional and alumni networks, and expect the support of our colleagues in the other student organizations and SBA on this matter. Warm Regards,

CM|Law BLSA Executive Board

Jordan Rodriguez, President

Meagan Rowley, Vice President

Robert Dinkins, Treasurer

Kimana Bowen, Corresponding Secretary

Meagan Rowley, Recording Secretary

Jewel Heath, Parliamentarian

From: Lee Fisher <lee.fisher@csuohio.edu>
Sent: Thursday, February 3, 2022 6:34 PM
To: Jordan Rodriguez <j.rodriquez29@cmlaw.csuohio.edu>
Cc: all@law.csuohio.edu; students@law.csuohio.edu
Subject: BLSA Statement of Support for Students Against Marshall

Dear Jordan,

My thanks to you and your fellow BLSA officers and members for your attached statement which will be included in the final report to the University.

My best,
Lee

Lee Fisher
Dean, [Cleveland-Marshall College of Law](#) | Cleveland State University
Joseph C. Hostetler-Baker Hostetler Chair in Law
1801 Euclid Avenue, LB 138 | Cleveland, Ohio 44115 -2214
216-386-8688 | lee.fisher@csuohio.edu



I respect the boundaries between our work/career and personal lives. I sometimes send emails on evenings and weekends, but I have no expectation that you read or respond to any email I send outside of your working hours.

EXHIBIT 13

February 17, 2022 OUTlaw Statement



OUTLaw, Cleveland-Marshall College of Law

Katheryn Hach, President
Savannah Gordon, Vice President
Melissa Obodzinski, Treasurer
Emily Foresee, Secretary

FOR IMMEDIATE RELEASE

OUTLaw, as C|M|Law's LGBTQ+ representation and advocacy group, cherishes diversity and intersectionality among our core values. We recognize and appreciate the fact that issues specific to the LGBTQ+ community cannot be divorced from other immutable identities which result in discrimination, disadvantage, and oppression from the institutions through which we must live our daily lives. Through our work, we strive to encourage this basest form of empathy in the C|M|Law community, who may not be among OUTLaw's membership, but nonetheless know, respect, or love members of our community.

Part of this work focuses on recognizing that American history continues to memorialize the same several dozen figures, in spite of their problematic pasts, while marginalized populations are overlooked if not completely erased. For instance, few of us have ever heard of [Pauli Murray](#), the 1940s Black [non-binary](#) civil rights lawyer, and activist, who Thurgood Marshall referred to as writing the legal "Bible of the civil rights movement," and who Ruth Bader Ginsburg credited for her work on sex discrimination. Nor have we heard much of [Bayard Rustin](#), the openly gay Black civil rights and labor organizer who was integral in organizing the March on Washington, and later helped mobilize the Southern Christian Leadership Conference and the Freedom Rides that ignited the non-violent movement in the south.

Yet, when we could be celebrating true achievement, resilience, and advancements to humanity, we insist upon clinging to systems that perpetuate harm. For anyone interested in justice, it should be a simple decision that we as an institution, remove our namesake without question for the singular reason that John Marshall owned humans. Knowing now that it has taken us nearly two years to grapple with this question, should make all of us, particularly marginalized populations question our commitment to making C|M|Law a diverse and inclusive community.

For this reason, OUTLaw easily and enthusiastically stands with our friends in [BLSA](#), and endorse [Students Against Marshall](#) in their goal of removing the name Marshall from all aspects of the law college prior to Spring 2022 Commencement, May 15th, 2022, ensuring none of our friends and colleagues, particularly Black students who could potentially have ancestral ties to America's original and unforgettable sin of slavery, graduate with the name of a brutal slave owner on their diploma. There is no discussion, certainly no balancing of both sides that is anything less than insulting. This must be done immediately.

In addition to the removal of Marshall, thanks to these student organizers, new light has been shed on the [2021 LSSSE Diversity Report](#) that previously went largely unnoticed by the student body. This data demonstrates that C|M|Law, like many law schools, has work to do in the areas of diversity and inclusivity. OUTLaw calls on C|M|Law to commit to issuing (at minimum) the Diversity section of the LSSSE to students annually so that the administration, student body, the Student Bar Association, and all marginalized populations have quantifiable data to analyze trends, and hopefully track improvements over time.

The importance of speaking out on these issues, particularly by those students in the school who are in positions of leadership, can not be overstated. The majority should not be leaving this up to minority students to do on their own. The removal of this name is not an everyday, business-as-usual, topic of discussion. Rather, it is a civil rights issue and a matter that all leaders within the C|M|Law community should recognize as urgent. It has and continues to do members of our collective body harm.

In the spirit of Black History Month, we are reminded of the words of one of its great leaders, Dr. Martin Luther King Jr. when he said, "In the end, we will remember not the words of our enemies, but the silence of our friends." It is beyond time to speak up and speak out.

EXHIBIT 14

February 22, 2022 Arab Law Student Association Statement



Arab Law Student Association
Cleveland-Marshall College of Law
1801 Euclid Ave.
Cleveland, OH 44114

Dear C|M|Law and Cleveland State University Leadership:

The Arab Law Student Association would like to, once again, fully endorse the removal of John Marshall from our law school's namesake. We stand among many members of our community who have conscientiously done the same.

We are free, just as we have always been, to review the constitutional concepts and contributions of John Marshall and friends. We should refrain, however, from honoring and glorifying the *same* "responsible legal professional" who has done the following:

- **John Marshall** owned more than 300 enslaved human beings throughout his time on Earth;
- **John Marshall** did not inherit enslaved people, but **aggressively bought** them whenever the opportunity presented itself;
- **John Marshall** ignored the effect that buying and selling young children, or mothers alone would have on the families he effectively destroyed;
- **John Marshall** never displayed **accountability** for the enslaved human beings "overseen" by others on his land;
- **John Marshall** lent 60 enslaved human beings to his two sons, further displaying his dedication to the African slave trade;
- **John Marshall** sold more than 30 enslaved human beings to pay off the debts of one of his sons;
- **John Marshall**, in 1831, petitioned the state legislature to appropriate funds for the "urgent expedience of getting rid in some way, of the free coloured population of the Union;"
- **John Marshall** asserted that all free Black people were "pests," "criminals," "worthless," "ignorant," and "lazy;"
- **John Marshall** consistently went out of his way to interpret any statutory ambiguities in favor of the slaveholder, rather than justice or freedom—even when the jury disagreed; AND
- **John Marshall** refused to enforce federal piracy law, and American policy which prohibited the introduction of any new enslaved people, and held that kidnapped Africans who were illegally brought to the U.S. would remain enslaved and be sold in auctions throughout the country. See *The Antelope* (1825).

Although this list may show numerous examples of John Marshall's inhumane behavior, the list is not exhaustive. Many more examples can be cited to demonstrate how John Marshall continued to uphold the enslavement of Black people. One glance at this list should provide some insight as to where "the other side" of this conversation stands—on this issue, and in the broader context of racial relations in the United States. John Marshall's "legacy" is most evident in the unwavering success of the institutions that continue to benefit from the enslavement and oppression of Black people **to this day**. We fully support the work of the Black Law Students Association (BLSA), whose members have pioneered this effort for more than 20 months, as this issue has remained unconscionably unresolved. For that reason, we as the Arab Law Student Association also declare our support for Students Against Marshall's (SAM) goal of removing the name before commencement Spring 2022 **so that no other student graduates with a slaveholder on their diploma**.

We understand your grief and frustration, and we look forward to working with you to build support to end systemic racism at C|M|Law, CSU, and within the broader legal community. We urge all of our allies to do the same.

In Solidarity,
Nabelh Manaa, *President*
Rachael Chahoud, *Vice President*
Chance Zurub, *Secretary*
Meena Hatab, *Treasurer*

EXHIBIT 15

February 22, 2022
Cleveland-Marshall Alumni
Association Minority
Outreach Committee
Statement

February 22, 2022

Dear Cleveland State University Board of Trustees and President Harlan Sands,

The Minority Outreach Committee of the Cleveland Marshall College of Law Alumni Association (“CMLAA”) is seeking the support of the Board of Trustees in reference to the decision to remove U.S. Supreme Court Chief Justice John Marshall from the Cleveland-Marshall College of Law name.

To be clear, the Minority Outreach Committee is in support of the removal of Chief Justice John Marshall from our name as Justice Marshall was a plantation owner who accumulated wealth by owning enslaved human beings. Our beloved institution’s name reflects the opposite of what we encourage graduates and current students to do – Learn Law. Live Justice. We, as do current students of our law school, find it unacceptable to continue on the path forward to living justice while simultaneously honoring a man who has built generational wealth on trafficking in the enslavement of human beings, namely, Africans.

It is the Minority Outreach Committee’s purpose to listen to student voices and to encourage a more fair, equitable, and diverse educational experience. We are here, and were formed as an entity, to support the minority students and alumni of Cleveland-Marshall. The minority students of Cleveland-Marshall and its minority alumni have spoken and have approached us directly regarding this important issue. We are answering their calls and are stepping up to provide the support that they need to make their experience at Cleveland-Marshall a positive and fruitful one. Students have expressed their discomfort and trauma associated with the name as it stands and do not feel continuing to attend an institution with the name reflects a racially inclusive environment. Afterall, students are attending classes and activities in a building named after a former slave owner.

The Students Against Marshall (“S.A.M.”) organization has issued a public statement demanding that the CSU Board of Trustees remove Chief Justice John Marshall from all aspects of the College of Law. We empathize with the students and support them in their efforts to bring awareness to this important matter.

Cleveland-Marshall and Cleveland State University have an opportunity to be on the right side of history. The Minority Outreach Committee believes that this is the right decision in the debate to remove John Marshall from our name and we encourage all who truly believe in “living justice” to support our minority students and alumni in the removal of John Marshall from our name.

Respectfully,

The Minority Outreach Committee
Cleveland Marshall College of Law Alumni Association

EXHIBIT 16

Media coverage of the CSU Cleveland-Marshall name issue

Note: Internal hyperlinks not included. See full text links to access.

Articles

[Full Text Link](#) - WKYC.com

Examining Efforts to Rename Cleveland-Marshall College of Law and Select CMSD Schools Named After Slave Holders

Author: Lynna Lai, Dave "Dino" DeNatale, NBC News

Published: 1:08 AM EST January 26, 2022

Updated: 1:48 AM EST January 26, 2022

CLEVELAND — Cleveland City Council on Monday unanimously passed a resolution urging that the Cleveland-Marshall College of Law at Cleveland State University change its name.

"Though Marshall opposed the slave trade, he nevertheless owned slaves most of his life," the resolution added.

Even before Monday's council resolution was announced, the college has been taking a long, hard look at its name. As the nation was swept up in the calls for racial justice amid the death of George Floyd in the summer of 2020, a petition calling for the removal of Marshall's name was sent to both the Cleveland-Marshall College of Law at CSU, as well as at the John Marshall Law School at the University of Illinois Chicago.

"Anyone that was a former slave holder, that's wrong," Conwell told 3News Tuesday. "Anyone that has oppressed any individual, our children should not be honoring them by keeping their names alive."

The school is currently named after former U.S. Supreme Court Chief Justice John Marshall. The resolution, introduced by Councilman Kevin Conwell, states that historians believe Marshall owned hundreds of slaves on his several properties in various states.

CSU responded by forming a committee of faculty, staff, students, and alumni to begin the process of reviewing whether the name 'Marshall' should be removed. In 2021, the college held a series of six public forums to consider the matter: Three public virtual forums looked at how historians view institutional name changes and how other schools were handling similar cases, and three community town halls then allowed students, staff, faculty, and many alumni to express their views.

The committee pieced together a framing document laying out the arguments for and against changing the name, plus some alternative naming options. Law school and CSU community

members are encouraged to fill out a feedback form between now and Jan. 17, and the college will then submit its findings to the university, which has the ultimate authority on whether or not the law school will change its name.

Lee Fisher, dean of Cleveland-Marshall College of Law, said in a statement to 3News:

"We value the input of Cleveland City Council and members of the Cleveland community on this consequential decision for our law school. We are reviewing the resolution and carefully considering it as part of the inclusive and deliberative process evaluating our name. We look forward to updating the community on our progress."

The Cleveland Metropolitan School District is also considering renaming seven schools that currently bear the names of slaveholders and other historical figures whose legacies have been tarnished by racism. The city council also passed a resolution in 2020, urging CMSD to rename schools commemorating figures like Founding Fathers Thomas Jefferson and Patrick Henry in a district where 64% of students are African American.

Conwell would like to see the schools bear names like Stephanie Tubbs-Jones, the late Ohio congresswoman. If that happens, then "that child will be able to see someone who looks like her and say, 'I want to become a judge, or a prosecutor, or a congresswoman.'"

The district identified five elementary schools — Albert Bushnell Hart, Louis Agassiz, Luis Marin, Thomas Jefferson, and Patrick Henry — which are named after people who had documented histories of participating in "systemic racism" and "oppression." Following a review, process, these schools could potentially have new names by the 2022-23 school year.

Two Cleveland high schools named after John Marshall and James Ford Rhodes are being considered for a name change at a later date. No specific timeline has been given.

[Full Text Link](#) – **Cleveland Scene**

Students Ask for Immediate Removal of John Marshall's Name from CSU Law School

Posted By Sam Allard on Wed, Jan 19, 2022 at 9:06 am

A working group of CSU Law School students calling themselves "Students Against Marshall" sent a formal request Tuesday to the school's dean, Lee Fisher, and the naming committee he chairs asking that former U.S. Supreme Court Chief Justice John Marshall's name be immediately removed from the law school.

"Our single objective," read the letter to the 29-member Naming Committee, "is for the CSU Board of Trustees to remove the name of this slave master who built his wealth through

ownership of human beings, from all aspects of the law college prior to the Spring 2022 Commencement, ensuring no other C|M|Law student graduates with the name of a brutal slave owner on their diploma."

Students had been individually petitioning school leadership to make such a change in recent years, mobilized by the national reckoning with race in the wake of George Floyd's murder by Minneapolis Police in 2020. Many of the arguments were advanced in guest columns in this publication.

Fisher formed the naming committee at the behest of CSU President Harlan Sands. With representatives from the student body, faculty and alumni, the committee was tasked with making a recommendation to the university's board of trustees—keep the name or don't—and then with proposing an alternate name if necessary. Current students say they've been frustrated by the lack of the committee's progress.

"It just wasn't doing anything," second-year law student Emily Forsee told Scene in a telephone interview Tuesday. Forsee is one of two "public-facing" members of Students Against Marshall and the letter's lead author. "The committee was formed in the aftermath of George Floyd, at a time when the CSU website was slapping woke labels on itself, promising to do better. In that context, the fact that we're commemorating a slaveholder is absurd, and it's taking way too long for them to see that."

Forsee said that the Fisher-led committee has been unwilling to commit to a timetable, and that the ad hoc student group Students Against Marshall finally took it upon themselves to force the issue with the university's board of trustees.

"It's so simple," Forsee said. "They could call a vote tomorrow and vote to remove the name. Period. All they need is a simple majority."

The letter demands immediate action. It acknowledges that the renaming discussions have been lengthy and deliberate, but argues that this shouldn't preclude the board from removing Marshall's name before a new name is selected. (The situation is not unlike asking for the immediate removal of Chief Wahoo, even before a new name for the Cleveland MLB franchise was established.)

The letter asks that the naming committee "commit to severing the renaming issue from the removal issue, and commit to submitting a recommendation for removal to the Board of Trustees" in time to appear on the agenda for the board's next meeting on January 27.

"This has taken so long that we've had a whole class of law school colleagues who graduated with a slaveowner's name on their diplomas," Forsee said. "There are only two more meetings of the board before Spring Commencement. We sent the letter because we want to make sure

that it won't happen again."

The letter also follows closely on the heels of an emergency resolution in Cleveland City Council, sponsored by Glenville Councilman Kevin Conwell, urging the CSU Naming Committee to change the law school's name as well.

In response to emailed questions from Scene, a university spokesperson confirmed that the naming committee had no timetable for its decision and had nothing further to add beyond the statement below:

"The College of Law is working through a process evaluating its name. This is a consequential decision that requires careful study, and a thoughtful, inclusive process that considers different viewpoints from our entire law school and university community. Our process has modeled what we teach our law students – to listen and learn, and to withhold judgment until we have had a chance to evaluate what we have heard."

[Full Text Link](#) – WKYC.com

Examining efforts to rename Cleveland-Marshall College of Law and select CMSD schools named after slave holders

January 26, 2022

Cleveland City Council recently passed a resolution urging Cleveland State University to rename the law school.

CLEVELAND — Cleveland City Council on Monday unanimously passed a resolution urging that the Cleveland-Marshall College of Law at Cleveland State University change its name.

The school is currently named after former U.S. Supreme Court Chief Justice John Marshall. The resolution, introduced by Councilman Kevin Conwell, states that historians believe Marshall owned hundreds of slaves on his several properties in various states.

"Though Marshall opposed the slave trade, he nevertheless owned slaves most of his life," the resolution added.

Even before Monday's council resolution was announced, the college has been taking a long, hard look at its name. As the nation was swept up in the calls for racial justice amid the death of George Floyd in the summer of 2020, a petition calling for the removal of Marshall's name was sent to both the Cleveland-Marshall College of Law at CSU, as well as at the John Marshall Law School at the University of Illinois Chicago.

"Anyone that was a former slave holder, that's wrong," Conwell told 3News Tuesday. "Anyone that has oppressed any individual, our children should not be honoring them by keeping their names alive."

CSU responded by forming a committee of faculty, staff, students, and alumni to begin the process of reviewing whether the name 'Marshall' should be removed. In 2021, the college held a series of six public forums to consider the matter: Three public virtual forums looked at how historians view institutional name changes and how other schools were handling similar cases, and three community town halls then allowed students, staff, faculty, and many alumni to express their views.

The committee pieced together a framing document laying out the arguments for and against changing the name, plus some alternative naming options. Law school and CSU community members are encouraged to fill out a feedback form between now and Jan. 17, and the college will then submit its findings to the university, which has the ultimate authority on whether or not the law school will change its name.

Lee Fisher, dean of Cleveland-Marshall College of Law, said in a statement to 3News:

"We value the input of Cleveland City Council and members of the Cleveland community on this consequential decision for our law school. We are reviewing the resolution and carefully considering it as part of the inclusive and deliberative process evaluating our name. We look forward to updating the community on our progress."

The Cleveland Metropolitan School District is also considering renaming seven schools that currently bear the names of slaveholders and other historical figures whose legacies have been tarnished by racism. The city council also passed a resolution in 2020, urging CMSD to rename schools commemorating figures like Founding Fathers Thomas Jefferson and Patrick Henry in a district where 64% of students are African American.

Conwell would like to see the schools bear names like Stephanie Tubbs-Jones, the late Ohio congresswoman. If that happens, then "that child will be able to see someone who looks like her and say, 'I want to become a judge, or a prosecutor, or a congresswoman.'"

The district identified five elementary schools — Albert Bushnell Hart, Louis Agassiz, Luis Marin, Thomas Jefferson, and Patrick Henry — which are named after people who had documented histories of participating in "systemic racism" and "oppression." Following a review process, these schools could potentially have new names by the 2022-23 school year.

Two Cleveland high schools named after John Marshall and James Ford Rhodes are being considered for a name change at a later date. No specific timeline has been given.

[Full Text Link](#) – National Review

Stripping John Marshall's Name from Law Schools Is a Mistake

By Adam M. Carrington January 17, 2022 6:30AM

Civic iconoclasts are wrong to target the early Supreme Court chief justice for owning slaves while working against slavery.

Our age of civic iconoclasm continues apace. In obedience to our misguided, new pieties, Cleveland's Marshall School of Law will now consider stripping its namesake: Chief Justice John Marshall. This comes after the UIC John Marshall Law School decided to change its name to the University of Illinois Chicago School of Law last year. This indiscriminate purge makes no distinction between America's great, even if flawed, Founders and those who were true purveyors of evil and oppression.

Marshall stands among the great forgers of America in general and of the U.S. Supreme Court in particular. He voted to support the Constitution at the crucial Virginia ratifying convention. He served important duties overseas in France. Above all, he served as the most consequential chief justice of the United States Supreme Court in American history. His opinions in cases such as *Marbury v. Madison*, *McCulloch v. Maryland*, and *Gibbons v. Ogden* established baselines for judicial power and federalism that redound to this day.

The impetus for removing Marshall's name stems from accusations that he was a racist as well as a slave-owner himself. Yet this accusation fails to fully account for Marshall's life and work.

Marshall indeed owned slaves. He did so to his own economic benefit, helping to make him one of the richer men in Virginia at the time. I need not critique those actions in my own words. I merely can call upon Marshall's own to accomplish that task.

In *The Antelope*, Marshall considered his opinions on the international slave trade. While discussing technical matters of the law of nations, he couldn't help but comment on the institution itself. "That [the slave trade] is contrary to the law of nature," he declared, "will scarcely be denied." In other words, the buying and selling of human beings violates the most fundamental, universal principles of justice. Marshall stated that "every man has a natural right to the fruits of his own labor is generally admitted, and that no other person can rightfully deprive him of those fruits and appropriate them against his will seems to be the necessary result of this admission."

Indeed, Marshall not only recognized the humanity of slaves but also their right to liberty and property — starting with their own minds and bodies but extending to what those minds and bodies acquired. Human beings own property. They are not property themselves. Moreover, Marshall's opinion here and elsewhere were crafted with the burden of proof held against slaveholders and traders — thus, in favor of human liberty. As a judge, Marshall faced limits on how far he could apply natural principles of justice in line with his role as expositor and applicator of the written law. Still, he sought to put them together in his jurisprudence where he could.

What, then, is to be done with this distinction between personal actions and judicial reasoning? To lay it merely at the feet of selfish hypocrisy — as many now do — exposes our own vices as

much as it pontificates on those of men like Marshall. Our iconoclasm sees neither the use nor even the potential for setting out ideals whose realization human frailty could not immediately accomplish. Marshall made an argument against slavery that undermined the defense of his own actions. He limited the legal power that he himself exercised in his personal life. In so doing, Marshall showed something of Abraham Lincoln's later insight about the American Founding's relationship to slavery.

Lincoln, responding to the Dred Scott decision in 1857, wrote that men like Marshall believed in the equality of all human beings in their natural rights. Yet he added: They did not mean to assert the obvious untruth, that all were then actually enjoying that equality, nor yet, that they were about to confer it immediately upon them. In fact, they had no power to confer such a boon. They meant simply to declare the right, so that the enforcement of it might follow as fast as circumstances should permit. They meant to set up a standard maxim for free society, which should be familiar to all, and revered by all; constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people of all colors everywhere.

The Founders, Marshall included, proclaimed a principle above and beyond their own deeds. They did so knowing the power of words and the logical working of justice declared to reform evil deeds. True to this knowledge, arguments such as Marshall's proved much greater than his personal actions. They did so for reasons Marshall himself seemed to know — they accorded with truth and good.

A better political piety would neither ignore Marshall's slave history nor strip a man of such virtuous accomplishment from the law schools whose content so indelibly reflects his greatest work. Instead, it would seek to show in him the eventual triumph of the principle of equality over the practice of human bondage. And it would find humility in asking where else we still suffer the same discordance today.

Adam M. Carrington is an associate professor of politics at Hillsdale College.

[Full Text Link](#) – Crain's Cleveland Business

Activists grow frustrated as Cleveland-Marshall continues to grapple with name change

Jeremy Nobile January 22, 2022 04:00 AM

A movement pushing for Cleveland State University's Cleveland-Marshall College of Law to eliminate from its name any reference to John Marshall, chief justice of the United States between 1801 and 1834 and a slave owner, continues to pick up steam — and not just in Northeast Ohio.

The surrounding activist effort calls on all learning institutions named after Marshall to remove any references to him in their names in recognition of his problematic history.

This movement helped inspire The University of Illinois at Chicago's John Marshall Law School to change its name last July to the University of Illinois Chicago School of Law.

That leaves two other law schools bearing Marshall's name at this time: Cleveland-Marshall and Atlanta's John Marshall Law School.

A Cleveland-Marshall naming committee is charged with exploring whether the school's name should be modified and with considering potential alternatives if so. A 46-page Law School Name Framing Document published in December details the process so far.

It includes a passage from Cleveland-Marshall professors David Forte and Stephen Lazarus titled "Why We Should Keep Our Name."

"The independence of the Court that Marshall brought about and the institution of judicial review that he preserved gave later Supreme Courts the power to overturn segregation and affirm equal rights for African Americans," they write. "Though he personally owned many slaves, an action that cannot be defended, John Marshall's life led to freedom and liberty under our laws for millions of our citizens.

"Particularly for those in Cleveland who achieved so much through an institution bearing his name, John Marshall should remain an honored name among us," they continue. "Moreover, in our quest to bring justice to issues of racial equality, it would be ironic to remove the name of a man who provided the means today for achieving that racial justice. We should not distract ourselves from this quest by removing the Marshall brand, which has meant so much to the advancement of minorities as well as many from our ethnic communities."

The school has not yet committed to a timeline for reaching a resolution on the renaming situation.

Cleveland-Marshall Dean Lee Fisher has encouraged observers to "respect the process" that is being undertaken.

Students Against Marshall

This, however, rankles some members of the student body who find the process unsatisfactory. As a result, the Students Against Marshall group was formed in November. On Tuesday, Jan. 18, the group said it submitted a formal request to the Cleveland-Marshall naming committee urging the school to change its name.

"We have mobilized to pressure the school to remove the name of the brutal slave owner, Chief Justice John Marshall, so that no other law student graduates with a slave owner on their

diploma," said Emily Forsee, a second-year Cleveland-Marshall student and a representative of the group.

Ward 9 Cleveland City Councilman Kevin Conwell introduced a resolution earlier this month urging the school to change its name as well. It notes that "although John Marshall believed slavery was evil and opposed the slave trade, he nevertheless owned slaves most of his life."

"In the early 19th century, Marshall expressed reservations about large-scale emancipation of slaves, in part because he feared a large number of freed slaves would rise up in revolution." And "in 1817, Marshall joined the American Colonization Society, which favored sending freed blacks to Africa ... this Council believes that because of John Marshall's life-long association with slavery, the Law School Name Committee should eliminate any reference to him regarding the college of law."

Many alumni are resistant to the change. Some are reportedly worried about voicing their opinions because of how that might be interpreted.

Meanwhile, Forsee said she feels that critics of the renaming effort dismiss the views of Students Against Marshall as those of a "woke" group and a product of cancel culture.

What started all this?

This renaming movement began with a Change.org petition created in June 2020 by Hanna Kassis, a Cleveland lawyer, CPA and entrepreneur.

Kassis graduated from the UIC law school in 2014. It was during his time at the university he learned about cases where Marshall "upheld the notion that Native Americans have no claim to their land, by using legal trickery to reverse lower-court decisions or simply refusing to hear the case."

The chief justice's behavior struck a personal chord with Kassis, who was not actually aware of Marshall's history as a slave owner at the time.

"This hit close to home because I'm Palestinian," Kassis explained. "In the West Bank, my family has actually lost land to the Israeli government under the Oslo Accords. My grandma died fighting this in court, trying to get our land back. Exactly what happened to my grandma, my parents, my dad and siblings, is exactly what John Marshall did in *Johnson v. M'Intosh*."

That landmark Supreme Court case held that Native Americans did not have any legal right to sell land they had lived on to private citizens because they didn't own it. The U.S. government, Marshall opined, inherited the right of preemption over Native lands when it declared independence from Great Britain in 1776.

The result is a ruling undermining Native American claims to lands they lived on for so long. They were "denied justice," Kassis said.

This is how he feels about his own family.

It was at this point Kassis said he began considering whether to pressure his alma mater to change its name.

But time passed. He graduated from law school and returned to Northeast Ohio (he has family in Youngstown), where he began to focus on his career and professional life.

Then came spring 2020 and the extrajudicial murder of George Floyd by a Minneapolis police officer. What followed was a countrywide reckoning for racial justice that led to riots in downtown Cleveland.

"I just felt helpless at that time," Kassis said. "I thought, 'How can I contribute to justice in America?' And this was it."

In June 2020, he created the petition titled "Rename John Marshall Institutions." He sent it directly to deans at Cleveland-Marshall and his Chicago alma mater.

"It just felt like the right time to do it," Kassis said.

Kassis later discovered the 2018 book "Supreme Injustice: Slavery in the Nation's Highest Court" by Paul Finkelman. The book dives into John Marshall's history as an owner of people. He owned hundreds of slaves throughout his life, traded them and used his position on the Supreme Court to keep slavery intact.

"It wasn't until 2018 that people really knew how bad Marshall's slave ownership was. Thanks to Dr. Paul Finkelman. All the lead 'scholars' before him either denied or buried the fact that he was a slave master who traded in slaves," the petition notes. "To this day, those same scholars fail to recognize the truth. Meanwhile 18 schools (and two law schools) carry on Marshall's name."

'People are frustrated'

All that is necessary to alter the school's name is a vote by the college's board of trustees. But any action is unlikely until an official recommendation has been supplied by the name-change committee.

When asked about a timeline for a resolution to the situation, Cleveland-Marshall provided the following statement: *"The College of Law is working through a process evaluating its name. This is a consequential decision that requires careful study, and a thoughtful, inclusive process that considers different viewpoints from our entire law school and university community. Our process*

has modeled what we teach our law students — to listen and learn, and to withhold judgment until we have had a chance to evaluate what we have heard. There is no timetable for a decision."

It's been nearly 20 months since Kassis' petition — which has nearly 1,600 signatures and continues to draw more — was launched and sent to the school.

For activists, it feels like action is moving at a glacial pace.

Forsee suggests that there is nothing stopping the school from removing John Marshall from its name if it really wanted to and selecting a more official moniker down the road — similar to how the Washington Redskins changed their name to the more generic Washington Football Team until further notice.

"People are frustrated. Lawyers are very capable of consuming voluminous amounts of data and drawing decisions immediately. That is what we are trained to do," Kassis said. "But the fact they've been deliberating and hypothesizing for so long ... it's like, just make a decision."

[Full Text Link](#) – Spectrum News 1

Student Urge CSU to Remove John Marshall's Name from Law School

By Ryan Schmelz

Published 10:31 AM ET Feb. 12, 2022

CLEVELAND — Some students are organizing to remove the name of a Founding Father from a Cleveland law school.

What You Need To Know

- Cleveland Marshall College of Law is named after former Chief Justice John Marshall
- The group Students Against Marshall takes issue with Marshall's history as a slave owner
- Cleveland City Council recently passed a resolution encouraging the school to change the name

Along the Cleveland-Marshall College of Law Hall of Fame, there are many names Stephanie Goggins looks up to.

"It's affirming that not only can I be a lawyer, can I be successful here, but I can be very successful," said Goggins.

But the name that stands out the most to the army veteran isn't an alum, it's the person the school is named for. It's a name she said she sees every time she walks in the building.

“Disappointed, disappointed, but not surprised. There’s this song by John Mayer, he said ‘we’re waiting on the world to change.’ I’m tired of waiting, you know?” she said.

John Marshall was the fourth and longest-serving chief justice in U.S. history. He was also a Founding Father and secretary of state. Some consider him the most influential Supreme Court justice in history, with contributions such as judicial review. Some historians say Marshall believed slavery was evil, opposed the slave trade and even represented abolitionist Robert Pleasants, who wanted to carry out his father’s will and free about 90 slaves.

But Marshall himself owned a plantation and hundreds of slaves during his lifetime. He also had concerns about large-scale emancipation, worrying that free African-Americans might rise in revolution.

As a member of Students Against Marshall, Goggins made her case to remove his name from the school to city council.

“I fear that if I don’t speak up, or we as SAM do not speak up, I would be complicit in my own oppression,” Goggins said to council. “Chief Justice Marshall was a brilliant legal mind, and he conceived what we know as judicial review. However, he was also a brutal slaver, and he went out of his way to be intentionally oppressive and cruel to litigants.”

Goggins has joined forces with students like Emily Forsee, who became passionate about the project after reading about Marshall’s slave history in Paul Finkelman’s book “Supreme Injustice: Slavery in the Nation’s Highest Court,” which dives into figures like Marshall’s slave ownership.

“This man really, regardless of any contributions he made, was really a criminal, and I even had misgivings about coming here and entering this school,” said Forsee.

There has been no organized opposition to removing the name.

But in a Cleveland.com roundtable on the topic, columnists Ted Diadiun spoke out.

“The squeaky wheels are relentlessly going through our schools, buildings, statues and monuments, eradicating the founders who unfortunately didn’t or couldn’t resist the culture of the time. To compare Thurgood Marshall’s contributions to our democracy with John Marshall’s is preposterous, but we all know how this will end ... nobody has the courage to stand against the tide,” said Diadiun.

Turning Point USA is a conservative group that advocates on high school and college campuses.

“The irony of the Cleveland City Council’s unanimous motion is that black voices, like mine and all those who uphold Marshall’s positive legacy and contributions to American

rule-of-law, are not to be tolerated by Cleveland’s current leaders,” said Turning Point USA Contributor Stephen Davis in a statement. “We cannot sit by while the mob cancels our forefathers for past sins. Instead, we should understand their legacies in their totality and with proper historical context while celebrating their enduring contributions to the greatest nation in history,”

But as the school hears from students and alumni, Goggins hopes the name will soon come down.

“There’s been a pandemic for two years, people are done. But we still have to keep making progress in these important areas. Otherwise, are we America or not?” asked Goggins.

[Full text link](#) – **The Exponent**

Baldwin Wallace Students Weigh in on Potential CSU Law School Name

Simon Skoutas, Staff Writer February 13, 2022

Cleveland State University’s Cleveland-Marshall College of Law, named for former United States Supreme Court Chief Justice John Marshall, has been subject to recent controversy due to Marshall’s status as a known slave owner.

Baldwin Wallace University currently offers a “3 + 3” program, a fast-track program to earning a law degree in collaboration with CSU. Students would spend three years at Baldwin Wallace to earn an undergraduate degree, then three years at Cleveland-Marshall College of Law.

No decision has been made by Cleveland State as to whether the name will be changed, but the college has formed a committee and held several meetings gauging students’ thoughts on the name.

A few prospective law students at Baldwin Wallace University hope to see the college’s name changed. Casey White, a senior political science major, is for a name change but would not make admissions decisions based solely on the name.

“Do I think it should be changed? Yes,” White said. “Would it influence whether I go there? Probably not... mainly because BW has a great network with Cleveland-Marshall.”

Two former BW students who currently attend Cleveland-Marshall, Reese Albright and Lauren Williams, are happy that Cleveland-Marshall is listening to the student’s concerns and find that their time at Baldwin Wallace prepared them for this situation. Williams said that BW

“encourages diversity throughout the campus”.

Lana Mobydeen, a Cleveland-Marshall alum and professor at Baldwin Wallace, said the committee and outreach efforts made by the school over the past year and a half “shows that they’re listening to their students.”

Prof. Mobydeen said that she did not hear any controversy regarding the name during her time at Cleveland-Marshall.

Cleveland.com reported in January that an increasing number of Cleveland-Marshall students felt that the college was dragging their feet on the issue.

Lee Fisher, Dean of Cleveland-Marshall, highlighted Cleveland-Marshall’s relationship with Baldwin Wallace.

“We have a long productive and positive relationship with Baldwin Wallace, and we are hopeful that we will get more students from Baldwin Wallace,” Fisher said.

Fisher sent an email to staff, faculty, and alumni asking for input and explaining that after the school received a petition in 2020 urging the school to change the name. After receiving the petition, he immediately created the committee to, “seek wide input, develop findings and options, and make a recommendation, or alternative recommendations”.

“We are going through a thoughtful, deliberative process to get feedback from our students, staff, faculty, and alumni about the petition requesting that our law school no longer be named after Chief Justice John Marshall, the fourth Chief Justice of the United States because of his association with slavery,” Fisher said in a prepared statement provided to The Exponent. “We expect to submit a final report to the university later this month.”

As of now, no final decision has been made regarding the name change, but both Albright and Lauren Williams are confident that the name will be changed.

Op Eds & Editorials

[Full Text Link](#) – Cleveland.com

Should Cleveland-Marshall College of Law drop slaveholder John Marshall’s name?

Published: Jan. 29, 2022, 5:51 a.m.

By Editorial Board, cleveland.com and The Plain Dealer

John Marshall, the longest-serving U.S. chief justice, was a titan of the law. During his 34-year tenure as chief justice, until his death in 1835, he stood up to presidents and played a key role in setting the importance and boundaries of the judiciary as a co-equal branch of government. The rulings of the Marshall court were crucial in giving pre-eminence to the U.S. Constitution over state law.

But John Marshall was also a slave owner who presided over cases that bore on Black freedom and the African slave trade and on the seizing of land from Indigenous Americans.

Now, whether to change the name of Cleveland State University's Cleveland-Marshall College of Law, to remove its homage to John Marshall, is squarely on the table in Cleveland. Law school graduate Ronald Adrine, the widely respected former presiding judge at Cleveland Municipal Court, has suggested instead naming the law school in honor of Thurgood Marshall, the high court's first Black associate justice, cleveland.com's Courtney Astolfi reports.

The matter has taken on urgency with Cleveland City Council adding its voice this week to a push by current law students to change the law school's name before they graduate. The idea was first raised in summer 2020, Astolfi reports, when "an online petition from Cleveland lawyer Hanna Kassis called on CSU's law school -- and two others in Chicago and Atlanta -- to remove the [Marshall] name." The University of Illinois Chicago School of Law has since done so; Atlanta's John Marshall Law School has not. A committee CSU established to study the matter has held six public forums and is now surveying current students, Astolfi reported.

How large a slave owner he was and the extent to which John Marshall might, occasionally, have been critical of some aspects of slavery and of the slave trade is disputed. Until recently, many scholars did not focus on his slave ownership. In 1916, when Cleveland lawyers established the John Marshall School of Law, it's unlikely Marshall's connection with slavery was even thought of. In 1946, that school merged with Cleveland Law School to become the Cleveland-Marshall School of Law, and in 1969, it became the Cleveland-Marshall College of Law at CSU.

So what does our Editorial Board Roundtable think of this debate? Change the law school's name posthaste, study it some more or keep the John Marshall name?

Leila Atassi, manager, public interest and advocacy:

Dragging out such a no-brainer decision by polling alumni, etc., creates the impression that the university views arguments about the nostalgia of the Marshall name as morally equivalent to arguments against slavery. CSU besmirches its own character by failing to recognize that its law school should not bear the name of a slave owner.

Ted Diadiun, columnist:

The squeaky wheels are relentlessly going through our schools, buildings, statues and monuments, eradicating the founders who unfortunately didn't or couldn't resist the culture of the time. To compare Thurgood Marshall's contributions to our democracy with John Marshall's is preposterous, but we all know how this will end ... nobody has the courage to stand against the tide.

Thomas Suddes, editorial writer:

The reasonable thing to do is poll (formally) the school's current students and its alumni. They should be the deciders because the college's name is on their diplomas and professional listings. Personally speaking, I think naming the school for Justice Thurgood Marshall would be ideal.

Eric Foster, columnist:

John Marshall's contribution to American jurisprudence cannot be overstated. However, his ownership of slaves must not be understated. Pardoning his participation in that evil institution because that was "what everyone did" is both morally and factually wrong. Remember that the man who appointed Marshall to the Supreme Court, President John Adams, never owned a slave.

Lisa Garvin, editorial board member:

All historical figures are flawed in ways large and small, so where do we draw the line when renaming things? The Rev. Dr. Martin Luther King Jr. was a known womanizer, yet no one is clamoring to erase him from countless streets and structures. Perhaps we shouldn't name public institutions after people, because none of them are above reproach.

Victor Ruiz, editorial board member:

I do believe that the names on our buildings need to honor people who work to make life better for everyone. I agree that the best solution is to change the name from John Marshall to Thurgood Marshall. There are a lot more buildings that need to be renamed, so this is just the beginning.

Mary Cay Doherty, editorial board member:

The year is 2206. Abortion was abolished in 2050. After 105 years, Ruth Bader Ginsburg Law School is under pressure to change its name because the once-celebrated jurist defended the dehumanization and killing of preterm babies. Legality aside, many 20th-century Americans knew abortion was immoral. Surely, Ginsburg knew, too. Should the school be renamed?

Elizabeth Sullivan, opinion director:

John Marshall's story was written, for generations, without reference to his slave ownership. Yet that was integral to the man, personally and professionally. It's about time we shone a light on all of the past. Time to change the law school's name.

[Full Text Link](#) – Cool Cleveland

COMMENTARY: Retire Marshall from CSU College of Law by C. Ellen Connally

This past year, the owners of Cleveland's Major League Baseball team joined the owners of the Washington D.C. NFL franchise to make historic changes. The Cleveland Indians are now the Cleveland Guardians. The Washington Redskins are now the generic Washington Football Team. These decisions came after decades of debates, discussions, demonstrations, and litigation, mainly by Native Americans who found the names and logos offensive. Washington's stereotypical Native American logo and Chief Wahoo were sent to their happy hunting grounds to spend their retirement years with Aunt Jemimah and Uncle Ben.

Last March, The Ohio State University removed the name of John W. Bricker from the University's administration building. Bricker, former Ohio attorney general, governor and senator and running mate of presidential hopeful Thomas Dewey in 1944, worked aggressively in 1932 to prevent a black student from residing in university housing. Perhaps if he had not advocated so strongly for segregation, the university's timetable for integration could have been a little faster. Black students were not admitted to university housing until the mid-1950s. Even one of the university's most famous alumni, Jesse Owens, who stood up to the racism of Nazi Germany in 1936, returned to Columbus, Ohio to live in off campus housing — he could run for the university but couldn't live there.

Three years ago, a movement started among students at Cleveland State University's Cleveland-Marshall College of Law to remove John Marshall from the school's name. The proponents of the change join activists around the country calling on institutions of higher learning to remove Marshall's name because of his problematic history.

In May of last year, the University of Illinois at Chicago's John Marshall College of Law was changed to the University of Illinois Chicago School of Law. That leaves two other law schools still bearing Marshall's name: Cleveland-Marshall and Atlanta's John Marshall Law School.

Marshall was Chief Justice of the United State from 1801 to 1834. Like 49 of the 64 Founding Fathers, he was a slave owner. But a look at Marshall's history gives rise to sufficient evidence to show that he was more than just a slave owner.

As Professor Paul Finkelman points out in his 2018 book *Supreme Injustice: Slavery in the Nation's Highest Court* (Harvard University Press 2018), Marshall was opposed to the presence of free blacks in America, arguing that they were "pests" and criminals. He was a member of the American Colonization Society that sought to return freed slaves to Africa. In his personal

life he bought and sold slaves, gave them to relatives and actively participated in the business of human bondage.

By 1830, Marshall had 150 slaves while also giving about 70 slaves to two of his sons between 1819 and 1830. When he died, he did not free the dozen or so personal slaves that had been loyal to him for most of their lives. But most importantly, in the roughly 50 cases that he heard as a justice of the Supreme Court involving slavery, he ruled against the slave and in favor of the slave owner in every case.

Marshall did not just limit his prejudice to blacks. In the 1823 decision of *Johnson v. M'Intosh* (21 U.S. (8 Wheat.) 543, 5 L. Ed. 681), Marshall ruled that Native Americans had no right to sell land they had lived on because they did not own it — the government did. He found that the American government inherited the land over any rights that Native Americans claimed when it declared independence from Great Britain in 1776.

Cleveland-Marshall College of Law grew out of Cleveland Law School which opened in 1897, becoming Ohio's first evening law school and the first to admit women. John Marshall Law School was established in 1916 by Cleveland lawyers as a night law school. In 1946 the two schools merged becoming Cleveland-Marshall Law School. After affiliations with both Ohio Northern University and Baldwin Wallace College, in 1969 it became a part of Cleveland State University. It is Ohio's largest law school.

After its inception as a night school, in 1967 the law school started a day school program, of which I am proud to say that I was a class member — the only woman and one of two persons of color. There was a male student from Liberia. In the incoming class of 2017, which graduated in 2020, 75% of the students were full-time day students; 56% of the class was female and 18% were students of color.

The importance of this history is that there is no direct nexus between Marshall and the law school. Some colleges and universities are named after major donors or significant alumni, but such is not the case here. Marshall's name was selected because of his tenure as Chief Justice and his identification with American jurisprudence.

In response to the demands for a dropping of the name, the law school has formed a committee which is exploring whether the name should be modified and what potential alternatives are. The final decision will be up to the Cleveland State University Board of Trustees and possibly the Ohio State Board of Regents.

Law School Dean Lee Fisher has encouraged open discussions of the topic and has stated that the law school is working through a process of evaluating its name and points out that the decision will require careful study and a thoughtful and inclusive process that considers all points of view. A 46-page Law School Name Framing Document was published last December in which all sides could submit written opinions. It is available on the law school's website. There have also been several panel discussions and open forums.

There are some alumni who adamantly oppose the change and vow that they will withhold any further contributions if the change occurs. Others are in favor and then there are those in the middle. One innovative contributor suggested the name stay the same but have John Marshall's name replaced with Thurgood Marshall.

Debate among alumni and students continues. Cleveland Councilman Kevin Conwell introduced a resolution before Cleveland City Council urging the change. Students Against Marshall was formed last November and on January 18, they submitted a formal request to the naming committee to make the change.

As a proud alumna, I find a great deal of merit in the movement for change. Within the last two years there have been discussions regarding the merger of Cleveland-Marshall College of Law and the University of Akron College of Law. If that were to happen, a name change could easily be facilitated, and Marshall's name could be dropped without controversy. Since talks of the merger seem to have been put on the back burner, that solution does not seem plausible.

Cleveland-Marshall College of Law has a proud history of graduating distinguished Clevelanders, including Carl and Louis Stokes, Mayor Frank G. Jackson, Congresswoman Marcia Fudge and Mary Grossman, the first woman in Ohio elected to Municipal Court as well as Lillian W. Burke, the first black woman in Ohio to serve as a judge. Numerous members of the municipal, state and federal judiciary are graduates, including members of the Ohio Supreme Court.

These graduates are among a host of minority, female and hardworking individuals of all races, colors and creed who would not otherwise have had a chance to go to law school. They represent the diverse nature of 21st century America where opportunities should be open to all. These graduates represent everything that John Marshall was opposed to.

It is my hope that the law school make the right decision and retire the name of John Marshall. Considering his history, Marshall needs to join Robert E. Lee and Jefferson Davis as footnotes to history, rather than central figures.

C. Ellen Connally is a retired judge of the Cleveland Municipal Court. From 2010 to 2014 she served as the President of the Cuyahoga County Council. An avid reader and student of American history, she serves on the Board of the Ohio History Connection, is currently vice president of the Cuyahoga County Soldiers and Sailors Monument Commission and president of the Cleveland Civil War Round Table. She holds degrees from BGSU, CSU and is all but dissertation for a PhD from the University of Akron.

[Full Text Link](#) - **Cleveland Scene**

Op-Ed: John Marshall was Pro-Slavery Extremist Even by 19th Century Standards. Change CSU Law School's Name.

Posted By Taru Taylor on Thu, Jun 3, 2021 at 9:52 am

Last December, Scene published my essay explaining why Cleveland State University should change the name of our public law school. I won't rehash my entire argument here. But it bears repeating that the fourth chief justice of the U.S. Supreme Court, John Marshall, owned some 200 slaves and at one point auctioned off some of them to pay off his son's debts.

Moreover, the Virginian slave lord subverted the rule of law. Even when statutes and precedents favored Black litigants, he always overruled the law whenever it conflicted with slaveholding interests. It happens that Cleveland isn't the only city with a law school named "Marshall." The University of Illinois Chicago John Marshall Law School, and Atlanta's John Marshall Law School, share our dubious distinction.

And then there were two.

For, on May 20th, The University of Illinois board of trustees voted to drop "John Marshall" from the law school. On July 1st it will henceforth be called The University of Illinois Chicago School of Law.

Mind you, The University of Illinois board overcame a significant hurdle. When The John Marshall Law School merged with The University of Illinois a couple of years ago, the University of Illinois agreed to keep the name "John Marshall" until August 2025.

The law school's board decided to waive the agreement. And so the people of Chicago won't have to endure, for another four years, a name that is no less infamous than the Confederate flag.

Make no mistake. "John Marshall" and the Confederate flag are cognate symbols. They diametrically oppose the rule of law.

This buzzword gets thrown around a lot, "the rule of law." In fact, the editorial board of The Chicago Tribunes, lamenting the decision to expunge John Marhsall's name, claimed that he championed the "rule of law".

But did he really?

First and foremost, we should understand the rule of law in terms of the social contract.

The Declaration of Independence framed our social contract in terms of equality and the inalienable rights of life, liberty, and the pursuit of happiness... “That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed.”

Alexander Hamilton in The Federalist Papers argued that The Constitution must be established by the voluntary consent of the whole people.

Of course, “We the People” was limited to propertied white men at first. But the social contract has since expanded. As I write in 2021, we have had millions of Black voters and women voters, a Black president, and we now have a Black female vice president.

The point is, the social contract is based on the consent of the people. Ultimately, the rule of law is defined by the informed consent of the citizenry.

Abraham Lincoln had meant to include Black people in the social contract when he said that our nation “was conceived in liberty, and dedicated to the proposition that all men are created equal.” Our sixteenth president was not perfect, but he was indisputably on the right side of history.

On the wrong side of history we find John Marshall and the Confederate flag, both standing for the proposition that white people are “more equal” than everybody else. Only white consent matters in their social contract. “Marshall” and the Stars and Bars symbolize a zero-sum game rigged for white people to win and for all other people to lose, especially Black people.

But the rule of law might still seem abstract to the reader.

And so I ask the reader to consider the rule of law from London’s point of view. In *Scott v. Negro London (1806)*, London sued for freedom in Washington under a Virginia law prohibiting importation of slaves. A jury of twelve white men, some probably slaveholders, concluded London was free because he was illegally imported into the city. The trial court strictly construed Virginia slave law.

As legal scholar Paul Finkelman observed: “This result was consistent with other decisions from American state courts of the period that strictly applied statutes regulating slavery and at the same time liberally construed the common law in favor of liberty.” Marshall, nevertheless, reversed the jury verdict. He thus construed the statute for a pro-slavery result. In fact, he decided seven freedom suits and not one Black litigant ever succeeded.

Please pay close attention to what Finkelman just said. That Marshall was a pro-slavery extremist even by the standards of the early nineteenth century. Having read

Finkelman's *Supreme Injustice*, I can attest to that recurring theme throughout the book, of Marshall's anti-Black and rabidly pro-slavery jurisprudence.

All this is to say that the movement to change schools named after John Marshall is not "cancel culture" run amok. The issue is not whether or not to "cancel" Marshall. The issue is whether or not he's a symbol of the rule of law worthy to name our public law school. Especially now as our nation reckons with our not-so-distant past of slavery and genocide. Not to mention the City of Cleveland's struggles with past and present segregation.

A couple of weeks ago, in light of the news out of Chicago, I asked the dean of Cleveland-Marshall about the time-frame regarding a possible name change. He told me to get back to him in September once the CSU board returns. "Marshall" yet and still graces the school's entrance. Knowing what we now know about the man, our public law school may as well have a giant Confederate flag flying in front of it.

Author Taru Taylor tried not to let law school interfere with his education. He's now in the process of unlearning how to think like a lawyer. Email him at tytaylor521@yahoo.com for further discussion of this piece or whatever.

[Full Text Link](#) – [Cleveland.com](#)

Opinion

Rename Cleveland-Marshall law school for Black civil rights leader John Malvin: Kevin Cronin

Updated: Feb. 06, 2022, 5:22 a.m. | Published: Feb. 06, 2022, 5:21 a.m.

CLEVELAND -- Introspection is healthy for institutions, and we should all appreciate the review of John Marshall's legacy as legal luminary and slave owner in considering the name of our local law school. This is not just an issue for students, school officials and graduates. How do we want our community represented?

What are the goals for naming an important institution? Is it important to be a legal luminary, like John Marshall or Thurgood Marshall? Should we look for a local inspirer like Louis or Carl Stokes or Jean Murrell Capers?

Let me offer a civil rights advocate before the term was coined -- a 19th-century abolitionist and Cleveland resident who stood with Frederick Douglass as a reformer of discriminatory laws, and who was the driving force for the local education of Black youths.

He is John Malvin.

John Malvin, who lived from 1795 to 1880, embodied the goals and ambitions worthy of consideration in any renaming discussion. He was a free African American and Ohioan who dedicated his life to fighting for equality and educational access. He worked tirelessly to improve the conditions and rights of Blacks who, like himself, combated segregation and systemic racism in the free states of the North.

John Malvin was all these things:

Ardent abolitionist: Ohio history includes documented stories of Malvin interceding to aid enslaved individuals escaping from the Cincinnati docks where they were bound for enslavement in the deep South.

Outspoken advocate for repeal of Ohio's Black Laws: While Ohio was a northern state and slavery was banned under its 1803 Constitution, life was still harsh for African Americans. The Black Laws of 1801 built on earlier restrictions and required Black people to prove that they were not slaves and to find at least two people who would guarantee a \$500 bond for their good behavior. The laws made it illegal for Black Ohioans to vote, testify in court against whites, hold public office, serve in the militia, own guns or marry white individuals, among many other limitations. Malvin was a leading repeal advocate, sharing the stage with Frederick Douglass in 1847 and 1850, and he coordinated the celebration when the laws were largely repealed in 1849.

Leader in the fight for the education of Black children: Already able to read when he arrived in Ohio in 1827, Malvin learned that life was harsh in the free land of the North. Faced with the 1807 Black Laws, which barred education or school funding, the Black community had to raise their own funds and solicit public charity to provide education. Around 1832, Malvin met with other Cleveland Black men to set up a school for children, paying the teacher \$20 a month from their own funds. Efforts on behalf of Black education were expanded, creating a School Fund Society in 1835 to open so-called Negro schools in Cincinnati, Columbus, Springfield, and Cleveland. Cleveland City Council did not commit financial support for the Negro schools until 1843.

Worked with Cleveland courts to enhance legal rights of Blacks: Under the Black Laws, African Americans could not testify on their own behalf in court. Malvin and John Brown, the politically influential Cleveland barber, both of them Black landowners, often posted bail for those who had been arrested so they could consult with friendly attorneys and prepare a legal defense. Malvin and Brown often located white witnesses, because Black individuals could not testify in court. They also brought writs of habeas corpus, demanding proof that the person's detention was lawful, and they alleged kidnapping if this could not be proved. Malvin's death in 1880 was noted in the Cleveland Leader newspaper with this epitaph: "The eventful career and noble work of a worthy man whose thoughts were of his people."

John Malvin embodied everything you could ask for in a reformer, leader and fighter for civil rights, even before the term “civil rights” was ever popularized. His name would bring honor to any institution.

Cleveland attorney Kevin Cronin is a board member for the nonprofit Restore Cleveland Hope, which partnered in the creation of the Underground Railroad Interpretive Center at the Cozad-Bates House in University Circle.

[Full Text Link](#) - **Crain's Cleveland Business**

Removing Marshall's name from CSU law school misguided

February 6, 2022

If the law school down the street wants to change its name, so be it. But there should be good reasons for doing so.

Chief Justice John Marshall wrote three great American Indian law opinions (the Marshall trilogy), and a lawyer who supports the name change, and who is quoted at length in "Cleveland-Marshall continues to grapple with name" (Crain's Jan. 24, 2022, edition), focuses on only one of them. (For what it's worth, that opinion in *Johnson v. McIntosh* largely restated a doctrine, the Doctrine of Discovery, that predated the United States and John Marshall. It's also a doctrine that arguably supports the idea that our city was rightly named after Moses Cleaveland, the first white man to step off the boat onto the banks of the Cuyahoga. Maybe Cleveland-Marshall should think about doing away with the first word in its name as well.)

Those interested in John Marshall might take the time to read the third opinion in the trilogy, *Worcester v. Georgia*, decided in 1832, in which Marshall wrote, among other things, "The Cherokee nation . . . is a distinct community occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties, and with the acts of Congress."

That language isn't the work of a man unfriendly to the interests of indigenous peoples. Indeed, it's about that decision that President Andrew Jackson supposedly said, with scorn, "John Marshall has made his decision, now let him enforce it." Jackson probably didn't say that, but he might well have been thinking it. In any event, he did nothing to enforce the Worcester decision. Jackson's inaction was hardly Marshall's fault.

Are there statements in the Marshall trilogy that make us cringe today? Of course. Is the work so cringeworthy that Marshall's extraordinary accomplishments in so many areas should be summarily dismissed? To my mind, certainly not.

I might add that it makes me uncomfortable to see the renaming effort linked to the plight of Palestinians. For some, John Marshall seems to be an afterthought in all of this.

Erik M. Jensen

Coleman P. Burke Professor Emeritus of Law

Case Western Reserve University

[Full Text Link](#) - Cleveland.com

John Marshall's legal contributions tower over all other considerations

February 4, 2022

Much debate has lit up the editorial pages concerning the name of the Cleveland-Marshall College of Law. The contemptible nature of John Marshall's private dealings aside, the more important question to be asked is this: But for the judicial brilliance of John Marshall and his enormous contributions to constitutional legal principles, whose legal opinions laid the cornerstone for an independent judiciary, judicial review, establishing Article III courts as a co-equal branch of the government, and elevating the rule of law to the top of the self-governance pedestal, would we even be having this debate?

John Marshall was a terribly flawed man, but he established the principles which allow us today to confront past injustices and fight for equal justice in a civil manner. Justice Marshall effectively set in motion a procedure which eventually outlawed the very thing that enriched his status; he facilitated a system of law which provided a path to rid this nation of the culture of human chattel and the scourge of ethnic cleansing. Hopefully, we can build on Justice Marshall's better angels and focus on the noble guidelines he forged to one day rid the nation of the human failings he so sadly represented.

Christopher Kuebler,

Avon Lake

[Full Text Link](#) - Cleveland.com

You can't teach the history of the U.S judicial system without teaching about John Marshall

February 2, 2022

Regarding the Jan. 29 Editorial Board Roundtable (“Should CSU drop John Marshall from the law school’s name?”), let me borrow a line from the TV show Battlestar Galactica: What the frack is wrong with you people?

John Marshall is arguably the most important chief justice in the history of the court, credited with increasing its power and relevance in a still young, developing United States. You can’t teach about the history of the American judicial system without teaching about John Marshall.

Yes, he owned slaves, and yes, slavery was and is wrong. But many of the Founding Fathers were slave owners. Do the members of the roundtable in favor of removing the Marshall name want to tear down the Washington Monument or the Jefferson Memorial, or rename every building that bears their names?

Honestly, this craziness that some of us warned about 30 years ago actually discourages qualified people from going into law, education and government.

Tom Blackford,

Shaker Heights

[Full Text Link](#) - [Cleveland.com](#)

Cleveland State University’s Law School Named for a Slaveholder Should Not Be City Council’s Concern

Updated: Feb. 11, 2021, 5:31 a.m. | Published: Feb. 11, 2022, 5:30 a.m.

By Justice B. Hill, [Cleveland.com](#)

Cleveland, Ohio – With all the issues that dog our city, Cleveland City Council took on one that, frankly, ought to be left to others.

On the urging of Councilman Kevin Conwell, its loudest voice, City Council approved a meaningless resolution last month that called for removing the name John Marshall from the Cleveland-Marshall College of Law at Cleveland State University.

The reason?

Marshall, the fourth chief justice of the U.S. Supreme Court, was a slaveholder.

Before a vote on the resolution, Conwell put my position on the law school’s name quite well, though this words don’t reflect the same meaning as mine do: “We shouldn’t, as African Americans, even have to write legislation to fight this.”

He's right. He and fellow councilmembers should not have wasted a vote on what name is on the law school, even if, as Conwell put it, the Marshall name is a "black eye" on the school.

Applying a 2022 litmus test to Marshall – and other founders – seems an effort not worth the energy. To scrub Marshall from his place in judiciary history makes Conwell & Co. look as if they're trying to revise America's origins.

Next up in their purge of Revolutionary War figures might be Ben Franklin, Thomas Jefferson and Patrick Henry, all of whom have public schools here named for them. Would Conwell dare suggest that the names of George Washington, Alexander Hamilton and John Hancock come off every building that bears their names?

Few of the men who founded this republic didn't own slaves, and the only early presidents who didn't were John Adams and his son John Quincy Adams.

So, now, almost 250 years since land stolen or bought from Native Americans became the United States, we're to pretend the republic was formed on the principle of equality of man.

Nonsense.

To suggest as much is to put truth in mothballs, pulling it out of the closet when it suits people's purposes. We shouldn't treat truth in such a flimsy fashion.

America's history is what it is, and the white founders, doubtless, had their flaws. They were not like the traitors who tried to tear the nation asunder in the 1860s.

A person would be hard-pressed to name a single country that hails failed insurrectionists, which is the reason no Confederate soldier nor politician should have a statue or a brick-and-mortar structure erected in his honor.

Yet we have no option except to look at Marshall, Franklin, Henry and those white men of their era through a different lens. To erase all references to these men would be to paint a false narrative of America, a country whose inequalities persist even to this day.

Of course, I wish the founders had been abolitionists – men who abhorred involuntary servitude. I wish they were feminists, too. That's not, however, the United States of the 1700s, which is my point.

Critics of the Marshall name must put more effort into explaining the history, of putting into context what America was when it was founded. The country, indeed, was an imperfect union.

Whether CSU drops the Marshall name ought not to concern Conwell or his council colleagues. They shouldn't have spent a second on discussing it, because to do as they did took their focus off more salient matters, like making Cleveland a better place to live and work.

Justice B. Hill grew up on the city's East Side. He practiced journalism for more than 25 years before settling into teaching at Ohio University. He quit May 15, 2019, to write and globetrot. He's doing both.

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We must be fearless in teaching and speaking the truth about our past, and today: Thomas Kim Hill

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CLEVELAND - It is good news that the Cleveland-Marshall College of Law is considering a name change. We now all know John Marshall was a slave owner, as were many other Founding Fathers, like George Washington and Thomas Jefferson. Some say the past is past and cannot be changed, others disagree. Well, we need to recall the author William Faulkner, from Mississippi, who wisely observed: "The past is never dead. It's not even past."

At a time when honest teaching about racial history is being banned as "Critical Race Theory," I would like to share my own experiences with "Critical Race Reality."

I am a retired history teacher who taught in the Hough area in the 1960s. Those were the years of the Hough and Glenville riots in Cleveland.

But the day that stands out for me, still, is when the Rev. Dr. Martin Luther King Jr. was killed in 1968 in Memphis. As I drove to Addison Junior High the next morning, my car radio blared out that Washington, D.C., was in flames. Cleveland stayed calm, perhaps because Carl Stokes had just been elected mayor.

My students knew something terrible had happened, but not all the details of King's life. I spent the day teaching about the Montgomery bus boycott, the march from Selma to Montgomery for voting rights, and his message that nonviolence was the best strategy for social change.

Later in 1968, violence did break out in Cleveland. Black militants shot and killed a Cleveland police officer, leading to a lockdown of the city. Ohio National Guard troops patrolled the streets.

The next year, the turmoil entered the hallways of Addison itself. Gangs off the street got past building security and ended up attacking almost a dozen white teachers. I got punched in the jaw and had trouble chewing for a month.

Malcolm X was in the air, as well as King, and Hough knew about Malcolm X's views on "blue-eyed devils." Having read the book, "Black Rage," by two Black psychiatrists, I had an understanding of the deep sources of the violence. When Addison reopened in several days,

there were security guards at every entrance. Things got back to normal and we finished the school year successfully.

Not to give the wrong impression, I must say that I have good memories from those years.

The principals and teaching staff were almost all Black, and they were supportive of us young, white teachers. We were all in it together, in a tough teaching environment for everybody. How did sociologists put it? Many students came from “educationally underprivileged” backgrounds.

The staff partied together, after hours, to the beat of the latest from Motown. Friendships were made.

We worked in a setting rare for the time, where pay and professional status put us all on an equal basis. As for the students, they mostly appreciated teachers who worked hard to meet their learning needs, along with sometimes giving us a hard time.

In the summer of 1969, the radio news announced the name of one of my students. He had been killed in senseless gun violence on the street. I knew him well since he often stopped by after the school day to chat, tell jokes and help me a bit with straightening up my classroom. I will never forget him.

Today, poverty and racial inequality are at the root of upward trends in urban violence. This started with so many of our Founding Fathers whose very way of life depended on a thriving slave economy.

I can only refer those who want to forget the past to the Kerner Commission Report on Civil Disorders, which came out in 1968. It said, “America is moving toward two societies, one black, one white -- separate and unequal.”

We must understand our history, in order to stop repeating it over and over again.

Thomas Kim Hill is a retired history teacher who taught at a Lebanese boy's school in Beirut, Lebanon; at Addison Junior High School in Cleveland; and at Beachwood High School.