What is Houston’s Legacy?
By Andy Saylor, Esq.

Our newsletter is named for Charles Hamilton Houston, a genuine civil rights hero. Charles graduated from Amherst College as a valedictorian in 1915. He served overseas as an artillery lieutenant in the then-segregated U.S. Army in World War I, where the unjust treatment of African-American soldiers led him to decide to pursue the practice of law.

He graduated cum laude from Harvard Law School in 1922, where he was the first African-American editor of the Harvard Law Review. The following year he became the first African-American to earn a Juris Doctor Degree from Harvard. He was vice dean of Howard Law School and oversaw its accreditation. After a period of private practice, in 1935 he became full-time legal counsel for the NAACP.

Continued on page 3

REPORT ON THE JURY SERVICE COMMITTEE OF THE INTERBRANCH COMMISSION
Jury Bias, Source Lists and Diversity

By Judge Stephanie Domitrovich, Ph.D.

Jurors comprehend, analyze and interpret trial evidence through the language of their varied life experiences. Jurors hear and see various versions of stories in the courtroom from witnesses, litigants and lawyers. Jurors, while maintaining their individuality, together engage in the language of the decision-making process called deliberation. As one body — the jury — unite their common experiences, knowledge and perceptions to arrive at their verdict.

The process of voir dire purports to discover if a juror has any biases or prejudices. Juries are selected from jury source lists, such as registered voters and licensed drivers. Selecting jurors from a pool of candidates with diverse backgrounds furthers the goal of obtaining an impartial jury, but voter registration and driver license lists may not provide the broadest juror selection pool.

Consistent with the notion that a jury should be impartial, the jury selection system is devoid of initial reference to gender, race or ethnic background and relies on random selection to select impartial jurors. Random selection has its roots in statistics; however, the judiciary has been careful to point out that random jury selection does not equate to statistical certainty of a diverse group or of an impartial jury pool. While the selection from this list may be random, the likelihood of selecting a jury that represents a fair cross-section of the community is contingent on the composition of the source list. Random selection can only produce juries that are both representative and inclusive if the source list itself is representative and inclusive.

Census data indicate that a substantially higher percentage of middle-class Caucasians register to vote than do minorities or the poor, and the rate of voter registration is highest among middle-class Caucasians. Therefore, juris-

Continued on page 2
Jury Bias, Source Lists and Diversity

Continued from page 1

dictions that rely primarily upon voter registration lists to develop source lists effectively exclude a significant number of minorities even before the selection process begins.

Perceptions of racial bias in the justice system can arise from the racial imbalance that is self-evident in communities where not even one minority juror is available for jury selection. The voir dire challenge requirements of Batson v. Kentucky, 476 U.S. 79 (1986), do not remedy such a situation. In Batson, the prosecutor employed four peremptory challenges to strike the only four African-Americans on the venire panel; the defendant was also African-American. The United States Supreme Court ruled that the Equal Protection Clause forbade prosecutors from excluding African-Americans on the basis of race. The United States Supreme Court compared English and American jury selection processes. He found that, although England favored selecting jurors from its aristocracy, America did not make a class distinction. Tocqueville believed the power and role of the jury to be “the most energetic means of making the people rule” and “the most efficacious means of teaching (the people) how to rule well.” Moreover, the nature of the jury in America as a guard against oppression changed after the Civil War. While northern juries were not likely to convict persons charged with violating the federal Fugitive Slave Law, post-Civil War juries in reconstructed Southern states consistently ruled against African-Americans and in favor of Caucasians. These instances demonstrate that a biased jury may subvert the law, and that a non-inclusive jury system is prone to have biases.

In People v. Wheeler, 583 P.2d 748, 754-755 (Cal. 1978), the California Supreme Court noted that the requirement that the jury be selected from a fair cross-section of the community was based on the notion that:

In our heterogeneous society, jurors will inevitably belong to diverse and often overlapping groups … and hence that the only practical way to achieve an overall impartiality is to encourage the representation of a variety of such groups on the jury so that the respective biases of their members, to the extent they are antagonistic, will tend to cancel each other out.

In order to achieve the above described diversity, the Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness (Commission) created the Jury Service Committee (Committee). Lynn Marks chairs the Committee, with Lisette McCormick, the Commission Executive Director, staffing the Committee. This Committee submitted a plan to the Pennsylvania Supreme Court outlining the key steps necessary for implementing standardized jury list selection procedures, and conducted seminars to assist courts with the jury selection process. See The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness website at http://www.pa-interbranchcommission.com/commit_jury-service.php (last accessed, April 7, 2015).

However, perception of fairness in the jury selection process is just as important as the standards. See Domitrovich, S., “Jury Source Lists and the Community’s Need to Achieve Racial Balance on the Jury,” [33 DUQ. L. REV. 39 (1994)](recommend tools for increasing minority participation on jury pools).

This Committee also proposed model jury instructions on jury bias and juror behavior during deliberations. One Pennsylvania juror shared her experience of bias by other jurors during jury duty. These jury instructions are in response to her concerns. The Committee efforts to implement the Suggested Standardized Procedures for Jury Selection in Pennsylvania Courts resulted in drafting a new rule governing changes in the voir dire process.

Resolving the community’s perception of minority representativeness will be healthy for the democratic principle embodied in the modern American concept of juries – impartiality. By addressing and resolving public perceptions, we reach the laudable goal of proving that the judicial system and the jury process are both color-blind and color-conscious.

By addressing and resolving public perceptions, we reach the laudable goal of proving that the judicial system and the jury process are both color-blind and color-conscious.

Judge Stephanie Domitrovich, Ph.D. has served 25 years as a general jurisdiction state trial judge of the Sixth Judicial District of Pennsylvania (Erie County). She currently serves in both the Trial Court and Family/Orphans’ Court Divisions.
He then embarked on a series of cases that reached the Supreme Court and laid the groundwork for the ongoing pursuit of equality and justice in the federal courts. A review of some of his Supreme Court cases shows what he was up against, and what he accomplished.

In 1935, the University of Missouri had a law school, but did not admit African-Americans. Lincoln University (“an institution maintained by the State of Missouri for the higher education of negroes”) did not have a law school. The Court held that Missouri had an obligation to admit Lloyd Gaines to its law school, rather than just provide tuition for him to go to a law school in a neighboring state, “in the absence of other and proper provision for his legal training in the State.” “Separate but equal” was still acceptable to the Court, but if the state didn’t provide separate but equal, the U.S. Constitution required opening the doors to African-Americans.

In 1940, the Brotherhood of Locomotive Firemen and Enginemen did not permit African-Americans to be members. The Brotherhood, without notifying the African-American employees, notified the railroads that it wanted to amend its collective bargaining agreement, and it was amended so that not more than half of the locomotive firemen could be African-Americans. Until they were reduced to that percentage, all new hires would be white. It reserved the right to the union to further restrict the employment of African-Americans. Bester Steele was a fireman in a good position, but under the authority of the agreement, he and other African-Americans were removed from their positions and given more difficult positions at less pay. The Railway Labor Act did not expressly prohibit race discrimination, but the Court held that the union’s general obligation under the Act to represent all employees in the craft imposed a duty not to discriminate on the basis of race.

In a 1948 case, the Court addressed the enforceability of deed restrictions in Washington, D.C. which said that the real estate “shall never be rented, leased, sold, transferred or conveyed unto any Negro or colored person.” The Court held that the deed restrictions were unenforceable under the Civil Rights Act of 1866; the Court did not find it necessary to reach the constitutional issue.

Just two years later, in 1950, Charles Hamilton Houston died of a heart attack at the age of 54. Among those he had mentored was Supreme Court Justice Thurgood Marshall. He had engineered the legal strategy that ultimately resulted in the unanimous 1954 Supreme Court decision, Brown vs. Board of Education, overturning “separate but equal” Jim Crow segregation. He did not live to see that decision, but really he had “seen” it long before it became a reality. As Justice Marshall said, “We wouldn’t have been anyplace if Charlie hadn’t laid the groundwork.”

Harvard Law School has established the Charles Hamilton Houston Institute for Race and Justice, which “honors and continues the unfinished work of Charles Hamilton Houston” with its goal to “ensure that every member of our society enjoys equal access to the opportunities, responsibilities and privileges of membership in the United States.” The Minority Bar Committee of the Pennsylvania Bar Association likewise seeks to honor him by naming its newsletter “Houston’s Legacy” and to continue his unfinished work.
Discrimination against persons with criminal records, even just arrests, is broadly accepted and in some instances legal. The impact of this type of discrimination is so broad it results in “civil death.” I refer to it as civil death because a criminal history affects all aspects of a citizen’s rights and privileges. As lawyers and members of the Minority Bar Committee, we should be extra-sensitive and vigilant about the impact of this civil death, because our minority clients are disproportionately impacted by arrests and consequently the civil death resulting from these arrests.

A person with a criminal record is often thought of as a dangerous person who poses a threat to the community and one who has little regard for his rights and responsibilities as a citizen. The daily narratives found in news reports, movies, and music support this concept, allowing society to justify legal discrimination of convicted felons. Our federal and state legal traditions allow for various forms of the concept of civil death — the removal of legal protections, rights and privileges of convicted felons. Even people who have been arrested, but not convicted, find themselves struggling to free themselves from the debilitating clutches of civil death.

Decades of legislation, technological advancements and civil death have promoted policy decisions allowing direct and collateral consequences of an arrest or a conviction to permeate a citizen’s life. Now, Pennsylvania residents arrested or convicted of a crime are particularly vulnerable to discrimination impacting employment, professional licenses, educational opportunities, housing and access to capital. As a result of this civil death, many Pennsylvanians are the “walking dead,” unable to obtain gainful employment, meaningful education and, most importantly, to repay their debt to and be welcomed back into society.

Basic civil rights protections are unavailable to the walking dead. For example, an individual convicted of a felony controlled-substance offense faces criminal penalties such as incarceration, an accepted form of involuntary servitude excepted from the 13th Amendment. The walking dead not only complete their time, but must pay fines, costs and restitution when they are released from prison and in their most vulnerable state. The walking dead do not have a second amendment right to carry a firearm, and their hunting privileges are revoked or denied.

Many types of employment exclude a citizen with a criminal history, such as a private detective, investigator, security guard or even a professional wrestler’s promoter. Working in a school is also prohibited, no matter what capacity of employment. Any crime punishable by more than one year — which covers all felony and most misdemeanors — prohibits a citizen from serving on a jury, a protected right for most under our state and federal constitutions, but not for the walking dead.

The impact of this civil death is nearly impossible to realize for those who are unrepresented at a criminal proceeding. Even lawyers may have trouble understanding the civil death impact and consequences of arrests and plea bargains on their clients, because the results of civil death are not referenced in the criminal code and are dispersed in the various civil statutes and regulations unfamiliar to most criminal defense attorneys and prosecutors. Pennsylvania needs to consolidate the collateral consequences of arrests and convictions so that direct and mandatory consequences are known by attorneys and their clients.

The mental and emotional impact of civil death is not as easy to quantify. The lingering impact of a youthful mistake or a mistaken arrest closes doors and removes opportunities for full citizenship. One volunteer I work with is an Ivy League law student. In 2009, while an undergraduate, he was arrested for underage drinking. He was offered and successfully completed an Accelerated Rehabilitation Program and subsequently had his criminal history record information expunged. Like most people suffocated by civil death, he began feeling the impact during a search for employment long after his case was closed. Currently, an applicant for a license to practice law in the Commonwealth of Pennsylvania must disclose all arrest records and often attend a hearing prior to a recommendation for the applicant’s character and fitness. After disclosing his expunged un-

Continued on page 5
Civil Death
Continued from page 4

derage drinking arrest, he was informed by the Pennsylvania Board of Law Examiners that he will be required to attend a character and fitness hearing and supply documents surrounding his 2009 arrest. This law student is more concerned about a character and fitness hearing for an expunged underage drinking conviction than he is about the rigors of the bar exam. He is afraid that, despite a law degree, his expunged arrest will leave him one of the walking dead, suffering a civil death in his chosen profession.

Many Pennsylvanians are among the walking dead — willing, but unable, to work and make a positive contribution to society. From 2000 to 2013, Pennsylvania’s corrections spending increased by 76 percent, rising to about $2 billion a year. The incarceration rate in Pennsylvania is one in 249 for all Pennsylvania residents, and one in 28 for African-American male Pennsylvania residents. Qualified candidates for employment, housing, education and loans are being denied the very resources that reduce recidivism and increase self-worth. Persons convicted of a crime are no longer afforded an opportunity to pay their debt to society. Although no longer incarcerated, they certainly are not free from their past.

From 2009 through 2014, 41 states and the District of Columbia enacted 155 pieces of legislation to mitigate the burden of collateral consequences for people with certain criminal convictions. However, Pennsylvania is not one of the 41 states. The time has come for Pennsylvania to gain a full understanding of civil death and begin to breathe life back into the walking dead. ♦

Michael B. Lee, Esq. is a solo practitioner and a co-founder and member of Philadelphia Lawyers for Social Equity (PLSE), a non-profit legal aid organization that provides direct pro bono legal service, legal education workshops and advocates, and helping those most impacted by injustice to become their own advocates for change.

Many Pennsylvanians are among the walking dead — willing, but unable, to work and make a positive contribution to society.

Endnotes
3. 18 PA. § 6105
4. 34 PA. § 274
5. 22 PA. § 16
6. 5 PA. § 2101
7. 23 PA. § 6344
8. 42 PA. § 4502

PBA DIVERSITY TEAM 2014-2015

<table>
<thead>
<tr>
<th>Ambassador/Representative</th>
<th>Term Ends</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melinda C. Ghilardi, Chair At-Large</td>
<td>2015*</td>
</tr>
<tr>
<td>Beverly H. Rampaul, Vice Chair</td>
<td>2016*</td>
</tr>
<tr>
<td>Jennifer L. Ellis</td>
<td>2017</td>
</tr>
<tr>
<td>Andrea Farney</td>
<td>2015</td>
</tr>
<tr>
<td>Stacy L. Hawkins</td>
<td>2016</td>
</tr>
<tr>
<td>Stephanie F. Latimore</td>
<td>2015</td>
</tr>
<tr>
<td>Marisa Lattimore</td>
<td>2016</td>
</tr>
<tr>
<td>Michael B. Lee</td>
<td>2017</td>
</tr>
<tr>
<td>Sharon R. López</td>
<td>2015</td>
</tr>
<tr>
<td>Wesley R. Payne IV</td>
<td>2017*</td>
</tr>
<tr>
<td>Michael H. Reed</td>
<td>2017</td>
</tr>
<tr>
<td>James J. Ross</td>
<td>2016*</td>
</tr>
<tr>
<td>Elisabeth S. Shuster (Dolly)</td>
<td>2015</td>
</tr>
<tr>
<td>Jacqueline B. Martinez</td>
<td>2016</td>
</tr>
<tr>
<td>Jessie L. Smith</td>
<td>2016</td>
</tr>
<tr>
<td>Hon. Margherita Worthington</td>
<td>2017</td>
</tr>
</tbody>
</table>

* Not eligible for reappointment in this position because this term coincides with their term on the Board of Governors.
Advocacy for Access to Courts for Limited English Proficient Individuals Produces Results*

By Arthur N. Read, Esq.

Twenty-one years ago, in 1994 the Pennsylvania Bar Association (PBA) Minority Bar Committee (MBC), through the leadership of Tsiwen Law, initiated efforts in both the PBA & the Philadelphia Bar Association to establish bar policies supporting the appointment and certification of court-appointed language interpreters for limited English proficient (LEP) litigants.

This long-term advocacy by both bar associations helped bring real changes to Pennsylvania's courts over the past year. Some of these changes were reported on at a recent PBI CLE, “Opening the Courthouse Doors,” co-sponsored by the PBA MBC in March 2015. This CLE and its materials included extensive discussions of the status of rights of LEP individuals in judicial and administrative proceedings in Pennsylvania, as well as best practices in working with interpreters. The CLE is available at http://catalog.pbi.org/store/seminar/seminar.php?seminar=39365. The path to the CLE included passing resolutions, investigations, reports and legislation on LEP court access.

It started in May 1994, when the PBA House of Delegates adopted an MBC proposed resolution mandating the development of a system for interpreter certification and appropriate audio recording of all proceedings using interpreters. A similar resolution was adopted by the Philadelphia Bar Association in June 1994. See http://www.philadelphiabar.org/page/BoardResolution93082252000?appNum=2.

In 1994, the Third Circuit Court of Appeals established a “Task Force on Equal Treatment in the Courts.” The task force established a Commission on Race and Ethnicity, co-chaired by Third Circuit Judge Theodore A. Mc Kee, included a Committee on Language Issues (“Language Committee”). Among the active members of that Language Committee were PBA members Tsiwen Law and L. Felipe Restrepo (now a U.S. District Court Judge in the Eastern District of Pennsylvania with a pending nomination to the United States Court of Appeals for the Third Circuit). The Language Committee findings were published in the 1997 Task Force Report found at 42 Vill. L. Rev. 1355 at 1721-1757 (1997), available at http://digitalcommons.law.villanova.edu/vlr/vol42/iss5/3.

In 1999, the Supreme Court of Pennsylvania appointed the Committee on Racial and Gender Bias in the Justice System to study the state court system and determine whether racial or gender bias plays a role in the justice system. The committee held numerous public hearings in 2000 and 2001 that elicited testimony establishing severe LEP access problems in Pennsylvania. The final committee report, issued March 2003, is available at http://www.pa-interbranch-commission.com/_pdfs/FinalReport.pdf. The committee made numerous, significant LEP access recommendations including that “…all courts provide qualified interpreters to litigants at no charge, in order that LEP parties and witnesses may fully and fairly participate in court proceedings and obtain reasonable access to the court system.”


Since August 2000, the U.S. Department of Justice, pursuant to Title VI of the Civil Rights Act of 1964, requires state court systems receiving federal funding to make their courts fully and freely accessible to LEP litigants. See Department of Justice LEP Guidance for Recipients and Agencies, http://www.lep.gov/guidance/guidance_DOJ_Guidance.html. DOJ letters specifically addressing Continued on page 7
Court Access for LEP Individuals

Continued from page 6


In 2010 the American Bar Association Standing Committee on Legal Aid and Indigent Defendants (SCLAID) convened a national advisory group composed of judges, court administrators, interpreters, translators, public defenders, civil legal aid attorneys, members of the private bar and advocates to undertake a comprehensive approach to the issue of language access for LEP individuals. The SCLAID advisory group worked to establish practical LEP access standards and identified resources and best practices. The SCLAID advisory group prepared draft standards for the provision of appropriate services to LEP individuals.

In February 2012, the Pennsylvania and Philadelphia Bar Associations supported the adoption of the American Bar Association Standards for Language Access based on the SCLAID draft standards. See http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/language_access.html.

The scope of responsibility of Pennsylvania courts to provide court-appointed interpreters in judicial hearings was unclear to many courts. The failure to provide court interpreters in Magisterial District Justice hearings in 2013 resulted in the filing of complaints under Title VI of the Civil Rights Act of 1964 by the Pennsylvania chapter American Civil Liberties Union. Indeed, a recent study by the Sheller Center for Social Justice at Temple Law School, “Barriers to Justice - Limited English Proficient Individuals and Pennsylvania’s Minor Courts” (Feb. 2015) documented that Pennsylvania is not providing competent court-appointed interpreters as required by the Pennsylvania Interpreter Act, Act No. 172 of 2006. See http://www.law.temple.edu/pdfs/Sheller/LEPRecommendationsReport.pdf.

In 2012, following the AOPC and judicial participation in the 2012 national summit on language access, the Pennsylvania AOPC, in consultation with the Pennsylvania Supreme Court, decided during 2013 to work to implement policies to bring Pennsylvania courts into compliance with DOJ expectations under Title VI of the Civil Rights Act of 1964. In late 2013, the AOPC established a new attorney position to oversee compliance with both the Americans with Disabilities Act and Title VI of the Civil Rights Act of 1964. In March 2014, the AOPC hired attorney Mary Keane Vilter as Coordinator, Court Access. In addition, AOPC requires every judicial district to hire a language access coordinator beginning in March 2015.

During 2014, the AOPC began requiring all Pennsylvania Judicial Districts to develop language access plans to make all courts and courthouses fully available to LEP individuals. This included clarifications to president judges that the 2010 AOPC regulations require interpreters to be provided at no cost to litigants in all cases in which the principal parties in interest are LEP individuals. In 2015, AOPC is spearheading the development of an overall Pennsylvania state language access plan.

More work is required to make access to courts a reality for LEP individuals, but Pennsylvania courts have launched a process to open the courthouse doors, thanks, in part, to the consistent advocacy of PBA MBC lawyers.

Arthur N. Read is General Counsel of Friends of Farmworkers, Inc., practicing labor and employment law in New York, New Jersey and Pennsylvania since receiving a J.D. from NYU Law School in 1976. Mr. Read is a member of the PBA House of Delegates, a former co-chair of the PBA Civil and Equal Rights Committee (CERC), and an active member of several PBA committees.

Plan to attend the
28th Annual Minority Attorney Conference
April 2016, Philadelphia
and the
9th Diversity Summit

More information to follow.
The History of the PBA Minority Bar Committee

By Tsiwen Law, Esq.

In 1987, Pennsylvania Bar Association President Joseph H. Jones met and conferred with future PBA President Michael H. Reed and several other racial minority attorneys concerning how the PBA might reach out to and become more inclusive of such attorneys. President Jones subsequently appointed an ad hoc committee, co-chaired by future PBA President Leslie Miller and Michael H. Reed to develop recommendations for possible programs and activities that might be initiated by the PBA for the benefit of Pennsylvania’s racial minority lawyers. The ad hoc committee was eventually expanded, and it convened at a meeting at PBA headquarters in Harrisburg in October, 1988. The meeting was attended by various attorneys, including, among others: Oliver Johnson from Philadelphia and Justin Johnson, Jr. from Pittsburgh, representing the Homer S. Brown Society; Dianne Nichols from Harrisburg, representing the Keystone Bar Association; Jettie Newkirk from Philadelphia, representing the National Bar Association Women Lawyers Division; (future Judge) Nitza Quinones Alejandro from Philadelphia, representing the Hispanic Bar Association of Pennsylvania; Tsiwen M. Law from Philadelphia, representing the Asian American Bar Association of the Delaware Valley, Leslie Miller and Michael H. Reed.

The participants generally agreed that the needs of racial minority attorneys and their respective communities continued to be underserved by the organized bar, the courts and the legal academies. The participants discussed whether there was interest in forming a statewide committee of racial minority lawyers drawn from their respective constituencies and how such a committee might benefit racial minority lawyers across the commonwealth of Pennsylvania. It was agreed that a Minority Bar Committee (MBC) should be formed with the primary mission of serving the interests of Pennsylvania’s racial minority attorneys and their communities. The MBC would serve as a point of collaboration among the minority bars on statewide issues. The ad hoc committee subsequently voted to have the MBC become a standing committee of the PBA and, in December 1988, PBA President Carl Brueck, Jr. formally appointed the Minority Bar Committee as a standing committee of the PBA.

President Brueck appointed Mike Reed as the first chairman of the MBC. Meetings of the MBC were held at three sites by conference call. The MBC organized and presented the first statewide Minority Attorney Conference in April 1989, at which the MBC was introduced to Pennsylvania’s minority lawyers, law students and judges. Pennsylvania Supreme Court Chief Justice Robert N.C. Nix, Jr. gave the keynote remarks at the conference, the first such conference in the U.S. The conference was recognized by the American Bar Association and the National Conference of Bar Presidents as one of the best projects of 1989.

In the ensuing years, the MBC continues to highlight minority attorneys and judges in the commonwealth through the Minority Attorney Conference, while raising issues of concern to racial minority communities. In 2006, the MBC helped to launch the PBA’s Annual Diversity Summit. The MBC has presented to the PBA’s House of Delegates resolutions on English-Only legislation, court interpreter competency, civil rights restoration act, expansion of the Pennsylvania Human Relations Act, state anti-immigrant bills, affirmative action, and the death penalty moratorium and achieved passage of most resolutions by the House. On many of these issues, MBC members also testified before the Pennsylvania State Assembly committees. In the case of the court interpreter competency resolution, the PBA succeeded in having it become a bill, which Gov. Rendell signed into law in 2006. The MBC succeeded in having the PBA House of Delegates approve a by-law amendment to create two at-large seats on the Board of Governors. Several past chairs and members of the MBC have since served as at-large governors. Mike Reed was the first minority attorney to serve as chair of the House of Delegates and subsequently as PBA president. The MBC now is organized under an executive council overseeing ten subcommittees. One of the subcommittees organizes law day outreach programs for high school students in Allegheny, Dauphin and Philadelphia Counties. Another subcommittee holds free legal seminars for underserved racial minority communities.

Continued on page 9
The History of the PBA Minority Bar Committee 
Continued from page 8

nities in Pennsylvania. MBC members volunteer their time to explain the law at community centers and churches.

With the approval of the Higginbotham family, the MBC lifetime achievement award was named the A. Leon Higginbotham Lifetime Achievement Award, to recognize the former Chief Judge of the U.S. Court of Appeals for the Third Circuit and law professor at the University of Pennsylvania. Judge Higginbotham was a brilliant jurist and scholar who authored many books about the treatment of African Americans in the American legal system. He was also a great role model and mentor to younger attorneys.

Twenty-eight years later, the MBC still remains relevant to minority attorneys in the PBA and to the clients we serve. The work we engage in to develop resources for minority lawyers and their communities is paying off as we see and hear the words “diversity and inclusion” become part of the lexicon of the PBA. While there is much work to do, understanding where we came from and seeing how far we’ve come will help us navigate the next phase of our work.

Pittsburgh Lawyer Cooper Received Lifetime Achievement Award at PBA Minority Attorney Conference

Pittsburgh lawyer Carl G. Cooper was honored with the A. Leon Higginbotham Jr. Lifetime Achievement Award during the 27th Annual Pennsylvania Bar Association (PBA) Minority Attorney Conference, “Criminalization of Justice: The New Civil Rights Frontier.” The conference took place April 9 and 10 at the Omni William Penn Hotel, Pittsburgh.

The A. Leon Higginbotham Jr. Lifetime Achievement Award recognizes the accomplishments of a lawyer or judge who has demonstrated dedication to the legal profession and the minority community through civil, community or legal service.

Cooper, who launched a Pittsburgh-based diversity consulting firm in 2007, received the award at the April 10 luncheon.

Philadelphia Lawyer Roper to be Honored with Inaugural PBA David M. Rosenblum GLBT Public Policy Award

The PBA Gay, Lesbian, Bisexual and Transgender (GLBT) Rights Committee will present its inaugural David M. Rosenblum GLBT Public Policy Award to Philadelphia lawyer Mary Catherine Roper. She will receive the award during a reception of the PBA GLBT Rights, Minority Bar, Solo and Small Firm and Commission on Women in the Profession committees and the Pennsylvania Bar Foundation on May 7 during the association’s Annual Meeting in Philadelphia.

Rosenblum, an active member of the PBA GLBT Rights Committee and a staunch proponent of civil rights, passed away suddenly last May.

Mary Catherine Roper joined the Philadelphia office of the ACLU of Pennsylvania in 2005. As deputy legal director, she coordinates litigation on a broad range of civil liberty issues, including GLBT rights, freedom of speech, racial and ethnic justice, students’ rights and privacy. She has achieved important court victories for GLBT people, including bringing marriage equality in Pennsylvania through her work for plaintiffs in Whitewood v. Wolf, the federal lawsuit that successfully challenged the Pennsylvania Marriage Laws as amended in 1996 to ban same-sex marriage.
MINORITY BAR ACTIVITIES

Come One, Come All!

By Andy Saylor, Esq.

As a white person, I wondered whether I would be intruding if I participated in the PBA Minority Bar Committee (MBC) activities. However, it was readily apparent that, although I am a member of the majority, the members of the MBC welcomed me. I am primarily motivated to participate in the MBC because diversity is enriching. I encourage everyone, minority or majority, to participate in the MBC activities. Here are three of the regular MBC activities.

Minority Law Day (Regional Programs)

Each region – Philadelphia, Pittsburgh and Central Pennsylvania – has a Minority Law Day program. This program is intended to acquaint students with the legal profession and pertinent justice issues, usually through mock trials and other advocacy exercises, and hearing from practicing attorneys.

Jackie Martinez chairs the Pittsburgh program. Ed Lanza chairs the Central Pennsylvania program, and Mike Lee and Nigel Scott are co-chairing the Philadelphia program. Last year, the Central Pennsylvania program was held at Widener Law Harrisburg, with more than 40 students participating. The Philadelphia event was held at the PBI facility in Philadelphia, with more than 130 students participating. Don’t miss this opportunity to invest in future generations! Contact Louann Bell, our PBA Committee Coordinator, at Louann.Bell@pabar.org.

Minority Attorney Conference

Teresa M. Rodriguez and Jocelyn A. Banks co-chaired the substantive and stimulating conference entitled “Criminalization of Justice: The New Civil Rights Frontier.” The conference was held in Pittsburgh in April 2015. It was a two-day event with plenty of CLE and social opportunities. The panels discussed grand juries, the ethics of social media, injustice in the workplace, and the intersection of criminal and immigration law.

Diversity Summit

Andrea C. Farney and Tyrone A. Powell co-chaired the most recent Diversity Summit, which is an all-day CLE program held every other year. Approximately 140 people attended the event in Philadelphia in October 2014. The next Summit will be in 2016. Panel presentations included "Hot Diversity Issues," "The Lawyer Bubble: Barriers Facing Minorities in Smaller Firms," and "How
Come One, Come All!
Continued from page 10

Do Legal Practitioners Thrive in Tough Economic Times?

Join the MBC for diversity and inclusion in action. If you want to roll up your sleeves and do diversity and inclusion work, the MBC has a place for you at the table. Just sign up for the monthly calls or, better yet, attend one of our supported locations. For Philadelphia meetings, contact Wes Payne at White and Williams. For Lancaster meetings, contact Andrea Farney at Triquetra Law. For Harrisburg meetings, contact Louann Bell at the PBA. For Pittsburgh meetings, contact Marsha Grayson at Grayson Law Firm LLC.

Andy Saylor is staff attorney with the Pennsylvania Milk Marketing Board. He also has a private practice, where he advises clients on estate planning and administration, business succession planning and formation of nonprofit organizations.


Diversity Summit, October 2014: Tyrone Powell, Deborah Hong and Alexander D. Gonzalez.

Diversity Summit, October 2014: Marsha H. Grayson, Camille Fundora and Isabel DiSciullo.
Minority Attorney Conference, April 9-10, 2015, Pittsburgh: Restaurant crawl coordinated by Jackie Martinez

Minority Attorney Conference Restaurant Crawl (left to right and top to bottom)
Top Row: Jacqueline B. Martinez, Jocelyn A. Banks, Teresa M. Rodriguez, Andrea C. Farney, Teresa M. Rodriguez, Sharon R. López, Jacqueline B. Martinez
Middle Row: Jacqueline B. Martinez, Samuel G. Encarnación, Teresa M. Rodriguez, Andrea C. Farney, Nicole A. Suissa, Jocelyn A. Banks, Sharon R. López
BREAKING BARRIERS

First, But Not the Last*
Meet Diane Joyce Humetewa, the First Native American Federal District Court Judge

By Nicola Henry-Taylor, Esq. and Madison Taylor

History was made when the U.S. Senate unanimously confirmed Diane Joyce Humetewa, a Hopi Indian from Arizona, as a federal judge in May of 2014. Believe it or not, Judge Humetewa is the first Native American woman to hold this position and one of only three Native Americans in history to do so.

Prior to becoming a member of the court, Judge Humetewa enjoyed an impressive legal career. In 2007, Judge Humetewa became the first Native American woman U.S. Attorney. She started in the U.S. Attorney’s office 1986 as one of the first victim-witness advocates in the federal criminal justice system and helped develop a victim advocacy model that was replicated nationally for similar jurisdictions. She left the office to attend law school at Sandra Day O’Connor College of Law at Arizona State University.

As a prosecutor, she established herself as being tough and skilled. She was considered to be an expert in Indian law and strong supporter of victims’ rights, while prosecuting a wide variety of federal crimes, including violent crimes in Indian Country, Native American cultural crimes and archeological resource crimes. In 2001, she was promoted to senior litigation counsel/tribal liaison.

According to her bio, Judge Humetewa’s legal career includes working in the private sector representing tribal government clients as a federal Indian law and natural resources law attorney. She has also worked as an Arizona State University professor of law at the Sandra Day O’Connor College of Law at Arizona State University, where she received her law degree in 1993.

Judge Humetewa’s career also includes notable milestones, such as testifying before U.S. Congress and the U.S. Sentencing Commission. She has also served as counsel to the U.S. Senate Committee on Indian Affairs, counsel to the Deputy Attorney General for the U.S. Justice Department, as a member of the U.S. Sentencing Guideline Commission, Native American Advisory Committee, and as an Appellate Court Judge for the Hopi Tribe. Her numerous awards and honors include Best Lawyers in America for the Native American Law practice area; Arizona State Historical Society’s 48 Intriguing Women of Arizona Award; Phoenix Business Journal’s 2010 Women in Business honoree; and 2009 Distinguished Service Award from the Federal Bar Association, Arizona Chapter.

The National Congress of American Indians (NCAI) were quick to congratulate Judge Humetewa, a member of the Hopi Tribe. The Hopi are a federally recognized tribe of Native American people, who primarily live on the Hopi Reservation in northeastern Arizona. As of 2010, there were 18,327 Hopi in the United States, according to the 2010 census. The Hopi language is one of the 30 of the Uto-Aztecan language family.

Judge Humetewa has made her tribe, law school, NCAI and countless others proud of her outstanding and historic achievements. This journey has proved that if you work hard in life, the impossible can become the possible.

* A review of a contemporary minority who breaks through to become the first in their field at an accomplishment.

Co-authors Nicola Henry-Taylor and Madison Taylor are mother and daughter. Nicola Henry-Taylor of the Law Office of Nicola Henry-Taylor, LLC., provides litigation-based legal services to residents located in western Pennsylvania. Practice focuses on criminal law, juvenile & family law and benefits rights law.
DENISE SMYLER: THE FIRST AFRICAN-AMERICAN GENERAL COUNSEL FOR THE COMMONWEALTH OF PENNSYLVANIA

By Ed Lanza, Esq.

Walking into the Harrisburg Capitol building and the ornate office of the top government lawyer in Pennsylvania can be a daunting experience. The office is encased in carved dark wood and is classically furnished with solid furniture and leather chairs. The charming occupant of the space — a few paces away from the Governor’s Office — is warm and welcoming. A dark suit covering her slender frame, she extends her hand for a firm handshake and smiles broadly. I am standing before Denise J. Smyler, General Counsel of the Commonwealth, and I am at ease.

Denise Smyler had a long and arduous road to get to her position as one of the most powerful and influential attorneys in Pennsylvania. She was born in Queens, New York, to parents who instilled a strong work ethic. She moved to Long Island and grew up there with her two sisters. During her senior year in high school, Denise served as class president, was co-captain of the cheerleading squad, a member of the New York Music Association and a member of the National Honor Society. Denise describes her childhood in New York as “wonderful” and good, full and productive.

Although her parents separated when she was still a child, they were both involved and very influential in her development. Her father never missed a day of work at the New York Transit Authority. Her mother started out as a nurse’s aide and eventually became a registered nurse. Later in life, Denise’s mom became the housing director for the City of Glen Cove, NY. Denise idolized her mother because she taught her children they could do anything. She also introduced Denise to the civil rights movement and would take her to demonstrations and rallies.

After graduating from New York University with a degree in accounting, she began her career as an assistant manager in a retail establishment.

Continued on page 15

PEDRO CORTÉS, PENNSYLVANIA’S SECRETARY OF STATE

By Ed Lanza, Esq.

Pedro Cortés’ journey to becoming Pennsylvania’s longest-serving Secretary of State began humbly enough in Carolina, Puerto Rico, a town neighboring San Juan and the site of the island’s main international airport. He grew up enjoying the outdoors with friends in nearly-perfect tropical weather year round. Pedro came to the U.S. for college and, over the years, maximized his exceptional intelligence and extraordinary social skills to become the first Latino confirmed cabinet member in Pennsylvania and one of the most influential Hispanic public figures in the Commonwealth.

Pedro grew up believing that education was the key to his success. His mother, Divina, was a smart, hard-working woman who instilled in her two children the values of integrity, hard work and fairness. Although she only completed 8th grade, Divina helped Pedro understand that education would pave the way to fulfill his dreams of learning English, seeing the world and serving others. She expected her children to attend college and felt strongly about the value of higher learning. He took these lessons to heart and excelled in school.

An outstanding student, but an average athlete, Pedro idolized Roberto Clemente, one of the best baseball players and a great humanitarian from Carolina. Clemente used resources to help and inspire others before the airplane he was travelling in with supplies for Nicaraguan children crashed and ended his life too soon. Pedro wanted to follow Clemente’s example and use his talents to improve the lives of others. Like Clemente, he recognized that there is a higher purpose, and he should use his success to improve the world.

Although no one in his family had been to college and he had never set a foot in a courtroom, Pedro aspired to be an attorney. Although he was good at math, Pedro could not see himself as an engineer or an architect. He loved to read, write and speak in public. Pedro liked Atticus Finch in “To Kill a Mockingbird” because he had the knowledge...
She moved to Philadelphia, where she worked as an account executive for a major corporation. There she saw and heard statements she considered inappropriate and today could be evidence of a hostile work environment. She also saw male supervisors give the best assignments to other males. Assignments did not seem to be based on talent or ability. Denise took these observations of apparent discrimination to heart as she continued her career. Denise joined another company and transferred to Washington, D.C., to work as an account executive with AT&T.

Denise's legal career began in Washington, D.C., where she enrolled in Georgetown University Law Center as an evening division student, while working for AT&T during the day. Denise is grateful that AT&T not only continued to employ her, but paid for the costs of law school tuition.

Denise Smyler developed a taste for criminal law early in her legal career when she was a summer intern with the Manhattan District Attorney’s office. The District Attorney assigned her to the homicide division. DA Jimmy Rodriguez was a wonderful mentor in the District Attorney’s office. Denise’s experience as prosecutor led her to work as a clerk with the Department of Justice in the organized crime and racketeering section.

Denise joined the Philadelphia District Attorney’s office under Ronald Castille, who later became Chief Justice of the Pennsylvania Supreme Court. She still has many friends from her days as a Philadelphia prosecutor, including Justice Castille, who still introduces her to others as one of his DAs.

Following her time as a prosecutor, Denise worked in the Philadelphia City Solicitor’s Office. She continued her work on behalf of municipalities when she went into private practice. As a private practitioner, she engaged in civil litigation for companies, employment issues and secured public financing for her municipal clients. Her firm had as many as seven attorneys. In September 2013, Denise joined forces with Wadud Ahmad & Joseph Zaffarese to form Ahmad, Zaffarese & Smyler. Denise continued her service to the public sector as counsel for municipalities, including Philadelphia.

Based on Denise Smyler’s strong municipal advocacy experience, it is not surprising Gov. Wolf appointed her as Chief Legal Advisor of his transition team and later as General Counsel to his cabinet. Denise’s experience on Philadelphia Redevelopment Authority Board, the nominating panel for the Board of Property Assessment Appeals, Counsel to the Philadelphia Prison Commissioner and Chief Legal Counsel to the Philadelphia Police Commissioner all add to Denise’s depth and breadth of knowledge of municipal issues.

While still transitioning to life in Harrisburg, Denise works to fulfill the Governor’s pledge to advance diversity and inclusion in the Commonwealth. She is putting together a process to implement Gov. Wolf’s executive order requiring all government legal work contracts to be competitively bid, a first for the state. Her goal is to have as many female, minority and small firms in the legal work pool as possible.

Increasing the number of diverse lawyers to the Office of General Counsel is also a goal for Denise. With approximately 500 attorneys throughout the Commonwealth, her office is the largest Pennsylvania-based law firm. Recruiting more minority and female attorneys means overcoming reluctance of some to move to the state capital. She has made some significant hires, but she is looking to hire more and train diverse attorneys to take leadership positions.

Denise Smyler is the first African American to be General Counsel of the Commonwealth, but she takes little credit for this accomplishment. She recognizes many others opened the door of opportunity for her. She counts herself fortunate to have had so many opportunities. This humble public servant wants to be remembered simply as a competent lawyer and a good person. But she leaves a much stronger impression. She is not just competent, she is exceptional. She is not only a good person, she is a shining example and someone who should be emulated by future leaders.

Ed Lanza is the founder of The Lanza Firm, LLC, a solo virtual law firm focusing on public utility law. He lives in Harrisburg with his wife Teresa and their two boys.
Pedro Cortés  
Continued from page 14

and ability to represent others in need. The fulfillment of Pedro’s dream to become a lawyer began when he attended college at the University of Massachusetts at Amherst. He came to Amherst on the recommendation of a guidance counselor in Puerto Rico and found a community of about 500 other “boricuas” at the university. Although he was frustrated when he first tried to express himself in English, he adjusted to the new environment and excelled in his studies. He loved college, but is fond of saying that the best thing that he got out of college was meeting his future wife Lissette. This year, they celebrate their 25th wedding anniversary.

After college, Pedro and Lissette settled in Pennsylvania. Pedro wanted to go straight to law school, but illness prevented him from sitting for the LSAT the first time he registered for it. He worked for the Department of Public Welfare as an income maintenance case worker. His wife pressed him to apply to law school. Seven years passed before he took the LSAT in 1995 and was accepted at Dickinson School of Law, where he graduated in 1999.

Law school was a humbling experience for the former valedictorian as he was surrounded by some very smart people at Dickinson. Despite commuting to school, Pedro integrated into the law school community and loved the experience. Dickinson merged with Penn State University while Pedro was a law student, and he was one of the first students to graduate with a dual degree (Juris Doctor and Master’s in Public Administration). His JD/MPA degree helped him prepare for a career in government.

Pedro began his career in government work and knew it was his calling. His first job after law school was as an attorney with the Civil Service Commission. While at the Commission, he was invited to join the administration of Governor Tom Ridge as an advisor for Latino issues and the Executive Director of the Governor’s Advisory Commission on Latino Affairs. He stayed on to serve Governor Mark Schweiker when Ridge became the first head of the Department of Homeland Security. When Ed Rendell became Governor in 2003, Pedro was tapped to lead the Department of State and became the first Latino confirmed cabinet member. At the time, he was also the youngest cabinet member in Pennsylvania history. In all, he has served four Governors and continues to add to his record as the longest-serving Secretary of State in the history of the Commonwealth.

Currently in his second stint as Secretary of State, Pedro wants to implement Gov. Wolf’s agenda of good government and greater citizen participation in the electoral process. His goals are to 1) expand voting access to all eligible voters in the Commonwealth and 2) promote economic development at the Pennsylvania Department of State Corporation Bureau; and 3) protect public health and welfare through the regulation of about 1 million licensed professionals registered with the Bureau of Professional Affairs. Because of the wide reach of the Department of State, Pedro’s work touches every Pennsylvanian.

Despite his success, Pedro Cortés remains centered and humble. He acknowledges, albeit reluctantly, that he is a trailblazer. Pedro credits all those who opened the doors of opportunity for him. He talks of “angels” that helped him along the way, but he has little patience for those who suggest he succeeded because he is Latino or “lucky.”

Pedro believes firmly that he has a responsibility to lead, inspire others, open doors and help those who need it. He is happy to have the honor and privilege of serving Pennsylvania as Secretary of State, but a day may come when he is called to greater public service. Pedro Cortés, the boy from Carolina who dreamt of helping others and leading by example, could one day be the governor of Pennsylvania.

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.