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## **Policing the College Campus: History, Race, and Law**

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## **Policing the College Campus: History, Race, and Law**

Vanessa Miller, Katheryn Russell-Brown\*

*The structure, impact, and historical roots of campus policing on the American college campus receives little academic attention. In fact, campus policing is often overlooked in legal analyses and research studies, including its relationship to race. Campus policing and race deserves a critical assessment from legal scholars because race is fixed to the ways the criminal-legal system presents itself on campus. The racialized implications of policing on campus are rooted in historical social and legal contexts that still exist today. However, the lack of research on campus policing is not surprising. American colleges and universities have successfully marketed themselves as academic enclaves situated away from the crime-riddled masses and as antithetical to the criminal-legal system. Despite this framing, American colleges and universities routinely resource their on-campus police departments and collaborate with law enforcement agencies to police and surveil students and the surrounding community. This article serves as an introduction to the historical, legal, and policy issues concerning campus policing and race.*

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## INTRODUCTION

Policing is a central tenet of the American criminal legal system. Police are the most visible representation of government authority with the power to control who enters the criminal legal system, and, as such, are extensively studied by legal scholars, criminologists, sociologists, and historians.<sup>1</sup> However, campus police, as compared to their municipal counterparts, are remarkably understudied.<sup>2</sup> Campus police exist in some form at nearly every American college or university.<sup>3</sup> However, they receive little attention from the academics who work within those very institutions.<sup>4</sup> The lack of research on the nexus

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<sup>1</sup> See SHAUN L. GABBIDON & HELEN TAYLOR GREEN, *RACE AND CRIME* (5th ed. 2019); RICHARD J. LUNDMAN, *POLICE AND POLICING: AN INTRODUCTION* (1980).

<sup>2</sup> See James C. Wada et al., *Betwixt and between: The Perceived Legitimacy of Campus police*, 33 *POLICING: AN INT’L J.* 114 (2010); Ryan Patten et al., *The Continued Marginalization of Campus Police*, 39 *POLICING: AN INT’L J.* 566 (2016).

<sup>3</sup> “American colleges and universities” and “postsecondary institutions” are used interchangeably. The terms include all two- and four-year institutions that maintain and operate a physical campus location.

<sup>4</sup> See *CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES* (Bonnie S. Fisher & John S. Sloan eds., 2018); CHARLES C. THOMAS ET AL., *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (University Press of America 1983).

between the criminal legal system and postsecondary institutions is especially noticeable when compared to the voluminous scholarship involving exclusionary practices, school resource officers (SROs), and the school-to-prison pipeline in the K-12 context.

The United States has approximately 18,000 law enforcement agencies,<sup>5</sup> 861 of which are campus police departments at campuses with 2,500 or more students.<sup>6</sup> Today, millions of students and university community members at more than 600 institutions across the country are under the authority of campus police.<sup>7</sup> Campus police<sup>8</sup> exist at nearly every institution of higher education and maintain a permanent presence on campus.<sup>9</sup> Their existence on campus is most evident by the physical presence of uniformed campus police officers in marked police vehicles patrolling the campus. It is further reinforced by on-campus police stations, blue-light phones near residence halls, video surveillance equipment in parking lots, keycard access only buildings, emergency alert systems to communicate emergencies or “timely warning” notices, metal detectors and security screenings at sporting events, and bulletin board postings of neighborhood watch programs.

The entanglement between institutions of higher education and policing creates a nexus between two of the largest state forces. Separately and apart these institutions maintain policies and practices replete with racial disparities and racialized implications. A critical investigation of the impact of race on campus policing is notably absent in the literature and public dialogue surrounding campus climate. This article contributes to small, but emerging legal and social science scholarship on campus policing. Specifically, it brings to light some of the historical, legal, and policy considerations that give context to the nexus between campus policing and race.

Part I discusses the early relationships between police and universities, primarily at private, elite universities. It provides a broad overview of how and when universities decided to wield the tools of law enforcement to guard campus and why increased police presence on campus during urban renewal, heightened race relations in the post-civil rights era, and student activism serve as a touchstone to the entanglement of campus policing and race. Part I also describes the expansion of the definition and authority of campus police officers. Part II outlines the demographic composition of campus police departments. It details the

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<sup>5</sup> See U.S. DEPARTMENT OF JUSTICE, NATIONAL SOURCES OF LAW ENFORCEMENT EMPLOYMENT DATA (2016), <https://bjs.ojp.gov/content/pub/pdf/nsleed.pdf>.

<sup>6</sup> *Id.*

<sup>7</sup> See U.S. DEPARTMENT OF JUSTICE, CAMPUS LAW ENFORCEMENT 2011-2012 (2015), <https://bjs.ojp.gov/content/pub/pdf/cle1112.pdf>.

<sup>8</sup> The classification of campus police officers has changed over time. They have been referred to as “watchmen,” “security officers,” “security guards,” “public safety,” “safety officers,” “officers,” and “campus police officers.” This article uses “campus police officers” as an all-inclusive term to capture the multiple forms of enforcing laws and behaviors on campus.

<sup>9</sup> See U.S. DEPARTMENT OF JUSTICE, CAMPUS LAW ENFORCEMENT 2011-2012 (2015), <https://bjs.ojp.gov/content/pub/pdf/cle1112.pdf>.

racial and gender makeup of campus police officers and the often disconnected engagement with the needs of the campus and surrounding neighborhood. Part III reviews and discusses legal issues concerning campus policing and race. Specifically, it discusses the legal actions lodged against campus police departments by other police officers or campus community members that challenge campus policing culture. The legal actions include racial discrimination lawsuits, discriminatory employment practices lawsuits, excessive use of force complaints, false arrest complaints, and damage for psychological trauma. Part IV reviews the emerging social science scholarship pertaining to campus policing and campus policing and race. Part V lists a range of incidents involving campus police. The list is non-exhaustive; it highlights high profile incidents within the last 15 years that occurred between campus police officers and the campus community. The incidents demonstrate a wide range of interactions between police and the campus community, from routine stops to fatalities. Part VI provides policy considerations for future research and university leadership. The recommendations aim to continue to unravel the entanglements between institutions of higher education and the criminal legal system that perpetuate racial discrimination and racism on campus.

## I. THE HISTORY OF CAMPUS POLICING AND RACE

Recent national conversations involving race, justice, and policing have triggered a heightened interest in the role and purpose of police on campus.<sup>10</sup> Therefore, to better understand the relationship between campus policing and race, it is important to review the history of campus policing.

### A. *Three Eras of Campus Policing*

The first campus police officers were hired in the 1890s and early 1900s as private night watchmen.<sup>11</sup> They were charged with protecting university property and facilities from the non-university community members.<sup>12</sup> The watchmen gradually evolved into security officers who, in addition to securing

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<sup>10</sup> See, e.g., Robert T. Chase & Yalile Suriel, *Black Lives Matter on Campus – Universities Must Rethink Reliance on Campus Policing and Prison Labor*, BLACK PERSPS. (June 15, 2020), <https://www.aaihs.org/black-lives-matter-on-campus-universities-must-rethink-reliance-on-campus-policing-and-prison-labor/>; The Editorial Board, *Rein in Campus Police*, BOS. GLOBE (July 20, 2020), <https://www.bostonglobe.com/2020/07/20/opinion/rein-campus-police/>; Grace Watkins, *The Crimes of the Campus Police*, CHRON. HIGHER EDUC. (Oct. 20, 2020), <https://www.chronicle.com/article/the-crimes-of-campus-police>; Mike Baker, *Black Campus Police Officers Say They Suffered ‘Unbearable’ Racism*, N.Y. TIMES (June 22, 2021), <https://www.nytimes.com/2021/06/22/us/uw-police-racism.html>.

<sup>11</sup> Add CITE

<sup>12</sup> See DIANE C. BORDNER & DAVID M. PETERSEN, *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (University Press of America 1983); *CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES* (Bonnie S. Fisher & John S. Sloan eds., 2018).

campus buildings, oversaw student conduct. By the 1980s, the security officers became full-service campus police officers who provided 24-hour patrol coverage. This section will provide an overview of the historical development of campus police officers.

*1. The Early Years.* — Campus policing has existed in some form at postsecondary institutions for over a century. Beginning in the late 1800s, private, wealthy colleges began to expand their geographical boundaries, encroaching on the predominantly working class and Black neighborhoods they were built around.<sup>13</sup> These institutions hired private “watchmen” to guard university property and patrol and protect campus from “outsiders.” In 1894, Yale University established the country’s first private campus police force when it hired two police officers from the New Haven Police Department to patrol the campus.<sup>14</sup> As designated campus security officers, they were responsible for securing buildings, guarding the university’s physical plant, and responding to petty thefts from dormitory rooms.<sup>15</sup>

During this period, campus watchmen lacked professional legitimacy within the university community. Administrators within the university handled most campus disciplinary actions and relied on local police departments to assist in criminal investigations.<sup>16</sup> The watchmen were not given professional law enforcement training, but instead were tasked with patrolling the campus to detect fire hazards and perform maintenance duties.<sup>17</sup>

However, by his own account of patrolling the Yale campus, one of the officers, Willis G. Wiser, describes his role as more than a watchman who locked campus building doors at night. He describes being “forced into a defensive and offensive position between the whole Yale undergraduate body, on the one hand, and the college authorities and police department on the other.”<sup>18</sup> His presence on campus as a member of the university community was both accepted and rejected by students, administrators, and the local police department. As outlined by the New Haven Police Department, his duties were to protect students and university property from harm. For example, theft of personal property was a common occurrence. Books, clothes, and other valuables were often stolen from students’

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<sup>13</sup> DAVARIAN L. BALDWIN, *IN THE SHADOW OF THE IVORY TOWER* (2021).

<sup>14</sup> *See* WILLIS G. WISER, *YALE MEMORIES* (Morehouse & Taylor 1914); DIANE C. BORDNER & DAVID M. PETERSEN, *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (University Press of America 1983); *CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES* (Bonnie S. Fisher & John S. Sloan eds., 2018).

<sup>15</sup> *See* DIANE C. BORDNER & DAVID M. PETERSEN, *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (University Press of America 1983); *CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES* (Bonnie S. Fisher & John S. Sloan eds., 2018).

<sup>16</sup> *See id.*

<sup>17</sup> *See* DIANE C. BORDNER & DAVID M. PETERSEN, *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (University Press of America 1983); JOHN W. POWELL ET AL., *CAMPUS SECURITY AND LAW ENFORCEMENT* (Butterworth-Heinemann 1994).

<sup>18</sup> WILLIS G. WISER, *YALE MEMORIES* 17 (Morehouse & Taylor 1914).

dormitories and shared university buildings.<sup>19</sup> In response, Officer Wiser prioritized theft prevention by deciding to “keep all suspicious characters from the campus.”<sup>20</sup>

For Officer Wiser, a White man, suspicious characters on campus included “vagrant peddlers,” “tramps,” and “objectionable persons who had been allowed on the campus grounds.”<sup>21</sup> He made it clear these outsiders were not welcome on campus and advised them not to return. He also recalls interacting with “a colored gentleman prowling around one of the entrances.”<sup>22</sup> He believed the man to be drunk and quickly ushered him off campus. Officer Wiser’s interactions with persons he believed to be suspicious are in stark contrast to his recollection of interactions with women<sup>23</sup> on campus.

In another account, Officer Wiser described interactions with someone who called himself “George Joseph Hannibal, L. W. Silliman, Esquire” (referred to as “Hannibal”). He was a Black man known to the Yale campus community for selling lemon drops and performing “fits.”<sup>24</sup> His “fits” included convulsions and foaming at the mouth, done to mimic a seizure and appear to be ill.<sup>25</sup> Upperclassmen invited him to perform in freshman dormitories.<sup>26</sup>

The accounts on Hannibal from Officer Wiser and Yale alumni demonstrate the physical, economic, and social segregation of Yale from the community. George Hannibal would perform his “fits” for less than a dollar at an institution that cost hundreds of dollars in tuition to attend. Additionally, the affinity of the Yale campus community, an exclusively white campus, for George Hannibal, a local Black man, to perform dangerous and humiliating “fits” underscores the commodification of Black people for white amusement and the conception of “belonging” within a college campus.

Officer Wiser had a different response to seeing a Black person on campus. Officer Wiser reminisced about a woman who requested that he be her guide around the university’s museum. He described it a “privilege” to be the one to walk her around the museum and answer her questions.<sup>27</sup> He also recalled an elderly woman, unaffiliated with the university, who requested that he escort her and her friends around campus. Although the woman talked over him for most of the tour around campus, and incorrectly described features of the campus, Officer

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 18.

<sup>21</sup> *Id.* at 17-18.

<sup>22</sup> *Id.* at 18-19.

<sup>23</sup> Although Officer Wiser does not mention the race of the women with whom he interacted, it is reasonable to suggest they were white because he only refers to a person’s race if they are Black.

<sup>24</sup> See WILLIS G. WISER, YALE MEMORIES 80-81 (Morehouse & Taylor 1914); CLARENCE DEMING, YALE YESTERDAYS (Yale University Press 1915).

<sup>25</sup> See CLARENCE DEMING, YALE YESTERDAYS (Yale University Press 1915).

<sup>26</sup> See WILLIS G. WISER, YALE MEMORIES 80-81 (Morehouse & Taylor 1914).

<sup>27</sup> *Id.* at 71-72.

Wiser did not interrupt her, stating he “knew from experience that to set her right would not be the proper thing to do.”<sup>28</sup>

Officer Wiser’s interactions are emblematic of race relations and the othering of Blackness on campus. Officer Wiser labelled and singled out poor and Black community members as “suspicious” and used racially coded language to describe their actions. In one instance, he described a Black man as “prowling” at one of the campus entrances.<sup>29</sup> For Officer Wiser, patrolling campus meant patrolling race—labeling which people belonged on campus and which people did not belong on campus.

At the time, Black student enrollment at most elite institutions of higher education were virtually nonexistent.<sup>30</sup> The Yale demographics were equally overwhelming white, male, and upper social economic class,<sup>31</sup> juxtaposing its

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<sup>28</sup> *Id.* at 112.

<sup>29</sup> Officer Wiser’s description of a Black man as “prowling” the campus entrance espouses the myth of the criminalblackman. See KATHERYN RUSSELL-BROWN, *THE COLOR OF CRIME*. (3rd ed. 2021) for a detailed explanation of the criminalblackman.

<sup>30</sup> For most of American history, Black people were prohibited from learning to read or write or receive a formal postsecondary education. See Christopher M. Span, *Learning in Spite of Opposition: African Americans and their History of Educational Exclusion in Antebellum America*, 131 *Pol. Curricular Change* 26 (2005). American institutions of higher education were rooted in the establishment of predominately white institutions (“PWIs”). See KOFI LOMOTEY, *ENCYCLOPEDIA OF AFRICAN AMERICAN EDUCATION* 523 (2010). A university education was almost exclusively limited to white men until the Civil War, when women and racial minorities advocated for access. *Id.* In response, PWIs enforced their exclusivity through racial segregation and other exclusionary laws and protected the social and political status of white men despite changing demographics in the United States. Black, Indigenous, Hispanic, and Asian populations remained grossly underrepresented in PWIs for most of the 20<sup>th</sup> century. See Beatriz Chu Clewell & Bernice Taylor Anderson, *African Americans in Higher Education: An Issue of Access*, 21 *Humboldt J. Soc. Rels.* 55 (1995); KOFI LOMOTEY, *ENCYCLOPEDIA OF AFRICAN AMERICAN EDUCATION* 523 (2010). Even when Black students were permitted to enroll in historically or predominately white institutions, they experienced racial stigma, social seclusion, and overt instances of racism. See Liliانا M. Garces & Uma M. Jayakumar, *Dynamic Diversity: Toward a Contextual Understanding of Critical Mass*, 43 *EDUC. RESEARCHER* 115 (2014) (reviewing literature on social stigma, stereotype threat, racial tensions, racial microaggressions, and tokenism). See also Uma M. Jayakumar, *Why are all the black students still sitting together in the proverbial college cafeteria?*, *HIGHER EDUC. RSRCH. INST. UCLA* (Oct. 2015), <https://www.heri.ucla.edu/PDFs/Why-Are-All-the-Black-Students-Still-Sitting-Together-in-the-Proverbial-College-Cafeteria.pdf>. After the University of Texas dissolved its law school for Black students in 1950, it admitted Heman Sweatt, a Black graduate of Wiley College, to pursue a law degree at the University of Texas School of Law. While Sweatt was in law school, Ku Klux Klan members waited for him after class, faculty avoided interacting with him, a professor encouraged white students to file legal challenges against integration efforts, and a judge who taught a seminar repeatedly used racial epithets towards him. See Dwonna Goldstone, *Heman Sweatt and the Racial Integration of the University of Texas School of Law*, 54 *J. BLACKS HIGHER EDUC.* 88 (2006).

<sup>31</sup> See *A YALE BOOK OF NUMBERS, 1976-2000* (last visited August 18, 2022), [https://oir.yale.edu/sites/default/files/pierson\\_update\\_1976-2000.pdf](https://oir.yale.edu/sites/default/files/pierson_update_1976-2000.pdf).

surrounding neighborhood. By the 1860s, New Haven became a central location for immigration and labor in low wage factories, specifically for Irish, German, and African American populations.<sup>32</sup> The change in social landscape created tensions between Yale University and New Haven residents. Yale dealt with the tensions by spatially bounding itself away from the rest of the community. In 1860, the trustees voted to build an iron fence around the perimeter of campus to designate the college square.<sup>33</sup> Even Yale's architectural design emulated the segregation between campus and the community.

Paradoxically, Officer Wiser points to suspicion of crime and misconduct from Black and poor local residents and community members while simultaneously describing crime occurring on Yale's campus by its own students. Officer Wiser describes students setting fires on campus, destroying light posts, vandalizing property following a football game, engaging in bank fraud, and forcing the habit of alcohol on freshman as a "training as men of the world." He even described an off-campus incident of burglary where a student entered the family home of the woman he was romantically interested in and took a personal photo she was keeping for the man of her choosing.<sup>34</sup> Police caught him but let him go once the woman's father was not upset. Officer Wiser justified his actions as done "under the impulse of the moment without regard to consequences."<sup>35</sup> It is clear from Officer Wiser's racialized views that identifying and deterring poor people and members of the Black community from the campus was a policing priority.

It is telling that private institutions like Yale University experienced on-campus criminal activity by students, but maintained that the racial make-up of the surrounding community increased the fear of crime. By his own accord, Officer Wiser patrolled the campus for those who did not belong and accommodated or justified the misconduct of those who did. At its inception, higher education was exclusively a space of power and privilege for white men, and the first campus police officers served as watchmen of the property and ethos of the institution.

During the late 1920s and early 1930s, more institutions began to hire watchmen on campus. H.V. Summers was the first campus police officer at the University of Central Arkansas.<sup>36</sup> He was hired as a night watchman in the late 1920s. He provided security for university buildings after dark and, by the time he retired in the late 1950s, became a night supervisor for students. Some of the university's earliest uniforms issued to campus officers were band uniforms from the school's Department of Music. At the University of Chicago, security guards hired in the 1930s were responsible for providing building security and often

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<sup>32</sup> Juliette Guilbert, *Something That Loves a Wall: The Yale University Campus, 1850-1920*, 68 NEW ENGLAND Q. 257 (1995).

<sup>33</sup> *Id.*

<sup>34</sup> See WILLIS G. WISER, YALE MEMORIES (Morehouse & Taylor 1914).

<sup>35</sup> *Id.* at 127.

<sup>36</sup> See Jimmy Bryant, *Brief History of the UCA Police Department*, UNIV. CENT. ARK. (last visited Aug. 17, 2022), <https://uca.edu/police/about-us/history-of-ucapd/>.

served a dual role as a janitor for their building.<sup>37</sup> However, no official records of campus police force at the University of Chicago exist prior to its official formation in the 1960s. Some institutions also worked with municipal police prior to establishing their own police force. For example, Mansfield University of Pennsylvania received law enforcement services from the Pennsylvania State Police in the mid-1930s and hired their own night watchmen to secure university buildings in the late 1950s.<sup>38</sup>

The “watchmen” role of the late 1890s and early 1900s gradually turned into one of “public security” during the 1940s and 1950s. On-campus vandalism and property destruction caused by students increased and was often alcohol related.<sup>39</sup> By this time, public safety officials served two roles: monitoring student behavior and enforcing laws. In the late 1940s and early 1950s, following World War II, universities experienced unprecedented growth in student enrollment.<sup>40</sup> The G.I. Bill made a college education possible for more than two million veterans.<sup>41</sup> The unprecedented growth in campus enrollment increased government and social support and drastically transformed the role and purpose of higher education.<sup>42</sup>

The increase in student enrollment led to increased responsibilities for campus police and security officers. Their responsibilities were codified into state statute, establishing the legal authority of campus police officers. The first campus police statute<sup>43</sup> related to campus police officers passed in 1905 in Rhode Island. It read,

The Sheriff of the County of Providence with as many of his deputies as he may deem necessary shall attend the celebration of the annual commencements of Brown University and Providence College and shall preserve peace and good order and decorum during same.<sup>44</sup>

Alabama, Connecticut, Kentucky, Mississippi, Missouri, New Hampshire, New York, and Vermont all codified the authority of campus police officers by or

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<sup>37</sup> See Jordan Larson, *A brief history of UCPD*, CHI. MAROON (May 15, 2012), <https://www.chicagomaroon.com/article/2012/5/25/a-brief-history-of-the-ucpd/>.

<sup>38</sup> See *History*, MANSFIELD UNIV. (last visited Aug. 17, 2022), <https://www.mansfield.edu/police/history.cfm>.

<sup>39</sup> See JOHN W. POWELL ET AL., *POWELL, CAMPUS SECURITY AND LAW ENFORCEMENT* (Butterworth-Heinemann 1994).

<sup>40</sup> Keith W. Olson, *The G.I. Bill and Higher Education: Success and Surprise*, 25 AM. Q. 596 (1973).

<sup>41</sup> See Keith W. Olson, *The G.I. Bill and Higher Education: Success and Surprise*, 25 AM. Q. 596 (1973); see also Milton Greenberg, *How the GI Bill Changed Higher Education*, CHRON. OF HIGHER EDUC. (June 18, 2004), <https://www.chronicle.com/article/how-the-gi-bill-changed-higher-education/>.

<sup>42</sup> See ROGER L. GEIGER, *AMERICAN HIGHER EDUCATION SINCE WORLD WAR II: A HISTORY* (2019).

<sup>43</sup> Also referred to as university police statutes or campus security statutes.

<sup>44</sup> See SEYMOUR GELBER, *THE ROLE OF CAMPUS SECURITY IN THE COLLEGE SETTING* 25 (1972), <https://www.ojp.gov/pdffiles1/Digitization/8966NCJRS.pdf>.

during the 1950s.<sup>45</sup> The legislative measures not only helped establish the state authority of campus police officers, but the legal legitimacy of police forces on campus.

2. *Urban Renewal Plans and Student Activism.* — In order to accommodate a changing and increasing demographic, institutions required physical expansion. Some institutions turned to “urban renewal plans” endorsed by government, local elites, and conservative housing industry trade associations.<sup>46</sup> These plans were motivated by financial gain, code enforcement, and opposition to public housing. Over time, urban renewal plans became a moniker for racially coded planning initiatives that forcibly displaced Black and other low-income communities. In the 1950s and 1960s, these efforts for “urban renewal” were so tied to the removal of Black families from their community they were often referred to as “Negro removal.”<sup>47</sup>

Columbia University leaders collaborated with urban planner Robert Moses to acquire and develop sites for university expansion. Moses’s use of Title I money from the Housing Act of 1949 became a national model on urban development.<sup>48</sup> His plan designated the low-income Black and Latino housing communities near the Columbia University campus as ripe for construction. While New York City elites applauded his plan to “rescue” the city from “slums,” the homes of hundreds of Black and Latino residents were bulldozed to make way for parks, highways, and bridges.<sup>49</sup> For Columbia University, which borders Harlem,<sup>50</sup> the taking of local communities ostensibly for public use, continued into the early 2000s when it sought to use the surrounding area for research.<sup>51</sup> In 2006, Mark Wrigley, the then Dean of Columbia University’s Graduate School of

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<sup>45</sup>*Id.*

<sup>46</sup> Alexander von Hoffman, *The lost history of urban renewal*, 1 J. URBANISM: INT’L RSCH. PLACEMAKING AND URB. SUSTAINABILITY 281 (2008).

<sup>47</sup> See Brief for Nat’l Ass’n for the Advancement of Colored People et al. as Amici Curiae Supporting Petitioners, *Kelo v. New London*, 545 U.S. 469 (2005) (No. 04-108), [http://www.ij.org/images/pdf\\_folder/private\\_property/kelo/naacp02.pdf](http://www.ij.org/images/pdf_folder/private_property/kelo/naacp02.pdf). See also UNITED STATES COMMISSION ON CIVIL RIGHTS, *THE CIVIL RIGHTS IMPLICATIONS OF EMINENT DOMAIN ABUSE* (2014), [https://www.usccr.gov/files/pubs/docs/FINAL\\_FY14\\_Eminent-Domain-Report.pdf](https://www.usccr.gov/files/pubs/docs/FINAL_FY14_Eminent-Domain-Report.pdf).

<sup>48</sup> Alexander von Hoffman, *Housing and Planning: A Century of Social Reform and Local Power*, 75 J. AM. PLANNING ASS’N 231 (2009).

<sup>49</sup> See Ashish Valentine, *The Wrong Complexion for Protection.* ‘How Race Shaped America’s Roadways and Cities’, NPR (July 5, 2020), <https://www.npr.org/2020/07/05/887386869/how-transportation-racism-shaped-america>.

<sup>50</sup> The relationship between Columbia University and the greater Harlem community is deeply complex and rich with political and social histories. For an explanation of the dynamics between Columbia University and Harlem, see Bwog Staff, *The Aftermath: Columbia’s Relationship With The Greater Harlem Community*, BWOG (Dec. 28, 2019) <https://bwog.com/2019/12/the-aftermath-columbias-relationship-with-the-greater-harlem-community/>.

<sup>51</sup> See Daphne Eviatar, *The Manhattanville Project*, N.Y. TIMES (May 21, 2006), <https://www.nytimes.com/2006/05/21/magazine/21wwln.essay.html>.

Architecture, presented the dichotomy between the social and architectural realities of expanding a university. He said the university must be a “defined space” where students withdraw from and reflect on society while simultaneously living in “the very heart of vibrant New York City.”<sup>52</sup>

The University of Virginia experienced a rapid increase in enrollment, establishing the institution as a major social, political, and economic influence in the community.<sup>53</sup> Charlottesville residents felt its impacts when the city implemented its urban renewal scheme and exercised eminent domain to acquire surrounding neighborhoods for development.<sup>54</sup> The urban renewal scheme mimicked a plan from Harland Bartholomew and Associates, an urban planning firm known for their racially motivated destruction of Black neighborhoods. The scheme forcefully displaced hundreds of Black Charlottesville residents and families from their homes and businesses so the university could expand its physical borders.

The University of Chicago also developed what it called an urban renewal plan. This plan targeted the surrounding, majority-Black neighborhoods as sites for university acquisition.<sup>55</sup> University of Chicago’s Chancellor wanted to reverse the trend of white students and faculty leaving the university due to the surrounding neighborhoods. Encouraging peer institutions to join his efforts in “community revival,” the plans conveniently placed an emphasis on the development of the university and not on the displacement of hundreds of Black residents.<sup>56</sup> Due, in part, to university expansion into the community, the University of Chicago Police Department controls one of the largest private police security forces in the world with a jurisdiction of over 50,000 nonstudent residents, second largest to the Vatican City.<sup>57</sup>

Race played a central role in how American cities were developed,<sup>58</sup> including the educational institutions that were built within them. Race also played a role in how those cities were policed. The boundaries of universities within cities were not only based on a physical perimeter, but a political and economic permitter, too. The state-sanctioned class and race violence created by

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<sup>52</sup> *Id.*

<sup>53</sup> See Adam Ghazzawi, *University Expansion in the Post-World War II Era: A Case Study on the University of Virginia* (May 2021) (B.A. thesis, University of Pennsylvania),

[https://repository.upenn.edu/cgi/viewcontent.cgi?article=1001&context=theses\\_cplan](https://repository.upenn.edu/cgi/viewcontent.cgi?article=1001&context=theses_cplan).

<sup>54</sup> See Brian Cameron & Andrew Kahr, *UVA and the History of Race: Property and Power*, *UVATODAY* (Mar. 15, 2021), <https://news.virginia.edu/content/uva-and-history-race-property-and-power>; Mary Key, *Topographies of Power: The Lasting Impacts of Racial Zoning* (Apr. 29, 2021), <https://libraopen.lib.virginia.edu/downloads/sf2685225>.

<sup>55</sup> See DAVARIAN L. BALDWIN, *IN THE SHADOW OF THE IVORY TOWER* (Bold Type Books 2021).

<sup>56</sup> *Id.*

<sup>57</sup> See Nathalie Baptiste, *Campus Cops: Authority Without Accountability*, *THE AMER. PROSPECT* (November 2, 2015), <https://prospect.org/civil-rights/campus-cops-authority-without-accountability/>.

<sup>58</sup> See generally, RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017).

urban development created tensions with institutions and their surrounding communities. In the 1960s, student opposition to university expansion at the cost of local neighborhoods began to emerge.

Students at elite institutions began to protest the acquisition and commodification of Black neighborhoods by publicly occupying university spaces. Most notably, in 1968, Black students from the Society of Afro-American Students (SAS) at Columbia University protested the construction of a new campus gymnasium. The gymnasium, set for development in the Morningside Park neighborhood, served as a physical barrier between Columbia University and Harlem. Activists labeled it “Gym Crow,”<sup>59</sup> as they believed the university’s encroachment on Harlem enforced segregationist policies. Students marched to the gymnasium where they were met by New York Police Department (NYPD) police officers guarding the construction site.<sup>60</sup> Sit-in demonstrations began that afternoon at Hamilton Hall and spread into other university buildings, including the library and the President’s office.

In addition, mostly white students from the Students for a Democratic Society (SDS) at Columbia University joined the on-campus demonstrations against the gymnasium and the university’s support for the Vietnam War.<sup>61</sup> However, Black leadership from SAS announced that “SDS can stand on the side and support us, but the Black students and the Harlem community will be the ones in the vanguard.”<sup>62</sup> One week after the initial occupation at Hamilton Hall, NYPD police officers removed and arrested over 700 students from occupied buildings. Almost 150 students were injured in the process.<sup>63</sup> Their demands to stop racially discriminatory zoning policies were amplified by the national demands of the 1960s and 1970s to stop racially discriminatory policing practices and other forms of state violence.

Student activism<sup>64</sup> on college campuses centered the abolition of racially exclusionary laws, police violence, and military-related funding. Sexual

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<sup>59</sup> Stefan Bradley, “*Gym Crow Must Go!*” *Black Student Activism At Columbia University, 1967-1968*, 88 J. AFR. AM. HIST. 163 (2003), <https://www.journals.uchicago.edu/doi/pdfplus/10.2307/3559064>; Siobhan Ryan, *Columbia University’s “Gym Crow”*, 39 AUSTRALASIAN J. AM. STUD. 101 (2020), <https://www.jstor.org/stable/26973002?seq=1>.

<sup>60</sup> See Frank da Cruz, *Columbia University 1968* (last updated May 27, 2022), <http://www.columbia.edu/cu/computinghistory/1968/>.

<sup>61</sup> Louis Lusky & Mary H. Lusky, *Columbia 1968: The Wound Unhealed*, 84 POL. SCI. Q. 169 (1969), [https://www.jstor.org/stable/pdf/2147260.pdf?refreqid=excelsior%3A21b58cd7e111282a32ae82a2bb1e8843&ab\\_segments=&origin=](https://www.jstor.org/stable/pdf/2147260.pdf?refreqid=excelsior%3A21b58cd7e111282a32ae82a2bb1e8843&ab_segments=&origin=).

<sup>62</sup> STEFAN M. BRADLEY, *HARLEM VS. COLUMBIA UNIVERSITY: BLACK STUDENT POWER IN THE LATE 1960S* p. 69 (2009).

<sup>63</sup> See *1968 Columbia in Crisis*, COLUM. UNIV. LIBRS. (last visited Aug. 18, 2022), <https://exhibitions.library.columbia.edu/exhibits/show/1968/timeline>.

<sup>64</sup> Student activism scholarship reflects on the role of outside police intervention but pays little attention to campus police officers. Campus police are referred to incidentally despite their active role in the control and suppression of student demonstrations in the 1960s and 1970s. Nevertheless, the national focus on college campuses increased interest

liberation, gender expression, and freedom of speech also found their way to student protests across the country. In response, institutional leaders relied on local police agencies to control and surveil campus activism because their institutions' police forces did not have professional law enforcement training.<sup>65</sup> Many campus police officers still possessed the qualities of a public security officer responsible for maintaining university and student property.<sup>66</sup> Nevertheless, the student sit-ins, demonstrations, and public dissent led institutional leaders to accelerate the role of campus police departments. The convenience of an on-call police force, in part, prompted institutions to support the professional training of their campus police,<sup>67</sup> quickly turning the private "watchmen" of the early 1900s into trained university police officers.

To support the training and legitimacy of their own on-campus police force during the 1960s and 1970s, university leaders increased police budgets and lobbied for expanded statutory authority. University leaders steadily increased budgets to outfit and support police officers.<sup>68</sup> Campus police officers received police vehicles, weapons, and professional training to "respond" to the civil unrest of the anti-establishment and anti-violence movements. Although a majority of the student protests were peaceful, university leaders outfitted their campus police departments to match their municipal counterparts.

University leaders also lobbied state representatives to establish their own police force to increase police presence, resources, and authority.<sup>69</sup> University leaders requested opinions from their respective state's Attorney General inquiring into the limitations, scope, and classification of university police.<sup>70</sup> Their lobbying efforts proved effective. States continued to codify campus police statutes throughout the 1970s, and the states that did not permitted municipal or county agencies to deputize campus police officers as law enforcement officers.<sup>71</sup> The continued expansion of campus police resources and authority during

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in the history and scope of campus policing. *See* DIANE C. BORDNER & DAVID M. PETERSEN, *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (University Press of America 1983); JOHN W. POWELL ET AL., *POWELL, CAMPUS SECURITY AND LAW ENFORCEMENT* (Butterworth-Heinemann 1994).

<sup>65</sup> *See* *CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES* (Bonnie S. Fisher & John S. Sloan eds., 2018).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *See* *CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES* (Bonnie S. Fisher & John S. Sloan eds., 2018); DIANE C. BORDNER & DAVID M. PETERSEN, *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (University Press of America 1983).

<sup>69</sup> *See* Libby Nelson, *Why nearly all colleges have an armed police force*, *VOX* (July 29, 2015), <https://www.vox.com/2015/7/29/9069841/university-of-cincinnati-police>.

<sup>70</sup> *See* SEYMOUR GELBER, *THE ROLE OF CAMPUS SECURITY IN THE COLLEGE SETTING* (1972), <https://www.ojp.gov/pdffiles1/Digitization/8966NCJRS.pdf>.

<sup>71</sup> For example, the Attorney General of Maine held on April 1, 1970, that arrest authority for "special police officers" is based upon being deputized by municipal or county law enforcement agencies. *Id.*

nationwide student activism revealed a need for institutions to maintain the image they are safe havens of speech, scholarship, and inquiry.

Moreover, Black, Native, Hispanic, and Asian student populations steadily increased at institutions throughout the country, and their involvement and leadership in the anti-police violence and anti-war protests were pronounced. Student activist movements for racial justice rapidly garnered attention across college campuses. Black students in Baltimore organized sit-ins and boycotts of local department stores and diners as a form of nonviolent protest against segregation,<sup>72</sup> the Student Non-Violent Coordinating Committee mobilized Black student voters in the South,<sup>73</sup> and the Third World Liberation Front<sup>74</sup> lobbied California university leaders and to establish Ethnic Studies as an interdisciplinary field.

Mass demonstrations, sit-ins, teach-ins, and petitions at colleges and universities led to increased interactions with the police. Campus police officers began to shift their attention from the communities bordering their institution to the communities residing within their institution. Notably, campus police shifted their attention to an increasingly diverse student population amid social and political turmoil. Racialized interactions with the police led to over-policing, hypervigilant surveillance, and perpetuated the myth that racially marginalized students and campus community members have an illegitimate presence on campus.

3. *Professionalization.* — The "birth of the modern campus police department"<sup>75</sup> emerged in the 1970s and 1980s when campus police departments developed into fully operational on-campus law enforcement agencies. Campus police departments began to operate under quasi-militaristic bureaucratic organization models,<sup>76</sup> and colleges and universities enjoyed the state authorization to exercise broad policing powers on campus. Campus police officers were primarily tasked with developing full-service law enforcement services to address the continued growth and complexity of postsecondary institutions, including newly enacted statutory and legal obligations of on-campus

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<sup>72</sup> See Muhammad Ahmad, *On the Black Student Movement – 1960-1970*, 9 BLACK SCHOLAR 2 (1978).

<sup>73</sup> See Jenice L. View, *Brief Outline of the History of SNCC*, CIV. RTS. TEACHING (last visited Aug. 18, 2022), <https://www.civilrightsteaching.org/voting-rights/brief-history-sncc>.

<sup>74</sup> The Third World Liberation is a multicultural coalition of student organizations dedicated to the histories of Black, Asian Americans, Chicano/Chicanas, and Native Americans.

<sup>75</sup> John J. Sloan, *Modern Campus Police: An Analysis of Their Evolution, Structure, and Function*, 11 AM. J. POLICE 85 (1992).

<sup>76</sup> See CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES (Bonnie S. Fisher & John S. Sloan eds., 2018)

safety.<sup>77</sup> In response, universities bolstered the financial support of their campus police departments to meet increased law enforcement demands.<sup>78</sup>

During the 1980s and 1990s, institutions developed into major economic facilitators, employers, healthcare providers, innovation hubs, sports arenas, event venues, and housing providers. Students attended classes on campus, lived on campus, worked on campus, socialized on campus, participated in extracurriculars on campus, and enrolled in off-campus internships and programs under the supervision of the institution. The increase of student enrollment and expansion of university property transformed postsecondary institutions into self-contained quasi-cities, with their own unique challenges and complications.

Unsurprisingly, institutions reported an increase in crime, such as alcohol-related incidents, vandalism, sexual assault, hazing, and theft.<sup>79</sup> The increased attention to crime on campus in the 1980s led to significant legal and policy developments that required institutions to disclose information related to campus safety and security. In 1990, President George H.W. Bush signed into law the Student Right-to-Know and Campus Security Act of 1990. In 1998, the law was renamed the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).<sup>80</sup> The law stands in remembrance of Jeanne Clery, a student at Lehigh University who was sexually assaulted and murdered in her residence hall by another student. When it was first enacted,<sup>81</sup> the Clery Act required institutions to provide annual reports of campus crime statistics. As it currently operates, the Clery Act requires institutions that participate in federal student aid programs to publicly release an annual security report, maintain a public log of crimes reported to campus police, issue timely warnings of crimes

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<sup>77</sup> Beginning in the 1980s, legal developments referred to as “college safety law” impacted the relationship between students and universities. Courts began to grapple with the question – do colleges and universities owe a duty of care to protect its students from harm? Courts imposed various duty of care standards on postsecondary institutions. Traditionally, courts were reluctant to apply any duty of care. Prior to the 1960s, institutions had plenary power over student behavior under the *in loco parentis* doctrine. Institutions were viewed as standing in the place of parents. The idea behind the legal doctrine was that institutions acted in place of the parent and were responsible for their physical well-being. They were able to regulate student behavior and take disciplinary action without regard to due process. They also had little legal obligation to protect them from harm. Institutions were characterized as “caretakers” and were insulated from the courts imposing duties of safety. Over time, courts shifted away from the *in loco parentis* framework and instead viewed institutions as autonomous entities where adults voluntarily chose to attend. However, scholars suggest that courts started to reverse course and implemented requirements of safety more aligned with *in loco parentis*. See Philip Lee, *The curious life of in loco parentis in American universities*, 8 HIGHER EDUC. REV. 65 (2011).

<sup>78</sup> See CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES (Bonnie S. Fisher & John S. Sloan eds., 2018).

<sup>79</sup> *Id.*

<sup>80</sup> 20 U.S.C. § 1092(f).

<sup>81</sup> The Clery Act has been amended five times since first enacted.

covered under the crime statistics, and retain the last eight years of crime statistics for data reporting.

To address crime on campus and newly developed legal obligations of safety, institutions turned to their campus police departments to provide traditional law enforcement services and security measures consistent with the educational mission of a college or university.<sup>82</sup> Institutions once again continued to increase the duties and responsibilities of their already growing on-campus police departments to maintain their legal obligations of safety.<sup>83</sup> However, successful high-profile civil lawsuits challenged the safety measures provided on campus.<sup>84</sup> The lawsuits asserted institutions owe a duty of care to students while on campus or while under their care and therefore inadequate security measures contributed to injury or risk of injury on campus. College safety law adapted and courts began to treat institutions as ordinary businesses, subjecting them to business and tenancy laws.<sup>85</sup> Courts held that institutions had a duty to protect students from foreseeable harm.<sup>86</sup>

Statutorily, by 2020, every state had codified the legal authority of campus police officers. The state statutes vary in scope and delegation of authority. For example, Alabama code distinguishes the powers and duties of university police officers by institution.<sup>87</sup> The Florida statute establishes minimum training requirements for university police officers.<sup>88</sup> The Oregon statute gives authority to university presidents to establish a process to receive and respond to complaints

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<sup>82</sup> Campus police departments, or officials on campus with campus security authority, have data record and reporting obligations under the Clery Act. They usually work in collaboration with their institution to draft the Annual Security Report, issue “timely warnings” for serious on ongoing threats to the campus, and maintain and publicize the daily campus crime log. Campus police departments also work with their institution to ensure proper dissemination of relevant information through several modes, such as email and social media.

<sup>83</sup> The introduction of the Jeanne Clery Act in 1990 as well as judicial intervention on campus security measures expanded the legal obligations of campus police departments.

<sup>84</sup> For example, in *Regents of the University of California v. Superior Court*, the California Supreme Court held that, under certain circumstances, universities owe a duty to protect or warn students from foreseeable harm in the classroom or during curricular activities. *Regents of the University of California v. Superior Court*, 413 P.3d 656 (Cal. 2018).

<sup>85</sup> See Kristen Peters, *Protecting the Millennial College Student*, 16 REV. OF L. AND SOC. JUST. 431 (2007), [https://gould.usc.edu/students/journals/rlsj/issues/assets/docs/10\\_Peters\\_Final.pdf](https://gould.usc.edu/students/journals/rlsj/issues/assets/docs/10_Peters_Final.pdf).

<sup>86</sup> See *id.*

<sup>87</sup> ALA. CODE § 16-52-12.1 grants Jacksonville State University police officers as peace officers with authority “any place in the state.” ALA. CODE § 16-56-12 delegates authority to the Chancellor of Troy University to appoint and employ police officers on campus to eject trespassors and execute arrests on campus. ALA. CODE § 16-48-12 authorizes the President of Auburn University to appoint and employ university police officers with the duties and invested powers of police officers. See ALA. CODE Title 16: Education for additional examples.

<sup>88</sup> FLA. STAT. § 1012.97.

about the policies of the police department and conduct of police officers.<sup>89</sup> The Kansas statute permits university police officers to exercise their law enforcement authority in any area outside of their jurisdiction if assistance is requested from law enforcement officers in the area.<sup>90</sup> While the statutory authority of campus police officers continue to expand, a review of the demographics of campus police officers helps paint the larger picture of the connection to race.

## II. DEMOGRAPHICS OF CAMPUS POLICE OFFICERS

Campus police officers are largely responsible for a wide range of duties on campus, such as enforcing laws, preventing crime, responding to emergencies, conducting criminal investigations, filing reports, patrolling campus, maintaining crime statistics, and providing law enforcement services. In many jurisdictions, the duties of campus police officers extend beyond the campus into the surrounding community. Due, in part, to their extensive duties, campus police officers regularly interact with campus and community members. Their regular interactions embed them in community relations. Campus police have the opportunity to develop community partnerships, garner trust within the community, and implement policing strategies that meet community needs. Unfortunately, however, campus police departments across the country greatly differ in racial composition and are removed from the communities they police.

According to the 2011-2012 Campus Law Enforcement Report from the U.S. Department of Justice, campus police departments are overwhelmingly white and male.<sup>91</sup> About 17.5 percent of sworn campus police officers identify as women and 31.5 percent of sworn campus police officers identify as racial minorities. Black officers accounted for 21 percent of sworn officers and Hispanic officers accounted for 7.5 percent of sworn officers. The numbers in the 2011-2012 Campus Law Enforcement Report only reflect a slight increase from the 2004-2005 and 1994-1995 Campus Law Enforcement Reports. In the 2004-2005 Report, 16.9 percent of sworn campus police officers identified as women and 30.4 percent of sworn campus police officers identified as racial minorities.<sup>92</sup> In the 1994-1995 Report, 14 percent of campus police officers identified as women and 27 percent identified as racial minorities.<sup>93</sup>

Traditionally, municipal police officers were young, white males with little college training.<sup>94</sup> They were socialized into a policing profession that standardized “proper” behavior in the academy and emphasized objective

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<sup>89</sup> OR. REV. STAT. § 352.121.

<sup>90</sup> KAN. STAT. ANN. § 22-2401(a)(6).

<sup>91</sup> See U.S. DEPARTMENT OF JUSTICE, CAMPUS LAW ENFORCEMENT 2011-2012 (2015), <https://bjs.ojp.gov/content/pub/pdf/cle1112.pdf>. See also John J. Sloan, *Race, Violence, Justice, and Campus Police*, 48 AM. SOCIO. ASS'N FOOTNOTES 9 (2020).

<sup>92</sup> See U.S. DEPARTMENT OF JUSTICE, CAMPUS LAW ENFORCEMENT 2004-2005 (2008), <https://bjs.ojp.gov/content/pub/pdf/cle0405.pdf>.

<sup>93</sup> *Id.*

<sup>94</sup> See DIANE C. BORDNER & DAVID M. PETERSEN, CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK (University Press of America 1983).

application of the law rather than discretionary enforcement in practice.<sup>95</sup> Over the last thirty years, officers remained largely white and male with varying levels of training and education. As a collective, campus police officers are similarly a homogeneous group, yet are responsible for patrolling racially diverse student populations and resident communities.

Scholars believe the homogeneity of police departments are attributed to discriminatory practices in recruitment, hiring, and culture.<sup>96</sup> They point to racially biased written exams, physical tests of extraordinary aptitude, and hostile work environments that exclude racially marginalized and women officers from participating in the profession or effecting meaningful community-based, racially conscious changes in policing. Campus police departments face similar criticism for their overrepresentation of white, male police officers. Part III investigates and discusses the legal challenges to the discriminatory recruitment, hiring, and cultural practices within campus police departments.

### III. UNDERSTANDING THE LEGAL ISSUES OF CAMPUS POLICING AND RACE

Campus police officers and campus community members have challenged the lack of racial and gender diversity and discriminatory practices within campus police departments. Racialized minority campus police officers have documented their lived experiences with racial discrimination and racial hostility within their own departments.<sup>97</sup> Campus police departments are overwhelmingly white and

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<sup>95</sup> *See id.*

<sup>96</sup> Police departments prohibited Black applicants from becoming sworn police officers, and when Black officers entered the profession, they were separated from other officers and only permitted to patrol Black neighborhoods. *See* KHALIL GIBRAN MUHAMMAD, *THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA* (2010). Recruitment and hiring practices based on racially biased civil service written exams excluded Black applications and difficult physical exams disadvantaged women applicants. *See* RICHARD J. LUNDMAN, *POLICE AND POLICING: AN INTRODUCTION* (1980). Judicial prohibition on discriminatory hiring practices resulted in a shift, albeit minimal, of demographic diversity in municipal police cohorts. *See* RICHARD J. LUNDMAN, *POLICE AND POLICING: AN INTRODUCTION* (1980). *See also* HERMAN GOLDSTEIN, *POLICING IN A FREE SOCIETY* (1977). Furthermore, criminal background and financial history checks attributed to racially discriminatory policing practices have led to the rejection of many otherwise qualified Black officers. *See* Andrew Welsh-Huggins, *Tests, background checks can thwart police diversity effort*, ASSOCIATED PRESS (Oct. 2, 2020), <https://apnews.com/article/race-and-ethnicity-civil-service-police-law-enforcement-agencies-lawsuits-45221e2d28805b3a0e4d5b0800f5529e>.

<sup>97</sup> *See* Mike Baker, *Black Campus Police Officers Say They Suffered 'Unbearable' Racism*, N.Y. TIMES (June 22, 2021), <https://www.nytimes.com/2021/06/22/us/uw-police-racism.html>; Radley Balko, *What Black cops know about racism in policing*, WASH. POST (Apr. 13, 2022), <https://www.washingtonpost.com/opinions/2022/04/13/black-police-know-racism-law-enforcement/>.

male<sup>98</sup> and structural racism within policing is well documented.<sup>99</sup> Black, Latino, and other racialized minority campus police officers across the nation are attempting to challenge the culture of entrenched racism that plagues their departments.

This section will first examine legal actions initiated by minority campus police officers against campus police departments. The actions predominately allege discriminatory workplace environments and hostile policing culture. Subsequently, this section will examine legal actions initiated by campus community members against campus police officers, campus police departments, or institutions that employ campus police departments for racially discriminatory policing practices.

#### *A. Legal Actions Against Campus Police by Other Campus Police*

Racially marginalized campus police officers have challenged the authority, functions, and practices of campus police departments. Their legal complaints allege campus police departments engage in racially discriminatory hiring practices that maintain the status quo.

In *Board of Trustees v. Knight*, an Illinois court found evidence to support the Illinois Human Rights Commission's order that Southern Illinois University (SIU) discriminated against a Black campus police officer applicant when it refused to hire him due to a prior criminal conviction.<sup>100</sup> In *Drake v. City & County of Denver*, a Colorado court held in favor of the City of Denver (City) and Colorado State University (CSU) after Raymond Drake, a Black police officer, alleged CSU refused to hire him as a campus police officer due to concerns for his "propensity for civil suites" and his "paranoid reference [for] racial problems" despite high exam scores and a documented tenure as a police officer.<sup>101</sup> Drake resigned from his former employer, the City and County of Denver, claiming he developed a "negative attitude towards [the] profession."

The *Knight* and *Drake* cases illustrate a modern iteration of discriminatory hiring practices historically espoused by municipal law enforcement, such as biased exams and subjective evaluation criterion.<sup>102</sup> Here, the use of criminal

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<sup>98</sup> See U.S. DEPARTMENT OF JUSTICE, CAMPUS LAW ENFORCEMENT 2011-2012 (2015), <https://bjs.ojp.gov/content/pub/pdf/cle1112.pdf>; John J. Sloan, *Race, Violence, Justice, and Campus Police*, 48 AM. SOCIO. ASS'N FOOTNOTES 9 (2020).

<sup>99</sup> See generally, Radley Balko, *There's overwhelming evidence that the criminal justice system is racist. Here's the proof*, WASH. POST (June 10, 2020), [https://www.washingtonpost.com/graphics/2020/opinions/systemic-racism-police-evidence-criminal-justice-system/?itid=lk\\_inline\\_manual\\_2](https://www.washingtonpost.com/graphics/2020/opinions/systemic-racism-police-evidence-criminal-justice-system/?itid=lk_inline_manual_2).

<sup>100</sup> *Board of Trustees v. Knight*, 516 N.E.2d (Ill. App. Ct. 1987).

<sup>101</sup> *Drake v. City & County of Denver*, 953 F. Supp. 1150 (D. Colo. 1997).

<sup>102</sup> See RICHARD J. LUNDMAN, *POLICE AND POLICING: AN INTRODUCTION* (1980) for a discussion on racially discriminatory hiring practices). See also Andrew Welsh-Huggins, *Tests, background checks can thwart police diversity effort*, ASSOCIATED PRESS (Oct. 2,

background checks and the reliance on department “fit” are part of a larger structural strategy to exclude Black applicants from police work.

Racially marginalized campus police officers have also challenged the culture and environment of campus police departments. Their legal complaints allege their departments are spaces of hostile, discriminatory, and retaliatory conduct whereby Black officers are met with intimidation or disciplinary actions for conduct their white peers also engage in. The national demands to reckon with histories of state-sanctioned racial violence as well as the public health crisis of COVID-19 helped expose the often muted race relations and dynamics within campus police departments. A selection of legal challenges to the discriminatory campus police culture are listed below:

- Officer Nikki Hendrix, a Black female campus police officer at Syracuse University, became the second Black officer within a year to sue the department. In her complaint, Officer Hendrix says the Syracuse University Police Department (SUPD) systematically discriminates against Black officers by unfairly judging them during the hiring and promotional process and incentivizes Black officers to infringe on citizens’ rights to advance in the department.<sup>103</sup> Officer Hendrix also says she has been denied for every promotion despite being employed by the department for more than a decade and being a Syracuse resident. She contends White men with less qualifications who reside outside of Syracuse are offered the promotions over her.
- Two Black campus police officers at the University of Florida filed a discrimination complaint with the Equal Employment Opportunity Commission and the Florida Commission on Human Relations.<sup>104</sup> In their complaint, Officer Andrielle Boone and Brian Ausgood say they experienced racial discrimination and retaliation from members of the University of Florida Police Department (UFPD).<sup>105</sup> Officer Boone also says she experienced gender discrimination. Both officers described incidents of racial discrimination by members of the UFPD command staff and unlawful workplace practices. Furthermore, Officer Boone

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2020), <https://apnews.com/article/race-and-ethnicity-civil-service-police-law-enforcement-agencies-lawsuits-45221e2d28805b3a0e4d5b0800f5529e>.

<sup>103</sup> See Chris Libonati, *2nd Black Syracuse officer set to sue department, alleges discrimination on the job*, SYRACUSE (May 4, 2022),

<https://www.syracuse.com/crime/2022/05/2nd-black-syracuse-officer-set-to-sue-department-alleges-discrimination-on-the-job.html>.

<sup>104</sup> See Gershon Harrell, *University of Florida Police Department under fire after racial discrimination complaint*, GAINESVILLE SUN (Apr. 13, 2022),

<https://www.gainesville.com/story/news/2022/04/13/uf-police-department-under-fire-after-racial-discrimination-complaint/7229038001/>.

<sup>105</sup> *Id.*

contends she was put on the “Brady” list as retaliation for reporting a coworker, which puts her credibility as a law enforcement officer into question and hinders career advancements. She describes being subject to rumors, workplace drama, and discrimination from white officers following her promotion to Sergeant in 2017.<sup>106</sup>

- A Black campus police officer at the University of Delaware filed a complaint against the department for racial discrimination after he voiced concerns over the management of COVID-19.<sup>107</sup> Officer Raushan Rich was with the department for eight years before being placed on emergency administrative leave and eventually terminated for insubordination. Officer Rich expressed concerns over a university policy that required campus police officers to escort COVID-19 positive students to quarantine. He declined to follow the policy because he felt it was an unnecessary risk for non-law enforcement purposes. Nevertheless, he was instructed to comply “regardless of the risks” and was forced to pick up an officer who was also hesitant to comply with the policy.<sup>108</sup> Officer Rich states that he was disciplined although his white colleagues were not.<sup>109</sup>
- Officer Brandon Hanks, a well-known Black officer in the Syracuse community, filed a discrimination complaint against SUPD alleging the department systemically discriminates and retaliates against Black officers, creating what he described as a “Jim Crow culture.”<sup>110</sup> In his complaint, he states SUPD maintained a hostile work environment that included racial harassment, racial stereotypes, and the treatment of Black officers as inferior.<sup>111</sup>

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<sup>106</sup> *Id.*

<sup>107</sup> See Noah A. Mcgee, *Black Officer Accuses The University of Delaware of Racial Discrimination Over COVID Protocols in New Lawsuit*, ROOT (Feb. 22, 2022), <https://www.theroot.com/black-officer-accuses-the-university-of-delaware-of-rac-1848577985>.

<sup>108</sup> *See id.*

<sup>109</sup> See Yusra Asif, *Lawsuit accuses UD and its Police Department of racial discrimination over COVID practices*, DEL. NEWS J. (Feb. 14, 2022), <https://www.delawareonline.com/story/news/2022/02/14/university-delaware-sued-police-officer-over-covid-19-protocols-his-dismissal/6708190001/>.

<sup>110</sup> See Chris Libonati et al., *Syracuse’s best-known police officer attacks department’s ‘Jim Crow culture’ in racial bias claim*, SYRACUSE (June 25, 2021), <https://www.syracuse.com/news/2021/06/syracuses-best-known-police-officer-attacks-departments-jim-crow-culture-in-racial-bias-claim.html>.

<sup>111</sup> *See id.*

- Multiple Black police officers at the University of Washington came forward to share their experiences of racism from their white peers and superiors.<sup>112</sup> Five Black campus officers filed a lawsuit against the university’s police department, describing “a culture of entrenched racism that has included racial slurs, vicious comments about Black people and open hostility directed at them and at members of the public.”<sup>113</sup> In the complaint, the officers described heinous acts of racial violence and disparagement while at work. For example, Officer Karinn Young said she found bananas in front of her locker, one time with a note referring to her as a “monkey.” Officer Hamini said a white supervisor struck him with a stick-like object and remarked, “You people should be used to being hit with these.”

Unfortunately, these contemporary complaints of racially discriminatory workplace environments within campus police departments are new iterations of old narratives. For example, in 1998, Officer Jeffrey Gilchrist, who, at the time was the only Black campus police officer at the University of Minnesota, sued the department for racially discriminatory treatment.<sup>114</sup> He states his superiors conspired to fire him and was unfairly subject to discipline for actions that white officers were not, such as tardiness and wearing sunglasses during roll call. In his complaint, he expressed a desire to see more Black law enforcement officers.

Campus police departments are overwhelmingly white and male yet are responsible for patrolling an increasingly diverse student population and community.<sup>115</sup> The accounts of Black campus police officers experiencing racially hostile and discriminatory workplaces further demonstrates the continued othering of Black persons on campus. Their experiences contribute to a culture of campus policing that is entrenched in racism and hostile to Black community members. These legal challenges are important because they document resistance from campus police departments to foster a more racially just work environment despite nation-wide efforts to defund police departments over racist policing.

#### B. *Legal Actions Against Campus Police by Campus Community Members*

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<sup>112</sup> See Olafimihan Oshin, *Black campus officers allege they suffered ‘unbearable’ racism at University of Washington*, THE HILL (June 23, 2022),

<https://thehill.com/homenews/state-watch/559892-black-campus-officers-allege-they-suffered-unbearable-racism-at/>; NY Times Black Campus Police Officers Say They Suffered ‘Unbearable’ Racism

<sup>113</sup> See Mike Baker, *Black Campus Police Officers Sat They Suffered ‘Unbearable’ Racism*, N.Y. TIMES (June 22, 2021), <https://www.nytimes.com/2021/06/22/us/uw-police-racism.html>.

<sup>114</sup> See Andrew Tellijohn, *U cop files complaint alleging discrimination*, MINN. DAILY (Jan. 7, 1998), <https://mndaily.com/239618/uncategorized/u-cop-files-complaint-alleging-discrimination/>.

<sup>115</sup> See U.S. DEPARTMENT OF JUSTICE, *CAMPUS LAW ENFORCEMENT 2011-2012* (2015), <https://bjs.ojp.gov/content/pub/pdf/cle1112.pdf>.

Campus community members have similarly challenged the jurisdiction, authority, functions, and practices of campus police departments. Common cases include legal challenges against private institutions and their campus police officers for unlawfully exceeding their legal authority.

For example, in *State v. Yencer*, the Supreme Court of North Carolina determined whether the Campus Police Act<sup>116</sup> granted unconstitutional delegation of power to Davidson College, a private religious institution.<sup>117</sup> On January 5, 2006, a Davidson College campus police officer stopped and arrested the defendant near the campus for reckless driving and driving while impaired. The defendant filed a pretrial motion to suppress contending the Campus Police Act unconstitutionally granted exercise of police power to a religious institution in violation of the North Carolina constitution and U.S. Constitution. The Court held Davidson College is a private liberal arts college associated with the Presbyterian Church but was not itself a church because the church had minimal influence over management and educational policy and its primary purpose of education was secular in nature.<sup>118</sup> Moreover, the Court found no evidence to suggest the campus police officer proselytized, enforced religious rules, or arrested the defendant based on religious motivation. The Court held the campus police officer enforced secular laws and acted in good faith in exercise of the officer's statutory duty.

Campus police officers interact with students, faculty, staff, visitors, and local residents on a daily basis. Although there is a lack of research on the interactions between campus police officers and Black university community members, the documented patterns of racial hostility and violence against Black university community members demonstrates a need to untangle and reexamine the nexus between higher education and policing.

Students have filed legal complaints against institutions and their campus police officers for unlawful and discriminatory conduct. In *Phillip v. University of Richmond*,<sup>119</sup> four Black male students at the University of Rochester were removed from the university library while socializing with friends. A campus police officer<sup>120</sup> confronted the students and told them to “break it up” and “take it outside.” The officer turned to one of the Black students and demanded he show identification. After he showed the officer his university ID, the officer took the ID and radioed the Rochester Police Department for assistance. The students left the library and walked to their cars. However, the officer placed himself in front of their cars and physically blocked them from moving. When Rochester Police Department officers arrived, they placed the four plaintiffs under arrest and they spent the night in jail.

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<sup>116</sup> N.C. GEN. STAT. § 74G -1-13 (2009).

<sup>117</sup> *State v. Yencer*, 718 S.E.2d 615 (N.C. 2011).

<sup>118</sup> *Id.*

<sup>119</sup> *Phillip v. Univ. of Rochester*, 316 F.3d 291 (2d Cir. 2003).

<sup>120</sup> In this case, the officer in question is referred to as a campus security officer. The University of Rochester is a private institution that employs both campus security officers and peace officers. The peace officers have state authorized law enforcement officers.

The plaintiffs sued the university as well as the campus police officer. Their claims included false arrest, excessive force, battery, and violation of the equal benefit clause of Section 1981. The plaintiffs contend the campus police officer's conduct was motivated by racial animus because they would not have been removed if they were white. The Second Circuit Court held the plaintiffs' allegations state a claim that defendants acted on racial discrimination and attempted to deprive them of the "full and equal benefit of a state proceeding "for the security of persons and property."<sup>121</sup>

In *Johnson v. University of San Diego*,<sup>122</sup> a campus police officer<sup>123</sup> stopped and arrested a Black student on campus. The student brought sixteen causes of action against the university and the campus police officer for claims arising under federal, state, and tort law. At its heart, the case centered around the question whether the conduct of a private officer at a private university exposed them to liability under a §1983 claim. The plaintiff argued because the university officers can enforce misdemeanors on campus, they have authority from the state to act as state actors. However, the federal district court held that a state must provide *full* authorization to a private officer for them to be considered a state actor under the law. The University of San Diego officers could only assist with misdemeanor crimes and did not have full state authorization to enforce laws.

The *Phillip* and *Johnson* cases highlight an important legal nuance of campus policing – the legal barriers to challenging the authority of campus police officers. Campus police officers at private institutions outwardly function like police officers. They patrol campus, investigate crimes, respond to emergencies, enforce laws, and carry weapons. Nevertheless, private campus police officers – or security officers – generally cannot be held liable under §1983 claims that would otherwise give victims of police force grounds to establish a civil deprivation of rights.

Legal challenges against public campus police officers are similarly frustrating. Despite the continued media attention on incidents of racial profiling, harassment, and discrimination, successful legal challenges against the authority or conduct of campus police officers at public institutions are atypical. One likely explanation for the infrequency of judicial intervention in campus policing is qualified immunity. Qualified immunity provides police officers with legal protections against lawsuits alleging a violation of a plaintiff's rights.<sup>124</sup> It limits the rights of victims of police misconduct by shielding officers from legal accountability. Some courts have extended qualified immunity protections to campus police officers at public institutions of higher education because they serve as state agents, ultimately shielding their discretionary functions from

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<sup>121</sup> *Id.*

<sup>122</sup> *Johnson v. Univ. of San Diego*, No. 10CV0504-LAB, 2011 U.S. Dist. LEXIS 104962 (S.D. Cal. 2011).

<sup>123</sup> In this case, the officer in question is referred to as a public safety officer. The University of San Diego is a private institution that employs safety officers with authority to investigate misdemeanor crimes on campus.

<sup>124</sup> *Pierson v. Jay*, 384 U.S. 938 (1966).

liability for civil damages.<sup>125</sup> Some states, like New Jersey, have extended qualified immunity protections to campus police officers employed at private institutions.

For example, in *McClendon v. Lewis*,<sup>126</sup> a Pennsylvania District Court held defendant's claims against a campus police officer for a stop and arrest were barred because the officer's actions were protected under qualified immunity.<sup>127</sup> In *Giles v. Davis*,<sup>128</sup> the Third Circuit granted summary judgement in favor of Indiana University of Pennsylvania campus police officers who arrested a "campus-evangelist" who accosted a group of students calling them "drugs, sex, booze, and rock and roll freaks."<sup>129</sup>

Campus community members at public universities are limited in their legal remedies against police officers for violations of their rights. Qualified immunity lessens the ability for campus police officers to be held accountable for violence or misconduct. Further, there are few institutional procedures set in place for colleges and universities to receive and submit complaints about the conduct of campus police officers. Institutions delegate and authorize campus police officers to exercise broad authority without providing community members the often necessary space to review or comment on those powers. The lack of community oversight or input only further drives a wedge between campus police and the campus community, fostering a sense of distrust, and oversight contributes to the entanglement of the criminal legal system and higher education.

#### IV. REVIEW OF EXISTING SCHOLARSHIP ON CAMPUS POLICING

Scholarship on campus policing at American colleges and universities is emerging.<sup>130</sup> Until the mid-1980s, research on campus policing was limited to a few scholarly investigations about the characteristics of campus police departments, including the number of sworn and non-sworn officers employed by the department and relevant demographic information.<sup>131</sup> More recently, research

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<sup>125</sup> Add cite.

<sup>126</sup> *McClendon v. Lewis*, No. 02-CV7433, 2005 U.S. Dist. LEXIS 1204 (E.D. Pa. Jan. 27, 2005).

<sup>127</sup> *Id.*

<sup>128</sup> *Giles v. Davis*, 427 F.3d 197 (3d. Cir. 2005).

<sup>129</sup> *Id.*

<sup>130</sup> See Jude Paul Matias Dizon et al., *Campus Policing: A Guide for Higher Education Leaders*, UNIV. S. CAL. ROSSIER PULLIAS CTR. FOR HIGHER EDUC. (2020), <https://pullias.usc.edu/download/campus-policing-report/>.

<sup>131</sup> See DIANE C. BORDNER & DAVID M. PETERSEN, *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (University Press of America 1983); DIANE C. BORDNER & DAVID M. PETERSEN, *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (University Press of America 1983); John J. Sloan, *The Modern Campus Police: An Analysis of their Evolution, Structure, and Function* 11Am. J. of Police 85 (1992).

on campus policing has focused on campus crime,<sup>132</sup> the professionalization of campus law enforcement,<sup>133</sup> the perceived legitimacy of campus police,<sup>134</sup> and racialized practices in campus policing.<sup>135</sup>

Researchers have examined the structures, impacts, and development of campus police departments. The introduction of the “college-to-prison nexus”<sup>136</sup> frames the often-overlooked relationship between institutions of higher education and penal systems. Further, research on the racialized practices of campus police as an extension of the institution contextualizes and shapes an already racialized environment on campus.<sup>137</sup> Existing legal scholarship on campus policing is limited to the legal authority of public and private campus police officers and the jurisdictional issues that arise with local law enforcement.<sup>138</sup> Legal scholarship centered on campus policing and race is virtually nonexistent.

In the last four decades, there have been fewer than ten books written on campus policing. *Campus Security and Law Enforcement*<sup>139</sup> discusses organizational approaches to addressing security needs on campus. Campus

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<sup>132</sup> See W. David Allen Allen, *Crime, Universities and Campus Police*, 53 APPLIED ECONS. 4276 (2021); BRADFORD W. REYNS & BILLY HENSON, CRIMINAL VICTIMIZATION IN HIGHER EDUCATION: COLLEGE STUDENTS AS CRIME VICTIMS (2020).

<sup>133</sup> See John J. Sloan, *Race, Violence, Justice, and Campus Police*, 48 AM. SOCIO. ASS’N FOOTNOTES 9 (2020).

<sup>134</sup> See Andrea Allen, *Are Campus Police ‘Real’ Police? Students’ Perception of Campus versus Municipal Police*, 94 THE POLICE J.: THEORY, PRAC., AND PRINCIPLES 102 (2021); Tasha J. Youstin, *Role Variations and Perceptions of Campus Police versus Local and State Law Enforcement*, 15 POLICING: J. POL’Y PRAC. 1491 (2021); Michael F. Aiello, *Legitimacy Invariance and Campus Crim: The Impact of Campus Police Legitimacy in Different Reporting Contexts*, 21 POLICE PRACT. RSCH. 297 (2018).

<sup>135</sup> See Jude Paul Matias Dizon, *Protecting the University, Policing Race: A Case Study of Campus Policing*, J. DIVERSITY IN HIGHER EDUC. (2021).

<sup>136</sup> See Royel M. Johnson & Jude Paul Matias Dizon, *Toward a Conceptualization of the College-Prison Nexus*, 96 PEABODY J. EDUC. 508 (2021).

<sup>137</sup> See Jude Paul Matias Dizon, *Protecting the University, Policing Race: A Case Study of Campus Policing*, J. DIVERSITY IN HIGHER EDUC. (2021); DeMarcus A. Jenkins et al., *The second ID: critical race counterstories of campus police interactions with Black men at Historically White Institutions*, 24 RACE ETHNICITY EDUC. 149 (2020); Jude Paul Matias Dizon et al., *Campus Policing: A Guide for Higher Education Leaders*, UNIV. S. CAL. ROSSIER PULLIAS CTR. FOR HIGHER EDUC. (2020), <https://pullias.usc.edu/download/campus-policing-report/>.

<sup>138</sup> See, e.g., Leigh J. Jahmig, *Under School Colors: Private University Police as State Actors Under § 1983*, 110 NW. L. REV. 1 (2015); Jamie Hopkins & Kristina Neff, *Jurisdictional Confusion That Rivals Erie: The Jurisdictional Limits of Campus Police*, 75 MONT. L. REV. 1 (2014); see also Jamie P. Hopkin and Kristina Neff, *Jurisdictional Confusion that Rivals Erie: The Jurisdictional Limits of Campus Police*, 75 MONT. L. REV. 123 (2014) (for a discussion on the scope of campus police jurisdiction and powers of campus police officers).

<sup>139</sup> See JOHN POWELL ET AL., *CAMPUS SECURITY AND LAW ENFORCEMENT* (2nd ed. 1994).

Policing: The Nature of University Police Work<sup>140</sup> provides an overview of campus police work, the role and function of campus police officers, and the legal authority of campus police. Campus Public Safety and Security<sup>141</sup> provides practice-oriented suggestions to develop and maintain a security program at a postsecondary institution. Notably, the book is primarily written for smaller-sized private institutions and does not contain any references or citations to research.

Campus Crime: Legal, Social, and Policy Perspectives,<sup>142</sup> edited and written by leading scholars in campus crime and campus police, dedicates two chapters to the history, development, and philosophy of campus policing. In its third edition, the book provides an expansive account of institutional responses to crime on campus. Policing America's Educational Systems<sup>143</sup> discusses policing methods for K-12 and higher education in response to the legal and social changes in the educational environment. With respect to policing institutions of higher education, this book discusses school shootings, the Clery Act, timely warnings, and criminal investigations related to campus crime.

Scholarship on campus policing is especially limited when analyzing its relationship to race and racism. The lack of research is concerning for several reasons. First, campus police handle matters of substantial consequence, and the research on campus policing should similarly reflect on and speak to those consequences. Campus police officers respond to active threats, natural disasters, and emergencies that can directly impact the health, safety, and wellness of the university. They also interact with university community members under a variety of circumstances. Unfortunately, many of those interactions can suddenly become frightening or violent.

Campus police officers have faced scrutiny for their interactions with racially marginalized students, disabled students, mentally ill students, and unhoused students as discriminatory, leaving them to feel vulnerable on campus. Campus police are also responsible for legal matters related to compliance and safety. Campus police officers are classified as university officials with security authority, rendering them subject to federal and state reporting mandates on campus crime and security measures. The interactions between campus police and the communities they police are exceptionally important and should be reflected in the literature.

Second, campus police officers engage in similar patterns of police violence and racial hostility as their municipal counterparts.<sup>144</sup> Campus police are not insulated from the broader systemic issues of policing despite institutional

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<sup>140</sup> See DAVID M. PETERSEN & DIANA C. BORDNER, *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (1983).

<sup>141</sup> See JAMES W. WENSYEL, *CAMPUS PUBLIC SAFETY AND SECURITY: WITH GUIDANCE AS WELL FOR HIGH SCHOOL AND PRIVATE SECONDARY SCHOOLS* (1987).

<sup>142</sup> See *CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES* (Bonnie S. Fisher & John S. Sloan eds., 2018).

<sup>143</sup> See JOHN HARRISON WATTS, *POLICING AMERICA'S EDUCATIONAL SYSTEMS* (2019).

<sup>144</sup> See *CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES* (Bonnie S. Fisher & John S. Sloan eds., 2018); DAVID M. PETERSEN & DIANA C. BORDNER, *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (1983).

efforts to communicate campus police officers as community-oriented members who contribute to the educational mission of research, teaching, and service. Campus community members can find uniformed campus police officers riding their bicycles through campus, attending football games, and walking the student union. Their presence on campus is a reminder of the appearance of a campus under surveillance. Campus police officers are professional law enforcement officers with affiliations and affinities towards the carceral state. They engage in surveillance and criminalization practices that contradict the public good of higher education, often targeting vulnerable populations and racially marginalized communities. The national calls for racial justice in the American criminal legal system have made their way to university campuses across the country.

Third, campus police officers are often disconnected from the needs of the surrounding community, which tend to be segregated Black and Latinx communities, working class communities, or poor white communities.<sup>145</sup> Campus police at many institutions have jurisdiction beyond the physical perimeters of campus yet serve as a physical boundary between the surrounding community and university campus. Over the last fifty years, institutions of postsecondary education have become quasi-municipalities with social, economic, and political authority over the community. Their status has permitted them to operate their own police force without much community oversight or regulation. The disconnect between the function of campus police and actual public safety needs can help reframe how resources are distributed to meet community needs. Additionally, because of their unique position in society, and available resources, institutions are perfect case studies to rethink policing as it relates to community safety more broadly.

## V. CURRENT ISSUES

In the wake of racial justice protests and media attention on the violent interactions with police, the last decade has sparked demands for transformative changes in law enforcement, current criminal-legal practices, and understandings of race, law, and justice.<sup>146</sup> The demands also include the need for a deep examination of the professionalization and militarization campus police departments across the United States.

The professionalization of the modern on campus police force developed in the 1980s and has radically shifted since. An increase of student enrollment, expansion of the university's physical plant, and implementation of reporting requirements led institutions to subsidize full-service on-campus police agencies. This section will discuss the legal authority of campus police officers, the increased presence of campus police officers and their working relationship with local law enforcement agencies, budget increases for campus policing, and the organizational structure and autonomy of campus police departments.

### *A. Militarization of Campus Police Departments*

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<sup>145</sup> See DAVARIAN L. BALDWIN, *IN THE SHADOW OF THE IVORY TOWER* (2021).

<sup>146</sup> See KATHERYN RUSSELL-BROWN, *THE COLOR OF CRIME*. (3rd ed. 2021).

As they operate today, campus police officers are statutorily authorized law enforcement officers. They enjoy vast police authority within institutions of higher education. As mentioned in Section I, nearly every state statutorily authorizes universities to provide police officers for their campus as law enforcement officers of the state and conservators of the peace with the right to arrest any person for a violation of applicable law that occurs on or within a perimeter of university property. Campus police officers employed by public institutions have full statutory law enforcement authority in nearly every state. They are authorized to carry weapons, execute arrests, and conduct criminal investigations. Campus police officers employed by private institutions also receive statutory law enforcement authority in some states and maintain authority as private security or public safety officers in other states.

Although public institutions make up a significant majority of institutions that maintain and operate on-campus police departments<sup>147</sup>, full-fledged police departments at private institutions are becoming increasingly widespread. Several states have passed laws authorizing police officers at private institutions to maintain state-sanctioned law enforcement authority without being subject to public accountability. For example, the Campus Police Act in North Carolina authorizes private institutions of higher education to become eligible to participate in a state campus police program.<sup>148</sup> The program authorizes the Attorney General to establish education and experience standards for campus police officers, maintenance of campus police department records, and deny or revoke certification for a campus police agency. In Illinois, the Private College Campus Police Act of 1992 authorizes campus police officers at private institutions in Illinois to “have the powers of municipal peace officers and county sheriffs,” including the authority to make arrests.<sup>149</sup>

To date, the University of Chicago operates one of the largest private police forces in the world.<sup>150</sup> The University of Chicago Police Department (UCPD) has an expansive jurisdiction that spans across 30 blocks and includes more than 65,000 residents, 50,000 of whom have no affiliation with the university.<sup>151</sup> Although state law designates UCPD officers as officers of the state, the University of Chicago is not subject to the same transparency laws as public institutions. Therefore, the University of Chicago, and, by extension, its police force, is not subject to the Freedom of Information Act (FOIA). This

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<sup>147</sup> See U.S. DEPARTMENT OF JUSTICE, CAMPUS LAW ENFORCEMENT 2011-2012 (2015), <https://bjs.ojp.gov/content/pub/pdf/cle1112.pdf>.

<sup>148</sup> N.C. GEN. STAT. §74G -1-13 (2009).

<sup>149</sup> 110 Ill. Comp. Stat. Ann. 12/20.

<sup>150</sup> See Sanjali De Silva, *Police Divestment Efforts Must Include Universities*, ACLU (July 31, 2020), <https://www.aclu.org/news/criminal-law-reform/police-divestment-efforts-must-include-universities>.

<sup>151</sup> See Juliet Eldred, *Let Our Impact Grow From More to More: UChicago's Land Use and Expansion*, UNIV. CHI. (last visited Aug. 18, 2022), <https://uchicago.maps.arcgis.com/apps/MapSeries/index.html?appid=0b4a3b97c82540e7bb3350550c92282b>.

means it is not legally required to release records concerning allegations of racial profiling or racial discrimination. However, due to pressure from local advocacy groups, the UCPD released traffic stop data. The data demonstrates that over a fifteen-month period from 2015 to 2016, 74 percent of UCPD traffic stops and 92 percent of field interviews involved Black individuals, although 30% of the community population is Black.<sup>152</sup>

1. *Collaboration with Law Enforcement Agencies.* — As they operate today, campus police play an integral role in the fabric and operation of American postsecondary institutions.<sup>153</sup> Campus police exist at almost every college or university and maintain a 24-hour presence. They are no longer independently hired nighttime watchmen, but real institutional stakeholders with growing legal authority. The Department of Justice reported about 95 percent of 4-year colleges and universities with 2,500 or more students have a campus police department.<sup>154</sup> Institutions with small enrollments maintain campus security or police departments.<sup>155</sup> Of the campuses with campus police departments, 92 percent of public institutions and 38% of private institutions use sworn officers, most of whom are authorized by their state to use firearms and maintain jurisdiction beyond campus boundaries.<sup>156</sup>

Nearly 70 percent of campus police departments have a memorandum of understanding (MOU) or other formal agreement with outside law enforcement agencies.<sup>157</sup> For example, the University of Washington Police Department (UWPD) has an MOU with the Seattle Police Department and King County Sheriff's Office to enhance reporting and responses to violent and hate crimes on campus.<sup>158</sup> The MOU also establishes boundaries for the Seattle Police Department, whereby Seattle police officers will not conduct routine patrol of the university and will only respond to reports of an emergency or at the request of the UWPD Chief.<sup>159</sup> The University of Mississippi also works closely with other

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<sup>152</sup> *Id.*

<sup>153</sup> See CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES (Bonnie S. Fisher & John S. Sloan eds., 2018).

<sup>154</sup> See U.S. DEPARTMENT OF JUSTICE, CAMPUS LAW ENFORCEMENT 2011-2012 (2015), <https://bjs.ojp.gov/content/pub/pdf/cle1112.pdf>.

<sup>155</sup> In example, Sweet Briar College is a private women's liberal arts college in Sweet Briar, Virginia. The institution enrolls approximately 400-450 students per year and employs 12 campus police officers. The student-to-officer ratio amounts to approximately one campus security officer for every 40 students. See generally *Campus Safety*, SWEET BRIAR COLLEGE (last visited Aug. 18, 2022), <https://sbc.edu/campus-safety/staff/> (highlighting the current campus safety staff at Sweet Briar College).

<sup>156</sup> See U.S. DEPARTMENT OF JUSTICE, CAMPUS LAW ENFORCEMENT 2011-2012 (2015), <https://bjs.ojp.gov/content/pub/pdf/cle1112.pdf>.

<sup>157</sup> *Id.*

<sup>158</sup> See UNIVERSITY OF WASHINGTON, ANNUAL SECURITY AND FIRE SAFETY REPORT 2021-2022 (last visited Aug. 18, 2022), <http://police.uw.edu/crimedata/securityreport/>.

<sup>159</sup> See SEATTLE POLICE DEPARTMENT MANUAL, 16.250 – Interaction with the University of Washington Police Department (last visited August 18, 2022),

community law enforcement agencies, such as the Oxford Police Department and the Lafayette County Sheriff's Department. The university supports the Lafayette County Metro Narcotics Unit, a drug unit that has coerced local college-students into working as confidential informants for drug investigations.<sup>160</sup> It provides \$150,000 to fund the salaries of four full-time officers and supply resources such as money and body wires.

Additionally, universities can receive resources from the federal government to resource their campus police department. More than 100 campus police departments have received military surplus equipment like M16 rifles and tactical vehicles through the Department of Defense's 1033 program, which provides low-cost military-grade gear and weapons to law enforcement agencies.<sup>161</sup> The program was created in 1990 under the National Defense Authorization Act to serve state and local law enforcement with upgraded weapons and resources. However, the program has varied over the years. In 2015, following the police killing of Michael Brown in Ferguson, Missouri, former President Barack Obama reduced the program. Two years later former President Donald Trump reinitiated the program.

The deliberate collaboration with other law enforcement agencies has caused students and campus community members to take notice. They are weary about the parallels between campus police and municipal police, arguing campus police are para-militarized reflections of state surveillance and control. For example, students at the University of Minnesota joined the demonstrations that erupted in Minneapolis following the killing of George Floyd and began to criticize the Minneapolis Police Department's (MPD) professional relationship with the university. In response to community demands, the University of Minnesota officially limited its relationship with the Minneapolis Police Department.<sup>162</sup> The university announced it would cease using city police officers for large-scale sporting or entertainment events and would not contract with MPD for other specialized patrol or investigative services. Students across the country similarly petitioned their institutions to revisit the relationships with local law enforcement agencies, citing the police killings as a pandemic exposed within a pandemic.<sup>163</sup>

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<https://www.seattle.gov/police-manual/title-16---patrol-operations/16250---interaction-with-the-university-of-washington-police-department>.

<sup>160</sup> See Molly Minta, *College board OK's University of Mississippi funding controversial drug unit for another year*, MISS. TODAY (Nov. 18, 2021),

<https://mississippitoday.org/2021/11/18/ole-miss-drug-unit/>.

<sup>161</sup> See Sara Weissman, *Over 100 Campus Police Departments Got Military Equipment Through its Federal Program*, DIVERSE ISSUES HIGHER EDUC. (July 20, 2020),

<https://www.diverseeducation.com/home/article/15107343/over-100-campus-police-departments-got-military-equipment-through-this-federal-program>.

<sup>162</sup> See Valerie Strauss, *University of Minnesota limits ties to Minneapolis Police Department after death of George Floyd*, WASH. POST (May 28, 2020),

<https://www.washingtonpost.com/education/2020/05/28/university-minnesota-limits-ties-minneapolis-police-department-after-death-george-floyd/>.

<sup>163</sup> Students at New York University, Georgetown University, and the University of California, Berkeley demanded their respective institutions reduce the presence of police

2. *Budgets and Organization.* – Campus police departments maintain a degree of organizational autonomy within their institution. They operate multi-million-dollar budgets to recruit experienced law enforcement officers, provide technical and tactical training, conduct criminal investigations, advance contemporary policing techniques, carry weapons, and detain and arrest individuals. In addition, campus police departments are responsible for collecting and publishing annual data reports on campus crime statistics and safety procedures for federal compliance requirements. They are generally indistinguishable from their municipal counterparts. Campus police are statutorily authorized to act as peace officers of the state, carry lethal and nonlethal weapons, and execute warrants within their jurisdiction. They wear identifiable uniforms, operate police vehicles while on patrol, and maintain a hierarchical rank and file system. Many campus police departments across the country also work in tandem with local law enforcement agencies under memorandums of understanding or other formal agreements to share resources and databases.

Within the last fifty years, college campuses have become cities within cities, prompting researchers to examine their safety, design, and role in society. In turn, their geographical and economic expansion has led institutions to justify an even greater reliance on campus police.<sup>164</sup> In most states, campus police officers are state-authorized law enforcement officers with arrest powers, legally indistinguishable from their municipal and state counterparts. They carry out traditional police services, like crime prevention and law enforcement, in addition to being statutorily authorized to carry weapons, conduct investigations, respond to emergencies, and execute warrants and arrests. Many private colleges and universities also employ their own private law enforcement agencies to patrol campus and the surrounding community.

To support the expanding roles of campus police departments, postsecondary institutions have also expanded their budgets. During the 2019-2020 academic calendar year, the University of California Police Department (UCPD) spent more than \$135 million on campus policing.<sup>165</sup> The University of California San Francisco and University of California Los Angeles received over \$20 million each and are projected to increase their budget by about \$1 million in the 2020-2021 academic year.<sup>166</sup> Temple University allotted over \$27 million for

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on campus, instead increasing resources for mental health, food and housing security, and community partnerships. Student demands to cut ties with local police departments also included demands to disband the campus police departments at their own institutions. Students petitioned against institutional reliance of carceral approaches to safety on campus. The role and purpose of campus police suddenly found itself as a central point of the wave of national discussions of race and police.

<sup>164</sup> See CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES 293 (Bonnie S. Fisher & John S. Sloan eds., 2018).

<sup>165</sup> See University of California Community Safety Report from the Office of the President to Members of the Compliance and Audit Committee at the University of California (Jul. 29, 2020),

<https://regents.universityofcalifornia.edu/regmeet/july20/c6.pdf>.

<sup>166</sup> See *id.*

public safety in 2020, a budget larger than seven of the university's colleges.<sup>167</sup> The Ohio State University announced in 2021 an additional \$2 million a year for the next ten years will be provided for off-campus safety, increasing its police department's budget to approximately \$35 million annually.<sup>168</sup> In 2019, the University of Florida announced construction for a new \$20 million "Public Safety Complex" to house its police department and increase police visibility on-campus.<sup>169</sup> These multi-million-dollar campus police budgets have successfully allowed institutions to employ their own fully operational police departments with university mascots on cars, uniforms, and buildings.

In response to critiques of militarization, campus police departments are attempting to appear more approachable members of the campus community. As part of their strategy to be more community-focused, campus police departments have exchanged their police uniforms for casual clothing, adopted campus colors instead of white and black, removed flashing lights, and operated unmarked vehicles on campus.<sup>170</sup> Central Washington University was the first department to undergo these measures to soften their appearance when they replaced their traditional police uniforms for cargo pants and polo shirts.<sup>171</sup> The Franklin & Marshall College Police Department also opted for khakis and polos in 2020 to counter the appearance of militarization. Amherst University and Hamilton College have introduced unmarked police vehicles to reduce police presence on campus while allowing campus police officers to fulfill the missions of their departments.<sup>172</sup>

While campus police departments have adopted novel tactics to appear more approachable, they still remain fully operational law enforcement officers with arrest power and authority. Their softened appearance does not dismantle documented patterns of racial discrimination or violence and does not strip them

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<sup>167</sup> See TEMPLE UNIVERSITY, PROPOSED BUDGET FISCAL YEAR 2019-2020 (last visited Aug. 18, 2022), <https://finance.temple.edu/sites/finance/files/FY20%20Operating%20Budget%20Document%20-%20Approved%2007%2009%202019.pdf>.

<sup>168</sup> See *Ohio State announces additional \$20 million for safety and security*, OHIO STATE UNIVERSITY NEWS (Sept. 24, 2021), <https://news.osu.edu/ohio-state-announces-additional-20-million-for-safety-and-security/>.

<sup>169</sup> Daniel Smithson, *UF trustees approve \$100M in projects*, GAINESVILLE SUN (June 6, 2019), <https://www.gainesville.com/story/news/education/campus/2019/06/06/uf-trustees-approve-100-million-in-projects/4969613007/>.

<sup>170</sup> See Josh Moody, *Making Campus Police More Approachable*, INSIDE HIGHER ED (April 15, 2022), <https://www.insidehighered.com/news/2022/04/15/campus-police-alter-uniforms-and-unmark-cars-soften-image>.

<sup>171</sup> See *id.*; *CWU police change uniforms to become more approachable for students*, NBC RIGHT NOW (Dec. 5, 2017), [https://www.nbcrightnow.com/archives/cwu-police-change-uniforms-to-become-more-approachable-for-students/article\\_07c23cbc-f053-5f78-90a4-6ddd3f5e851b.html](https://www.nbcrightnow.com/archives/cwu-police-change-uniforms-to-become-more-approachable-for-students/article_07c23cbc-f053-5f78-90a4-6ddd3f5e851b.html).

<sup>172</sup> See Caelen McQuilkin, *ACPD Unmarks Vehicles, Prompting Student Concern*, AMHERST STUDENT (Mar. 30, 2022), <https://amherststudent.com/article/acpd-unmarks-vehicles-prompting-student-concern/>.

of their state authorized power to expand the carceral state on campus. The unmarked clothing and vehicles can serve to only exacerbate issues of state surveillance and militarization on campus.

## VI. INCIDENTS INVOLVING CAMPUS POLICE OFFICERS

The following table documents a wide range of incidents between campus police officers and the greater campus community. The table is not an exhaustive list, but rather an illustration of high-profile incidents that occurred within the last 15 years. The range of incidents include investigatory questions, vehicle searches, and officer-involved shootings. These incidents serve as an overview of the ways campus police officers interact in racialized ways with the campus community and face little to no legal accountability for violating the civil rights, privacy, or bodily safety of individuals.

<b>Institution</b>	<b>Year</b>	<b>Incident</b>	<b>Outcome</b>
Purdue University	2022	A white campus police officer, used his elbow to pin a Black graduate student, into the ground for resisting arrest.	No charges against campus police officer.
Stephen F. Austin State University	2020	Multiple campus police officers entered the dorm room of a 17-year-old Black undergraduate student at 3:00 am with lights and guns drawn after her white roommates and other students falsely accused her of a crime.	Student's family sued the institution. Her parents believe the incident was a racially motivated instance of "swatting."
American University	2019	Campus and local police officers publicly and forcibly removed a Black undergraduate student from her dormitory room after what was meant to be a wellness check.	Student sued the institution for unlawful entry and trespass and unreasonable seizure and false arrest.
Yale University	2018	Two white campus police officers interrogated a Black graduate student at 1:45 in the morning for sleeping in the common area of her dormitory after a white graduate student reported an unknown figure.	No charges against campus police officers. No charges against the white graduate student, even though this was the second time she called police on a Black graduate student.
University of Utah	2018	A campus police officer obtained and showed compromising photos of an undergraduate student that her ex-boyfriend threatened to release to other police officers. The officer bragged he could look at the photos whenever he wanted. Nine	The university's Police Chief retired, the Deputy Police Chief stepped down, and the officer quit prior to the investigation. All three men, in addition to two former officers, sued the university for

		days later, the student's ex-boyfriend killed her.	millions of dollars for alleged unfair treatment over the case.
University of Texas at San Antonio	2018	A white professor called campus police officers on a Black undergraduate student for propping her feet up on the seat in front of her. Campus police removed her from the classroom.	The university suspended the professor for the rest of the semester while it launched an investigation into her conduct for racial discrimination. The investigation did not find racial bias as a factor. Her contract was not renewed the following year.
Temple University	2017	A Black teenager at a nearby high school was stopped by a white Temple University Police Department campus police officer while driving his parent's car. The student was ordered onto the pavement at gunpoint and restrained while the vehicle was searched.	No charges against the campus police officer.  The student filed charges against the police officer for discriminatory policing.
University of Cincinnati	2015	During a traffic stop, a white University of Cincinnati campus police officer shot a Black resident in the head and killed him.	No charges against the campus police officer.
University of South Alabama	2012	A Black campus police officer shot and killed a white freshman near the campus police building at 1:30 in the morning. The student was naked and under the influence.	No charges against the campus police officer. The student's family sued the police officer for excessive force and wrongful death. A grand jury did not find criminal wrongdoing in the shooting and a judge ruled Austin was not civilly liable in Collar's death.
University of California Davis	2011	Multiple campus police officers in riot gear confronted peacefully assembled students associated with the Occupy Movement. A white campus police officer pepper sprayed students in the face while they were seated on the floor at the university quad.	The officer was terminated from his position, despite a recommendation that he face disciplinary action and remain on the force.
University of Florida	2010	A white campus police officer shot a Black graduate student in the face in his apartment. The officer was responding to a distress call coming from the student's apartment. The shooting damaged part of the	No charges against the campus police officer. The officer had a record of violent interactions with the campus community. He was ultimately terminated a year after for screaming

		student's jaw and the roof of his mouth.	expletives and threatening to shoot at a person during a traffic stop.
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## VII. POLICY CONSIDERATIONS

Although rapidly expanding, budgets for campus police have garnered attention, campus policing itself is not unique in the greater system of policing. The crimes that occur on campus are not uniquely different than those that occur outside of a university campus.<sup>173</sup> Campus police operate similarly to other law enforcement agencies and are authorized by nearly every state to be police officers of the state. In some states, university police even have the same rights, protections, and immunities afforded to other peace or law enforcement officers. Their presence on a college campus does not insulate them from the systemic issues of policing more generally. Campus police engage in the same patterns of coercive police tactics, militarization, police violence, and racial hostility and discrimination as their municipal counterparts.

This section puts forth two policy recommendations: (1) an urge to university leaders to reexamine their reliance on campus police, especially for non-emergency situations, and to incorporate non-law enforcement experts and voices in the maintenance and operation of campus safety, providing more room for community oversight and (2) a call for further research on campus policing and race.

### A. *University Leadership*

Higher education administrators and leaders rely on campus police for a range of duties. Their reliance, in part, is due to the broad authority campus police officers enjoy. Administrators are able to rely on campus police to unlock classroom buildings, investigate theft on campus, respond to active shooters, manage local traffic, maintain daily crime logs, and escort trespassors off campus because campus police have the authority to do so. However, administrators and leaders should reexamine their reliance on campus police and reconsider to what extent their authority should be exercised on campus for four reasons: (1) the delegitimization of racialized acts of violence committed against campus community members; (2) the maintenance of the police state on a university campus; (3) a lack of community oversight; and (4) the potential of legal liability.

First, the campus racial climate at many institutions of higher education is ripe with race-related conflict and incidents.<sup>174</sup> Racially marginalized students,

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<sup>173</sup> See BRADFORD W. REYNS & BILLY HENSON, *CRIMINAL VICTIMIZATION IN HIGHER EDUCATION: COLLEGE STUDENTS AS CRIME VICTIMS* (2019).

<sup>174</sup> See *THE RACIAL CRISIS IN AMERICAN HIGHER EDUCATION: CONTINUING CHALLENGES FOR THE TWENTY-FIRST CENTURY* (William A. Smith, Philip G. Altbach, & Kofi Lomotey eds., 2002) (analyzing how race plays a role in understanding discrimination against racially marginalized students on campus in society and in our institutions of higher education).

faculty, and staff experience discrimination, hostility, and violence while on campus from other campus community members. Campus police officers play a role in the way racial conflict becomes legitimized or deligitimized on campus. They have the discretion to pursue – or not pursue – action against persons who create or preserve racially hostile environments. So when campus police decide to end an investigation into bananas found on campus hanging on nooses after the first Black woman student body President is elected<sup>175</sup> or arrest a Black student for third-degree assault after a White student attempted to hit her with her car in the parking lot,<sup>176</sup> campus police are signaling to the rest of the campus community that racism and white supremacy are tolerated because its impacts on racially marginalized students are trivial.

Second, campus police officers uphold and preserve the police state on campus. Campus police officers are often called to respond to non-emergency situations such as classroom disagreements, noise complaints, managing parking permits, suspicion of drug use, and underage drinking. These non-emergency situations are generally not violent or disruptive in nature, but can quickly turn violent or substantially disrupt the learning environment. Racially marginalized students already face discrimination and intimidation in predominately White spaces and environments on campus that campus police fail to recognize as legitimate, so the threat of police violence or interference creates an additional level of intimidation that perpetuates oppressive systems.<sup>177</sup>

Data reveals that racially marginalized students are more likely to be disciplined or arrested for alleged “classroom disruption” than their white colleagues.<sup>178</sup> Black students often face disciplinary action for conduct that white students regularly engage in. Professors have called campus police on Black

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<sup>175</sup> See Gina Cook, *American University Ends Hate Crime Investigation a Year Later*, NBC WASH. (Apr. 18, 2018), <https://www.nbcwashington.com/news/local/american-university-ends-hate-crime-investigation-a-year-later/53518/>.

<sup>176</sup> See Isabel Hope, “It is blatant racism”: UA student shares story of arrest on Instagram, CRIMSON WHITE (Mar. 2, 2022), <https://thecrimsonwhite.com/96173/news/it-is-blatant-racism-ua-student-shares-story-of-arrest-on-instagram/>.

<sup>177</sup> See Cobretti D. Williams, *Race and Policing in Higher Education*, ACTIVIST HIST. REV. (Nov. 19, 2019), <https://activisthistory.com/2019/11/19/race-and-policing-in-higher-education/>.

<sup>178</sup> See Marty J. Alvarado, *Campus Police Reform is a DEI Priority Moving Forward on the Call to Action*, CALIF. CMTY. COLLS. (last visited Aug. 18, 2022), <https://www.cccco.edu/About-Us/News-and-Media/California-Community-Colleges-Outlook-Newsletter/campus-policing>.

students for tardiness,<sup>179</sup> perching their feet on the seat in front of them,<sup>180</sup> and sitting in class charging their laptop<sup>181</sup>. Students and employees have also called

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<sup>179</sup> In 2022, a Black professor at Georgia State University called campus police on two Black students for being tardy to class. Two armed campus police officers responded to the professor's call and came to her class. The officers de-escalated the situation and did not remove the students. The professor's in-person teaching duties were suspended for the remainder of the semester and the university offered counseling available to students in the class. See Colleen Flaherty, *Classroom 911*, INSIDE HIGHER ED (Apr. 4, 2022), <https://www.insidehighered.com/news/2022/04/04/professor-calls-police-two-tardy-black-students>.

<sup>180</sup> In 2018, a white professor at the University of Texas San Antonio called campus police on a Black student for having her feet up on the chair in front of her. The student was escorted out of the classroom by campus police. A student in the class caught the incident on camera and uploaded the video to social media. The professor said the behavior was disruptive. Over the course of the semester, the professor repeatedly asked students to stay off their phones and keep their feet to themselves because such behavior was disrespectful. Her teaching duties were suspended for the remainder of the semester. The university did not find racial bias in the professor's conduct. See Charlotte West, *University of Texas San Antonio Professor Who Called Police on a Student is Suspended from Teaching Duties for Rest of the Semester*, TEEN VOGUE (Nov. 16, 2018), <https://www.teenvogue.com/story/utsa-professor-calls-police-on-student#:~:text=A%20University%20of%20Texas%20at,on%20a%20desk%20on%20Monday>.

<sup>181</sup> In 2020, a professor at Ball State University called campus police on a Black student who sat at the back of the classroom when his usual seat at the front of the classroom was taken. When the seat became available, the professor asked the student to change seats mid-lecture. However, the student was comfortable in his current seat and charging his laptop, so he politely declined to move. When campus police arrived, the other students in class quickly told the officers he was not disrupting class. The student took legal action against the university and sued for compensatory damages. See Lilah Burke, *Professor Calls Police When Student Refused to Move Seats*, INSIDE HIGHER ED (Jan. 27, 2020), <https://www.insidehighered.com/quicktakes/2020/01/27/professor-calls-police-when-student-refused-move-seats>.)

campus police on Black and Indigenous students for napping in their dormitory common rooms<sup>182</sup>, eating lunch on campus,<sup>183</sup> and going on university tours.<sup>184</sup>

University leaders have the opportunity to respond to racialized interactions between students and campus police with meaningful action. They are in positions of power to initiate and support racially conscious institutional policies that hold members of the campus community accountable, including officers, for discriminatory conduct. However, the campus community is often met with public statements from university leaders scattered with recurrent phrases on the condemnation of discriminatory conduct on campus. Racially marginalized faculty are also tasked with the burden of implementing justice-oriented reform and practices on campus often with little to no support or

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<sup>182</sup> In 2018, a white graduate student at Yale University called campus police because a Black woman she did not recognize was asleep in the graduate dormitory's common area. The woman was a graduate student who happened to fall asleep on a couch in the common area. Campus police interrogated the Black student for several minutes. They asked her to identify who she was, what she was doing in the common area, how to spell her name, and provide her university ID card. Campus police informed the white graduate student that her call was not a matter of police concern and left. Several months before this incident, the same white graduate student blocked another Black graduate student from entering the common area and called campus police on a "suspicious character" who was trespassing on university property. (See Britton O'Daly, *Yale responds after black student reported for napping in common room*, YALE DAILY NEWS (May 10, 2018), <https://yaledailynews.com/blog/2018/05/10/yale-responds-after-black-student-reported-for-napping-in-common-room/>).

<sup>183</sup> In 2018, a Black graduate student was reading and eating her lunch on campus when an employee called campus police because they believed the student looked to be "out of place." A campus police officer approached the Black graduate student and asked what she was doing on campus. After she responded she was taking a break from working the summer program, she began to record her interaction with the campus police officer and asked for the name of the employee who called the police. The university issued a statement describing university policy that prohibits the release of the names of parties involved. See Emma Whitford, *Police Called on Black Student Eating Lunch*, INSIDE HIGHER ED (Aug. 3, 2018), <https://www.insidehighered.com/quicktakes/2018/08/03/police-called-black-student-eating-lunch>.

<sup>184</sup> In 2018, a white woman on a campus tour at Colorado State University called campus police on two Native American brothers who were several minutes late for the tour. She said she was concerned about the two young men because they did not seem to be part of the tour group and really "stood out." She also said their clothes had "weird symbolism" on them. Campus police officers pulled the brothers aside, asked them to empty their pockets, patted down their pockets, and inquired as to why they were there. The brothers explained they were interested in applying to the university and were late to the tour because they drove seven hours to Colorado from New Mexico. After the campus police officers completed their investigation, the brothers were permitted to rejoin the tour group. However, the tour group left and the brothers were uncertain where they went. Instead, they drove the seven hours back to New Mexico. See Scott Jaschik, *The Admissions Tour That Went Horribly Wrong*, INSIDE HIGHER ED (May 7, 2018), <https://www.insidehighered.com/admissions/article/2018/05/07/colorado-state-investigates-why-native-american-students-admissions>.

recognition. The public statements and lack of racially conscious action further marginalize already marginalized communities on campus.

For many racially marginalized students, interaction with campus police officers is the entry point to the criminal legal system. Interaction with campus police officers opens the door for increased surveillance, disciplinary action, and arrest. When professors, employees, or other students call campus police officers on racially marginalized students, they are using carceral state powers to validate the over-criminalization of racially marginalized students. They are using campus police officers as agents of the state to regulate student behavior and exercise control in racially discriminatory ways.

Interaction with campus police by itself can substantially uproot or disrupt a student's educational environment. This is especially true when the interaction requires the student to justify their existence. Even if the student does not receive any type of punitive action, they were still introduced to the criminal legal system and exposed to the social harms that follow. Once campus police officers respond to a call, they generally question the student to assess the situation. Officers ask students for their name, identification, university affiliation, and to describe the events that transpired prior to their arrival. This kind of questioning places the student in a position that requires they justify conduct or behavior that is otherwise considered ordinary, such as being a few minutes late to class or refusing to move seats in the middle of a lecture. In these circumstances, racially marginalized students are not only subjected to policing and surveillance, but are subsequently forced to validate their existence to campus police as well as to their peers on campus.

Campus police officers are also called to conduct mental health or wellness checks. University policies often require campus police officers to initiate contact with a student experiencing a mental health crisis, conduct a wellness check, or otherwise be notified or involved in the mental health procedure. However, the 2020 national conversation about policing practices led universities to reexamine what level of involvement campus police officers should have, if at all, in responding to mental health crises.<sup>185</sup>

Research shows that college students are experiencing their highest levels of depression and anxiety.<sup>186</sup> A professor at Boston University reports the high levels of depression and anxiety are a sign of the mounting stress from COVID-

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<sup>185</sup> See Sara Weissman, *Higher Ed Institutions Reexamine Role of Police in Student Mental Health Care*, DIVERSE ISSUES HIGHER EDUC. (Oct. 24, 2020), <https://www.diverseeducation.com/home/article/15108008/higher-ed-institutions-reexamine-role-of-police-in-student-mental-health-care>.

<sup>186</sup> See Justin Heinze, *Anxiety, Depression Reached Record Levels among College Students Last Fall*, UNIV. MICH. SCHOOL PUB. HEALTH (Feb. 25, 2021), <https://sph.umich.edu/news/2021/posts/anxiety-depression-reached-record-levels-among-college-students-fall-2020.html>; Kat J. McAlpine, *Depression, Anxiety, Loneliness Are Peaking in College Students*, BRINK (Feb. 17, 2021), <https://www.bu.edu/articles/2021/depression-anxiety-loneliness-are-peaking-in-college-students/>.

19, political unrest, and systemic racial oppression.<sup>187</sup> A professor at the University of Michigan found that almost 85% of students reported at least one day of academic impairment due to mental health.<sup>188</sup> In particular, Black college students have higher levels of psychological distress due, in part, to racism and discrimination.<sup>189</sup> Black college students also face hidden mental health concerns. Many are faced with validating their existence and proving their worth on campus while simultaneously confronting racism and discrimination.<sup>190</sup>

Racially marginalized students with mental illnesses can often feel intimidated or unsafe by the presence of police officers because interactions between campus police officers and students who exhibit signs of mental illness have quickly turned violent. During wellness checks, campus police officers have forcefully removed a Black student from their dormitory room<sup>191</sup>, shot a Black graduate student in the face<sup>192</sup>, and placed a Black student on a 72-hour psychiatric hold without notifying family members<sup>193</sup>. Campus police officers are

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<sup>187</sup> Kat J. McAlpine, *Depression, Anxiety, Loneliness Are Peaking in College Students*, BRINK (Feb. 17, 2021), <https://www.bu.edu/articles/2021/depression-anxiety-loneliness-are-peaking-in-college-students/>.

<sup>188</sup> See Justin Heinze, *Anxiety, Depression Reached Record Levels among College Students Last Fall*, UNIV. MICH. SCHOOL PUB. HEALTH (Feb. 25, 2021), <https://sph.umich.edu/news/2021/posts/anxiety-depression-reached-record-levels-among-college-students-fall-2020.html>;

<sup>189</sup> See Dawnsha R. Mushonga & Angela K. Henneberger, *Protective factors associated with positive mental health in traditional and nontraditional Black students*, 90 *Am. J. Orthopsychiatry* 147 (2019), <https://pubmed.ncbi.nlm.nih.gov/30920241/#:~:text=Abstract,state%20of%20their%20mental%20health>.

<sup>190</sup> Ebony O. McGee & David Stovall, *Reimagining Critical Race Theory in Education: Mental Health, Healing, and the Pathway to Liberatory Praxis*, 65 *EDUC. THEORY* 491 (2015), <https://onlinelibrary.wiley.com/doi/abs/10.1111/edth.12129>.

<sup>191</sup> In 2019, seven American University Police Department (AUPD) officers and Metropolitan Police Department (MPD) officers publicly and forcibly removed Gianna Wheeler, a Black undergraduate student, from her dormitory room after what was meant to be a wellness check. They obtained a key to her room without a warrant and unlocked it despite her objections. For hours, the officers pressured her to agree to attend an inpatient psychiatric facility for evaluation.

<sup>192</sup> In 2010, University of Florida Police Department officers responded to reports of screaming from the on-campus apartment of Kofi Adu-Brempong, a Black graduate student from Ghana who was suspected of having mental health issues. He did not let officers into his apartment. After 90 minutes, an officer forced entry in the apartment. Keith Smith, a white campus police officer, shot Kofi Adu-Brempong, a Black graduate student from Ghana, in the face. Officers were responding to reports of screaming heard from inside Adu-Brempong's apartment. Smith was part of the Critical Incident Response Team (CIRT), a UFPD team designated to respond to high-risk emergencies. The shooting damages part of Adu-Brempong's jaw and the roof of his mouth.

<sup>193</sup> In 2019, two California Polytechnic State University Police Officer stopped Renee Walker, a Black undergraduate student, outside of an academic building for a wellness check. Wellness checks are usually conducted by members of Counseling and Psychological Services. While one officer held her belongings, the other officer placed

not trained mental health professionals and, despite recent trends of increased institutional investments to hire more campus police officers, cannot replace the medical treatment necessary to address mental health crises.

Campus police responses for non-emergency situations often results in the over-criminalization of racially marginalized of students and the exercise of carceral state powers that opens the door to the *college-prison nexus*<sup>194</sup> in higher education. Far too many non-emergency situations are better suited for intervention from trained student affairs or mental health professionals. University leaders should reduce their reliance on campus police officers to respond to non-emergency situations and support responses that do not involve law enforcement.

Third, campus police departments lack community input or oversight.<sup>195</sup> Unlike many of their municipal counterparts<sup>196</sup>, campus police departments do not maintain a process for community members to submit or review complaints of alleged misconduct against officers or policing tactics. They also do not maintain institutional procedures to interact with community members so as to receive feedback about policing strategies or community needs. Institutions delegate power to campus police officers without providing community members the often necessary space to review or comment on those powers.

Lastly, discriminatory and harmful policing practices expose colleges and universities to legal liability. In the K-12 context, school districts have been sued for discrimination and use of excessive force and courts have routinely found school districts liable for the unlawful conduct of school resource officers.<sup>197</sup> Recent national attention on policing and the racially disproportionate consequences of policing have raised legal questions as to the role of campus police officers in keeping students and the community safe. The more colleges and universities continue to rely on campus law enforcement to perform a wide range of duties, especially non-emergency situations that do not require police

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her arms behind her back and cuffed her hands together. She was informed that the officers were escorting her to a psychiatric hospital for a quick assessment before going back to campus. However, the officers left her in the hospital because the campus police department placed her on a 72-hour hold. She had no way to contact her family.

<sup>194</sup> See Royel Johnson & Judge Paul Matias Dizon, *Toward a Conceptualization of the College-Prison Nexus*, 96 PEABODY J. EDUC. 508 (2021) (detailing and describing the “college-prison nexus” as a way to conceptualize the carceral connections between institutions of higher education and carceral state powers).

<sup>195</sup> The lack of public information regarding alleged police misconduct, internal investigations, policing strategies, or policing tactics or subsequent is also puzzling seeing that campus police departments have been modeled after municipal law enforcement agencies.

<sup>196</sup> For example, the New York Police Department (NYPD) maintains a public database of complaints lodged against officers for alleged misconduct. They database also records disciplinary actions and any relevant investigation results. See *NYPD Member of Service Histories*, NYC CIVILIAN COMPLIANT REV. BD. (last visited Aug. 18, 2022), <https://www1.nyc.gov/site/ccrb/policy/MOS-records.page>.

<sup>197</sup> See *The Right to Remain a Student: How CA School Policies Fail to Protect and Serve*, ACLU (Sep. 22, 2021), <https://www.aclunc.org/publications/right-remain-student-how-ca-school-policies-fail-protect-and-serve>.

response, the more likely it is that they open themselves up to issues of liability. Furthermore, the use of cell phones to record and post interactions between campus police and students, especially interactions that lead to racial discrimination or violence, provides another challenge for institutions. University leaders cannot overlook or disregard these interactions because social media increases the visibility of racialized police violence and places pressure on institutions to respond.

Higher education administrators and leaders should reconsider their reliance, and the extent which they rely on campus police to exercise their broad authority on campus because, as documented, on-campus policing perpetuates oppressive systems, particularly for racially marginalized communities on campus, and, furthermore, exposes universities to legal consequences.

### B. *Future Research*

Campus police have become ubiquitous at American campuses yet legal scholarship on campus policing and race is especially limited. Future examination of the legal histories and relationships between campus, policing, and race is critical to unraveling the nexus between higher education and the carceral state. There are several opportunities for scholars to expand existing scholarship on campus policing and race. This article addresses two of them: (1) interactions between campus police officers and the greater campus community and (2) reporting requirements on race-related crimes. Other points of research include the expansion of the legal authority and protections of campus police officers at public and private institutions, the college-prison nexus<sup>198</sup>, the influence of campus police officers on campus climate, perceptions of legitimacy of campus police officers, and community oversight into the policies and practices of campus policing.

First, campus police officers regularly interact with students, faculty, staff, and local community members. However, the extent to which they interact with the larger campus community is unknown. How many students do campus police officers stop in a semester? Why are they stopped? Where are they stopped? What are the racial demographics of students who are stopped on campus? How often do faculty call campus police to remove students from their classroom for disruption? What are the racial demographics of faculty who call campus police to remove students from their classroom for disruption? What are the racial demographics of students removed from the classroom for disruption? Further, and importantly, what are the racial demographics of students who feel comfortable reporting crimes to campus police? Although campus police have legal obligations to report crime statistics relevant to their campus, their interaction with the greater campus community is largely unknown.

Second, the emergence of college campus public safety imposed responsibilities on institutions and their safety and security departments that

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<sup>198</sup> See Royel Johnson & Judge Paul Matias Dizon, *Toward a Conceptualization of the College-Prison Nexus*, 96 PEABODY J. EDUC. 508 (2021).

fundamentally changed the nature of campus policing.<sup>199</sup> The change in the nature and work of campus policing in due, in part, to legal intervention. For example, the Clery Act directed institutions to be more transparent about criminal activity on or around campus. However, the implementation of the Clery Act introduced confusing and lengthy protocols that made reporting difficult and time-consuming.<sup>200</sup> Campus security and police departments were led to allocate their resources to compiling intricate statistical reports rather than dedicating the necessary time to managing the mission of campus safety.<sup>201</sup>

An increased attention to crime on campus in the 1980s led to significant legal and policy developments that required institutions to disclose information related to campus safety and security. In 1990, President George H.W. Bush signed into law the Student Right-to-Know and Campus Security Act of 1990. In 1998, the law was renamed the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).<sup>202</sup> The law stands in remembrance of Jeanne Clery, a student at Lehigh University who was sexually assaulted and murdered in her residence hall by another student. The Clery Act required institutions to provide annual reports of campus crime statistics. It has since been amended five times to include increased safety measures. As it stands today, the Clery Act requires all institutions that participate in federal student aid programs to provide an annual security report, maintain a public log of crimes reported to campus police, issue “timely warnings” of crimes covered under the crime statistics, and retain the last eight years of crime statistics for data reporting.

Campus police departments or officials on campus with campus security authority have data record and reporting obligations under the Clery Act. They usually work in collaboration with their institution to draft the Annual Security Report, issue “timely warnings” for serious on ongoing threats to the campus, and maintain and publicize the daily campus crime log. Campus police departments also work with their institution to ensure proper dissemination of relevant information through several modes, such as email and social media. Noncompliant institutions face investigations and penalties from the Department of Education for failing to comply with any part of the Clery Act.<sup>203</sup> Most

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<sup>199</sup> Federal legislation such as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990 (known as the “Clery Act”), Title IX of the Education Amendments of 1972 (known as “Title IX”), and the Family Educational Rights and Privacy Act (known as “FERPA”) have expanded the legal obligations of postsecondary institutions to keep their campuses safe.

<sup>200</sup> See Edward Davis, *It’s Time to Reform the Clery Act*, INSIDE HIGHER ED (May 15, 2020), <https://www.insidehighered.com/views/2020/05/15/clery-act-does-little-improve-campus-safety-even-during-pandemic-opinion>.

<sup>201</sup> See *id.*

<sup>202</sup> 20 U.S.C. § 1092(f).

<sup>203</sup> The U.S. Department of Education found Virginia Tech violated the Clery Act when it failed to promptly provide a “timely warning” of the mass shooting that occurred on campus in 2007. The Education Department levied a fine of \$55,000 against Virginia Tech, the highest amount possible for a Clery Act violation. In 2012, a jury found Virginia Tech was negligent in its response to warning the campus community of an active gunman on campus when the parents of two slain students filed a wrongful death

notably, the Department of Education has issued substantial, million-dollar fines against postsecondary institutions that fail to accurately report crime statistics or provide key information in their annual safety reports regarding safety policies and responses.<sup>204</sup>

Notwithstanding institutions that intentionally misrepresent the frequency and type of crimes that occur on campus, institutions face challenges in accurately documenting crimes against racially marginalized communities. Specifically, crimes of sexual assault or sexual violence<sup>205</sup> and hate crimes<sup>206</sup> against racially marginalized communities are grossly underreported. The lack of documentation of sexual assault or racially biased crimes on campus is notable in the annual security reports required of colleges and universities.

Sexual assault is widely considered to be the most underreported crime in the United States.<sup>207</sup> Nearly 80% of rapes and sexual assaults are unreported to law enforcement.<sup>208</sup> Though research on reporting statistics vary, current estimates suggest that 1 in 5 women and 1 in 16 men are sexually assaulted while in college.<sup>209</sup> While most postsecondary institutions maintain structures in place

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lawsuit against the university. However, in 2013, the Supreme Court of Virginia reversed the decision, holding the Commonwealth of Virginia and its affiliated agencies such as Virginia Tech are not responsible for warning students of the potential of criminal act of third parties.

<sup>204</sup> In 2019, Michigan State University faced a historic record-setting fine for \$4.5 million for failure to report sexual abuse following its failure to respond to the sexual abuse of hundreds of athletes by Larry Nassar. See Jeremy Bauer-Wolf, *A Record Fine for Underreporting Sex Crimes*, INSIDE HIGHER ED (Sept. 6, 2019), <https://www.insidehighered.com/news/2019/09/06/education-department-fines-michigan-state-45-million-not-reporting-nassar-crimes>. The fine is the largest fine under the Clery Act. In 2016, Penn State faced a \$2.4 million fine for failure to notify the campus community about Jerry Sandusky, an assistant football coach, for child abuse and failure to disclose crimes on campus. See Jake New, *Historic Fine for Penn State*, INSIDE HIGHER ED (Nov. 4, 2016),

<https://www.insidehighered.com/news/2016/11/04/education-departments-historic-sanction-against-penn-state-clery-violations>. The Education Department described the institution's "football culture" as responsible in part.

<sup>205</sup> See Maya Finoh & Jasmine Sankofka, *The Legal System Has Failed Black Girls, Women, and Non-Binary Survivors of Violence*, ACLU (Jan. 28, 2019), <https://www.aclu.org/blog/racial-justice/race-and-criminal-justice/legal-system-has-failed-black-girls-women-and-non>.

<sup>206</sup> See Tanner Stening, *Why Hate Crimes are Underreported – And What Police Departments Have to Do With It*, NEWS AT NE. (Aug. 23, 2021), <https://news.northeastern.edu/2021/08/23/why-hate-crimes-are-underreported-and-what-police-departments-have-to-do-with-it/>.

<sup>207</sup> See Cameron Kimble & Inimai M. Chettiar, *Sexual Assault Remains Dramatically Underreported*, BRENNAN CTR. JUST. (Oct. 4, 2018), <https://www.brennancenter.org/our-work/analysis-opinion/sexual-assault-remains-dramatically-underreported>.

<sup>208</sup> See U.S. DEPARTMENT OF JUSTICE, CRIMINAL VICTIMIZATION, 2016: REVISED (2018), <https://www.bjs.gov/content/pub/pdf/cv16.pdf>.

<sup>209</sup> <https://pcar.org/about-sexual-violence/campus-sexual-assault>

to report and investigate sexual assault on campus, university leaders often ignore the intersection of gender and race when addressing campus sexual assault.<sup>210</sup>

Approximately 25 percent of Native American women, 23 percent of Latina women, 22 percent of multiracial women, 21% of Pacific Islander women, 18 percent of Black women, and 12 percent of Asian American women reported sexual assault while on campus.<sup>211</sup> Furthermore, Black men are often overlooked as victims of sexual assault. Intersectional frameworks on Blackness and masculinity posit Black men as sexual predators and not victims of sexual assault and therefore contradicts the victimhood experience.<sup>212</sup>

Further, institutions generally report little to no racially-based or racially-motivated crimes on campus despite documented evidence of violence and discrimination against racially marginalized students on campus. Many large public institutions reported less than five racially biased crimes in the last three years.<sup>213</sup> Some universities even reported zero.<sup>214</sup> The small number of reported racially-biased crimes, including hate crimes, at institutions that educate and employ thousands of people is perplexing.

Here, reporting mandates and categories fail to adequately capture crimes against vulnerable populations and pressing issues of campus safety. Hate crimes, racially motivated crimes, violence against LGBTQIA+ persons, sexual assault against men, and sexual violence all remain grossly underreported. As a result, the harms committed against vulnerable populations and their lived realities on campus remain largely unseen in campus security measures.

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<sup>210</sup> See J.C. Harris, *Women of Color Undergraduate Students' Experiences with Campus Sexual Assault: An Intersectional Analysis*, 44 REV. HIGHER EDUC. 1 (2020).

<sup>211</sup> *Id.*

<sup>212</sup> See Jordyn Livingston, *Predator or Prey: The Analysis of Gender and Race on the Perception of Black Men as Sexual Assault Victims*, UNIV. S.C. (2021), [https://sc.edu/about/offices\\_and\\_divisions/research/news\\_and\\_pubs/caravel/archive/2021\\_spring/2021\\_predator\\_preyp.php](https://sc.edu/about/offices_and_divisions/research/news_and_pubs/caravel/archive/2021_spring/2021_predator_preyp.php).

<sup>213</sup> The University of Kentucky reported 0 hate crimes in 2018, 1 hate crime in 2019, and 0 hate crimes in 2020. See 2021 ANNUAL SAFETY AND SECURITY REPORT (last visited Aug. 18, 2022) <https://www.uky.edu/cmp/sites/www.uky.edu.cmp/files/ASR2021FINAL.pdf>. North Carolina State University reported 2 hate crimes in 2019 and 3 hate crimes in 2020. See NC STATE UNIVERSITY ANNUAL SECURITY AND FIRE SAFETY REPORT OCTOBER 2021 (last visited Aug. 18, 2022), <https://police.ehps.ncsu.edu/wp-content/uploads/sites/6/2021/09/NC-State-Annual-Security-and-Fire-Safety-Report-2021-N0038424xC1D49.pdf>.

<sup>214</sup> The University of South Carolina reported 0 hate crimes between the years 2018 and 2019. See 2021 ANNUAL SECURITY AND FIRE SAFETY REPORT FOR YEARS 2018-2020 (last visited Aug. 18, 2022) [https://sc.edu/about/offices\\_and\\_divisions/law\\_enforcement\\_and\\_safety/documents/clery\\_21.pdf](https://sc.edu/about/offices_and_divisions/law_enforcement_and_safety/documents/clery_21.pdf). Colorado State University reported 0 hate crimes in 2020. See ANNUAL FIRE AND SAFETY REPORT 2021 (last visited Aug. 18, 2022), <https://clery.colostate.edu/wp-content/uploads/sites/6/2022/04/2021-safety-report-final-for-publishing-2.pdf>. Louisiana State University reported 0 hate crimes between the years 2018 and 2020. See 2021 ANNUAL SECURITY AND FIRE REPORT (last visited Aug. 18, 2022), <https://www.lsue.edu/police/2021%20annual%20security%20and%20fire%20report.pdf>.

Lastly, there are three significant theoretical considerations in this article that provide opportunity for future research. First, there is an ever-present underlying assumption about the philosophical concept of higher education. What is higher education and how do we operationalize it? Further, what purposes, if any, do institutions of higher education serve to the greater community? Second, what are the goals and purposes of policing? Lastly, how does and should the role of safety on campus be implemented? A philosophical understanding of the nature and purposes of higher education and policing provide a foundational bases for a critical understanding of safety on campus.

## CONCLUSION

The first institutions of higher education to hire campus police officers in the 1890s and early 1900s were private, elite institutions that bordered predominately Black and Hispanic working-class or poor White neighborhoods. Campus police were engineered to serve as the physical barrier between the university campus and the surrounding neighborhoods because Black and Hispanic community members were cast as dangerous “outsiders” who jeopardized the institution’s marketed crime-free character. Campus police officers acted on racialized conceptions of safety and belonging and enforced racialized policies and practices that developed well into their current form.

The broad presence and authority of campus police officers deserves greater academic scrutiny. In particular, addressing concerns about how racially marginalized students are treated by campus police officers. Because most campus police officers are legally authorized agents of the state with the powers to execute warrants and arrests, they serve as a revolving door into the criminal legal system for many vulnerable populations on campus. They further the state’s historical criminalization of Black people by over-policing Black and other racially marginalized students, casting their presence on campus as illegitimate.

Although generally held out to be opposing state forces, policing and higher education interact in alarming ways. Institutions of higher education are held to be safe enclaves of academic endeavor free from the state’s carceral practices and systems of punishment. However, colleges and universities employ and support campus police departments to exercise those same carceral practices on campus. Campus police officers operate in alignment with other law enforcement agencies and are legally authorized to exercise broad police powers, such as executing arrests and warrants. They engage in the same racially discriminatory practices as their municipal counterparts and maintain racially hostile environments. Campus police officers are treated as a safer, less dangerous alternative to “real” police officers because they uphold the educational mission of the institution. Nevertheless, campus policing fails to align itself with justice-oriented practices of the educational missions of postsecondary institutions and instead brings carcerality on campus.