

DyNAMC

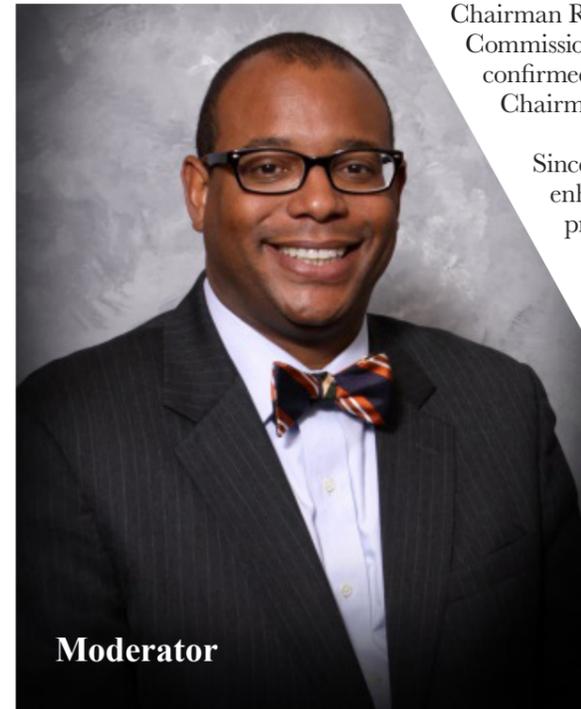
Roundtable Discussion



In our "Law" issue, Chairman Robert S. Kenney, Missouri Public Service Commission, served as the moderator for a roundtable discussion that took place in May of 2015. Participants discussed their perspectives on "justice" and how to move diverse communities and the legal system, including the courts, to champion matters of vital interest to the underserved and marginalized groups within our society. Panel participants were: Odogwu (Obi) Linton, Esq., Maryland Public Service Commission's Director of the Office of External Relations, Phyllis Marshall Esq., who has over 20 years of experience representing clients before the California State Legislature, and Civil Attorney John Harris Esq.

Our feature subjects and round table participants are always selected for the qualities, professionalism, and drive we feel makes them *DyNAMC* Leaders for a Changing World.

DyNAMC features a series of round table discussions on a broad range of topics from a variety of industry leaders across the country. The objective of the discussions is to provide viable solutions to issues that impact diversity issues. The information and views discussed in the round tables are those of the participants and do not necessarily reflect the official opinion of *DyNAMC*.



Moderator

Honorable Chairman Robert Kenney Missouri Public Service Commission

Chairman Robert S. Kenney was appointed to the Missouri Public Service Commission on July 29, 2009 by Governor Jay Nixon. He was unanimously confirmed by the Missouri State Senate on January 13, 2010. He was named Chairman of the PSC by Governor Nixon on March 1, 2013.

Since his appointment, Chairman Kenney has been working proactively to enhance the quality of regulation at the PSC. To this end, he has instituted programs aimed at elevating the level of advocacy at the commission and the level of consumer outreach and education. Chairman Kenney is responsible for the creation of the PSC's Speakers Bureau, the annual Public Utility Law Symposium, and the creation of a dedicated Consumer Outreach and Education Specialist.

A nationally recognized leader in public utility law and regulation, Chairman Kenney serves on the boards and advisory boards of numerous organizations including: Institute for Electric Efficiency; National Regulatory Research Institute; Electric Power Research Institute; Financial Research Institute at the University of Missouri, Columbia; Eastern Interconnection States' Planning Council; Critical Consumer Issues Forum; and the Center for Public Utilities at New Mexico State University.

Chairman Kenney is an active member of the National Association of Regulatory Utility Commissioners (NARUC). He serves as Chair of the Committee on Energy Resources and the Environment and on the NARUC Board of Directors. He also serves on the Consumer Affairs Committee, the Subcommittee on Utility Market Place Access, and the International Relations Committee.

Chairman Kenney served as President of the Organization of MISO States from 2011 to 2013. As President of the Organization of MISO States, Chairman Kenney led efforts to enhance and strengthen the role of the state regulatory sector in the MISO market. His leadership resulted in enhanced authority for the OMS whereby the OMS has the ability to make certain filings pursuant to section 205 of the Federal Power Act. This major enhancement will provide state regulators increased ability to protect the consumers' interests.

Prior to his appointment to the PSC, Chairman Kenney served as Missouri Attorney General Chris Koster's Chief of Staff.

Chairman Kenney was featured in *DyNAMC* Leaders for a Changing World magazine February 2015 "Policy" issue.

Moderator: Good afternoon, everybody. My name is Robert Kenney. I am Chairman of the Missouri Public Service Commission, which is the public utility regulatory body in the State of Missouri. It is my pleasure to serve as the moderator for this edition of *DyNAMC* magazine's roundtable. By way of background, I'm an attorney as well, and I look forward to engaging you all in dialogue today.

Our topic for this roundtable is "What is justice and how do we move diverse communities and the legal system, including the courts, to champion matters of vital interest to the underserved and marginalized groups in our society?"

Before we actively engage in the topic, I'd like to introduce the panelists. I am honored to introduce my colleagues joining me on the *DyNAMC* magazine roundtable panel. Let me start with Phyllis Marshall, Esq. Ms. Marshall serves as counsel with the law firm of Manatt, Phelps, & Phillips, LLP. We also have, joining us, Obi Linton, Esq. Mr. Linton serves as the Director of the Office of External Relations for the Maryland Public Service Commission. And, finally, joining us we have John Harris, Esq. Mr. Harris is Principal at Harris and Associates Law Firm.

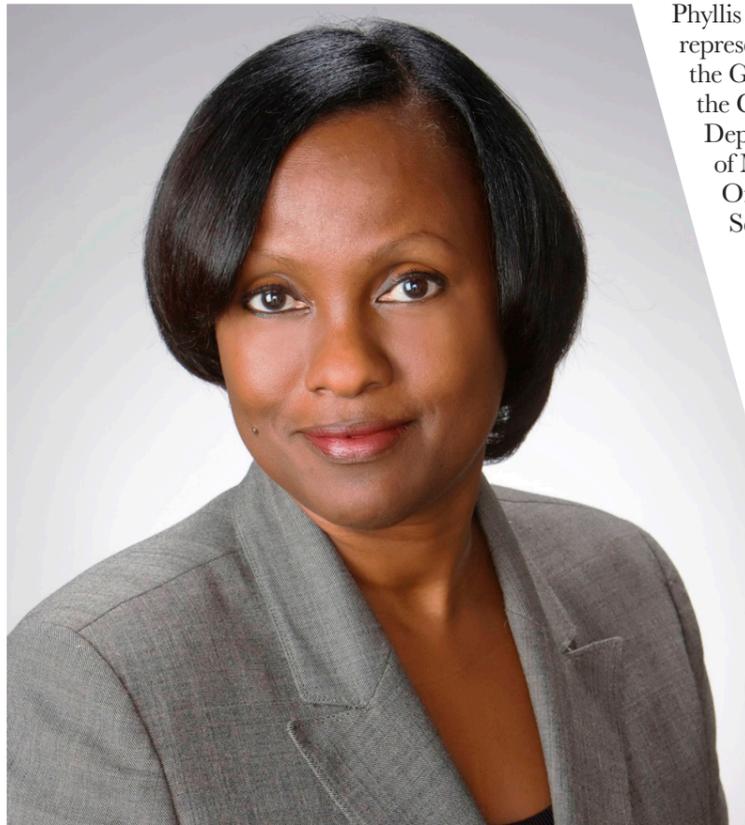
Let's get started with the topic. As I stated at the outset, our topic for this discussion is, what is justice and how do we move diverse communities

each of you. Let's start with Phyllis. Phyllis, if you could tell us, what is your definition of justice?"

"How do we encourage corporate America to bring about and to participate in and to promote economic justice in its dealings with diverse firms?" Chairman Kenney

and the legal system, including the courts, to champion those matters of vital interest to the underserved and marginalized groups in our society? If it's all right with you, I'll ask questions that will be directed to

Marshall: You know I have thought about that. You can look at a legal definition of justice, or you can look in the constitution and find principled and equal protection. I think the bottom line is that justice in America

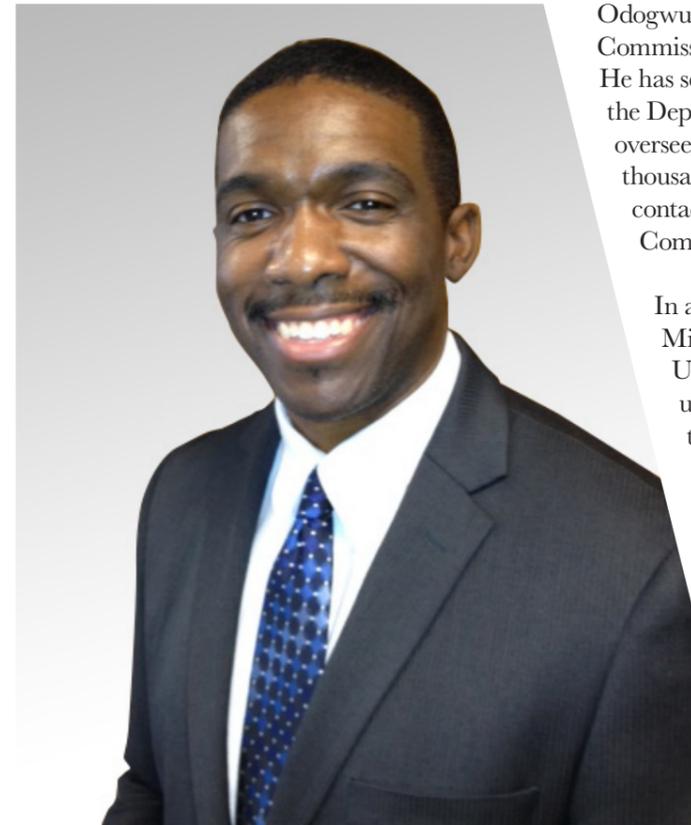


Phyllis Marshall Esq.

Phyllis Marshall has over 20 years of experience representing clients before the California State Legislature, the Governor's Office and numerous state agencies, including the California Department of Insurance, the California Department of Corporations, the California Department of Motor Vehicles, the California Attorney General's Office, the California Department of Health Care Services and the California Board of Equalization.

Ms. Marshall provides advice and counsel to both private-sector and public-sector clients on matters before the California State Legislature in numerous subject matter areas, including local government, energy and telecommunications, manufacturing and taxation, healthcare, financial services and insurance, and education policy. She also provides legal counsel and strategic advice to clients before state agencies on litigation, compliance and enforcement actions.

Ms. Marshall has also been instrumental in the leadership and development of several Sacramento-based business coalitions and has extensive knowledge in the elections and initiative process. She was a founder of the California African American Political Action Committee and the California Association of African American Advocacy Professionals. Ms. Marshall, who is an active member of the National Bar Association, is a past President of the California Association of Black Lawyers.



Odogwu (Obi) Linton, Esq.

Odogwu (Obi) Linton, Esq., is the Maryland Public Service Commission's Director of the Office of External Relations (OER). He has served at the Commission for 7 years and was previously the Deputy Staff Counsel. In his current capacity in OER, Linton oversees an 11-person staff charged with managing over eleven thousand consumer disputes and over thirty thousand consumer contacts annually. He also serves as a senior advisor to the Commissioners on multiple utility consumer matters.

In addition, he is the primary manager of the Commission's Minority Business Enterprise Memorandum of Understanding between the Commission and 18 regulated utilities. Linton was instrumental in leading the negotiations that resulted in three new company participants in 2011 and 2012 (Comcast, Veolia and AT&T).

is aspirational. Justice is an even playing field that manifests itself to the whole. What I mean by that is, regardless of your economic situation or your ethnic origin, everybody should be treated fairly and equally, and it should be manifested across the board in an equal manner. I don't think that laws necessarily guarantee justice. Laws can be created as an aspirational point, in order to get to justice, but the implementation of those laws is not always applied equally across the board. So, for me, justice is the thing we try to do that's right but it continues to be aspirational. Because of that, it is something that has to be where we are trying to achieve justice on a continuum.

aspirational concept. I also think that it is important to keep in mind that the application of law - be it at the court level, at the case level, or even at the point of a person looking to get access to an aggrieved area of law - ultimately, is individuals interacting with each other. So, really, what we're talking about is attempting to find a way for all of us to agree to

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Moderator: Excellent. Very good. Mr. Linton. What is your definition of justice?

Linton: Thank you very much. I agree with Phyllis that it really is an

live together in close quarters and proximity with each other under a generic set of principles so that we produce food together, we produce children together, we educate each other, we care for each other, and

we mourn each other when losses happen. We do all of those things through different arrangements with one another, which we call “law.” We feel as though, when there is a disagreement or a problem, there is an already established set of principles to help us find how to resolve it. But, when we disagree and the principles don't help us,

there are individuals with the same preferences, biases, interests, pains, memories, and everything else, as everyone else, who ultimately try to decide it. When we talk about justice,

we're talking about hoping that the laws we know exist in some book somewhere that were put together by folks who were hoping to cover every issue, will be applied to our individual scenario or circumstance in a manner that benefits us and gives us the outcome we want. Not only is the law not designed to do that, but you can't really trust that individuals will also agree with your interpretation of a background, or a fact pattern, or a scenario. So, justice is a concept. Even as we try to define justice before or after an event, it's ultimately individuals who are looking back on it. When we look back over history we can see plenty of instances where we think the actions that were taken were not justified nor would they fit any manner of justice today. But, at the time they were taken, it was justified, and it was the law of the land. So, the individual has a very important role in the application of justice and, overall, it's probably just as important at the law itself.

Moderator: Excellent. Thank you. John, your definition of justice?

“When we talk about justice, we're talking about hoping that the laws we know exist in some book somewhere that were put together by folks who were hoping to cover every issue, will be applied to our individual scenario or circumstance in a manner that benefits us and gives us the outcome we want. Not only is the law not designed to do that, but you can't really trust that individuals will also agree with your interpretation of a background, or a fact pattern, or a scenario. So, justice is a concept.” Linton

Harris: Thank you. I would say my definition of justice is being morally correct and fair without partiality to all concerned. By that I mean treating everyone equally and the same, regardless of race, gender, creed or social or economic conditions. Race and economic conditions are major factors in terms of how justice is meted out and, as we've seen and has been depicted in the news lately, folks of color have been treated very unfairly by

law enforcement. I'm referring to the recent shootings and what have you. There has been a cry for justice in that regard. There has been a cry from all sections of the community saying that people of color should not be treated differently by law enforcement and, of course, there has been discord in the community. They are saying that, even after these particular instances, there has not been a fair process in terms of investigations, as well as treatment of individuals involved in connection



John Harris's career as a civil litigator commenced as a senior trial attorney for the Chief Counsel's Office of the Internal Revenue Service where he handled Tax Court litigation matters and criminal prosecutions, working in conjunction U.S. Attorney's Office. He has successfully litigated over 500 jury and non-jury lawsuits to verdict with a 90% success rate.

After entering into private practice, John used his deft advocacy skills, representing clients in numerous complex litigation matters, with a particular emphasis in Title VII civil rights claims, wage and hour class actions and other employment law disputes. John has over 30 years of experience guiding municipal and agency employers through the intricacies of federal and California state employment laws in order to achieve favorable outcomes at trial or hearing. In addition to litigating, John also takes an active role in his clients' preventative measures by providing extensive advice and counsel services and multi-facet training in the areas of employment, investigative approaches, and other workplace issues. He is also a registered lobbyist with the State of California and local agencies in Southern California.

John Harris Esq.

John has had the pleasure to represent clients from both the private and public sectors, including school districts, cities, and other public agencies, as well as Fortune 300 companies in the retail, general contracting, transportation, and banking industries. John regularly makes representative public presentations on behalf of his clients. He most recently spoke at the Design Build Institute of America 2014 conference, where he lectured on the Best Practices in Subcontracting for Small Business Enterprises.

John was also appointed to the Los Angeles County Sheriff's Department's Equity Oversight Panel (EOP) where he served five years reviewing high profile employment matters as an independent third-party, expert on behalf of the County of Los Angeles. The EOP ensured the Sheriff's Departments compliance with its equity policy by requiring systematic elimination of gender-based discrimination in the Department, along with other Title VII violations.

John W. Harris is a graduate of University of California at Los Angeles, where he received his B.A. and J.D., having served as Managing Editor of the Law Journal. He is admitted to the California State Bar.

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with the various shootings. So, I agree with Obi. It is evolutionary in the sense that it changes and, in today's environment, we see it changing very rapidly in terms of what's fair to everybody. The maintenance of justice has to be kept with the changing of times and diversity. That would be my definition of justice.

Moderator: So, it sounds as if a common component in each

definition involves fairness, treating all equally, but that it's also aspirational and evolving, and something that we always and continually have to strive for. With that foundational definition in mind, let me move to a different question. How do we encourage corporate America to bring about and to participate in and to promote economic justice in its dealings with diverse firms? I think we'll go in reverse order for this question. I'm happy to repeat it if you need me to.

John, your thoughts in that regard?

Harris: In corporate America, there has to be some incentives and not always just relying on corporate goodness. As we know, that's why we have a lot of goals in various sectors, particularly in the public utilities arena. They have goals. We have GO-156 in California. That basically says they need to strive to be inclusionary of minority firms or diverse firms. GO-156 is an incentive based goal and it's also based on a general

order of the California law. I think you have to reach out to these firms and make these companies believe they are doing the right things apart from the incentives. This is because we have found out that incentives alone don't necessarily work. What we always try to avoid is a situation where we see firms, particularly out here in California, provide their annual report and provide the numbers of firms that they've done business with. They always ended it by saying, "Oh, we could have done better." We've heard that same thing and it resonates constantly. So, one of the things we have to look at is what do we do from a social arena that makes utility companies be more responsive to the diversity of the community. I think outreach groups

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help, as well as incentives, but we just have to keep the ball in front of them and make them aware that we're looking at them and they must constantly strive to do business with the people they serve. By that I mean, you look at the demographics of their customers and they really should try to involve the people that fit the demographic at that same level.

Moderator: Very good. Obi, your thoughts on encouraging corporate America to bring about economic justice to diverse firms?

Linton: Sure. I was recently traveling in Texas and I had an opportunity to look at some of the commercials that came on television there. I was marveling at how the local commercials had more of a southern approach to them than I was used to seeing for similar products in Maryland. I'm always interested in seeing how companies market and promote the products and services they offer to the people they look at as their customers. When we talk about trying to encourage

corporations to embrace supplier diversity initiatives or to embrace issues of economic empowerment, there are two things to keep in mind.

The first is that corporations, as a general matter, are made up of individuals. Not just as individuals, but they're also pieces of paper filed in an office somewhere authorizing a group of people to do something under a new name. We're still talking about individuals, and individuals come with their own preferences, their own interests, and their own backgrounds. Keeping that in mind, the second thing to remember is that, when we're talking about for-profit firms, they've gotten together for the general purpose of making money. So, if they're talking about making

money, and, if we're interested in encouraging economic development, then we need to be able to identify the benefits and principles that are important to the regional area where economic development is necessary. We then need to translate that into a business case that those individuals who represent the company will identify as a way of making money for their company.

There are incentives that go along with that. There are ways of explaining and showing to them that there is a new customer base they can explore and pursue. At the same time, recognize that some companies are going to have great interest in doing that and pursuing that particular business case and those opportunities. Some companies will be a little lukewarm, and they'll need to see it successfully happened elsewhere. Every company is not going to be as eagerly aggressive to it. It comes back to having a more general understanding of the goal of creating economic development. If we know that we need a particular

corporation to be active in an area in order to spur economic development, and once that economic development is spurred, we don't just drop it.

There is a second piece that has to match with the investment from that corporation and that's to make sure the corporation now sees a benefit in continuing to invest. As an example, we've all heard about the incident that happened in Baltimore over the last several weeks. There were a number of corporations that were damaged as a result of the uprisings. The result of that is, not only has the state government engaged a number of entities in making sure that various assistance loans were made available to those firms to get back into business in those communities, but even larger corporations have

reinvested in Maryland and in Baltimore. That's because the business case was made to them that these were important institutions

and important areas that they should continue to support, even though this incident occurred. Without speaking on behalf of anyone else, just myself, I would applaud them for continuing to reinvest here. The case had to be made that this is an area where there were no other opportunities for consumers who are there, who have funds yet need the resources to purchase particular products. So, if your business is there you still have the capacity to earn revenue.

If they know the government supports them, if they know that the consumers are there, you have the makings for the business case. I think the primary thing is to keep in mind that we have corporations that are made up of individuals who are looking to earn revenue or earn profit in some way. We need to be able to speak the language of business owners in order to encourage them to make the social and economic investments that we're hoping they can make because they have financial resources to do it.

Moderator: Very good. Phyllis? Your thoughts?

Marshall: In terms of encouraging corporations to do more with diverse businesses and diverse communities, I think it's kind of sad that, in 2015, we're still having that conversation. At the end of the day, the good ol' boys network continues to function and it's intact in the United States and in corporate America. I think that we need to hold individual's feet to the fire. As was indicated, I think some 20 years ago, at least, GO-156 was enacted in California. That required and encouraged public utilities to do more business with

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diverse small business throughout the state. Currently, state policy holders in California passed a bill that is encouraging greater supplier diversity with small businesses by insurance companies. I truly think that one mechanism, is for federal, state, and local policy makers to continue that agenda because corporations continue to do business in diverse communities. Because of that, money needs to flow back into those communities, as well. I also believe that corporations need

to be more open to hiring people of color and women at the top of the executive ladder in the “C-Suite” and the board. Corporate philosophies are going to start at the top. We do see a move and we are encouraging more diversity in the boardroom and more diversity at the executive levels of corporations so that the corporate culture is more inclusive. I believe we're going to have to continue to see more involvement through federal, state, and local initiatives encouraging corporations to do business within diverse communities.

Moderator: Excellent. As an adjunct to that discussion about encouraging corporate America to bring about economic justice, what role, then, should legislation play or should we just be content with the corporation's voluntary participation in achieving economic justice? Let's take things out of order. Obi? Your thoughts?

Linton: I think there are some interesting undercurrents to that question. Obviously, the legislature or elected bodies play an extremely important role in making sure the legal structure to support corporations as they begin their investment is in place. They also play an important role in encouraging companies and, if they don't act properly or act in an

effective way, discouraging those companies from taking those actions to invest in diverse firms or economic empowerment. It's interesting because, in Maryland, we actually did adopt a voluntary supplier diversity structure for our regulated utility companies. It's lasted for over twenty years. Every year we see several hundred million dollars spent with diverse firms - anywhere from 16 to over 20 percent, and that's done on a voluntary basis. Our state government has a mandatory

requirement for state contracts and that mandatory arrangement was set at 25 percent. It may change in the near future. We actually have both options running at the same time, here in Maryland. It's interesting to see how they contradict or contrast with each other. I think there are benefits and good points on both sides. Ultimately, the lessons learned apply to both - when the legislature is active or when the individuals are asked to do it on a voluntary manner. At the end of the day, you need to have people within the companies who are committed to the principles. They've bought into the business case and they've made sure that, from the top down, everybody in the company is embracing the overall concept.

I agree with Phyllis, that it is sad that, even in 2015, we still have this kind of conversation where we're encouraging firms to look at diverse firms, to look at economic empowerment, to look at making your company look like the community that it serves. By now, the business case has been made over and over again, and we're still butting up against the same questions of voluntary versus mandatory solutions. At the end of the day, it still comes down to the individual making sure that they - the CEO's and the C-suite, if you will - are committed to the principles of economic empowerment and business development. If you don't have it that way, then there will be people and corporations who do not support the principles or the business case or, for whatever reason, disagree with the concept. They'd rather not support it. That could be on the basis of their own principles, which we may or may not agree with as a concept, but it exists, it happens, and we know it. There are all kinds of ways that contracts can be drafted to make it more difficult for diverse firms to get the business. Businesses can decide to spend their money in other places as opposed to areas where we think the business case will work better from a supply diversity or economic development perspective.

It's got to start at the top. Elected officials can certainly make sure that companies are committed to the concept. In Maryland, that was vital to encouraging a voluntary MOU to be developed. The general assembly was, basically, telling corporations that if they didn't voluntarily do it, then statutory solutions could be employed. Voluntary was the option that was chosen. Twenty five years later, we're still doing it voluntarily and it's been successful. The general assembly has an important role, but the only reason it's still been successful is because the corporations have bought into it, they have now identified, and recognized that the business case is valid and that there are true opportunities that have been gained by the corporation for completing and continuing the voluntary invest in economic development.

Moderator: Very good. Mr. Harris? Your thoughts?

Harris: The interesting conundrum we have here, in California, is because we have what is known as Prop-209 which precludes government from having incentive programs that are race-based. So, we constantly fight that battle because of the obstacles created by Prop-209. You start off with the scenario that you cannot have something that's clearly race based and shows a preference. We cannot say a certain percentage of business has to go to an African-American firm, for example. So, we start off with that obstacle. We have to always be inventive and creative here in California. What a lot of firms and legislature have done to circumvent that is they've created what are known as “disadvantaged” firms, which, principally, are comprised of minority firms. It's a key situation that even the legislators have to deal with and, in fact, they tried to repeal Prop-209 a couple years ago, but fell a few votes short on the floor, which was unfortunate for all the minority businesses.

Going back to legislation, I think it's required, and if crafted properly, we can still get there. We just can't use the term “race.” So, what we

do, here in California, is talk about disadvantaged businesses as well as small businesses. In that way we're able to encapsulate most of the minority businesses.

Our firm performs what are known as the anecdotal studies for the predicate studies. Basically, that's where you go out and interview firms to find out whether there should still be race based programs. Now, federally, you can still do that on federally funded programs; however, you have to provide what is known as a predicate study to show there has been sufficient disparity among these various minority groups in the past to justify race based incentive programs. One of the things that we found so incredible, and this was a couple years ago, were white firms and companies basically told us they would not do business with minority firms if they don't get credit. I found that to be far reaching and very upsetting in the sense that, in this day and age, we still have majority firms saying they will refuse. When I asked the question, “Why do you have that opinion?” It's still the consensus that minority firms were subpar to the majority firms. That's what they shared with me time and time again. There is a lot of culture change that has to be done, because the minute that someone says you need to do business with minority firms, the response on the part of the majority is, “Oh, boy. Here we go again. We've got to do business with these people who are less qualified than the people we're used to doing business with.” Those are the obstacles we see here in California, but the legislation just really has to address those particular issues.

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Moderator: That's actually a good segue into my next question. You mentioned Prop-209 and I'm reminded of the Supreme Court decision invalidating Section 5 of the Voting Rights Act, Shelby County vs. Holder. Are you concerned that strides we have made forward are, in recent years, being rolled back? I'll direct that to you, Mr. Harris, and then to the others.

Harris: It is very troubling when you see some of these recent cases coming down, where the voting rights initiative seems to be getting eroded by the courts. It doesn't seem to be as important as it once was. As we all know, many of our elected officials would not be in office today but for the Voting Rights Act and the Civil Rights Act. It's very unfortunate. If you look at major urban areas throughout the United States today, there are minority and African-American elected officials. We know that, as recently as 30-40 years ago, you wouldn't see any of us on the city councils or sitting as mayors of various cities, so it is very disconcerting to see that the Voting Rights Act is slowly being etched away by some of these recent decisions. It seems to have fallen on this idea, generally, that it's no longer needed, which I find appalling. But, that seems to be the consensus that we're moving toward today.

Moderator: Phyllis, your thoughts in that regard?

Marshall: I definitely agree with the comments made by Mr. Harris. Clearly, when you look at the Civil Rights Movement of 1964 and the

Voting Rights Act, what we've seen, and how the rights of individuals who are attempting to cast a vote have been marginalized in so many states that we do feel like we're moving backward. But, again, I go to your first question, "What is justice?" To me, clearly, justice is an ideal that is inspirational. To the extent that its inspirational means that the gains we made in 1964 and 1965, to a large extent – and I certainly take responsibility, as an individual and as an attorney – that we rested on our laurels with those accomplishments instead of continuing to fight the fight. Justice is something that you continue to reach for and I think that

Linton: I actually agree with both Phyllis and John. I, too, am concerned about the direction I see, not just in the legal industry, but in the coarseness of the way in which we've been interacting with each other on issues of race and culture. There is a certain aggressiveness on all sides on all of the different social issues where people have very strong opinions and disagreements. So, to the extent that, in the past, during the time of the Civil Rights Movement and even more recently, it was really an effort to encourage people to see the other side, to explain and have individuals understand that these are real afflictions the movement was

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what we're seeing in 2014 and 2015, as you saw in the occupy movement, as you see the protests in New York, Baltimore, and Ferguson is that there is a kind of a reinvigoration of a movement that is starting around the issue of justice. We have witnessed a retraction of individual rights. I believe there is real opportunity today, in the midst of what we are experiencing with the racial unrest, to really move forward and try to gain some advances in human rights, in individual rights, in race relations here in the United States. However, as I indicated, the quest for justice is something that is not achieved by a single act, but is something we will have to continue to provide leadership within our communities to try to aspire to a place I think we all want to be. Really, what is right and what is the way things are supposed to be for each individual living here in the United States?

Moderator: Excellent. Obi? Your thoughts?

attempting to address. Even today, there are individuals who think these protections are not necessary, that we've grown past them, that everybody's equal now, and that opportunities are available for all, so nothing bad has really happened.

So, we're dealing with a dual element of a more aggressive approach, even in the legal community where cases are being filed on a fairly common basis in state courts and in the federal government side on just about any issue that has to do with social advancements. At the same time, in the individual or group basis, the discourse has been more aggressive and coarser. There is more of a refusal to accept that the afflictions many have talked about in the occupy movement, the uprising here in Baltimore, and the issues in Ferguson, and even down in Florida. In all of those instances, we've heard individuals suggest the concerns are not valid.

During the civil rights movement there was a compassion that the media and the leaders at that time

were able to evoke from others. People could really see that it was a hurt happening. I don't sense that individuals, who are thinking and talking about these issues and even making the decisions on these issues today, both in the corporate world and even in the legislatures across the country and even in some of our courtrooms, there is not a sense that the problem is real any more and that somehow or another something has happened. The various "entitlement programs" have leveled the playing field to the extent that it's no longer necessary to do it any more. That's produced a very toxic atmosphere where it's hard to have conversations about the corrections and the next level advancements that need to happen. There have been accusations about everything from the race card concept to the idea that the problems are just because of laziness or lack of commitment to improvement of yourself. For not only the African-American community but even in other ethnic groups, there's been this belief that we're not committed to it any more. That is a concern. I think it's permeated across a number of different industries and levels of government to the point where there is no shame in suggesting that it's just not accurate any more. That's going to be a very challenging thing to deal with over the next decade or two.

Moderator: Very good. I want to shift gears a little bit. We've talked a little about economic and social justice. As we've all noticed in recent press coverage, whether its concerning Ferguson or Baltimore, there is a significant disconnect between communities of color and the police, so I'd like to talk a little bit about policing and criminal justice and ask, could you provide some of your thoughts on what remedies you would offer as a way to bring about social justice to those affected communities and police departments throughout the nation. I'll start with you, John.

Harris: That's an interesting subject. One of the issues I see resonating throughout is what vehicles are in

place to insure that individuals are treated safely and justifiably by the police and how to deal with it. Now, one of the issues we have been dealing with - in fact, I'm going to be speaking on this issue later this month - is what should be put in place to ensure the integrity of the system is protected. One of the points I think has to be made is, too often, the issue of investigations are being done by the local prosecutors. Now, what we find is, in many instances, the local prosecutors are the ones that work with law enforcement, almost on a daily basis. What happens from that standpoint? They become friends with the very people they may be asked to prosecute and, since the local prosecutor and the police work hand in hand basically every day on other cases, obviously where they're not involved as defendants, it brings in the question of the independence of the prosecutor and whether or not they can be impartial when it comes to prosecuting crimes that are caused by law enforcement.

One of the approaches we've talked about is perhaps establishing a special prosecutor that deals with excessive force cases; a special prosecutor that probably starts at the state level as opposed to the local level. I think that would begin to return some integrity to the system where folks out there feel they are getting a fair shake. There is a very minimal number of officers that are ever prosecuted for excessive force, and we believe first, that the strength of the police unions are very, very palatable, but secondly, these prosecutors are always very, very reluctant to prosecute folks they work with on a daily basis. So, I think that would be one of the key factors that everybody must look at. They're actually having that conversation and that narrative here in California in the sense that they're looking at the Attorney General's office or a special prosecutor to be appointed, particularly in police involved shootings.

Moderator: John, thank you very much. Ms. Marshall, your thoughts?

Marshall: You know, clearly we have been witness to more of what's happening locally and on the streets with law enforcement, I think due in large part, because we're part of the technology generation. We have camera's everywhere, and so things are happening that probably have happened for a long time. Now, I don't want to take things out of context in terms of what we've been seeing with police interactions with African Americans. It's clear that there are great police officer's out there doing their job, but that one or two percent of those officers that have crossed the line, we're starting to see more of that and it is creating a grave concern for communities of color.

I believe there are several things that need to be looked at. I read Michelle Alexander's book, *The New Jim Crow*, and to the extent that there are still kind of perverse incentives that are going to police departments for the war on drugs. Actually, you are able to get more money for your local police department if you have more drug arrests and that's having an adverse impact on communities of color. I really don't think there is room for those types of incentives in law enforcement, given what we have been seeing in terms of this correctional industrial revolution and the development of prisons and young men of color being locked up for minor offenses. I also believe there needs to be more diversity in law enforcement. You need to have more policemen of color who are working in

communities of color because you just gain a greater connectivity with the community.

In many of the news reports we've seen, take Ferguson for example, there are hardly any African-American officer's. It's all pretty much Caucasian officers in a predominately black community and so, law enforcement has to do better in terms of diversity within communities. There needs to be more training, education, and counseling services for police officers and I absolutely agree with those police departments and Attorney General's offices that are now requiring their officers have cameras. I think cameras will be used as a great tool for both police officers not only in terms of eliminating crime, but also in terms of protecting communities where you may have officers doing things they shouldn't be doing.

I think, finally, there just needs to be a greater push in terms of communities and community leaders and really creating more of a connection with law enforcement. I think that we've gotten away from that. This whole picture of law enforcement as we see it today wasn't always like that. I think there is room for law enforcement and communities to be more closely aligned and for officers to be more visible to our young African-American and Latino young men so they don't fear police officers. I think there are a lot of different things that need to be done in order



to alleviate the problem we've seen over the last couple of years with law enforcement, in particularly communities of color.

Moderator: Excellent. Thank you. Finally, Obi? Your thoughts?

Linton: Thank you. I certainly do agree with both Phyllis and John. The only thing I would point out, as one who actually works in Baltimore, and was only a couple of blocks away from a lot of the issues that we saw on the news over the last couple of weeks. I've thought about this issue for a while and I think there are a couple of things to keep in mind. One, is that the interaction between law enforcement and the communities of color, especially African-American communities, has been tenuous for many, many years. It's certainly not new. We've seen more of it because, as Phyllis mentioned, this is a highly technical time that we're living in. But, it's been going on for decades. It's been written about, even before the civil rights movement began so many years ago. We're not dealing with something that's going to be changed overnight or something that's going to be addressed right away. It's going to take time and commitment. There needs to be all of the solutions we've already talked about, from urging greater oversight of investigations to encouraging more participation from African-Americans in the law enforcement field. All of that is going to help improve it, in time.

I think, and I know this is unpopular for some folks, but I do think that as African-Americans we need to make a stronger commitment to identify and respond to issues where we see crime occurring in our own communities, particularly when we commit it against ourselves. In Baltimore, there have been several murders that have occurred since the riots happened and shootings and robberies and things of that sort. Very little of that has reached any level of national coverage

or even local coverage, beyond just the usual broadcast on television on the news. Obviously, there have been no more protests or gatherings of that sort, so there certainly is activity along those lines on the community level. We have numerous and multiple organizations that struggle with these issues every day and I certainly wish they would have more power and financial resources and manpower to do those things to continue resolving those struggles. We need to make a greater effort at paying closer attention to those things.

This is a more technical society and people are paying attention to everything, not just the images that we put out, but at the images we don't put out. So, we need to be a bit more guarded, not only of our own actions, but of the images that show how we operate and how we act in society. That gets back to the question from the very beginning of what is justice? I was talking earlier about figuring out ways for all of us to live together. That's what our laws and the legal structure is for. If people are thinking we're not operating within those boundaries, it's very easy for them to conclude that we are deserving of this type of activity.

It goes back to the coarseness in interacting and coarseness of our community in the way in which people are interacting with us and talking about these gains we have already achieved. It's going to take a lot of work, but I think everything we've already talked about is important. Engaging the law enforcement community is also important. But we can't do it only in times when there is a crisis or an uprising. It has to be on days when

there nothing going on and that interaction continues on a day-to-day basis so that, when the day comes, hopefully it never does, where there is some type of activity that needs to be addressed by law enforcement, that they are sensitive to the issues that are important to our community and that, as they enforce the rules of law, they do so evenly and not only for us but for everybody else.

Moderator: Excellent. Thank you very much. I see that, actually our time, is at an end. So, I'd like to take just a few moments to summarize our discussion. It's really been an excellent and robust discussion about the concept of justice. I'm pleased that we identified issues and proposed solutions. For that I thank you all. Some of those solutions include legislation and governmental mandates, but that alone isn't enough. Changing hearts and minds is also required to achieve social, economic, and criminal justice.

We're living in very challenging times; times in which there is less sympathy toward the causes of social and economic justice and the quest for justice is aspirational and ongoing. We all bear responsibility in ensuring that we continue advancing toward justice. I'll conclude with paraphrasing a well-known quote by Dr. Martin Luther King, Jr. There are some things that we are discouraged by, but there are things that we can be hopeful for, as well. To quote Dr. King, "The arc of the moral universe is long, but it bends towards justice."

I'd like to thank Phyllis Marshall, Obi Linton, and John Harris for their participation in this discussion. With that, I believe we are concluded.

Transcribed by Stephanie Clarke



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