



# MACDL

Massachusetts Association of  
Criminal Defense Lawyers

## **SAY THEIR NAMES**

The Massachusetts Association of Criminal Defense Lawyers is outraged by the most recent show of force and violence against Ahmaud Arbery, Breonna Taylor, and George Floyd, events that are endemic to Black America and reflect the history of racism and oppression in this country.

But it is not enough to be outraged. We must confront how our criminal justice system has failed people of color.

Our system has perpetuated racism through racial profiling, pretextual stops, and biased exercises of discretion. Court proceedings too often engage in willful blindness rather than a thorough inquiry. This systematic racism has led to mass incarceration: while African Americans account for only 7% of the state population, they make up 26% of state and county prisoners. And incarceration of black parents results in the breakup of black families.

Change requires checking our biases, confronting our fears, and challenging the current power structure. We should not be arrogant or overly sensitive in our self-searching; black lives depend on an honest appraisal. Be constantly aware of your own bias and the role it plays in your life and others. Challenge explicit racism and implicit bias in court proceedings. Like those of us who enjoy privileged lives, no parent should fear their black children may not survive every time they walk out the door.

As criminal defense lawyers, we must dismantle the oppression that black people endure while sleeping in their beds, standing on their porch, running down their street, or taking their children to the park. Our voices, individually and collectively, have privilege and power; we must use them as an arsenal to effect change.

1. Confront disparate treatment in our justice system no matter how insignificant or harmless it may appear.
2. Demand change in how our communities are policed through legal and legislative advocacy.
3. Challenge racist practices by police — whether explicit racism or implicit bias — such as stop and frisk policies and other pretextual stops built on racial profiling.
4. Challenge "consent" searches without probable cause that result in disproportionately searching black people, their cars and their homes.
5. Adopt rules of engagement for arrests which prohibit the use of force for certain crimes.

6. Demand the use of body cameras and dash cams by all police officers in every community.
7. Require judges who set bail to include a presumption of release based on concerns about institutional racism.
8. In any case alleging assault and battery on a police officer, require judges to instruct that the police officer's failure to video record the interaction permits jurors to conclude that the Commonwealth has failed to prove guilt beyond a reasonable doubt.
9. Use voir dire to root out biased jurors.
10. Repeal legislation that gives police officers and prosecutors immunity from civil liability.
11. Use data, FOIAs, discovery requests, social science studies, and experts to illustrate the impact of racism on black people in the legal system.
12. Support and learn from colleagues who are making these challenges and suffer personal or systemic repercussions.
13. Demand an end to the over-policing of our schools.
14. Ask your black clients if racism played a role in their arrest.
15. Talk about racism. Listen and learn from your clients and their communities. Answer their calls for help.
16. Speak out against everyday injustice.
17. Say their names:

**George Floyd**, a 46-year-old father, son and brother, who was killed by Minneapolis police officer Derek Chauvin when he clamped his knee on George Floyd's neck for over 8 minutes — for 2 minutes and 53 seconds of that time, George Floyd was non-responsive. May 25, 2020.

**Breonna Taylor**, a 26-year-old black woman and EMT who was shot to death by police when they broke down her door and stormed her home in Louisville, Kentucky. March 13, 2020.

**Ahmaud Arbery**, a 25-year-old black man who was shot to death by a white father and son, while jogging through the streets of Brunswick County, Georgia. February 23, 2020.

**Terrence Coleman**, a 31-year-old black man who had committed no crime and was shot to death in front of his mother by a Boston police officer. Oct. 30, 2016.