

## CONVERSATIONS: A TRIBUTE TO JUSTICE DAVID

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Justice David is a decorated former military lawyer and a respected Indiana judicial officer. But what is it like to work with him off the bench and in the community? Years ago, as a new attorney, I heard Justice David speak at the Indiana State Bar Association Leadership Development Academy (“LDA”) orientation retreat. He was fun, dynamic, and encouraging to all the participants.

As a new lawyer, I was finding my place in the profession. On one hand, I was full of legal knowledge, and on the other hand, I was learning the practice of law. As I absorbed advice from experienced attorneys and judges, I remember Justice David stressing to always follow the “rule of law.” As a keepsake to all LDA participants, he memorialized his personal expression on a black, rubber bracelet with white letters that read “Rule of Law Always.”

One would think the rule of law is at the forefront of the minds of all lawyers, but after thirteen years of practice, I realized that’s not always the case. As years passed, I realize one of the best pieces of professional advice came from Justice David during that training session: the rule of law always. Years later, I would’ve never guessed we would work together raising awareness of racial injustice in Indiana.

In May 2020, tragedy happened when George Floyd was murdered by Minneapolis police officers.<sup>1</sup> His murder was video recorded by a teenage girl using her cell phone when she happened to walk by the scene.<sup>2</sup> There was unrest across the United States and Indiana—followed by many days of civil rights protests to demand respect of Black lives.<sup>3</sup> Hence, a wider awakening of the Black Lives Matter Movement began.<sup>4</sup> There was hurt, frustration and anger within our legal community as well as our personal communities.

It is with great pride Indiana Chief Justice Loretta Rush issued a powerful Statement of Race and Equity.<sup>5</sup> “Despite all we have worked to pursue, justice

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1. See Evan Hill et al., *How George Floyd Was Killed in Police Custody*, NY TIMES (Jan. 24, 2022), <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html> [<https://perma.cc/V2TH-4ZUT>]; Giulia McDonnell Nieto del Rio, *Darnella Frazier, the Teenager Who Recorded George Floyd's Murder, Speaks Out*, NY TIMES (July 7, 2021), <https://www.nytimes.com/2021/05/25/us/darnella-frazier.html> [<https://perma.cc/WE3X-N2X9>].

2. See *id.*

3. See *George Floyd Is Killed by a Police Officer, Igniting Historic Protests*, HISTORY (June 25, 2021), <https://www.history.com/this-day-in-history/george-floyd-killed-by-police-officer> [<https://perma.cc/6XPB-8L64>]; Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, NY TIMES (Nov. 5, 2021), <https://www.nytimes.com/article/george-floyd-protests-timeline.html> [<https://perma.cc/3J9V-NXBF>].

4. See *Black Lives Matter Movement*, HOWARD UNIV. SCH. LAW, <https://library.law.howard.edu/civilrightshistory/BLM> [<https://perma.cc/36R6-DRUZ>] (last visited Oct. 14, 2022).

5. Chief Justice Loretta H. Rush, *Statement on Race and Equity*, IND. SUP. CT. (June 5, 2020), <https://www.in.gov/courts/files/rush-statement-race-equity.pdf> [<https://perma.cc/5GNP-7G3T>].

remains elusive to many persons of color in matters across the legal spectrum.”<sup>6</sup> Chief Justice Rush further expressed:

To be sure, the complexities of race in America will not be solved by simply saying we will try to do better. Rather, we must take action for all of us to live in a better world. I charge our courts, our justice system partners, our lawyers, and our law schools to do so.<sup>7</sup>

Weeks later, in June 2020, while in the midst of the raging COVID-19 pandemic, community leaders, lawyers, judges, law students, deans and other faculty socially distanced themselves, wore masks and proudly displayed Black Lives Matter, as well Black Lawyers Matter t-shirts, while spread across the lawn of Indiana University Robert H. McKinney Law School.<sup>8</sup> The crowd joined in solidarity of racial justice and racial equality on Juneteenth.<sup>9</sup> There were generations of leaders who spoke to the masses.<sup>10</sup> Those leaders included Justice David, practicing attorneys, and law students.<sup>11</sup> Justice David “made specific ‘asks’ to speak up, show up and take action.”<sup>12</sup>

At the time, many companies, firms, industries, and individuals issued public statements denouncing racism and committing to diversity and inclusion in their workspaces. The Indiana State Bar Association took it a step further and commanded action, rather than just issuing an eloquently written statement without an action plan.<sup>13</sup> Thereafter, equity tasks forces were created that led to powerful conversations by brilliant local leaders and lawyers around the state. What happened next was the creation of Indiana State Bar Association *Open Conversations: Race and Racism* series<sup>14</sup> co-hosted by Justice David and myself.<sup>15</sup>

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6. *Id.* at 1.

7. *Id.* at 2.

8. *See Legal Community Demonstrates for Racial Justice at IU McKinney on Juneteenth*, IU ROBERT H. MCKINNEY SCH. LAW (June 22, 2020), <https://mckinneylaw.iu.edu/news/releases/2020/06/legal-community-demonstrates-for-racial-justice-at-iu-mckinney-on-juneteenth.html> [<https://perma.cc/92AJ-56XS>].

9. *See id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. Leslie Craig Henderzahn et al., *ISBA Taking Action on Race and Equity Issues*, IND. STATE BAR ASS’N (June 26, 2020), <https://www.inbar.org/news/514705/ISBA-taking-action-on-race-and-equity-issues.htm> [<https://perma.cc/728M-B7Z3>].

14. Program idea by Indiana State Bar Association *Director of Outreach & Partnerships*, Catheryne Pully.

15. *See Open Conversations: Racism & Racial Injustice*, IND. STATE BAR ASS’N, <https://www.inbar.org/events/EventDetails.aspx?id=1472566#:~:text=This%20program%20is%20for%20legal,in%20a%20safe%20learning%20environment.> [<https://perma.cc/Q3TQ-SDST>] (last visited Oct. 18, 2022).

On January 28, 2021, the Open Conversation program<sup>16</sup> premiered.<sup>17</sup> Five hundred lawyers and judges across the state virtually joined the program with a long waiting list of potential attendees who hoped to join the program in the event of someone else's cancellation. The distinguished guests included Chief Justice Rush and then state bar President Michael Tolbert.<sup>18</sup>

Without the leadership of Justice David, the Indiana appellate courts, and the Indiana State Bar Association, the mark of the program would not have been remembered. The program has received two national awards for its social justice and racial equality work in the legal community.<sup>19</sup>

Often, people wonder about our pre-program conversations. Much like the program, the conversations are filled with authentic sharing of life experiences. Justice David's comments were always empathetic, thoughtful and supportive. To voluntarily lead deeply emotional conversations about aspects of a person's identity that they have no control over takes courage and vulnerability—especially when the leader of those conversations is not a person of color. And Justice David did just that. Without a doubt, I believe he helped Indiana lawyers, judges, and law students to think and respond proactively about social injustice and racism within the legal community and beyond. Sadly, sometimes it takes someone you know and trust to believe racism exists and that it actually happens to your peers, colleagues, and children. Due to Justice David's respected reputation and leadership, many lawyers and judges were informally challenged to reflect upon their own actions and perhaps inactions that contributed to inequality over the years. He positively fueled the conversation of racism around the state and country.

At one point during the journey of *Open Conversations*, a journalist did not invite me to the initial conversation about the program and article. Without my input, Justice David noticed the slight (or perhaps the mistake) by the journalist and invited me to join that conversation. He expressed to me *this* is what we're trying to overcome. *This* was overlooking the participation of his co-host—a person of color. At that moment, I was proud of Justice David. He saw first-hand a common experience of a person of color not invited to the table. From there, I knew our social justice collaboration would be thought provoking and authentic. His legal career spans from military service, lawyer, Judge, Justice, and now a racial and social justice champion.

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16. Special thank you to Indiana State Bar Association Executive Director, Joe Skeel and CLE Director, Kristin Owens and Catheryne Pully for continued support and leadership to make the program a success.

17. See David Kuhnz, *Open Conversations: Education Program About Racism and Racial Injustice Receives National Recognition*, IND. CT. TIMES (Nov. 5, 2021), <https://times.courts.in.gov/2021/11/05/open-conversations-education-program-about-racism-and-racial-injustice-receives-national-recognition/> [<https://perma.cc/GRS6-DVLG>].

18. *Id.*

19. See *id.*; *ISBA's Open Conversations Awarded 'Outstanding Achievement'*, IND. STATE BAR ASS'N (July 28, 2021), <https://www.inbar.org/news/575111/ISBAs-Open-Conversations-Awarded-Outstanding-Achievement.htm> [<https://perma.cc/J2QT-NQYR>].