

**CLEVELAND STATE UNIVERSITY  
BOARD OF TRUSTEES  
SEPTEMBER 2, 2022**

**MEMORANDUM**

**REPORT OF AD HOC COMMITTEE REVIEWING REQUEST  
TO REMOVE NAME FROM LAW SCHOOL**

To: Academic Affairs and Student Success Committee Chair Tim Cosgrove  
Academic Affairs and Student Success Committee members:

Patricia M. DePompei  
Alan G. Starkoff  
Vanessa L. Whiting  
Brittany N. Sommers  
Thomas E. Hopkins  
Anup Kumar

CC: Board of Trustees Chair David Reynolds  
Board of Trustees Secretary Sonali Wilson

From: President Laura Bloomberg

Please find attached to this memo the report and recommendation of an Ad Hoc Review and Advisory Committee convened for the purpose of considering a request to remove the name of John Marshall from the Cleveland-Marshall College of Law. This ad hoc committee was convened in accordance with the procedural document developed to implement *Policy 3344-3-01: Space, unit, and entity naming*, which was Board approved in May 2022. The procedures outline a four-phase process for considering requests to remove a name. Those phases are:

*Phase I: Request and Initial Review*

*Phase II: Review and Recommendation by Ad Hoc Review and Advisory Committee*

*Phase III: President's Review of Final Committee Recommendations*

*Phase IV: Review by Board of Trustees*

The 14-member committee was convened and given their charge by the Provost in April 2022. The committee's final report and recommendation was presented to the President's Office on August 24, 2022. The committee's primary resource material for its review was the report of the Law School Naming Committee, cited throughout the Ad Hoc Committee's report as the "Framing Document." A copy of that comprehensive resource is also attached.

Following receipt of the report, I, as the CSU president, am required to submit to the Board of Trustees for your consideration my acceptance, rejection or modification of the committee's recommendation as per the following guidance outlined in our procedures:

*The President shall review the ad hoc committee's final recommendation and shall have the authority to either accept, reject, or modify the committee's recommendation. In making this decision, the President shall consider the nature of the allegations, the evidence in support of the request, and the potential impact on the university based on the information presented. In performing this review, the President may consult with other individuals as the President deems appropriate.*

*If the President decides to recommend removing or otherwise modifying the name at issue, the matter shall be advanced to the Board of Trustees for final review and action. The Office of the President will communicate the President's decision in writing to the requestor(s) with a copy to the Board, within 30 days of receiving the recommendation from the committee.*

*Upon receiving a recommendation from the President for the removal or amendment of a name, the Board of Trustees' Academic Affairs and Student Success Committee will evaluate the committee's report and the President's recommendation, along with any other relevant materials, and shall make a final decision as to whether such action is appropriate, and may approve, deny or modify any action recommended by the President. If the Academic Affairs and Student Success Committee decides that the recommendation to remove or amend a name is appropriate, it will then be advanced to the full Board of Trustees for final approval. Importantly, if the Board decides to remove or amend a name, any new name being considered shall be addressed in accordance with separate university processes. Removal does not indicate an agreement to implement a new name suggested by the requestor(s) or some other party.*

Based on my consideration of all information provided and referenced in the report, the analysis of the ad hoc committee and the policy-related rationale outlined for their decision, **I submit to you my acceptance of the recommendation to remove the name of John Marshall from CSU's Cleveland-Marshall College of Law.**



**Recommendation Concerning the Request to  
Remove the Name of John Marshall from  
CSU's Cleveland-Marshall College of Law**

The Ad Hoc Review and Advisory Committee  
Cleveland-Marshall College of Law Name Review

Submitted to Laura Bloomberg, President

September 2, 2022

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## **Introduction**

A group of Cleveland State University faculty, staff and students were convened as an Ad Hoc Committee (“the Committee”) to evaluate and put forth a recommendation to the CSU President regarding the request received from students, city leaders, advocacy groups and others to remove the name John Marshall from the CSU Cleveland-Marshall College of Law. Specifically, the Committee was asked to review documentation related to the request and determine whether to recommend removal of the name at issue.

The Committee was provided with a substantial body of information that had been previously compiled to support this work and had the benefit of being able to review and consider the newly adopted policy — Space, Unit, and Entity Naming, CSU Policy number 3344-3-01 — related to philanthropic naming and expounding upon commemorative and honorific naming. It is worth noting that a significant source of information came from the exhaustive work done by the Law School Naming Committee, to whom this Committee owes a debt of gratitude. Committee members devoted a great deal of time to reviewing and discussing materials included in the Law School Name Framing Document (“Framing Document”) and met three times through the Spring 2022 semester to discuss and debate their impressions.

**Thereafter, on May 23, 2022, the Committee unanimously voted to recommend removing the name “Marshall” from the University’s Cleveland-Marshall College of Law.**

Following is a summary of the key points of discussion and understanding that formed the basis of the Committee’s ultimate recommendations.

### **1. The History of the Law School’s Name**

Early in its discussion, the Committee’s members sought to understand the history and derivation of the law school’s name. Helpful in eliciting this history is the discussion included in the paper provided by Professors David F. Forte and Steve R. Lazarus and found at page 9-18 of the Framing Document (“the Forte-Lazarus Paper”).

The original John Marshall Law School was founded in 1916 by David C. Meck, Sr., Alfred Benesch and Frank Cullitan out of a desire to provide an alternative mode of instruction to men and women who desired to pursue a career in the law or business. The new law school was designed to offer an alternative to the Cleveland Law School (founded in 1897) and, unlike that entity, offered day classes (in addition to evening), introduced the “case method” of instruction, and offered a three-year course to degree completion. According to Forte and Lazarus, the “John Marshall” name was chosen based on his national notoriety at the time (see Framing Document, page 10).

By 1946, the John Marshall School of Law and the Cleveland Law School had merged into a single entity, the Cleveland John Marshall College of Law. Cleveland State University acquired the merged entity in 1969. Cleveland State University did not name the law school, it simply retained its original name, and it became known as the Cleveland John Marshall College of Law at Cleveland State University. The John Marshall name was a legacy only of the acquisition of an academic institution named for an historical figure (see Framing Document, page 19).

Also significant to the Ad Hoc Committee is that there is no evidence of any affiliation of Chief Justice John Marshall to the University, the City of Cleveland or the Cleveland legal community. He was not an alumnus, nor were any of his relatives or descendants. Additionally, there is no indication of any monetary donations, gifts, bequests or contributions of any kind to Cleveland State University that are tied in any way to naming, retaining or maintaining the association of the name John Marshall. As pointed out above, Cleveland State University did not name the law school after John Marshall. Rather, the name came with the former Cleveland John Marshall College of Law when acquired by Cleveland State University in 1969 (see Framing Document, page 19).

To the best of our understanding, the name John Marshall was chosen at a time in history where his recognition as the first Chief Justice and his contributions to the law were honored in the naming of a new law school founded in 1916. However, since that time, more has been learned about John Marshall’s life, and that complex history proved meaningful to the Ad Hoc Committee.

## **2. The Complex History of Chief Justice John Marshall**

It is well settled history that Chief Justice John Marshall made significant and enduring contributions to American jurisprudence and establishment of the rule of law. His leadership of the Supreme Court helped establish it as a true and independent third branch of the United States government and helped establish fundamental legal principles such as the nature of the relationship between the federal and state governments, the doctrine of judicial review, and Congress's power to regulate commercial activities that impacted interstate commerce, to name a few. Indeed, if not for Marshall's decision in *Marbury vs. Madison*, the Supreme Court might have been reduced to irrelevancy in the United States' constitutional system, as opposed to a co-equal branch of the government. It is also accurate to note that Chief Justice Marshall's defense of judicial review influenced many other nations to include the doctrine as a principle in their constitutions. The role of Chief Justice John Marshall and the *Marbury v. Madison* decision will always remain a foundational tenet of constitutional law in every law school in this country, including at Cleveland State University.

Marshall was the longest serving Chief Justice at 34 years, and his contributions to American jurisprudence are difficult to overstate. There really is no dispute concerning Chief Justice Marshall's storied career on the Supreme Court or his service to this country as a soldier, jurist and diplomat during the earliest period of our nation's history. It is, rather, another aspect of John Marshall's life, specifically his ownership of slaves, that has sparked controversy and added complexity to his name being attached to CSU's law school.

Interestingly, the fact that Chief Justice Marshall was a slaveholder was given very little attention until recent years. It could be that historians focused more on Marshall's life as a jurist and less on the details of his personal life. Whatever the reason, by the year 2018, and the publication of Paul Finkelman's book, "*Supreme Injustice: Slavery in the Nation's Highest Court*," this aspect of Marshall's life began to gain attention.

### *A. Observations on Marshall's History from the Case to Retain the Name*

It is worth noting that Professors Forte and Lazarus express disagreement with various aspects of Professor Finkelman's work in their paper supporting keeping Marshall in the law school name. Specifically, Forte and Lazarus take issue with Finkelman's characterization of Marshall as a major slaveowner who "aggressively" bought and sold slaves all his life (see Framing Document, page 15). In their view, the record does not support this assertion, noting that the last recorded purchase of a slave by Marshall occurred in the 1790s. They also note that Finkelman himself states that Marshall only "occasionally sold 'some'" slaves (see Framing Document, page 15). Professors Forte and Lazarus further dispute that Marshall engaged in the slave trade to boost his income, noting instead that his slaveholding numbers came from natural increase. However, these objections notwithstanding, Professors Forte and Lazarus do not dispute that Marshall owned slaves throughout his adult life, that he bought and sold "at least some," and that he held them long enough for their increase in numbers to have come from generational increase.

Additionally, Professors Forte and Lazarus dispute Professor Finkelman's assertion that Marshall always took the side of the slaveowner in his cases. On this latter point, they identify specific cases where Marshall, as a lawyer, won the emancipation of the children of Indian mothers and slave fathers, prevailed in the largest court-ordered manumission decree in the history of the US (freeing 400 slaves), and intervened to successfully seek the pardon of a free woman of color who was attacked by a slave trader whom she ultimately killed in self-defense (see Framing Document, pages 11-12).

These cases are important to note in any review of Justice Marshall's life and were noted by the Ad Hoc Committee during their conversations. However, and as pointed out in the Framing Document by those who favor removing the Marshall name, Marshall continued to hear cases involving slaves while on the bench, and there his record of findings in favor of the slave is much more sparse. Further, in so doing, Marshall ignored the warning from Alexander Hamilton that "No man ought certainly to be a judge in his own cause, or in any cause in respect to which he has the least interest or bias." (see Framing Document, page 21, citing the Federalist Papers No. 80.)



Professors Forte and Lazarus acknowledge that Marshall participated in slavery during his lifetime and that slavery is a moral wrong. They further acknowledge that Marshall was “an uneven supporter of emancipation.” However, they also caution that while we should not relieve Marshall (or any other historical figure) of participating in a moral historical wrong, we should understand his historical and social situation, meriting praise and honor for the good the individual did accomplish (see Framing Document, pages 15-16).

That tension — Marshall’s status as a slaveholder, his storied career as a lawyer, and his position as the first and longest serving Chief Justice of the US Supreme Court — is one that was recognized by the Ad Hoc Committee members throughout their discussions. As one member pointed out, “This is the perennial challenge of the historian, measuring the balance between the professional achievements with the personal biography of the person.” In this matter, that tension includes determining whether to continue to honor the individual through the name of our Law College, knowing what we now know about his history. We distinguish this from the unquestioned and prominent role of Marshall’s jurisprudence in our law school curriculum itself.

### *B. Observations on Marshall’s History from the Case to Remove the Name*

The Framing Document also includes a paper written by Judge Ronald Adrine, Judge Patricia A. Blackmon, and Terry Billups titled “Why We Should Change Our Name” (Framing Document, pages 19-35). All three are graduates of Cleveland-Marshall College of Law. Clearly, Marshall’s slave holdings were of deep concern to these authors, both as it relates to the evil nature of slaveholding, but also to the emotional and psychological harm that present day commemorations of slaveholders cause the Black community (see Framing Document, pages 22-25 for the discussion of this issue). Given that John Marshall had no connections or ties to Cleveland, CSU, or the Cleveland legal community, the Committee found no mitigating factors to counter that emotional and psychological harm.

It is worth noting, as did members of the Ad Hoc Committee, that the authors rely heavily on Professor Finkelman’s work, parts of which are disputed by Professor Forte and Lazarus as discussed above. Nonetheless and as previously stated, while there may be questions about the characterization of Justice Marshall’s buying and selling of slaves in large numbers to boost his income and his judicial record

in cases involving slaves, there is no dispute that he bought, owned and sold slaves during his lifetime and that he had a contrary view of emancipation.

On this latter point, even at his death, Marshall never freed any of his slaves. This was contrary to George Washington, who freed every single slave he still held at his death. As did Benjamin Franklin who did the same by the end of the Revolutionary War and who became the president of the Pennsylvania Abolition Society. In addition, Franklin went on to state in his will that his estate would only pass to his heirs if they freed all of their slaves as well (see Framing Document, page 30, footnote 58, citing Professor Finkelman's remarks from the Cleveland-Marshall College of Law Forum on the legacy of Chief Justice Marshall).

In stark contrast, Marshall not only chose to free no slaves, he was also a prominent member of the American Colonization Society (ACS), including service as the president of its Richmond branch. While many ACS members readily acknowledged that slavery was immoral and wrong, they were of the viewpoint that free Black people were incapable of living alongside White people. ACS members feared that newly freed Black people would rebel against their former enslavers and start a race war.

Marshall himself apparently even petitioned the Virginia legislature for funds to send Black people to Liberia and encouraged other slaveholders to voluntarily free their slaves and send them to Africa to re-colonize Liberia. However, even with this exhortation to others, Marshall himself never freed his own slaves (see Framing Document, page 30, footnote 59, citing Finkelman, *supra*).

### **3. What Did the Polling Data Say?**

During its comprehensive work, the Law School Naming Committee undertook a substantial effort to obtain feedback from stakeholder groups asking whether they believed "we should keep or change the name of our law school." Participants were also asked to explain their viewpoint and name suggestions were requested from those who felt there should be a change. These data are set forth in Exhibit 3 of the Framing Document.

There were 1,349 stakeholders across all groups who responded (out of the approximately 4,500 individuals who were sent the online form). The results of

the survey found that 50.6% of the respondents would keep the name, while 40.6% would change it, and 8.7% were undecided. Under further consideration of the results, the Ad Hoc Committee recognized that most of the support for keeping the name comes from Cleveland-Marshall alumni, who also constituted 58.4% of the overall respondents. The majority, or plurality of all the other groups (law students, law staff, law faculty [full-time, adjunct and emeritus], the CSU legal community and general community respondents) supported changing the name. One member summarized these findings as follows:

*As a committee we can understand that for the alumni the “C-M Law” name has symbolic and substantive value as Marshall’s name is on the degrees awarded to them and has recognition as a great law school. The fact that a large plurality of present students, faculty, and community stakeholders support the need to change the name, however, suggests to us that holding on to Marshall’s name headlining CSU’s law school is both offensive, as suggested by the extensive online feedback received from the African American community, and not in keeping with guiding principles and contemporary values that hold equality and inclusivity as preeminent values society and CSU would want to cherish. The change of name may seem symbolic to some, but to the African American community and society at large, it would be a compelling assertion of the values of equality, diversity, and inclusiveness at Cleveland State University.*

### **Observations of the Ad Hoc Committee on Marshall’s History and the Naming Question**

The Adrine, Blackmon and Billups paper also provided the Committee with a helpful review of the process and guidelines other institutions have used when determining whether to change the name of a building named for an historic figure. In fact, there are two other law schools in the United States that bear the name of John Marshall. One is in Atlanta, and the other was at the University of Illinois, Chicago (UIC). The latter has already changed its name from the UIC John Marshall Law School to the University of Illinois School of Law. This information was helpful to the Committee, particularly the principles that UIC adopted to guide its decision process:

1. The Law School’s official name should align with UIC Diversity initiatives.

2. The Law School's official name should be responsive to the needs of an increasingly diverse public to resist the vestiges of slavery and confront white supremacy.
3. The Law School's namesake should have some connection to the Law School or provide some concrete benefit to the Law School.

(see Framing Document, pages 25-26)

Following their review of the principles adopted by UIC and a set of guidelines adopted by William and Mary, Adrine, Blackmon and Billups enunciated three themes that are consistent across schools considering these questions. They are:

1. The namesake of the institution should have some deeply rooted ties or connection to the institution.
2. The namesake of the institution should accurately represent and reflect the present-day values of the institution.
3. For institutions that purport to advocate for social justice and racial equality and claim to value and foster an institution that represents diversity, equity and inclusion, then a namesake should be representative of these principles and values as well.

(see Framing Document, page 30)

The Marshall name is an inherited, commemorative/honorific naming that was not made by Cleveland State University. That said, were such a decision to be made currently, it would be guided by CSU's newly adopted Policy, 3344-3-01, **Space, unit and entity naming** (included as Appendix A). That policy defines "Commemorative/honorific naming" as the formal assignment of a specific name to recognize a distinguished individual or organization for outstanding service or commitment to the university that may or may not involve a philanthropic gift.

Additionally, the policy further provides that the "Commemorative, honorific naming of buildings, entities, units, and other physical space for those who have made significant contributions in service, support or honor of the university, the community, state or nation shall be considered upon recommendation of the associated dean or appropriate university unit leader." (see Policy 3344-3-01 at (C)(11))

As such, if CSU was considering naming an entity for John Marshall today, his lack of connection to CSU, the City of Cleveland and the Cleveland legal community would be relevant considerations. Also relevant to consider is his history as an unrepentant slave owner (together with his national reputation as a jurist), as potential “...conduct that, in the sole discretion of the board of trustees is injurious to the reputation of the university, or compromises the university’s integrity or reputation.” (see Policy 3344-3-01 at (D)(1)(b), and (c).; these were certainly important considerations to the Ad Hoc Committee.)

Following their deliberations, committee members were asked to share their reflections on the central question of whether to drop the name Marshall and/or their top three or so points that led them to unanimously recommend dropping the name Marshall from the name of the CSU Law College. These reflections are included here as Appendix B. They have been edited for clarity and brevity and to prevent repetition as some of these comments were used elsewhere in this report where particularly relevant to the discussion.

### **Conclusion and Recommendation**

Based on our study of the issues and the reasons set forth above, the Ad Hoc Committee voted unanimously to recommend to President Bloomberg that the name Marshall be removed from the name of CSU’s College of Law.

The reasons for this recommendation are set forth in greater detail throughout the report. However, in summary, the primary reasons include:

- The naming of Cleveland Marshall College of Law was an honorific naming that was inherited when Cleveland State University acquired the Cleveland Marshall Law School in 1969. Neither Chief John Marshall himself nor any of his descendants have a documented connection to CSU, the City of Cleveland or the Cleveland legal community.
- Chief Justice John Marshall was a slaveholder who bought and sold slaves throughout his life. Unlike many of his contemporaries, he chose not to free his slaves, and his questionable record on emancipation included active

participation in attempts to repatriate freed Black people to Liberia.

- In a majority-minority city, the Marshall name does not represent the community of Cleveland. The petition from the community and from our students to drop the name Marshall from the Law School is in keeping with continuing work to acknowledge the evil of slavery, the diversity and inclusion goals outlined in CSU 2.0, and the University's commitment to Justice, Equity, Diversity, and Inclusion for all members of our community.
- Dropping the name Marshall from the school in no way erases Chief Justice Marshall's contributions to the American jurisprudence and the development of the Constitution and the Judiciary as an independent and functional third branch of government. These accomplishments will continue to be taught and recognized within the context of what we know about Marshall's life.

Respectfully submitted,

The Ad Hoc Committee:

Martin A. Barnard, Co-Chair

*President, Student Government Association 2021-22*

CK Kwai, Co-Chair

*Director, International Services and Programming*

Samantha Baskind

*Distinguished Professor, Art and Design Department*

Michael Baumgartner

*Associate Professor, Music*

Thomas L. Bynum

*Chair, Department of Africana Studies*

Anne-Marie E. Connors  
*AVP, Alumni Relations and Corporate Engagement  
Executive Director, CSU Alumni Association*

Tawana M. Jackson  
*Assistant College Lecturer, Psychology Department*

David A. Kielmeyer  
*Associate Vice President, Marketing and Communications*

Anup Kumar  
*Professor, School of Communication, Vice President, Faculty Senate*

Jennifer D. McMillin  
*Director, Campus Sustainability*

Cody M. Orahoske  
*Research Assistant, President, Graduate, Professional Student Association*

Ann Marie Smeraldi  
*Assistant Director for Public Service, Main Library*

Michael L. Artbauer, Ex-Officio  
*Provost's Chief of Staff*

Patricia L. Franklin, Ex-Officio  
*Chief of Staff to the President*

Kelly M. King, Ex-Officio  
*Deputy General Counsel*

## **Appendix A: Policy 3344-3-01: Space, unit, and entity naming**

### (A) Purpose

This rule sets forth university-wide policy for space, unit and entity naming at Cleveland state university (“CSU” or the “university”).

### (B) Definitions

#### (1) Funds:

- (a) “Current use funds” means funds that are intended to be spent in the current operating cycle.
- (b) “Term use funds” means funds that are intended to be spent in a specified period of time.
- (c) “Endowment funds” means funds that are invested and have been permanently restricted by the donor to be used in perpetuity, with annual distributions to be used as prescribed by the donor.

(2) “Entity” means a college, school, department, division, institute, dean ship, chair, professorship, center, or program, which has defined leadership and resources supporting it.

(3) “Naming” means formal assignment of a specific name to a university space or entity.

(a) “Administrative naming” a formal assignment of a specific name related to the function or location of a space or entity (e.g., South Garage) that is unrelated to a philanthropic gift or honorific recognition.

(b) “Commemorative/honorific naming” means a formal assignment of a specific name to recognize a distinguished individual or organization for outstanding service or commitment to the university that may or may not involve a philanthropic gift (e.g., Michael Schwartz University Library).



- (c) “Philanthropic naming” means a formal assignment of a specific name to express appreciation for a philanthropic gift from an individual or an organization (e.g., The Monte Ahuja College of Business).
  - (4) “Space” means a defined physical area or structure such as a building, interior room, outdoor area, features (e.g., sites and fountains), or objects (e.g., lockers). The name given to a construction project to renovate or create a new space is separate from the naming of the space itself and outside the scope of this rule.
  - (5) “Unit” means a college or administrative unit.
  - (6) “Unit leader” means head of a college or administrative unit (e.g., dean, senior vice president, president, provost).
- (C) General information
- (1) The university will commit to name an entity, unit or space only after carefully considering all relevant factors, including the potential impact the naming will have on the university and the campus community and consistency with university tradition, mission, and policy.
  - (2) Significant gifts to the university through the Cleveland state university foundation (the “foundation”) will provide opportunities for donors to name a program, building, space, unit, scholarship, faculty fund, etc. in honor of the donor/s or another person/s recommended by the donor/s. Each philanthropic naming gift must be accompanied by a gift agreement approved and executed by the donor/s or their representatives, the foundation, and the college, school, department, or program that is to benefit from the gift and, in some instances, the university.

- (3) The funding amount is determined on a case-by-case basis, and governed by the philanthropic naming guidelines developed and adopted by the university administration.
- (4) Prior to discussing the proposed gift amount with the donor(s), the specific philanthropic naming gift amount must be approved by the vice president of university advancement and executive director of the foundation as well as the university president or the appropriate unit leader.
- (5) The university president brings suggestions for philanthropic naming gifts valued at or over one million dollars to the board of trustees along with either a proposed philanthropic investment or a justification as to why a particular entity, unit or space should be named in honor of an individual or company.
- (6) In the event the donor is endowing an academic program or position, an approval process led by the provost should occur before the acceptance of the gift.
- (7) If the project is being reserved for a donor who is making provisions through a deferred gift arrangement, an appropriate amount may be added to the required gift minimum for inflation in anticipation of the future estate commitment expectancy. See philanthropic naming guidelines.
- (8) A philanthropic naming will not take place until the university and the foundation have a signed gift commitment in hand. In the event the pledge by a donor is not fulfilled, the naming opportunity at the University may be forfeited as set forth in paragraph (D) of this rule.
- (9) This rule applies to buildings or structures owned by the university or a related entity, or built on university owned land by the private sector through a lease or other arrangement. Buildings, rooms and spaces within buildings, courtyards, and other public spaces are typically named in perpetuity or as long as the structure or space is in use by Cleveland state university.

- (10) The board of trustees has final approval for all naming opportunities at the university. However, to expedite the approval process, the board authorizes the university president and vice president, university advancement and executive director of the foundation to do the following:
    - (a) Coordinate gift agreements and naming designations on their behalf and to inform members of the university community affected by such gifts.
    - (b) Make decisions regarding philanthropic naming opportunities for gifts valued under one million dollars.
    - (c) Make recommendations to the board of trustees with regard to naming opportunities for gifts valued at or over one million dollars.
  - (11) Commemorative, honorific naming of buildings, entities, units and other physical space for those who have made significant contributions in service, support or honor of the university, the community, state or nation shall be considered upon recommendation of the associated dean or appropriate university unit leader. For entities, units or spaces valued under one million dollars, the university president shall have final approval, and for entities, units or spaces valued at or over one million dollars the board of trustees shall have final approval.
  - (12) Administrative naming of an entity, unit or space reflects the function or location of the entity, unit or space and shall be subject to paragraph (D) of this rule should there be a request to change the name.
- (D) Changing and removing names
- (1) The board of trustees reserves the right to remove and/or change names of spaces, units or entities, whether administrative,

philanthropic or honorific/commemorative, for any one or more of the following reasons:

- (a) The donor defaults on the terms of the gift agreement; or
  - (b) The donor is subsequently convicted of a felony or otherwise engaged in conduct that, in the sole discretion of the board of trustees, is injurious to the reputation of the university; or
  - (c) If at any time the university determines that the continued naming of a space, unit or entity compromises the university's integrity or reputation.
- (2) The procedure for reviewing names of university spaces, units and entities shall be followed in the review, amendment, removal or renaming of a university space, unit or entity.
- (3) In the event that a named space, unit or entity ceases to exist, the university is not obligated to continue the recognition, nor will it be obligated to provide substitute recognition, however; the university may elect to make an effort to continue to commemorate honorific or philanthropic recognition in an appropriate way.

(E) Review procedures

This rule, the procedures for reviewing names of university spaces, units and entities, and the philanthropic naming guidelines shall be reviewed no later than every three years.

<b>Policy Name:</b>	Space, unit and entity naming
<b>Policy Number:</b>	3344-3-01
<b>Board Approved:</b>	05/19/2022
<b>Effective:</b>	06/25/2022
<b>Prior Effective Dates:</b>	n/a

## **Appendix B: Observations of the Ad Hoc Committee**

### *Committee Member #1*

The “Marshall” name is an honorific name only, with no bearing or connection to Cleveland or Cleveland State University, nor is there any familial lineage or connection to the College of Law.

As a University and Law School which have taken painstaking measures and pride (e.g. “*Learn Law. Live Justice*” motto of the Law School) to ensure the support, engagement and ultimate success of all those who wish to pursue higher education, this is not about being “woke” – it is examining ourselves with a critical and honest lens to ensure that we continue our legacy both in words, actions and ultimately, principle.

This moment is an important “teachable moment” that can be utilized for forward facing and future discussion, engagement and ultimately, accountability, in support of our larger mission and vision for our university and those we serve. This education must be ongoing and should be visible and public for all who enter or experience our University.

### *Committee Member #2*

The Law School’s name was adopted prior to new scholarship that brings to light the depth of John Marshall’s participation in slavery. He was a slave trader who owned hundreds of slaves, had a pro-slavery judicial record, and held racist views. As a truth-seeking enterprise, ignoring this information and retaining the name Marshall would be harmful to the CSU community. This name does not represent the mission, vision, and values of the Law School or the University. It would undermine the institution’s work towards building inclusivity and equity.

To fulfill its mission “to be the leading student-centered public law school,” C|M|Law must listen and respond to the voice of its current students who have expressed concern over being graduates of a law school with this name. The institution exists to serve current and future students. The online stakeholder feedback reported in the “Summary of Findings” indicates that staff, faculty, CSU community, legal community, and general community support the name change.

### *Committee Member #3*

The petition from the community and students to drop the name of Supreme Court Chief Justice John Marshall from Cleveland-Marshall College of Law of Cleveland State University is in keeping with continuing work on acknowledging the evil of slavery that was enshrined in the original constitution until slavery was abolished through the Thirteenth Amendment. Our efforts toward eliminating the lasting social, cultural, and political legacy of slavery in the country have come a long way, though much more work needs to be done to remove all lingering vestiges of slavery. The petition to drop the name of Justice Marshall from the name of CSU's law school is yet another act toward fulfilling the principle of equality and inclusivity. It will be a great injustice if CSU chooses to hold on to Cleveland-Marshall name for its law school despite the appeal from the community and students. Holding on to the name with all its symbolic meaning seemingly honors the legacy of Justice Marshall as one of the prominent slave owners of his time. The dropping of Marshall's name will also be in line with the guiding principles of the law school that calls for "commitments to teaching, quality research, truth-seeking, and inclusivity", and the law school's mission of *Live Law, Live Justice*.

### *Committee Member #4*

The naming of a building after a person and their accomplishments must be in line with the values of the institution. While not implying that any historical figure meets a standard of perfection, it is imperative that we consider John Marshall's status as a slave owner in the decision whether to rename the College of Law.

#### Summary:

It was interesting to note that alumni are generally in favor of keeping the name. These individuals likely feel the name had/has value in the development of their careers.

Future scholars, however, are requesting change. CSU can honor Marshall's legacy in the teachings of the law school but honor the needs of current and future students by adopting a more generic and less polarizing name.

### *Committee Member #5*

Keeping John Marshall's name on the law school does not represent the present or future direction of Cleveland State, particularly considering the CSU 2.0 blueprint. Additionally, given the law school's motto: "Learn Law, Live Justice," this would be a crucial step in the right direction to ensure that *all* students are proud to be connected to this great institution.

There was an article published in *The Atlantic* about John Marshall's legacy. While his professional life may have furthered our understanding of the law and made him a "venerated figure" in US history, his personal life tells another story. Marshall was a slaveholder and actively invested in this despicable and unhumanitarian practice like so many others of his generation. As historian Paul Finkelman asserts, "John Marshall not only owned people; he owned many of them, and aggressively bought them when he could." These facts further complicate why his name should not be connected to the law school.

While Marshall's personal investment in slavery is not unique, as this was the case for many of our historical figures (who have made significant contributions to our country), it does not justify keeping his name on the law school. The removal of his name is not about erasing history or casting our lot with the "cancel culture" or being "woke;" it is about how Cleveland State positions itself as a beacon institution in Northeast Ohio.

In a majority-minority city, this name does not represent that community. There have been influential figures from communities of color and alumni whose names could also add prestige to the law school. Keeping John Marshall's name only adds insult to a community of people whose ancestors greatly suffered due to this very dark history associated with his name and past. Given the reasons mentioned above, I wholeheartedly support the change of the name.

My three bullets are:

- John Marshall was an unrepented slaveholder; his name soiled by his unhumanitarian acts
- His name does not represent the present or future direction of Cleveland State as a beacon institution in Northeast Ohio.

- John Marshall's name on the law school does not reflect Cleveland as a majority-minority city or represent that community.

### *Committee Member #6*

A perennial challenge for a historian is to measure the balance of the professional achievements with the biography of a person. To this day, John Marshall has been the longest-serving chief justice and fourth-longest serving justice in the history of the U.S. Supreme Court. With the process of judicial review, he was instrumental for designing the principle of the separation of powers, which permitted the establishment of an independent, yet equal judiciary branch. In addition, his fervent advocacy was crucial for the ratification of the U.S. constitution. Finally, he served as Secretary of State under President John Adams.

Regarding his biography, Marshall enriched himself as a slaveholder. He enslaved more than 200 African Americans the whole 34 years he served as Chief Justice. This highly questionable deed is in line with his personal views. After various uprisings of enslaved people in the early 19th century, he objected large-scale emancipation of freed slaves in fear of a revolution organized by African Americans. He further suggested that freed slaves should repatriated to Africa.

While in 1916 the administrators of the newly founded John Marshall School of Law weighted Marshall's professional achievements higher than his biography, we – after the Civil Rights movement, after George Floyd, after the Buffalo shooting, etc. – must weigh the biographical facts higher. Therefore, I suggest that John Marshall's name be removed from the CSU School of Law. It is morally and ethically the right decision in 2022.

To conclude, Cornel West's following observation is best exemplified in Marshall's case, namely the longstanding history of racism in America merging with the foundation of the country and its legal system. "White supremacy ... was constitutive of the founding of our nation, like a serpent wrapped around the legs of the table on which the Declaration of Independence and constitution were signed" (The Guardian, May 21, 2022).



Therefore, my three bullets points are:

- Marshall was a slaveholder.
- His beliefs in terms of people from other ethnicities than his own are today morally and ethically despicable (even back in the 18<sup>th</sup> and 19<sup>th</sup> century, for that matter).
- Marshall was not a native from Cleveland. He and his family had no association whatsoever with CSU.

### *Committee Member #7*

Since early 2020, current CSU Law students have actively voiced their concern with receiving a diploma that bears the name of John Marshall, a renowned contributor to the principle of Judicial Review, but nonetheless, an individual who owned and enslaved his fellow human beings. Because CSU exists to serve current and future needs of students, then CSU is fundamentally charged with removing the name of Justice Marshall from this university and promoting a more diverse, welcoming atmosphere for students of all races and backgrounds.

CSU has not historically received monetary donations from Justice John Marshall or his estate, so there is no formalized obstacle that needs to be overcome via General Counsel.

CSU is in the midst of CSU 2.0 within the urban center of Cleveland, Ohio. Cleveland City Council has passed a Resolution in favor of CSU removing this Marshall name from our Law School.