



# Houston's Legacy



A Newsletter of the PBA Minority Bar Committee • Spring 2016



Charles Hamilton Houston

## What is Houston's Legacy?

Charles Hamilton Houston was a vice dean of Howard Law School and civil rights lawyer. Among those he mentored was Supreme Court Justice Thurgood Marshall. Although he did not live to see the decision, he engineered the legal strategy that ultimately resulted in the unanimous 1954 Supreme Court decision, *Brown vs. Board of Education*, which overturned "separate but equal" Jim Crow segregation. The PBA Minority Bar Committee seeks to honor him by naming its newsletter "Houston's Legacy" and to continue his unfinished work.

For more information about Charles Hamilton Houston, see the article authored by Andy Saylor in the inaugural [Spring 2015](#) issue of the PBA Minority Bar Committee newsletter, "Houston's Legacy." ♦

28<sup>TH</sup> ANNUAL MINORITY ATTORNEY CONFERENCE

## Motown Philly's Back Again<sup>1</sup>

By Teresa M. Rodriguez, Esq.

The Pennsylvania Bar Association's (PBA) Minority Bar Committee is proud to announce its **28th Annual Minority Attorney Conference**, which will take place March 17-18, 2016, in Philadelphia. The theme for our 2016 conference is "Ain't No Mountain High Enough: The Legal Frontier Towards Socio-Economic Empowerment." Our theme originates from the PBA Minority Bar Committee's commitment to inspire and educate minority attorneys and law students to be active leaders and advocates on systemic legal issues impacting our minority communities. Through its annual continuing legal



education seminars, the PBA Minority Bar Committee's conference also seeks to highlight legislative and policy initiatives and law-reform agendas and seeks to formulate concerted initiatives that promote comprehensive social justice and economic development.

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## #BlackLivesMatter & #SayHerName<sup>1</sup>

By Nigel S. Scott, Esq.

One of the more viral social-media hashtags in recent memory is #BlackLivesMatter, which represents the racial-justice movement that started after the acquittal of George Zimmerman. Zimmerman was accused of murdering 17-year-old Trayvon Martin. The #BlackLivesMatter movement started in 2012 and continues to serve as a controversial voice of awareness surrounding the issue of vigilante and police killings of unarmed blacks. Police killings of unarmed blacks was voted the [top news story of 2014](#), showing both the currency of the issue, as well as the effectiveness of the social-media campaign for raising awareness. The following article is intended to provide a brief status update

of some of the higher-profile cases from the past 18 months.

### Eric Garner – July 17, 2014

Eric Garner died when a New York City Police Department (NYPD) officer, Daniel Pantaleo, used a chokehold on him while trying to arrest him for allegedly selling loose cigarettes in violation of the law. The City Medical Examiner's Office [ruled Garner's death a homicide](#), attributing the cause of death to a combination of the chokehold ([prohibited](#) by the NYPD) and compression of his chest, with poor health being a contributing factor.

Officer Pantaleo was not indicted by a grand jury that investigated the

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## BREAKING BARRIERS

### ***First, But Not the Last\****

# Meet Michael H. Reed, the First Attorney of Color to Lead the Pennsylvania Bar Association as President

By Sean-Tamba Matthew, Esq.

I recently had the honor of interviewing Michael H. Reed, a Yale Law School graduate, a longtime partner (now special counsel) at Pepper Hamilton LLP and the first minority president of the Pennsylvania Bar Association. I hope the substance of our conversation will be an inspiration to all young attorneys and especially to young minority attorneys. *The transcript of our conversation has been edited due to space constraints.*

### **Why did you become an attorney?**

I wanted to be an attorney since I was a young child. I didn't know any lawyers. I grew up in a working-class family in South Philly and was raised in the church by a very religious family, where I gained strong impressions of right and wrong. People in the church thought that I had the aptitude to pursue a career as a lawyer or minister.

### **What attracted you to Pepper and why did you spend your entire legal career there?**

In 1970, James T. Giles of Pepper Hamilton & Sheetz interviewed me during my second year at Yale for a summer-clerkship job between my second and third years. James T. Giles graduated from Yale Law School in 1967 and later became a federal district court judge. After working at Pepper during the summer of 1971, I received an offer to come back as an associate. Over the years, I have

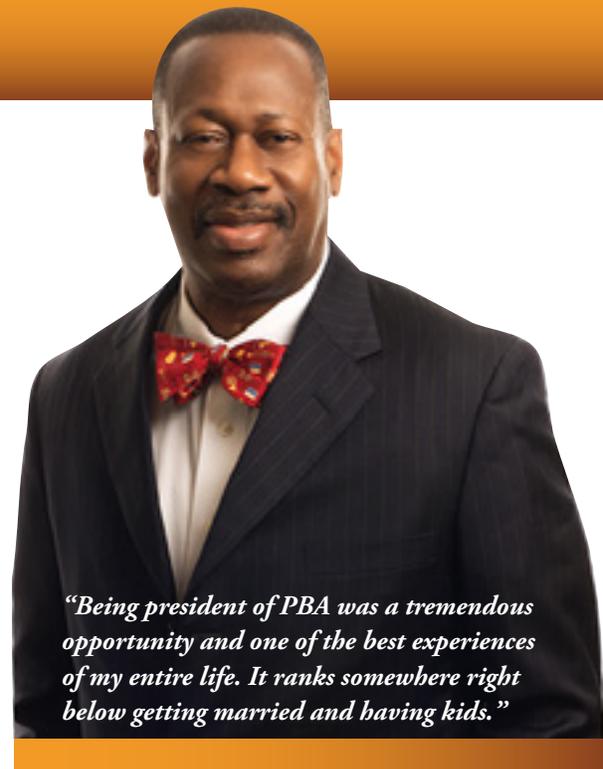
found the culture and values of Pepper compatible with my own.

### **Why did you decide to practice bankruptcy law?**

I got into bankruptcy law totally by serendipity. I. Grant Irey, head of the business department, was my primary mentor. Five of us joined the firm in 1972. I got business, and others were sent elsewhere. It happened that Irey had an interest in bankruptcy law, which was considered esoteric and an area that large firms did not do. Bankruptcy was a specialty like trusts-and-estates law. The firm had some bankruptcy cases starting in my first year. However, in the late 1970s, Congress enacted a new bankruptcy law, and the practice exploded in volume.

### **You will receive the Higginbotham Lifetime Achievement Award at the PBA Minority Attorney Conference. What does this award mean to you and how does it rank among your many achievements?**

Judge Higginbotham was one of my mentors. I met with him before I went to law school. At the time, he was a federal district court judge. He is one of the greatest legal minds in American history. I'm receiving an award named for one of my legal heroes and role models. His career should be used by young attorneys to model their careers. Many people believe that he should have sat on the U.S. Supreme Court.



*"Being president of PBA was a tremendous opportunity and one of the best experiences of my entire life. It ranks somewhere right below getting married and having kids."*

### **Why did you get involved in the PBA?**

When I started practicing law it was common for the larger firms to encourage attorneys to belong to the local and state bar associations and the American Bar Association. Throughout most of my career my firm was willing to pay the dues for all of my bar memberships. As you know, the practices of the firms have changed. I have been active in bar associations during my entire career. In 1974, I was elected to serve on the executive committee of the Young Lawyers Section of Philadelphia Bar Association and also as first vice president of the Barristers' Association of Philadelphia. My involvement in the PBA came a little later. Early in my career I developed an interest in legal ethics: I began serving on the ethics committee of the PBA; I chaired the Philadelphia bar ethics committee in 1986. In 1987, I had a conversation with Joe Jones (then-PBA president) about the PBA becoming more connected with minority lawyers. As a result of that conversation and the subsequent actions of many people, the PBA Minority Bar Committee was formed. I later began serving in PBA leadership.

\* A review of a contemporary minority person who breaks through to become the first in his or her field at an accomplishment.

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JUMPING SILOS

## MBC Members & Service on Other PBA Committees & Entities

By Tyrone A. Powell, Esq.



# Pennsylvania Bar FOUNDATION

Education • Justice • Equal Access

In 2004, while serving as Keystone Bar president, I accepted an invitation to serve on the board of directors of the Pennsylvania Bar Foundation as the Zone 3 director because it was important to bring some different perspectives as to how the foundation should fulfill its mission. It was equally important to continue to demonstrate that people of color are willing to contribute their time and talents through public service for the benefit of all Pennsylvanians.

The Pennsylvania Bar Foundation is not a committee but rather the philanthropic partner of the Pennsylvania Bar Association. Incorporated in 1984 in response to the bar's desire to be more involved in public service, the foundation is the 501(c)(3) nonprofit organization that works hard to be the charitable resource for Pennsylvania's legal community. The foundation is the commonwealth's only bar foundation that serves all 67 counties. I have the honor of serving as the foundation's 13th president and have been actively involved in the leadership of the organization since coming on the board of directors.

The foundation helps the PBA, individual lawyers and law-related organizations across Pennsylvania realize charitable interests that are aligned with the foundation's mission to improve the public's understanding of the law –

particularly among Pennsylvania's youth, to expand access to justice for all and to help Pennsylvania law students and public-interest attorneys working in IOLTA-funded legal-service organizations better manage their educational expenses and debt.

The James W. Stouidt Memorial Scholarship Fund of the Pennsylvania Bar Foundation looks to the future and helps Pennsylvania law students manage law school expenses by providing three \$3,000 scholarships annually. During my first year of board service I spearheaded the redesign of the James W. Stouidt Memorial Scholarship Fund to increase accountability and the dollar amount of the scholarship awards and to ensure that at least two of the scholarships are specifically earmarked for historically underrepresented minority law students.

The foundation works with the Pennsylvania Bar Association and its Law-Related Education Committee and Minority Bar Committee to provide Pennsylvania's teachers and students with award-winning lesson plans, pocket Constitutions, bookmarks, stickers, books, backpacks, gavel pencils and the volunteer lawyers and judges who breathe life into lessons on civics, our justice system, careers in the law and the importance of being an engaged citizen. Annually the

foundation provides \$25,000 to fund PBA Law Day, Celebrate the Constitution and PBA Minority Bar Law Day. Additionally, the Foundation underwrites the televised coverage on Pennsylvania Cable Network of the final rounds of the Pennsylvania High School Mock Trial Competition and helps Pennsylvania's We The People team get to the national finals. We help Pennsylvanians of all ages become better citizens!

After being elected in 2011 and 2013 as second vice president and first vice president, respectively, I became the foundation's first person of color elevated to the presidency in 2014. As with most nonprofit organizations, establishing the "brand" and developing creative and effective fundraising initiatives are ongoing challenges. Consequently, as president I have worked to elevate the profile of the organization through biannual information reports to the Pennsylvania Bar Association House of Delegates and other forums. I have also worked to reposition the foundation's annual NightOUT into a signature fundraising event featuring a keynote speaker on a substantive law topic.

It is personally gratifying to lead an organization that does great work and that every day makes the lives of countless Pennsylvanians better. One of our programs, the Pennsylvania IOLTA Loan Repayment Assistance Program (LRAP) also works to increase access to justice. Working with the Pennsylvania Supreme Court and the Pennsylvania IOLTA Board and fueled by pro hac vice fees and modest contributions made annually by the foundation, the loan repayment

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## MINORITY BAR ACTIVITIES

# Come One, Come All!

By Marisa Lattimore, Esq.

As chair of the Minority Bar Committee (MBC), I reported on the important work of some of our subcommittees in the last issue of "Houston's Legacy." I am happy to continue my report on the amazing work our remaining subcommittees are performing.

### Community Outreach Subcommittee

Our Community Outreach Subcommittee, co-chaired by Prince Thomas and Norris Bennis, had a well-attended and very successful Dr. Martin Luther King Day Program, "Building Bridges of Good Will Among the Community, Police and Judiciary," at Shiloh Baptist Church in Philadelphia. At the event updates on the Affordable Care Act, Social Security, wills and probate, immigration, expungement and employment were presented. There was also a discussion among judges of the Philadelphia and Montgomery County Courts of Common Pleas, the Pennsylvania Department of Human Services Bureau of Hearings & Appeals and representatives of Philadelphia's City Council, District Attorney's Office and Police Department and community members about building better relationships with each other. The attendees enjoyed light refreshments provided by the PBA's Diversity Team and Shiloh Baptist Church. This important subcommittee conducts various community activities and seeks "to create an image of the MBC as an organization that cares about community development and is committed to justice for all."

### Nominating Subcommittee

Our Nominating Subcommittee is co-chaired by Michelle Christian and Syreeta Moore. I had the opportunity to talk about the direction of this subcommittee with Michelle, who is enthusiastic



**Dr. Martin Luther King Day Program** - Front row (from left): Inspector Joel Dales, City of Philadelphia Police Department; Rev. Edward Sparkman, Pastor of Shiloh Baptist Church; Kadijah Turay-Sengova, Esq.; Assistant District Attorney Deborah Watson-Stokes, City of Philadelphia District Attorney's Office. Back row (from left): Herbert McDuffy, Esq.; Prince Altee Thomas, Esq.; E. Nego Pile, Esq.; Norris E. Bennis Jr., Esq.



The Honorable Garrett D. Page, Montgomery County Common Pleas Court Judge

about keeping the MBC informed of upcoming PBA vacancies and upcoming awards. This subcommittee not only informs the MBC of open positions on the PBA Board of Governors and PBA committees and sections but also helps recruit minority candidates to fill those positions. It further assists in identifying MBC members for nominations for the various PBA awards. This subcommittee is crucial in helping to accomplish an important PBA goal to diversify the leadership of the PBA by informing our members of openings in key offices of the PBA so that minority candidates have the chance to seek those positions.

### Membership Development Subcommittee

Our Membership Development Subcommittee, chaired by Jackie Martinez, recruits new members to join the MBC and the PBA, welcomes new members to the MBC and encourages existing members to become more active and seek leadership positions in the PBA. This subcommittee plays a vital role not only for the MBC but also for the PBA.

### Governance Subcommittee

I am the chair of the Governance Subcommittee, which considers matters and makes recommendations to the MBC related to governance, including the policies and operating procedures of the committee, the executive council and the subcommittees. The subcommittee, consisting of myself, Andy Saylor and Stephanie Latimore, is currently working on updating the operating procedures of the MBC.

### "Houston's Legacy" Newsletter

Our newsletter, "Houston's Legacy," would not have happened without the hard work and dedication of our esteemed MBC member, Sharon López. She deserves all the credit for the creation of an excellent and professional newsletter.

### 28th Annual Minority Attorney Conference

I can't end this article without again mentioning our 28th Annual Minority Attorney Conference, co-chaired by Nefertiri Sickout and Teresa Rodriguez, on March 17-18 at the PBI Conference Center in Philadelphia. As our theme states there "Ain't No Mountain High Enough" and "no wind, no rain or winters cold" should keep you away from this conference. Hope to see you there. ♦



*Marisa Lattimore is counsel for Super Bakery, concentrating on intellectual property. She served as manager of diversity and professional development initiatives for Wolf Block LLP. She helped*

*create a series of professional-development lectures designed to transition associates into legal practice with a multidisciplinary firm. She worked for the Supreme Court of Pennsylvania for more than 20 years, serving Chief Justices Robert Nix, John Flaherty and Stephen Zappala. Marisa is a director on the board of the Senior Law Center, the only nonprofit organization in Pennsylvania dedicated solely to protecting the legal rights of the elderly.*



## ENSURING DIVERSITY ON OUR JURY PANELS

# ***Foster v. Chapman: Will Foster Help Trial Courts More Effectively Implement Batson?***

By Judge Stephanie Domitrovich, Ph.D.

**T**imothy Foster was convicted of murdering a 79-year-old white woman and sentenced to death in 1987. His defense attorneys believed the prosecutor used race when excluding jurors from his trial. The case was appealed and affirmed by the Georgia Supreme Court. Defense counsel eventually filed for certiorari before the U.S. Supreme Court, which was granted. The case was argued and submitted for decision on Nov. 2, 2015. The case is *Foster v. Chapman* and a decision is pending before the eight remaining justices on the Supreme Court.<sup>1</sup> The case provides the court with an opportunity to make clearer guidelines for reviewing race-based jury selection objections, commonly referred to as *Batson* challenges. *Batson v. Kentucky*, 476 U.S. 79 (1986). The opportunity to rule on the merits of the case may be foiled by a possible remand to the Georgia Supreme Court because of procedural issues; however, should the U.S. Supreme Court decide the case on the merits there is no doubt the case presents novel facts and an opportunity to give guidance to trial courts on possible race-based peremptory challenges.

Defense counsel secured the prosecution team's privately prepared notes about potential jurors, with all of the Af-

rican-Americans in the pool listed on one sheet that was headlined "Definite NO." These notes indicate potential jurors were struck because of their race, which, if believed, would support a *Batson* challenge to the prosecutor's peremptory challenges.

The prosecutors' notes<sup>2</sup> referencing jury selection (1) marked the names of the African-American prospective jurors with a "B" and highlighted them in green on four copies of the venire list; (2) circled the word "BLACK" next to the "Race" question on five juror questionnaires; (3) identified three African-American prospective jurors as "B#1," "B#2," and "B#3"; (4) ranked the African-American prospective jurors against each other in case "it comes down to having to pick one of the black jurors"; and (5) gave explanations for its strikes that were contradicted by its notes. Prosecutors claimed their preliminary strikes were not based on race, and the trial court accepted their eight to 12 "race neutral" reasons for each of the struck jurors. Moreover, the lead prosecutor argued for a death sentence to "deter other people out there in the projects." Ninety percent of the families residing in these projects were African-American. The relevant constitutional provisions in this case

are the Fourteenth Amendment (equal protection) and Sixth Amendment (right to impartial jury from fair cross-section of the community).

*Batson* is a three-step process: (1) Defense, as the objecting party, must show a prima facie case of discriminatory use of peremptory challenges; (2) a prosecutor, as the opposing party, must provide race-neutral reason for challenged peremptory strikes; and (3) defense, as the objecting party, has the burden of demonstrating intentional discrimination.

In *Foster*, after defense counsel made their *Batson* objections, the trial court stated, "Let's take care of the black jurors first." The prosecutor, Stephen Lanier, began by explaining that "his general approach was to discriminate against women, not black people." He believed that "women have a tendency in a case of this nature where the death penalty is being sought – they have serious reservations, time conflicts or whatever it may be, but that is what I look at when I am trying a death penalty case." He later stated that "80 percent" of his strikes were against women and "three of the four blacks were women."

A critical question in determining purposeful discrimination under *Batson* is the trial judge's findings as to the persuasiveness of the prosecutor's justification for peremptory strikes. Are the prosecutor's race-neutral explanations credible? A trial court may find the

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## 2016 PBA Minority Attorney Conference

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There is no doubt that our community is impacted by mandatory sentencing. Key Philadelphia stakeholders will be presenters at the conference. Seth Williams, the Philadelphia district attorney, and Keir Bradford-Grey, the chief Philadelphia public defender, along with Kevin Ring from the Washington, D.C.-based organization, will take on the topic “Families Against Mandatory Minimums.” During the second day of the conference, our own Riley Ross will co-present with Mark Rubenstein on the collateral effects of plea bargaining agreements.

Another challenging area for our communities is immigration. In addition to the excellent local advocates who practice immigration law, the panel will feature Professor Jaya Ramji-Nogales, an international human-rights fellow. She focuses her area of study on procedural due process. She co-authored a book that critically assesses asylum law and policy. Her panel participation will undoubtedly cover her proposals for reform, which should be of interest to all lawyers and human-rights advocates.

The conference will continue its scholarly focus by reviewing U.S. Supreme Court cases. Professor David Kairys and attorney Andrea Farney will update the conference participants on affirmative action, marriage equality, voting rights, tribal sovereignty, presidential power and executive orders and immigration reform, government speech and other subjects. The impact of U.S. Supreme Court Justice Antonin Scalia’s passing and the threat by some Republican U.S. senators not to hold a hearing

for President Barack Obama’s nominee will also be addressed.

Running a minority-owned business is on the conference agenda. Two panel discussions will address issues regarding securing capital, business funding and counseling, as well as government contract procurement for minority-owned businesses. There is a CLE for every need and interest!

If the CLE, the rich content of the panels and the networking opportunities are not enough to entice you to attend, you will want to come for the star power of keynote speaker Nolan N. Atkinson, Jr. and Michael H. Reed, our A. Leon Higginbotham Jr. Lifetime Achievement Award recipient.

Atkinson, our keynote speaker, will address the conference on Friday,



*Nolan N. Atkinson Jr.*

March 18, at the luncheon. Attorney Atkinson was recently appointed as the City of Philadelphia’s first chief of diversity and inclusion officer, whose primary objective is to combat racial and economic disparities in the city’s workforce. He is the former chair and co-founder of the Philadelphia Diversity Law



*Michael H. Reed*

Group Inc., a consortium of law firms and corporations committed to increasing ethnic and racial diversity in the legal profession. In 2010, he successfully petitioned the Pennsylvania Supreme Court to allow his great-grandfather, George Vashon, to be posthumously admitted to the Pennsylvania bar. Vashon was refused admission to the Pennsylvania bar in 1847 and subsequently in 1868, a right

he was wrongfully denied due to racial discrimination. Atkinson is a past Honorable A. Leon Higginbotham Jr. Lifetime Achievement Award recipient.

This year’s A. Leon Higginbotham, Jr. Lifetime Achievement Award recipient is none other than Michael H. Reed, the first attorney of color to secure the PBA presidency! Reed is special counsel at Pepper Hamilton, LLP. The award recognizes a minority attorney who has displayed outstanding leadership and service to the legal profession and the minority community.

The PBA Minority Attorney Conference promises to be a premier statewide gathering of minority and social-justice attorneys and will provide powerful networking opportunities. The two-day event offers 7.5 substantive continuing legal education credits and 2 ethics credit hours. The conference agenda will also include a networking reception to be held at the Crystal Tea Room the evening of Thursday, March 17. You can register for the 28th Annual Minority Attorney Conference [here](#).

*“No Wind, No Rain  
Or Winters cold Could Stop me . . .  
Cause you are my goal”<sup>2</sup>◆*



*Teresa M. Rodriguez is assistant chief counsel for the Pennsylvania Human Relations Commission. In March 2016, Ms. Rodriguez was appointed hearing officer by the Administrative Office of Pennsylvania*

*Courts of the Supreme Court of Pennsylvania. In that capacity she will be presiding over trials in the Traffic Court Division of the Municipal Court of Philadelphia.*

<sup>1</sup> Boyz II Men, “Cooleyhighharmony” album, Motown Records 1991.

<sup>2</sup> Marvin Gaye and Tammi Terrell, “United” album, Tamla Motown Records 1967.

## #BlackLivesMatter & #SayHerName

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case but still faces a U.S. Department of Justice [inquiry](#) into the matter, as well as an NYPD internal [investigation](#). On July 13, 2015, the City of New York [agreed to pay](#) the Garner family \$5.9 million to settle the matter before suit.

### Michael Brown – Aug. 9, 2014

Michael Brown was shot and killed by Ferguson, Mo. police officer Darren Wilson after the officer accosted Brown and a friend following a report of a strong-arm robbery at a nearby store. A grand jury was convened to investigate the shooting. Following 25 days of hearings over three months and 5,000 pages of testimony from 60 witnesses, the grand jury [declined](#) to indict Officer Wilson.

The U.S. Department of Justice also investigated and [cleared](#) Wilson, citing lack of evidence to disprove Wilson's self-defense claim. Brown's family filed suit against Wilson, among others, alleging violations of Brown's civil rights. A trial is [set for October 2016](#).

### Akai Gurley – Nov. 20, 2014

Akai Gurley was fatally shot on Nov. 20, 2014, in Brooklyn, N.Y., by NYPD officer Peter Liang, 27, as Liang accidentally discharged his weapon in a darkened stairwell. Gurley and his girlfriend were 14 steps below the officer, and the bullet ricocheted off the wall, striking Gurley once in the chest, fatally wounding him.

Liang was indicted by a grand jury on manslaughter and other criminal charges, on Feb. 10, 2015. He was [convicted](#) of manslaughter and official misconduct on Feb. 11, 2016. Liang has filed an appeal, while a wrongful-death suit [filed](#) by Gurley's girlfriend is pending.

### Tamir Rice – Nov. 22, 2014

Tamir Rice was killed on Nov. 22, 2014, in Cleveland, Ohio. Two police officers, 26-year-old Timothy Loehmann and 46-year-old Frank Garmback, responded to a [call](#) "of a male sitting on a swing and pointing a gun at people." Surveillance video of the shooting released by police on Nov. 26 showed that within two seconds of arriving on the scene, Loehmann jumped out of the still-moving vehicle and fired two shots, hitting Rice once in the chest.

The gun turned out to be a replica that had the orange safety feature marking it as a replica removed. The city's district attorney's office presented evidence to a grand jury, which [failed](#) to return an indictment against Loehmann. A wrongful death suit is pending.

### Walter Scott – April 4, 2015

Walter Scott was shot and killed by North Charleston, S.C., police officer Michael Slager following a tussle stemming from a traffic stop for a non-functioning brake light. [Cellphone footage](#) shot by a civilian contradicted Slager's statement in his police report that Scott attempted to take his taser, putting him in fear for life. The video showed Slager shooting the unarmed Scott eight times from behind while Scott was fleeing.

Slager was [fired](#) and charged with murder, with the South Carolina Law Enforcement Division, the FBI and the U.S. Department of Justice, among others, investigating the shooting. Slager was indicted on a charge of murder and is [scheduled](#) to go on trial in October 2016. The Scott family [settled](#) their case, with the city paying \$6.5 million to the family in preclusion of a civil suit.

### Freddie Gray – April 19, 2015

Freddie Gray was arrested on April 12 by Baltimore Police Department officers for allegedly possession an illegal switch-

blade. Gray was taken on a circuitous, [45-minute ride to jail](#), where upon arrival he was discovered to be in a comatose state. Gray died a week later, with his death attributed to injuries to his spinal cord.

On May 1, 2015, Baltimore City State's Attorney Marilyn Mosby announced the filing of charges against six police officers after the medical examiner's report ruled Gray's death a homicide, caused by the manner in which Gray had been transported in the vehicle while cuffed. On May 21, 2015, an indictment was handed down on a number of criminal charges ranging from second-degree depraved-heart murder to involuntary manslaughter and reckless endangerment.

The case against the first officer, William Porter, ended in a [mistrial](#) in December 2015, with a new trial scheduled for June 2016.

### Sandra Bland – July 13, 2015

Bland was found dead by apparent hanging in a jail cell on July 13, 2015. The Waller County, Texas, coroner classified her death as a suicide. Bland was in jail following an arrest by state trooper Brian Encinia for a traffic violation on July 10.

A grand jury declined to indict Encinia in December 2015, but the trooper was placed on administrative duty for failing to follow proper traffic-stop procedures. Encinia was indicted on perjury relating to Sandra Bland's arrest and subsequently [terminated](#) on March 3, 2016. The FBI and Texas Rangers continue to investigate Bland's jailhouse death. A wrongful-death lawsuit is pending, with a [trial](#) set for January 2017.

As lawyers we have a responsibility to make sure our community has access to justice. We must speak out as advocates for civil rights and racial justice. Moni-

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## #BlackLivesMatter & #SayHerName

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toring the above cases and making sure we add to the voice of justice is critical for our society, culture and profession. As the song “[Hell you Talmbout](#)” states, we must say the victims’ names and remember their lives. ♦



*Nigel S. Scott is principal attorney at Aegis Law, LLC, a small, general practice in Center City Philadelphia. He focuses his practice primarily on civil litigation and commercial law,*

*namely entity formation, contracts and nonprofit organizations. Secondary practice areas include criminal defense and select immigration matters. In his spare time, he can be found following his favorite soccer team, Liverpool, FC, and catering to the whims of his cats, Six and B.O.*

<sup>1</sup> Some #BlackLivesMatter activists expressed concern that not as much attention is paid to police brutality against African-American women. The movement focuses on gender-specific ways police brutality and anti-black violence disproportionately affect black women. Although the hashtag #SayHerName was started in February 2015, the movement became more visible following Sandra Bland’s jailhouse death.

**28<sup>TH</sup> ANNUAL  
MINORITY ATTORNEY CONFERENCE  
March 17-18**

**Ain’t No Mountain High Enough:  
The Legal Frontier Towards  
Socio-Economic Empowerment**

**PBI Conference Center in Philadelphia**

## Jumping Silos: Pennsylvania Bar Foundation

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assistance program helps IOLTA-funded civil-legal-services organizations throughout Pennsylvania attract and retain talented lawyers and makes a career in public service a more affordable choice for the dedicated lawyers who choose to do so by providing forgivable loans to pay off undergraduate and law-school debt. Since its inception in 2010, 163 attorneys have received more than \$1.6 million in loan repayment assistance!

The foundation accomplishes all this and more with the help of a 23-member board of directors, 12 committees and a myriad of volunteers. Like most nonprofits, “friend-raising” and fundraising are a big part of our work. The dollars raised fund the grants that deliver the outstanding law-related education programs and learning resources for students in grades K through college; underwrite those programs that increase the number of lawyers working at no costs to protect Pennsylvania’s most vulnerable; and provide law school scholarships and forgivable loans for public-interest attorneys. I encourage all Pennsylvania lawyers to become active in the PBA and the Pennsylvania Bar Foundation.

For more information on how you can help support the Pennsylvania Bar Foundation visit [www.pabarfoundation.org](http://www.pabarfoundation.org). Buy a ticket in the Million Miles for Justice raffle and possibly win a car. Become a Commonwealth Club or Life Fellow Member with your donation to the foundation. You can make a difference today! ♦



*Tyrone A. Powell was appointed as deputy general counsel with the Governor’s Office of General Counsel in April 2015. He has more than 25 years of experience representing retailers, developers, public*

*authorities and universities in complex real estate transactions and public-private partnerships. He is also a member of the Michigan and Texas bars. He received his bachelor of arts with honors from Stanford University and graduated from the University of Texas School of Law. He has been married more than 30 years to his law school sweetheart, attorney Mary Powell. They have three children.*

**MILLION MILES FOR JUSTICE CAR RAFFLE**

**Everyone Wins!**

You Could Win a 2016 Honda Accord EX-L V6  
presented by Faulkner Honda

Access to Justice Grows  
Pennsylvania’s Youth Become Better Citizens

**PenNSYLVANIA BAR  
FOUNDATION**  
RECOGNIZED • JURORS • BENCH ACCESS

**Faulkner  
Honda**  
PENN.



## Michael H. Reed

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### **What were some of the highlights, low points in your experience as PBA president?**

Being president of the PBA was a tremendous opportunity and one of the best experiences of my entire life. It ranks somewhere right below getting married and having kids. I had the opportunity to travel around this great commonwealth, which I think is a microcosm of America. One highlight was appointment of the Commission for Justice Initiatives in Pennsylvania (chaired by Ned Madeira of Pepper) and the various reforms it proposed, some of which were implemented. Presidents of bar associations are presented with unforeseen crises at least once or maybe more. I was no different. Dealing with challenges and crises can be a positive thing, although it doesn't always seem that way during the crisis. When I was PBA president I dealt with several unanticipated challenges. Like my predecessor, the late Tom Golden, I also dealt with tensions between the legal and medical professions.

### **What do you consider to be your greatest accomplishment as president of the PBA?**

To be a living example of the importance of diversity. To help to highlight the importance of diversity and inclusion within the leadership of the PBA.

### **Your PBA presidential goals were to increase diversity and membership value. Has the PBA progressed with these goals?**

I think the PBA has made significant progress on diversity and inclusion since I was president. The association has also



continued to provide membership value in a challenging environment for voluntary bar associations. As a voluntary bar association, the PBA has to earn the dues of its members. We

are basically running a business for our customers. If we fail to deliver value, we lose customers. The challenge for such organizations is that as large firms and other employers become less willing to pay for things like voluntary associations it is harder to retain members. Meeting the value proposition is a constant challenge.

### **What advice would you give to future presidents and leaders of the PBA?**

Expect at least one challenge to arise during your presidency that was not on your radar. Be prepared to spend a lot of time and energy doing the job of the president, and try to have fun with it, too. It is appropriate for a future president to have one or two themes that they would like to focus on. But it is also important to remember that new presidents must collaborate with their predecessors and successors to be successful. Most programs/initiatives that are worthy require more than one year to accomplish.

### **Given the wide variety of professional development opportunities, why should young attorneys join the PBA and other bar associations?**

New lawyers have an important stake in assuring that the legal profession will continue to play the important role in American society that it has played traditionally. I believe that the best way for lawyers to maintain the integrity, prestige, high standards and influence of the legal profession is through the work of the organized bar and public service.

### **Given your experience and the pressures of modern lawyering, what advice would you give young lawyers looking to develop an expertise in their practice?**

You have to develop an interest in something that you like and do something extra in your area, like written contributions or participating in CLEs. I did not feel that I was truly an "expert" in my area until I taught several law school courses during the 1980s.

### **What is the value of mentoring for young attorneys and how should young attorneys seek out mentorship from more experienced attorneys?**

My life is an example of the importance of mentorship. I would not have been able to accomplish what I have if I did not have important mentors throughout my career. Young attorneys should consider what their goals are and then seek out those in the field who have achieved success in that field. ♦



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*Sean is a member of the board of directors of Nutritional Development Services of the Archdiocese of Philadelphia and chairman of the school board of St. Raymond of Penafort, an Independence Mission School, in the West Oak Lane section of Philadelphia. He is also on the executive committee of the Young Friends of the Children's Scholarship Fund Philadelphia.*

## Foster v. Chapman

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prosecutors have provided implausible or fantastic justifications as mere pretexts for purposeful discrimination. Credibility can be measured by several factors, such as the prosecutor's demeanor, how reasonable or improbable these explanations are and whether the proffered rationale has some basis in accepted trial strategy.

A recent 2015 law-review article published in *William & Mary Law Review* proposes an alternative test to the *Batson* inquiry. Tania Tetlow, *Solving Batson*, 56 Wm. & Mary L. Rev. 1859, 1892-95 (2015). Unlike *Batson*, this Sixth Amendment test would focus on the impact of jury selection on diversity instead of the trial judge attempting to decide the subjective intent of lawyers. If a counsel's peremptory challenges "skewed" the diversity of suspect classifications on the jury, then that counsel needs to justify those peremptory strikes by referencing specific and individualized concerns about each juror's impartiality. The trial judge would balance the strength of these proffered reasons for the strikes against the value of the lost diversity on the jury panel. *Id.* at 1895. As Professor Tetlow explains, "a Sixth Amendment rule would avoid the legal fiction that race and gender do not matter to jury deliberations and would free judges to actively protect jury diversity. Such a rule would also prove pragmatically easier to enforce because it would allow judges to measure the strength of a proffered rea-

son for a strike rather than its sincerity." *Id.* at 1859.

In the instant case, *Batson* failed to protect the rights of the potential jurors and also failed to provide an impartial jury to defendant Foster. The U.S. Supreme Court could consider a Sixth Amendment alternative to *Batson* if the court reaches the merits of the case and does not remand the case to the Georgia Supreme Court on procedural grounds. Professor Tetlow suggested a possible solution that would encourage diversity on our juries from a cross-section of our communities. Jury-panel diversity enhances trust in our criminal legal system, improves the quality of jurors' deliberations and decreases the risk of bias. ♦



*Judge Stephanie Domitrovich, Ph.D. has served more than 26 years as a general jurisdiction state trial judge for the Sixth Judicial District of Pennsylvania (Erie County). She currently serves in the Trial Court Division.*

<sup>1</sup>The prosecutor's notes are found in the [Petition for Writ of Certiorari](#) at Appendix F.

<sup>2</sup> Given there are only eight remaining justices following the untimely passing of Justice Scalia, there is an even number of justices and in the event of a tie vote there is no tie-breaking vote. Where there is no tie-breaking vote, the opinion below is sustained. In this case, the lack of tie-breaking vote will result in sustaining the Georgia Supreme Court, which affirmed the trial court's denial of the race-based *Batson* challenges to the jury selection.



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### Mission Statement:

*The mission of the Minority Bar Committee of the Pennsylvania Bar Association is to assure full and equal participation of minorities in the PBA, the legal profession and the justice system in general.*



**Sharon R. López** is the first editor of the Minority Bar Committee newsletter, "Houston's Legacy." Sharon is the managing partner at Triquetra Law, a boutique civil-rights and plaintiff's-employment law firm located in Lancaster, Pa. Sharon is the PBA vice president and will become president-elect after the May 13, 2016 PBA House of Delegates' meeting.

The deadline for articles for the next issue of "Houston's Legacy" is **Sept. 1, 2016**. To contribute articles, email Sharon at [lopez@triquetralaw.com](mailto:lopez@triquetralaw.com).