



June 15, 2020

Dear Student Leaders:

Throughout its 125-year history, the University of Denver Sturm College of Law has worked to broaden access to justice, to bring about beneficial social change, and to help shape a legal profession that better reflects the diverse communities that lawyers serve. The history of our institution is both distinctive and admirable. But the circumstances that we now confront as a nation – specifically, the injustice, inequity, and racism exemplified by the recent killings of George Floyd, Ahmaud Arbery, Breonna Taylor, and too many others – call upon us to do far more.

Inspired by the call to action issued by the Black Law Students Association, in partnership with the Asian Pacific American Law Student Association, DU OUTLaws, the Jewish Law Students Association, the Latinx Law Student Association, and the Student Bar Association, I propose the following action steps designed to advance our institutional commitment to diversity, equity, inclusion, and antiracism. Although I offer these action steps with resolve and determination, I also do so with humility, recognizing that, at this critical juncture, I need to listen, learn, and lead *in solidarity with* students and in a manner responsive to *your* particular experiences, perspectives, and concerns.

Our Commitment

The Sturm College of Law has a long-standing commitment to social justice, equality of opportunity, institutional inclusiveness, and legal reform. As is well known, our status as the founder of the American clinical legal education movement dates back to the early years of the twentieth century. In the late 1960s, under the leadership of Dean Robert Yegge, our pioneering summer program for Latinx students served as a model for comparable such programs at Harvard, Emory, and the University of Southern California and catalyzed the formation of the Council on Legal Education Opportunity (CLEO), the nation's leading organization dedicated to expanding legal educational opportunities for minority and low-income students. A decade or so ago, we were the first law school in the nation to appoint a tenured faculty member (Professor Catherine Smith) to serve as Associate Dean of Institutional Diversity and Inclusivity. And members of our faculty routinely advocate for greater equality and justice at the intersection of race, class, and the law, in domains ranging from community economic development to criminal defense to amelioration of prison conditions to the cessation of the death penalty in Colorado.

Yet the levels of bigotry, intolerance, extremism, and hatred that we continue to confront in our nation, state, and city require more concerted, visible, and determined action.

In short, we must tackle systemic racism, injustice, and intolerance even more effectively and systematically, and we must do so through structures and processes that hold us accountable for measuring our progress and for sharing our successes (and failures). With respect to such structures and processes, I propose the following:

1. *Appointing an Associate Dean for Diversity, Equity, and Inclusion:* I will appoint an Associate Dean for Diversity, Equity, and Inclusion charged with building upon the important work in these fields initiated by Professor Smith. Among other priorities, the next Associate Dean will lead efforts to expand opportunity and support for students, to further diversify our faculty and staff, to nurture a more inclusive learning community, and to leverage institutional resources to combat inequity, bias, and injustice. The successful candidate, whom we anticipate appointing by August 1, will be identified through an open call to the faculty and in consultation with the faculty-elected Faculty Executive Committee.
2. *Creating a Standing Diversity, Equity, and Inclusion Committee:* Advancing diversity, equity, and inclusion cannot be done through administrative leadership alone: It requires a shared commitment distributed across our enterprise. To broaden the engagement of our community in this vital work, I will appoint a Diversity, Equity, and Inclusion Committee – chaired by me – and consisting of the Associate Dean for Diversity, Equity, and Inclusion and additional faculty, staff, and students.
3. *Developing a Strategic Plan for Diversity, Equity, and Inclusion:* Among other responsibilities, the Associate Dean for Diversity, Equity, and Inclusion and the Diversity, Equity, and Inclusion Committee will be charged with developing a comprehensive strategic plan to advance institutional diversity, equity, and inclusion. It is important for us to have a shared plan by which our progress can be measured and assessed.

Our Students

At the heart of our mission as a law school is recruiting, educating, and advancing the professional development of our students. For deans and faculty, this is the most significant and gratifying aspect of our work. We propose the following initiatives in this critical realm:

1. *Raising Endowed Scholarships:* Through the generosity of law firms, bar organizations, and alumni, the Sturm College of Law currently has roughly 20 endowed scholarship funds designed to support the recruitment and retention of students from underrepresented minority groups. As dean, I will work with law firms, the Colorado Bar Association, the Denver Bar Association, affinity bar associations, foundations, alumni, and friends to raise the funds needed to endow additional scholarships for students of color, with a particular focus on African American students.

2. *Improving Yield:* Despite the existence of scholarship support, we have struggled in recent years to convince students from diverse backgrounds to accept our offers of admission. Although fully 27% of the class scheduled to matriculate at the Sturm College of Law in fall 2020 self-identifies as a member of an underrepresented minority group, considerable challenges in recruiting diverse students remain. By way of notable example, of the 36 offers of admission extended to African American applicants in the current admissions cycle, only 9 have submitted second deposits. Through comparative benchmarking of law schools with established track records of recruiting diverse students, we will assess and implement more effective recruitment strategies, which might include strategic partnerships with historically black colleges and universities (HBCUs), paid externships, augmented mentoring, and other measures.
3. *Enhancing Climate:* As research by Professor Victor Quintanilla has made clear, “psychological friction” – i.e., the experience of students feeling isolated, stereotyped, or apart in terms of their academic or social experience – detrimentally affects both the academic achievement and wellbeing of law students. Although *all* students encounter adjustments to law school, law students from disadvantaged backgrounds are particularly at risk. However, students who experience positive, individualized relationships with peers, professors, mentors, and other supporters experience greater academic motivation, personal satisfaction, and academic performance. This research on institutional “belonging” counsels, among other steps, for continued strong support for the Rocky Mountain Collective on Race, Place, and Law (whose budget I have increased from \$10,000 to \$25,000 in recent years), heightened faculty training regarding the avoidance, detection, and management of micro-aggressions, and exploration of an improved space in the Ricketson Law Building available on a dedicated basis to our affinity groups.
4. *Enhancing our Academic Achievement Program:* The Sturm College of Law recruits outstanding students and is strongly committed to their academic success, timely graduation, and future professional development. In spring 2020, we temporarily suspended our academic dismissal policy, in part designed to protect students whose economic, social, or familial circumstances rendered it more difficult for them to pursue their legal studies during the pandemic. In summer 2020, we permanently increased our median GPA to 3.3, motivated, in large measure, by the goal of placing our students in a competitive posture in the Pledge to Diversity Program, federal and state clerkships, and other professional opportunities. With this noted, we continue to be concerned about the quantity, composition, and experience of students placed on academic probation, including the additional academic and professional stressors that such status may entail. As dean, I commit to working with the Associate Dean of Academic Affairs and the Director of our Academic Support Program to ensure that we have

the diagnostic tools, resources, and programming in place to assist students who are encountering academic challenges. I also commit to placing additional initiatives before the faculty, including delaying the application of our academic probation policy until the conclusion of the 1L year.

5. *Supporting Diversity in the Legal Profession:* Among the major professions – medicine, dentistry, and accounting – the legal profession remains the least diverse. This fact is especially striking in law firm partnerships, general counsel positions, and the judiciary. Working with leaders in our Alumni Council who have themselves broken down professional barriers, as well as law firms, corporations, and affinity bar associations, we will redouble our efforts to diversify the ranks of the legal profession – with a particular focus on opportunities for our graduates. One such area of potential collaboration is the recent joint initiative undertaken by the Colorado Bar Association and the Colorado Judicial Institute, initiated by The Honorable Gary Jackson, to address the glaring lack of diversity among Colorado state court judges, especially among African American and Latinx judges.

Our Faculty

If we are to foster a better learning environment and more closely model the society in which we live, we need to achieve greater success in diversifying and supporting our faculty.

1. *Increasing Faculty Diversity:* Building a diverse faculty is critical to the success of the Sturm College of Law. In recent years, we have made strides in recruiting diverse cohorts of fellows into our Student Law Office and Lawyering Process Program, with implications for both areas of legal pedagogy. We have also collaborated with the Interdisciplinary Research Institute for the Study of (In)Equality (IRISE) to host two visiting fellows working in fields relating to social justice. Despite these strides, we have considerable work to do with respect to full-time, visiting, and adjunct faculty. Greater focus by the faculty on the institutional priority of inclusive excellence will be needed in future hiring cycles if we are to fulfill our responsibilities to our students and our full promise as a law school. If University financial circumstances associated with the COVID-19 pandemic limit our ability to hire *full-time* faculty, we will undertake even more concerted efforts to hire visiting and adjunct faculty from underrepresented minority groups. We will also explore the development of additional pipeline programs (along the lines of our clinical and legal writing fellowship programs) with the goal of recruiting outstanding and diverse early-career faculty members to the University of Denver.
2. *Supporting Relevant Scholarship:* By comparison to many U.S. law schools, we have a critical mass of faculty colleagues working on matters bearing on antiracism, civil rights, criminal procedure, due process, and equality. Last

year, we secured a \$125,000 commitment to create an endowed position for a scholar working in the area of Native American rights and policy, which we have matched with equivalent unit-level funds. In the coming year, in collaboration with law firms – including those working in the area of civil rights and civil liberties – we propose to raise additional funds for additional high-impact scholarship and public engagement.

Our Institutional Impact

As a higher educational institution dedicated to the public good, the University of Denver actively works to bring about positive social change. Since arriving at the University of Denver in 2016, I have sought to do so in a variety of ways: raising nearly \$1 million in new funds to support our clinical enterprise, including a new Immigration Law & Policy Clinic; expanding support for summer externships with non-profit organizations; and establishing a set of postgraduate public interest fellowships for students working in the public interest.

As a scholar of criminal procedure, I am particularly aware of the race-based disparities in policing, bail, jury selection, and sentencing. In collaboration with the faculty, and subject to the University's [Political Activities Policy](#), I will work with allies to amplify our institutional impact on matters bearing on criminal justice reform, civil rights, economic inequality, procedural fairness, and racial and social equality.

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In a groundbreaking 2000 article entitled “The Racial Origins of Modern Criminal Procedure,” the legal historian Michael Klarman recounted how the development of constitutional criminal procedure in the United States arose from a series of grotesque and intolerable instances of racial violence: *Moore v. Dempsey* (1923), in which six black defendants were sentenced to death in Arkansas pursuant to trials influenced by rioting white mobs; *Powell v. Alabama* (1921) and *Norris v. Alabama* (1935), involving the notorious convictions of nine black youths falsely accused of raping two white women; and *Brown v. Mississippi* (1936), in which evidence against three black sharecroppers accused of murdering a white farmer was secured through torture. Only when the United States Supreme Court was forced to confront the underlying racism, brutality, and inhumanity of these cases did it ultimately decide to act.

Although we are decades removed from these occurrences, we continue to live in a time of racism, intolerance, and inhumanity. But we also face comparable possibilities for action. As dean, I promise to work energetically, creatively, and collaboratively to seize the potential embedded in this difficult and painful moment, and to help effect the changes that our nation, state, city, university, and law school so desperately need.

Respectfully,



Bruce P. Smith
Dean and Professor of Law