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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\*

## *Abstract*

*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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*I. 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 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.

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1. See SHAUN L. GABBIDON & HELEN TAYLOR GREENE, RACE AND CRIME 1–5 (2d ed. 2009) (examplifying various works of scholarship pertaining to the criminal justice and legal system); RICHARD J. LUNDMAN, POLICE AND POLICING: AN INTRODUCTION 2 (1980).

2. See James c. Wada et al., *Betwixt and Between: The Perceived Legitimacy of Campus Police*, 33 POLICING: AN INT'L J. POLICE STRATEGIES & MGMT. 114, 115–116 (2010) (juxtaposing the in-depth research of the criminal justice system with the research conducted about campus policing); see Ryan Patten et al., *The Continued Marginalization of Campus Police*, 39 POLICING: AN INT'L J. POLICE STRATEGIES & MGMT. 566, 566 (2016) (“Campus police are a relatively understudied group, especially compared to their municipal counterparts.”).

3. “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. See Melinda D. Anderson, *The Rise of Law Enforcement on College Campuses*, THE ATL. (Sept. 28, 2015) (“[C]ampus-police units are as ubiquitous on most college and university campuses as residence halls, libraries, and tenured faculty.”) [perma.cc/3B5Z-3LD8].

4. See BONNIE S. FISHER & JOHN S. SLOAN, CAMPUS CRIME: LEGAL, SOCIAL, AND POLICY PERSPECTIVES 274 (4th ed. 2022) (noting the irony of the lack of scholarship concerning what is occurring and has occurred on college campuses); CHARLES C. THOMAS ET AL., CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK 29 (1983) (addressing the scholarship of campus policing).

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.<sup>10</sup> A critical investigation of the impact of race on campus policing is notably absent in the literature and public

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5. See *National Sources of Law Enforcement Employment Data*, U.S. DEPT OF JUST. 1 (2016) (noting how many law enforcement agencies are in the United States) [perma.cc/7KYU-38K6].

6. See Brian A. Reaves, *Campus Law Enforcement, 2011-12*, U.S. DEPT OF JUST. 2 (2015) [perma.cc/K7FK-83Z3].

7. See *id.* (highlighting the overwhelming presence of campus police on a majority of college campuses).

8. 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. ROSS A. WOLF, *CAMPUS SAFETY DIRECTORS: A LEADERSHIP FRAME ANALYSIS* 44–45 (1998) (describing the history of campus policing).

9. See Reaves, *supra* note 6 (finding that most college campuses have some form of a police presence).

10. See Eddie R. Cole, *The Racist Roots of Campus Policing*, WASH. POST (June 2, 2021, 6:00 AM) (discussing the connection between higher education institutions and racist policing) [perma.cc/WP38-LCVN].

dialogue surrounding campus climate.<sup>11</sup> 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 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

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11. See generally Wada, *supra* note 2 (showcasing the lack of conversation about race in analyzing campus policing).

system that perpetuate racial discrimination and racism on campus.

## II. *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>12</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>13</sup> They were charged with protecting university property and facilities from the non-university community members.<sup>14</sup> The watchmen gradually evolved into security officers who, in addition to securing campus buildings, oversaw student conduct. By the 1980s, the security officers became full-service campus police officers who provided 24-

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12. See 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) (highlighting the need to revisit campus policing after the murder of George Floyd) [perma.cc/3YVJ-CQQP]; The Editorial Board, *Rein in Campus Police*, BOS. GLOBE, (July 20, 2020, 8:00 AM) (noting the increased militarization of campus police) [perma.cc/C2A5-XFVP]; Grace Watkins, *The Crimes of the Campus Police*, CHRON. HIGHER EDUC. (Oct. 20, 2020) (describing various inappropriate and criminal actions by campus police) [perma.cc/RUW9-HNR2]; Mike Baker, *Black Campus Police Officers Say They Suffered ‘Unbearable’ Racism*, N.Y. TIMES (June 22, 2021) (giving examples of racism faced by African American campus police within their own ranks) [perma.cc/7J9Y-36KS].

13. See John J. Sloan III, *Race, Violence, Justice, and Campus Police*, 48 AM. SOCIO. ASS’N. 1, 9 (2020) (explaining the origins of campus policing).

14. See generally DIANE C. BORDNER & DAVID M. PETERSEN, *CAMPUS POLICING: THE NATURE OF UNIVERSITY POLICE WORK* (1983) (describing the original role of campus police officers before the later expansion of their role); FISHER & SLOAN, *supra* note 4, at 303 (describing campus police in the early 1900s at “watchmen”).

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>15</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>16</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>17</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>18</sup> The watchmen were not given professional law

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15. See DAVARIAN L. BALDWIN, *IN THE SHADOW OF THE IVORY TOWER* 24 (2021) (“Since American colonial times, the placement and design of college campuses reflected a clear antagonism toward urban life and the kind of social diversity that cities engendered.”).

16. WILLIS G. WISER, *YALE MEMORIES* 11 (1914) (articulating when police officers started patrolling the Yale campus); BORDNER & PETERSEN, *supra* note 14, at ix; see FISHER & SLOAN, *supra* note 4, at 287 (noting Yale as the site of the first campus police agency).

17. See BORDNER & PETERSEN, *supra* note 14, at ix (“Historically these watchmen, who were usually older retired men and employed only at night and on weekends, were attached to the maintenance or physical plant department, and their main concern was with protection of college property.”); FISHER & SLOAN, *supra* note 4, at 24 (giving a brief history of the basic functions of early campus police).

18. See BORDNER & PETERSEN, *supra* note 14, at 120 (1983) (contrasting the duties of the campus watchmen to those performed by actual police officials).



enforcement training, but instead were tasked with patrolling the campus to detect fire hazards and perform maintenance duties.<sup>19</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.<sup>20</sup> 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>21</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.<sup>22</sup> As outlined by the New Haven Police Department, his duties were to protect students and university property from harm.<sup>23</sup> For example, theft of personal property was a common occurrence.<sup>24</sup> Books, clothes, and other valuables were often stolen from students’ dormitories and shared university buildings.<sup>25</sup> In response, Officer Wiser prioritized theft prevention by deciding to “keep all suspicious characters from the campus.”<sup>26</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>27</sup> He made it clear these outsiders were not welcome on campus and advised them not to return.<sup>28</sup> He also recalls interacting with “a colored gentleman prowling around one of the entrances.”<sup>29</sup> He believed

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19. See *id.* at 40 (detailing the lack of professional training and duties given to early campus police) ; JOHN W. POWELL ET AL., *CAMPUS SECURITY AND LAW ENFORCEMENT* 4 (Butterworth-Heinemann, 2d ed. 1994) (“They walked a regular watchman’s clock tour at night to act as a fire watch, close and lock doors, tend the boilers, and perform other maintenance tasks.”).

20. See WILLIS G. WISER, *YALE MEMORIES* 18 (1914) (outlining the various and different roles that campus police played early on in their existence at Yale).

21. *Id.* at 17.

22. See *id.* at 20–24 (mapping both the evolving admiration and frustration from the students and the regular officers that followed Wiser’s level of success).

23. See *id.* at 17 (“As outlined by the police, our duties were to protect the students, their property, and all college property from injury.”).

24. *Id.* at 17–18.

25. See *id.* (recounting the access that thieves had to students’ dorms which lead to theft).

26. *Id.* at 18.

27. *Id.*

28. See *id.* at 19 (detailing instances where he removed outsiders).

29. *Id.* at 18–19.

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>30</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").<sup>31</sup> He was a Black man known to the Yale campus community for selling lemon drops and performing "fits."<sup>32</sup> His "fits" included convulsions and foaming at the mouth, done to mimic a seizure and appear to be ill.<sup>33</sup> Upperclassmen invited him to perform in freshman dormitories.<sup>34</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>35</sup> He also recalled an elderly woman, unaffiliated with the university, who requested that he

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30. 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. *See id.* at 18 (referring to a man as a "colored gentleman").

31. *Id.* at 78.

32. *See id.* at 80–81 (retelling the antics of Hannibal); CLARENCE DEMING, *YALE YESTERDAYS* 97 (1915) (same).

33. *See* DEMING, *supra* note 32, at 97 (describing Hannibal's fits as his "magnum opus").

34. *See* WISER, *supra* note 16, at 81 ("The sophomores often hired him at this reasonable rate to scare the freshmen in their rooms.").

35. *See id.* at 71–72 ("It was my privilege to be the favored one.").

escort her and her friends around campus.<sup>36</sup> Although the woman talked over him for most of the tour around campus, and incorrectly described features of the campus, Officer Wisner did not interrupt her, stating he “knew from experience that to set her right would not be the proper thing to do.”<sup>37</sup>

Officer Wisner’s interactions are emblematic of race relations and the othering of Blackness on campus. Officer Wisner labelled and singled out poor and Black community members as “suspicious” and used racially coded language to describe their actions.<sup>38</sup> In one instance, he described a Black man as “prowling” at one of the campus entrances.<sup>39</sup> For Officer Wisner, 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 was virtually nonexistent.<sup>40</sup> The

36. *See id.* at 111–12 (recounting his recollections of the encounter).

37. *See id.* at 112 (reflecting that although the woman had requested a guide, she was at liberty to speak as much as she liked).

38. *See id.* at 18 (“The first thing to do, it seemed to us, was to keep all suspicious characters from the campus.”).

39. *See id.* (“I found a colored gentleman prowling around . . .”). Officer Wisner’s description of a Black man as “prowling” the campus entrance espouses the myth of the criminal black man. *See* KATHERYN RUSSELL-BROWN, *THE COLOR OF CRIME*, 14 (2d ed. 2009) for a detailed explanation of the criminal black man.

40. 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 *POLS. CURRICULAR CHANGE* 26, 27 (2005). American institutions of higher education were rooted in the establishment of predominately white institutions (“PWIs”). *See* KOFI LOMOTÉY, *ENCYCLOPEDIA OF AFRICAN AMERICAN EDUCATION* 523 (2010) (“U.S. higher education is rooted in the establishment of the predominantly White college . . .”). A university education was almost exclusively limited to white men until the Civil War, when women and racial minorities advocated for access. *Id.* at 525 (“[H]igher education remained primarily the province of White males until after the Civil War.”). 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 *HUMBOLT J. SOC. RELS.* 55, 76 (1995) (explaining that through the 1990s “African Americans have remained underrepresented in higher education”); LOMOTÉY,

Yale demographics were equally overwhelming white, male, and upper social economic class,<sup>41</sup> juxtaposing its 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>42</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>43</sup> Even Yale's architectural design emulated the segregation between campus and the community.<sup>44</sup>

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*supra* note 40, at 523–525 (2010) (highlighting that other racial groups were segregated in the 20<sup>th</sup> century). 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 Liliana M. Garces & Uma M. Jayakumar, *Dynamic Diversity: Toward a Contextual Understanding of Critical Mass*, 43 EDUC. RESEARCHER 115, 119 (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. RESEARCH INST. UCLA 1, 3 (Oct. 2015) (“Students of color tend to group together under conditions of racial isolation as a means toward decreasing racial stigma and vulnerability to stereotypes.”). 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, 96–97 (2006) (detailing the racism experienced by Heman Sweatt at the University of Texas School of Law).

41. See BEVERLY WATERS, *A YALE BOOK OF NUMBERS, 1976-2000* (2001) (presenting updated statistics on diversity at Yale).

42. See Juliette Guilbert, *Something That Loves a Wall: The Yale University Campus, 1850-1920*, 68 NEW ENG. Q. 257, 264 (1995) (“[New Haven] was the main port for immigration . . .”).

43. See *id.* at 266 (outlining the plan to segregate the college from the surrounding town).

44. See *id.* at 267 (“By building a wall around campus, the school could screen out New Haven’s less pleasing features . . .”).

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."<sup>45</sup> 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>46</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>47</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>48</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

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45. WILLIS G. WISER, YALE MEMORIES 132 (1914) (remembering that at some point the boys would be brought to their senses).

46. *See id.* at 125–126 (recounting the story of the theft).

47. *Id.* at 127.

48. *See* Jimmy Bryant, *Brief History of the UCA Police Department*, UNIV. CENT. ARK. (identifying H.V. Summers as the first night watchman at the University of Central Arkansas) [perma.cc/W9VZ-797N].

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 served a dual role as a janitor for their building.<sup>49</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>50</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>51</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>52</sup> The G.I. Bill made a college education possible for more than two million veterans.<sup>53</sup> The unprecedented growth in campus enrollment increased government and social support and drastically transformed the role and purpose of higher education.<sup>54</sup>

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49. See Jordan Larson, *A Brief History of the UCPD*, CHI. MAROON (May 25, 2012) (describing the origins of the UCPD in the twentieth century) [perma.cc/VPQ2-GWX3].

50. See *History*, MANSFIELD UNIV. (depicting the transition from municipal police officers to their own night watchmen at Mansfield University of Pennsylvania) [perma.cc/T9JK-BHW9].

51. See JOHN W. POWELL, *CAMPUS SECURITY AND LAW ENFORCEMENT* 14 (1994) (explaining the correlation between increased alcohol use on campus and other crimes such as vandalism in the 1940s and 1950s).

52. See Keith W. Olson, *THE G.I. BILL AND HIGHER EDUCATION: SUCCESS AND SURPRISE*, 25 AM. Q. 596, 606 (1973) (highlighting the boost in university enrollment and rise in performance figures following the G.I. bill).

53. See *id.* at 602 ("At the college level alone a total of 2,232,000 veterans utilized their G.I. Bill . . ."); see also Milton Greenberg, *How the GI Bill Changed Higher Education*, CHRON. OF HIGHER EDUC. (June 18, 2004) (highlighting the importance of the G.I. Bill in expanding access to higher education) [perma.cc/7EUU-QMZA].

54. See ROGER L. GEIGER, *AMERICAN HIGHER EDUCATION SINCE WORLD WAR II: A HISTORY* 7–8 (2019) (documenting the profound impact of the G.I. bill on

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>55</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>56</sup>

Alabama, Connecticut, Kentucky, Mississippi, Missouri, New Hampshire, New York, and Vermont all codified the authority of campus police officers by or during the 1950s.<sup>57</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>58</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

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higher education enrollment numbers and the acceleration of educational advancement).

55. Also referred to as university police statutes or campus security statutes.

56. SEYMOUR GELBER, *THE ROLE OF CAMPUS SECURITY IN THE COLLEGE SETTING* 25 (U.S. DEPARTMENT OF JUSTICE) (1972) [perma.cc/Y64Y-CN5J].

57. *See id.* at 171–190 (providing an appendix of state statutes related to university campus security).

58. *See* Alexander von Hoffman, *The Lost History of Urban Renewal*, 1 J. URBANISM: INT’L RSCH. PLACEMAKING & URB. SUSTAINABILITY 281, 295 (2008) (detailing the proposal of an urban renewal plan in Washington, D.C. in the 1950’s).

renewal” were so tied to the removal of Black families from their community they were often referred to as “Negro removal.”<sup>59</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>60</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>61</sup> For Columbia University, which borders Harlem,<sup>62</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>63</sup> In 2006, Mark Wrigley, the then Dean of Columbia University’s Graduate School of 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

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59. 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), 2004 WL 2811057 (depicting the development of the association between urban renewal and displacement of Black citizens in the twentieth century); see also UNITED STATES COMMISSION ON CIVIL RIGHTS, *THE CIVIL RIGHTS IMPLICATIONS OF EMINENT DOMAIN ABUSE* 43–44 (2014) (examining the use of eminent domain to displace minorities in the post-World War II era).

60. Alexander von Hoffman, *Housing and Planning: A Century of Social Reform and Local Power*, 75 J. AM. PLANNING ASS’N 231, 238 (2009) (noting Robert Moses as a “powerful redevelopment chief”).

61. See Ashish Valentine, ‘*The Wrong Complexion for Protection.*’ *How Race Shaped America’s Roadways and Cities*, NPR (July 5, 2020) (describing the bulldozing of Black and Latino homes to make way for parks, highways, and bridges in the 1920’s) [perma.cc/C4EX-TTWU].

62. 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*, BWO (Dec. 28, 2019) [perma.cc/5PSS-L75W].

63. See Daphne Eviatar, *The Manhattanville Project*, N.Y. TIMES (May 21, 2006) (providing a detailed account of Columbia’s controversial plan to expand its campus into West Harlem) [perma.cc/XY53-DLA6].



in “the very heart of vibrant New York City.”<sup>64</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>65</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>66</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.<sup>67</sup>

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>68</sup> University of Chicago’s Chancellor wanted to reverse the trend of white students and faculty leaving the university due to the surrounding neighborhoods.<sup>69</sup> 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

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64. *Id.*

65. See generally Adam Ghazzawi, *University Expansion in the Post-World War II Era: A Case Study on the University of Virginia (Theses, Cities and Regional Planning)* (2021) (investigating the University of Virginia’s growth as an institution and its influence on the surrounding city of Charlottesville) [perma.cc/9C32-DE29].

66. See Brian Cameron & Andrew Kahrl, *UVA and the History of Race: Property and Power*, UVATODAY (Mar. 15, 2021) (explaining Charlottesville residents’ use of eminent domain to acquire the Vinegar Hill neighborhood and business district) [perma.cc/V62S-JXSR]; Mary Key, *Topographies of Power: The Lasting Impacts of Racial Zoning 3* (2021) (unpublished manuscript) (describing the origins of race-based urban planning practices in Charlottesville) [perma.cc/FQ25-842D].

67. Cameron & Kahrl, *supra* note 66 (outlining the effect of University of Virginia’s urban renewal scheme on Black individuals and families).

68. See BALDWIN, *supra* note 15, at 28–29 (emphasizing that the University of Chicago’s plan expressly focused on expanding the school’s physical footprint into surrounding Black neighborhoods).

69. *Id.* at 30 (showing evidence of an intentional choice behind why Black neighborhoods were chosen for the university’s expansion plan).

displacement of hundreds of Black residents.<sup>70</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>71</sup>

Race played a central role in how American cities were developed, including the educational institutions that were built within them.<sup>72</sup> 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 perimeter, too.<sup>73</sup> The state-sanctioned class and race violence created by 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.<sup>74</sup> 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>75</sup> as they

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70. See *id.* at 29 (pointing out that the university was not concerned about the negative effects that its physical growth would have on Black residents).

71. See Nathalie Baptiste, *Campus Cops: Authority Without Accountability*, THE AMER. PROSPECT (Nov. 2, 2015) (noting the broad jurisdiction that the University of Chicago’s Police Department has over students and nonstudents alike) [perma.cc/Z3YX-3GK9].

72. See generally RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017).

73. See BALDWIN, *supra* note 15, at 28 (discussing how economic factors and political powers also contributed to establishing the boundaries of university campuses within cities).

74. See Stefan Bradley, “Gym Crow Must Go!” *Black Student Activism At Columbia University, 1967-1968*, 88 J. AFR. AM. HIST. 163, 163 (2003) (explaining the 1968 protest of the new Columbia gym).

75. See *id.* at 164 (likening the development of Columbia’s gym to Jim Crow); Siobhan Ryan, *Columbia University’s “Gym Crow”*, 39 AUSTRALASIAN J. AM. STUD. 101, 102 (2020) (highlighting the disproportionate effect that Columbia’s chosen gym location would have on the surrounding Black community).

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>76</sup> Sit-in demonstrations began that afternoon at Hamilton Hall and spread into other university buildings, including the library and the President's office.<sup>77</sup>

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>78</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>79</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>80</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>81</sup> on college campuses centered the abolition of racially exclusionary laws, police violence, and military-related

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76. See Frank da Cruz, *Columbia University 1968* (last updated May 27, 2022) (recounting the police response to student protests at Columbia) [perma.cc/895P-7QT4].

77. See *id.* (showing how quickly the protests against the University's encroachment on Harlem spread across Columbia's campus).

78. See Louis Lusky & Mary H. Lusky, *Columbia 1968: The Wound Unhealed*, 84 POL. SCI. Q. 169, 175 (1969) (revealing SDS' participation in campus demonstrations) [perma.cc/YDX3-6STD].

79. STEFAN M. BRADLEY, *HARLEM VS. COLUMBIA UNIVERSITY: BLACK STUDENT POWER IN THE LATE 1960S* 69 (2009).

80. See *1968 Columbia in Crisis*, COLUM. UNIV. LIBRS. (revealing the number of students arrested and injured by NYPD during the Hamilton Hall occupation) [perma.cc/6CCJ-5BYW].

81. 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 in the history and scope of campus policing. See BORDNER & PETERSON, *supra* note 14, at 1; see also JOHN W. POWELL ET AL., *CAMPUS SECURITY AND LAW ENFORCEMENT* 5–6 (1994) (recounting the

funding. Sexual 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>82</sup> Many campus police officers still possessed the qualities of a public security officer responsible for maintaining university and student property.<sup>83</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>84</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>85</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.<sup>86</sup> 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,

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history and continuously developing role of campus police officers across the country).

82. See FISHER & SLOAN, *supra* note 4, at 296 (showing how inadequate training of campus police forces led to dependency on local police to track and manage student activism on campuses).

83. See *id.* at 294 (noting that some campus officers still are similar to general security officers who are tasked with protecting property).

84. See *id.* at 296 (commenting on the shift of the roles of campus officers to resembling that of a regular police officer).

85. See *id.* at 296 (focusing on the conscious choice made by universities to invest in their campus police forces); BORDNER & PETERSEN, *supra* note 14, at xi (explaining different factors for why colleges invested in campus police units).

86. BORDNER & PETERSEN, *supra* note 14, at xi (unveiling how more resources and training made campus police officers begin to look more like regular police officers).

resources, and authority.<sup>87</sup> University leaders requested opinions from their respective state's Attorney General inquiring into the limitations, scope, and classification of university police.<sup>88</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>89</sup> The continued expansion of campus police resources and authority during 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.<sup>90</sup> 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>91</sup> the Student Non-Violent Coordinating Committee mobilized Black student voters in the

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87. See Libby Nelson, *Why Nearly All Colleges Have an Armed Police Force*, VOX (July 29, 2015) (describing the advent of university police forces) [perma.cc/V4RR-DVFX].

88. See Seymour Gelber, *The Role of Campus Security in the College Setting*, U.S. DEP'T OF JUST. 35 (1972) (explaining that the Attorney General often determined campus police's role and power).

89. 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.* at 178.

90. See *College Enrollment Rates of High School Graduates, by Race/Ethnicity: 1960 to 1997*, NAT'L CTR. FOR EDUC. STAT. (noting a trend of increased diversity in post-secondary school institutions) [perma.cc/N3ZL-5U95]; See also Richard G. Braungart & Margaret M. Braungart, *Political Generational Themes in the American Student Movements of the 1930s and 1960s*, 18 J. POL. & MIL. SOCIO. 177, 200 (1990) (characterizing student activism in the 1960s as heavily engaged with anti-violence protests).

91. See Muhammad Ahmad, *On the Black Student Movement — 1960–1970*, 9 BLACK SCHOLAR 2 (1978) (illustrating increased student activism in support of racial justice as higher educational institutions racially diversified; Ron Cassie, *And Service for All*, BALT. MAG. (Jan. 2015) (discussing the sit-ins that occurred in Baltimore) [perma.cc/T24Z-SDKH].

South,<sup>92</sup> and the Third World Liberation Front<sup>93</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.<sup>94</sup> 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>95</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>96</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

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92. See Jenice L. View, *Brief Outline of the History of SNCC*, CIV. RTS. TEACHING (noting how the creation of the Student Non-Violent Coordinating Committee created purposeful direction as a result of the sit-ins) [perma.cc/844E-DFPF].

93. The Third World Liberation is a multicultural coalition of student organizations dedicated to the histories of Black, Asian Americans, Chicano/Chicanas, and Native Americans. See Angela Ryan, *Counter College: Third World Students Reimagine Public Higher Education*, 55 HIST. EDUC. Q. 413, 419 (2015) (highlighting the campus impact of joint student organizations).

94. See generally RODERICK FERGUSON, *WE DEMAND: THE UNIVERSITY AND STUDENT PROTESTS* (2017) (noting a fundamental change in school police priorities).

95. John J. Sloan, *Modern Campus Police: An Analysis of Their Evolution, Structure, and Function*, 11 AM. J. POLICE 85, 87 (1992).

96. See FISHER & SLOAN, *supra* note 4, at 9 (noting an increase of on-campus police presence and authority the more students participated in on-campus activism).

address the continued growth and complexity of postsecondary institutions, including newly enacted statutory and legal obligations of on-campus safety.<sup>97</sup> In response, universities bolstered the financial support of their campus police departments to meet increased law enforcement demands.<sup>98</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.<sup>99</sup> The increase of student enrollment and expansion of university property transformed

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97. 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) (describing a key shift in the understanding of academic institutions’ duties to enrolled students).

98. See FISHER & SLOAN, *supra* note 4, at 34 (considering the implications of placing new duties on educational institutions to protect students from harm).

99. See Lee, *supra* note 97, at 80 (“The university-student relationship is certainly unique . . . the institution is involved in all aspects of student life. Through its providing of food, housing, security, and a range of extracurricular activities the modern university provides a setting in which every aspect of student life is, to some degree, university guided.”) (quoting *Furek v. Univ. of Del.*, 594 A.2d 506, 516 (Del. 1991)).

postsecondary institutions into self-contained quasi-cities, with their own unique challenges and complications.<sup>100</sup>

Unsurprisingly, institutions reported an increase in crime, such as alcohol-related incidents, vandalism, sexual assault, hazing, and theft.<sup>101</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>102</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.<sup>103</sup> When it was first enacted,<sup>104</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 covered under the crime statistics, and retain the last eight years of crime statistics for data reporting.<sup>105</sup>

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>106</sup> Institutions once again continued to

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100. *See id.* (noting students' higher reliance on their educational institutions).

101. *See* FISHER & SLOAN, *supra* note 4, at 34 (suggesting that changes in student culture and social dynamics on college campuses led to an increase in reported crimes).

102. 20 U.S.C. § 1092(f).

103. *See* Scott Papapietro, *2016 Marks 30<sup>th</sup> Anniversary of Clery's Death*, THE BROWN & WHITE (May 1, 2016, 8:04 PM) (discussing the event of Clery's murder and sexual assault) [[perma.cc/NS58-F3LZ](https://perma.cc/NS58-F3LZ)].

104. The Clery Act has been amended five times since first enacted. *See* FISHER & SLOAN, *supra* note 4, at 5 (chronicling various amendments to the Clery Act).

105. 20 U.S.C. § 1092(f).

106. Campus police departments, or officials on campus with campus security authority, have data record and reporting obligations under the Clery Act. They



increase the duties and responsibilities of their already growing on-campus police departments to maintain their legal obligations of safety.<sup>107</sup> However, successful high-profile civil lawsuits challenged the safety measures provided on campus.<sup>108</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>109</sup> Courts held that institutions had a duty to protect students from foreseeable harm.<sup>110</sup>

Statutorily, by 2020, nearly 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>111</sup> The Florida statute establishes minimum training

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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. *See* FISHER & SLOAN, *supra* note 4, at 9–10 (noting an increased reliance on campus police officers post-Clery Act).

107. 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. *See id.* at 94–97 (observing how a combination of the Clery Act and changes in campus culture resulted in students further relying upon campus police officers for safety and protection).

108. 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 Univ. of Cal. v. Superior Ct.*, 413 P.3d 656, 674 (Cal. 2018).

109. *See* Kristen Peters, *Protecting the Millennial College Student*, 16 REV. L. & SOC. JUST. 431, 444–45 (2007) (discussing how the legal community began to change their view on how academic institutions should be treated under the law).

110. *See id.* at 442–43 (citing to various courts that generally agreed universities have some type of duty to protect its students from foreseeable harm).

111. ALA. CODE § 16-52-12.1 (2022) grants Jacksonville State University police officers as peace officers with authority “any place in the state.” ALA. CODE § 16-56-12 (2022) delegates authority to the Chancellor of Troy University to appoint and employ police officers on campus to eject trespassers and execute arrests on campus. ALA. CODE § 16-48-12 (2022) authorizes the President of

requirements for university police officers.<sup>112</sup> The Oregon statute gives authority to university presidents to establish a process to receive and respond to complaints about the policies of the police department and conduct of police officers.<sup>113</sup> The Kansas statute permits university police officers to exercise their law enforcement powers and authority on property owned or operated by state educational institutions, on areas immediately adjacent to state educational institutions, within the city or county where the state educational institution is located with appropriate agreement with local law enforcement agencies.<sup>114</sup> While the statutory authority of campus police officers continues to expand, a review of the demographics of campus police officers helps paint the larger picture of the connection to race.

### *III. 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.<sup>115</sup> In many jurisdictions, the duties of campus police officers extend beyond the campus into the surrounding community.<sup>116</sup> Due, in part, to their extensive duties,

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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 (acknowledging different state requirements and duties for campus police officers depending on the specific educational institution).

112. *See* FLA. STAT. § 1012.97(4) (stating the minimum standards are set by the Criminal Justice Standards and Training Commission and chapter 943).

113. OR. REV. STAT. § 352.121(3) (“When a university establishes a police department and commissions one or more employees as police officers, the president of the university, in cooperation with the chief of the police department, shall establish a process by which the university will receive and respond to complaint involving the policies of the police department and the conduct of the police officers.”).

114. KAN. STAT. ANN. § 22-2401(a)(6) (2012) (granting university police officers the same powers as regular police officers).

115. *See What Does a Campus Police Officer Do?*, CLIMB (listing various duties of campus police officers and role requirements, skillsets, and processes required) [perma.cc/7AEN-27TG].

116. *See* Eric Tucker, *College Police Forces Increasingly Expand Jurisdiction*, LEXIPOL (explaining the blurred lined between campus and community allows

campus police officers regularly interact with campus and community members.<sup>117</sup> 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.<sup>118</sup> 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>119</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.<sup>120</sup> Black officers accounted for 21 percent of sworn officers and Hispanic officers accounted for 7.5 percent of sworn officers.<sup>121</sup> 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.<sup>122</sup> In the 2004-2005 Report,

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university police to keep an eye on students off-campus while also extending greater flexibility to allow university police to investigate crimes committed by community members on campus) [perma.cc/C3TV-BLLM].

117. See *Mun. and Campus Police: Strategies for Working Together During Turbulent Times*, POLICE EXEC. RSCH. F. 4 (2021) (explaining these close relationships are key to protect both jurisdictions because events in each ultimately impact the other) [perma.cc/RLZ5-AUWY].

118. See Whitney Frasier, *Campus Police Make Community Engagement a Top Priority*, CSUSM (2016) (building a relationship with the community is crucial for trust to flow from community members to students and vice versa to formulate strategic plans to police the areas) [perma.cc/72Q4-3W57].

119. See Brian A. Reaves, *Special Report: Campus Law Enforcement, 2011–12*, U.S. DEP'T OF JUST. 19 (2015) (noting that during this time, only 1 in 6 sworn in campus police officers were female) [perma.cc/2HYF-69WQ]; see also John J. Sloan, *Race, Violence, Justice, and Campus Police*, 48 AM. SOCIO. ASS'N FOOTNOTES 9 (2020) (“[D]uring 2011–2012 — the most recent years for which agency data are available — among campus agencies with sworn officers, 33 percent of them had no sworn officers of color. About one-half of agencies (48 percent) had between zero and two female sworn officers.”).

120. Reaves, *supra* note 119.

121. *Id.*

122. See Brian A. Reaves, *Campus Law Enforcement 2004–05*, U.S. DEP'T OF JUST. SPECIAL REPORT NCJ 219374 (2008) (showing 16.7% of officers were women, 21% were Black officers and 6.5% were Hispanic) [perma.cc/NXL4-N4TF]; see

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>123</sup> In the 1994-1995 Report, 14 percent of campus police officers identified as women and 27 percent identified as racial minorities.<sup>124</sup>

Traditionally, municipal police officers were young, white males with little college training.<sup>125</sup> They were socialized into a policing profession that standardized “proper” behavior in the academy and emphasized objective application of the law rather than discretionary enforcement in practice.<sup>126</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>127</sup> They point to racially biased written exams, physical

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Brian A. Reaves, *Campus Law Enforcement Agencies 1995*, U.S. DEP’T OF JUST. SPECIAL REPORT NCJ-161136 (1996) [perma.cc/WSP6-J5TA].

123. See Brian A. Reaves, Special Report: Campus Law Enforcement, 2004–05 U.S. DEP’T OF JUST. 5 (2008) [perma.cc/NXL4-N4TF].

124. See Brian A. Reaves, *Campus Law Enforcement Agencies, 1995*, U.S. DEP’T OF JUST. 6 (1996) [perma.cc/38CR-F9RT].

125. See BORDNER & PETERSEN, *supra* note 14, at 13 (noting the homogeneity in the makeup of campus police officers).

126. See *id.* at 14 (discussing the goal of police academies and trainings is to show officers what is considered “proper” conduct).

127. 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. Recruitment and hiring practices based on racially biased civil service written exams excluded Black applications and difficult physical exams disadvantaged women applicants. KHALIL GIBRAN MUHAMMAD, *THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA* 199 (2010); see RICHARD J. LUNDMAN, *POLICE AND POLICING: AN INTRODUCTION* (1980) (showing judicial prohibition on discriminatory hiring practices resulted in a shift, albeit minimal, of demographic diversity in municipal police cohorts); see also HERMAN GOLDSTEIN, *POLICING IN A FREE SOCIETY* (1977); see Andrew Welsh-Huggins, *Tests, Background Checks Can Thwart Police Diversity Effort*, ASSOCIATED PRESS (Oct. 2, 2020) (stating criminal background and financial history checks attributed to racially discriminatory policing practices have led to the rejection of many otherwise qualified Black officers) [perma.cc/G2J6-TBTB].

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.

#### *IV. 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>128</sup> Campus police departments are overwhelmingly white and male<sup>129</sup> and structural racism within policing is well documented.<sup>130</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.

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128. See Mike Baker, *Black Campus Police Officers Say They Suffered 'Unbearable' Racism*, N.Y. TIMES (June 22, 2021) (citing examples from Black campus police officers who endured racial stereotype comments while on duty, resulting in a multi-million dollar claim to combat the entrenched racism) [perma.cc/AMX7-QYHC]; see also Radley Balko, *What Black Cops Know About Racism in Policing*, WASH. POST (Apr. 13, 2022) (arguing that systemic racism within the campus policing field is not negated with the presence of Black officers; these officers are experiencing and witnessing racism within the field first-hand) [perma.cc/2DMU-LSTU].

129. Reaves, *supra* note 119, and accompanying text.

130. See, Radley Balko, *There's Overwhelming Evidence That the Criminal Justice System is Racist. Here's the Proof*, WASH. POST (June 10, 2020) (providing various examples of the racism faced within the criminal justice system and may be a reason statistics show Black people are more prone to be incarcerated) [perma.cc/7NWL-TP67].

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*<sup>131</sup>, 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>132</sup> In *Drake v. City & County of Denver*<sup>133</sup>, 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>134</sup> Drake resigned from his former employer, the City and County of Denver,

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131. See *Bd. of Trustees of S. Illinois Univ. v. Knight*, 163 Ill. App. 3d 289, 296 (1987) (indicating SIU had no evidence showing that Knight's prior single misdemeanor charge of weapon possession could be related to his ability to perform in the role).

132. See *id.* at 297–99 (implying that there was misplacement of weight on Knight's prior convictions and activities, even within employers' discretion to hire and terminate employees).

133. See *Drake v. City & Cnty. of Denver*, 953 F. Supp. 1150, 1158–59 (D. Colo. 1997) (utilizing the *McDonnell Douglas* analysis to reject Drake's discrimination claims for failure to establish a prima facie case of discrimination utilizing broad and general evidence as support of intent, so it failed as matter of law).

134. See *id.* at 1160 ("[P]laintiff has failed to discredit any of the employer's facially nondiscriminatory reasons for not hiring him, and the only evidence in the record shows defendant considered plaintiff's "propensity" for filing lawsuits only as it related to his ability to do the job for which he was applying.").

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>135</sup> Here, the use of criminal background checks and the reliance on department “fit” are part of a larger structural strategy to exclude Black applicants from police work.<sup>136</sup>

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.<sup>137</sup> 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

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135. See generally RICHARD J. LUNDMAN, *POLICE AND POLICING: AN INTRODUCTION* (1980) (discussing racially discriminatory hiring practices in municipal law enforcement); see also Andrew Welsh-Huggins, *Tests, Background Checks Can Thwart Police Diversity Effort*, ASSOCIATED PRESS (Oct. 2, 2020) (outlining biases and racist methods at the onset of application processes that can hinder Black police candidates throughout the application process and their careers) [perma.cc/MAS6-MFRM].

136. See Welsh-Huggins, *supra* note 127 (analyzing different ways campus police departments exclude Black applicants).

137. See Eddie R. Cole, *The Racist Roots of Campus Policing*, WASH. POST (last updated June 2, 2021) (discussing the growing criticism of campus police departments in light of the Black Lives Matter protests) [perma.cc/WP38-LCVN]; see generally Nancy Krieger, *ENOUGH: COVID-19, Structural Racism, Police Brutality, Plutocracy, Climate Change—and Time for Health Justice, Democratic Governance, and an Equitable, Sustainable Future*, 110 AM. J. PUB. HEALTH 1620 (2020) (analyzing the effect of COVID-19 on racial relations).

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>138</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>139</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>140</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 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>141</sup>

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138. See Chris Libonati, *2nd Black Syracuse Officer Set to Sue Department, Alleges Discrimination on the Job*, SYRACUSE (last updated May 4, 2022) (describing a discrimination claim filed by a Black police officer) [perma.cc/AYE9-LMEQ].

139. See Gershon Harrell, *University of Florida Police Department Under Fire After Racial Discrimination Complaint*, GAINESVILLE SUN (last updated Apr. 13, 2022) (reporting on two racial discrimination suits filed by current and former University of Florida police officers) [perma.cc/KJ42-LN4P].

140. See *id.* (detailing the nature of the discrimination allegations by the officers).

141. See *id.* (illustrating the alleged discriminatory behavior by the University of Florida Police Department).



- 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>142</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>143</sup> Officer Rich states that he was disciplined although his white colleagues were not.<sup>144</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>145</sup> In his complaint, he states SUPD maintained a hostile work environment that included racial harassment, racial

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142. See Noah A. Mcgee, *Black Officer Accuses The University of Delaware of Racial Discrimination Over COVID Protocols in New Lawsuit*, ROOT (last updated Feb. 22, 2022) (outlining the racial discrimination complaint filed against the University of Delaware) [perma.cc/9HVD-HPAQ].

143. See *id.* (describing how a Black police officer was forced to transport COVID positive students despite his concerns in doing so).

144. See Yusra Asif, *Lawsuit Accuses UD and its Police Department of Racial Discrimination over COVID Practices*, DEL. NEWS J. (last updated Feb. 14, 2022) (highlighting the alleged discrimination by the University of Delaware police department) [perma.cc/Z8V7-QE2Z].

145. See Chris Libonati et al., *Syracuse’s best-known police officer attacks department’s ‘Jim Crow culture’ in racial bias claim*, SYRACUSE (last updated June 25, 2021) (reporting on the alleged racial discrimination by Syracuse University Police Department) [perma.cc/D3JC-9B4P].

stereotypes, and the treatment of Black officers as inferior.<sup>146</sup>

- Multiple Black police officers at the University of Washington came forward to share their experiences of racism from their white peers and superiors.<sup>147</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>148</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."<sup>149</sup>

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>150</sup> He states his superiors conspired to fire him and was unfairly subject to

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146. See *id.* (detailing the nature of the complaint against SUPD).

147. See Olafimihan Oshin, *Black campus officers allege they suffered 'unbearable' racism at University of Washington*, THE HILL (last updated June 23, 2022) (outlining the alleged racial discrimination suffered by Black police officers at the University of Washington) [perma.cc/UX7K-CGZK]; see also Mike Baker, *Black Campus Police Officers Say They Suffered 'Unbearable' Racism*, N.Y. TIMES (last updated June 22, 2021) (noting racial discrimination allegations at University of Washington's police department) [perma.cc/2EUE-DGQN].

148. See Baker, *supra* note 128 (describing the allegedly racist behavior by the university's police department).

149. See *id.* (quoting the complaint against the University of Washington police department).

150. See Andrew Tellijohn, *U Cop Files Complaint Alleging Discrimination*, MINN. DAILY (Jan. 7, 1998) (reporting the racial discrimination lawsuit against the University of Minnesota Police Department) [perma.cc/289U-FSUV].

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>151</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*

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*<sup>152</sup>, the Supreme Court of North Carolina determined whether the Campus Police Act<sup>153</sup> granted unconstitutional delegation of power to Davidson College, a private religious institution.<sup>154</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.<sup>155</sup> The defendant filed a pretrial motion to suppress contending the

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151. See Brian A. Reaves, *Campus Law Enforcement* U.S. DEP'T OF JUSTICE, 2011-2012 19 (2015) (detailing the racial makeup of campus police officers).

152. See *State v. Yencer*, 718 S.E.2d 615 (N.C. 2011).

153. See N.C. GEN. STAT. § 74G -1-13 (2009) (granting higher educational institutions the power to create campus police departments).

154. See *Yencer*, 718 S.E.2d at 615–23 (discussing the power of campus police departments).

155. See *id.* at 615 (discussing the facts of the case).

Campus Police Act unconstitutionally granted exercise of police power to a religious institution in violation of the North Carolina constitution and U.S. Constitution.<sup>156</sup> 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>157</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.<sup>158</sup> The Court held the campus police officer enforced secular laws and acted in good faith in exercise of the officer's statutory duty.<sup>159</sup>

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>160</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>161</sup> confronted the students and told them to "break it up"

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156. See *id.* (outlining the motion filed by the defense).

157. See *id.* at 621 ("While Davidson has historical ties to the PC-USA, the College pursues the predominate purpose of secular education.").

158. See *id.* at 620 ("Specifically, defendant makes no contention that Davidson Campus Police attempt to proselytize or enforce any private or religious rules, or that her arrest was religiously motivated.").

159. See *id.* at 621 ("Having seen no evidence to the contrary, we may assume that the Davidson College Campus Police act in good faith in their exercise of the statutory power.").

160. See *Phillip v. Univ. of Rochester*, 316 F.3d 291,292 (2d Cir. 2003) (holding that "plaintiffs may sustain a claim for breach of the equal benefit clause without making a traditional state action showing").

161. 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.

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 had them spend the night in jail.<sup>162</sup>

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.<sup>163</sup> 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>164</sup>

In *Johnson v. University of San Diego*,<sup>165</sup> a campus police officer<sup>166</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.<sup>167</sup> 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.<sup>168</sup> The plaintiff argued because the university officers can enforce misdemeanors on campus, they have authority from the state to act as state

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162. *See id.* at 292.

163. *See id.* at 292–93.

164. *See id.* at 298 (“A full record and an adequately supported summary judgment motion may establish that the defendants’ actions cannot be characterized as depriving plaintiffs of equal benefits of proceedings for the equal benefit of proceedings . . .”).

165. *See generally* *Johnson v. Univ. of San Diego*, No. 10CV0504-LAB, 2011 U.S. Dist. LEXIS 104962 (S.D. Cal. Sept. 15, 2011).

166. 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.

167. *See id.* at \*2–6.

168. *See id.* at \*6–22.

actors.<sup>169</sup> 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.<sup>170</sup> 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>171</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 liability for civil damages.<sup>172</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>173</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

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169. See *id.* at \*16.

170. See *id.* at \*21.

171. See generally *Pierson v. Jay*, 384 U.S. 938 (1966).

172. See generally *McClendon v. Lewis*, NO. 02-CV-7433, 2005 U.S. Dist. LEXIS 1204 (E.D. Pa. Jan. 27, 2005); *Gilles v. Davis*, 427 F.3d 197 (3d. Cir. 2005).

173. See generally *McClendon*, 2005 U.S. Dist. LEXIS 1204.

actions were protected under qualified immunity.<sup>174</sup> In *Giles v. Davis*,<sup>175</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>176</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.

#### *V. Review of Existing Scholarship on Campus Policing*

Scholarship on campus policing at American colleges and universities is emerging.<sup>177</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>178</sup> More recently, research on campus policing has focused on campus

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174. See *id.* at \*18 (“[I]f the case was timely, Officer Enoch would be shielded from suit on the basis of qualified immunity.”).

175. 427 F.3d 197 (3d. Cir. 2005).

176. See *id.* at 201 (finding that the plaintiff is a “self-styled ‘campus-evangelist’ . . . preaching that Indiana University of Pennsylvania’s student body was full of . . . ‘drugs, sex, booze, and rock and roll freaks’”).

177. See generally CAMPUS POLICING: A GUIDE FOR HIGHER EDUCATION LEADERS, UNIV. S. CAL. ROSSIER PULLIAS CTR. FOR HIGHER EDUC. (2020).

178. See generally BORDNER & PETERSEN, *supra* note 14; John J. Sloan, *The Modern Campus Police: An Analysis of their Evolution, Structure, and Function* 11 AM. J. POLICE 85 (1992).

crime,<sup>179</sup> the professionalization of campus law enforcement,<sup>180</sup> the perceived legitimacy of campus police,<sup>181</sup> and racialized practices in campus policing.<sup>182</sup>

Researchers have examined the structures, impacts, and development of campus police departments. The introduction of the “college-prison nexus”<sup>183</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>184</sup> Existing legal

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179. See W. David Allen, *Crime, Universities and Campus Police*, 53 APPLIED ECON. 4276, 4277 (2021) (discussing how universities use campus police for self-protection); see generally BRADFORD W. REYNS & BILLY HENSON, CRIMINAL VICTIMIZATION IN HIGHER EDUCATION: COLLEGE STUDENTS AS CRIME VICTIMS (2020) (exploring crime and victimization as social issues impacting college students, campuses, and communities).

180. See John J. Sloan III, *Race, Violence, Justice, and Campus Police*, 48 AM. SOCIO. ASS'N FOOTNOTES 9 (2020) (arguing that campus police officers and their employing agencies are reflecting their municipal counterparts in recruitment practices, training required, and tactics used).

181. See Andrea Allen, *Are Campus Police ‘Real’ Police? Students’ Perception of Campus Versus Municipal Police*, 94 THE POLICE J.: THEORY, PRAC., & PRINCIPLES 102, 105 (2021) (analyzing qualitative data to determine how university students perceive campus police and municipal police); Tasha J. Youstin & Phillip M. Kopp, *Role Variations and Perceptions of Campus Police Versus Local and State Law Enforcement*, 15 POLICING: J. POL'Y & PRAC. 1491 (2021) (exploring potential variations in students’ perceptions towards campus police role and behaviors compared with local and state law enforcement); Michael F. Aiello, *Legitimacy Invariance and Campus Crime: The Impact of Campus Police Legitimacy in Different Reporting Contexts*, 21 POLICE PRACT. RSCH. 297 (2018) (examining whether campus police legitimacy relevance varies across different contexts).

182. See generally Jude Paul Matias Dizon, *Protecting the University, Policing Race: A Case Study of Campus Policing*, J. DIVERSITY IN HIGHER EDUC. (2021) (using a case study to provide a nuanced look at campus policing and its relationship to the perpetuation of racial inequality in U.S. higher education).

183. See Royel M. Johnson & Jude Paul Matias Dizon, *Toward a Conceptualization of the College-Prison Nexus*, 96 PEABODY J. EDUC. 508, 512 (2021).

184. See Dizon, *supra* note 182, at 2–3 (examining the racialized implications of the carceral state on university campuses, including the admissions process, campus police, student codes of conduct, and campus crime alerts); see also DeMarcus A. Jenkins et al., *The Second ID: Critical Race Counterstories of Campus Police Interactions with Black Men at Historically White Institutions*, 24



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>185</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. For example, *Campus Security and Law Enforcement*<sup>186</sup> discusses organizational approaches to addressing security needs on campus. *Campus Policing: The Nature of University Police Work*<sup>187</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>188</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>189</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

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RACE ETHNICITY EDUC. 149 (2020) (reporting on the encounters between three Black male students and campus police officers at three distinct historically white institutions); Jude Paul Matias Dizon et al., *Campus Policing: A Guide for Higher Education Leaders*, UNIV. S. CAL. ROSSIER PULLIAS CTR. FOR HIGHER EDUC. 2–13 (2020) (informing higher education leaders on proactive responses to issues of policing and racism on university campuses).

185. See, e.g., Leigh J. Jahmig, *Under School Colors: Private University Police as State Actors Under § 1983*, 110 NW. L. REV. 249 (2015) (commenting on the lack of consistency by courts determining whether private university police forces act under color of state law); Jamie Hopkins & Kristina Neff, *Jurisdictional Confusion That Rivals Erie: The Jurisdictional Limits of Campus Police*, 75 MONT. L. REV. 123 (2014) (discussing the scope of campus police jurisdiction and powers of campus police officers).

186. See generally JOHN POWELL ET AL., *CAMPUS SECURITY AND LAW ENFORCEMENT* (2d ed. 1994).

187. See generally BORDNER & PETERSEN, *supra* note 14.

188. See generally JAMES W. WENSYEL, *CAMPUS PUBLIC SAFETY AND SECURITY: WITH GUIDANCE AS WELL FOR HIGH SCHOOL AND PRIVATE SECONDARY SCHOOLS* (1987) (guiding smaller-sized private postsecondary institutions through developing a security program).

189. See generally FISHER & SLOAN, *supra* note 4.

on campus. Another book, *Policing America's Educational Systems*,<sup>190</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.<sup>191</sup> Campus police are also responsible for legal matters related to compliance and safety.<sup>192</sup> 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.<sup>193</sup> The interactions between campus police and

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190. See generally JOHN HARRISON WATTS, *POLICING AMERICA'S EDUCATIONAL SYSTEMS* (2019).

191. See Amir Whitaker et. al., *Cops and No Counselors*, ACLU (2019) (describing how police presences in schools can lead to student alienization and a more threatening school climate, and how the impact of investing more in police presences on school campuses is especially felt by historically marginalized students) [perma.cc/SJ4X-X6D4].

192. See Dizon et al., *supra* note 184, at 6 (describing the powers of campus police officers which typically are as empowered as their municipal counterparts).

193. See FISHER & SLOAN, *supra* note 4, at 13 (describing federal and state legislation designed to require colleges and universities to report campus crime statistics and related information).

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>194</sup> Campus police are not insulated from the broader systemic issues of policing despite institutional 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.<sup>195</sup> 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>196</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

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194. *See id.* (describing the evolution of campus policing through protests surrounding police discrimination); *see also* BORDNER & PETERSEN, *supra* note 14, at 6–9 (discussing the larger issues of campus police especially comparing urban university police organization and activities to that of other urban police forces).

195. *See* Whitaker et. al., *supra* note 191 (“When in schools, police officers do what they are trained to do, which is detain, handcuff, and arrest.”).

196. *See generally* BALDWIN, *supra* note 15 (discussing how urban universities gentrify neighborhoods while their private police forces target the Black and Latinx neighborhoods in the nearby areas).

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.

## *VI. 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>197</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*

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

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197. See generally KATHERYN RUSSELL-BROWN, *THE COLOR OF CRIME*. (3rd ed. 2021).

a perimeter of university property. Campus police officers employed by public institutions have full statutory law enforcement authority in nearly every state.<sup>198</sup> 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>199</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>200</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>201</sup>

To date, the University of Chicago operates one of the largest private police forces in the world.<sup>202</sup> The University of Chicago

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198. See Max L. Bromley, *Policing Our Campuses: A National Review of Statutes*, 15 Am. J. Police 1, 6 (1996) (describing both limited and extended statutes, with Wyoming being an example of the broad powers a state statute confers on a campus police officer stating “[c]ampus police are appointed under the general peace officer statute, which affords them statewide jurisdiction and police arrest powers”).

199. See U.S. DEP’T OF JUST., *Campus Law Enforcement 2011-2012* (2015) (showing that the percentage of public institutions using sworn officers was more than twice that of private institutions) [perma.cc/5PP5-MKWC].

200. See N.C. GEN. STAT. § 74G -1-13 (2009).

201. See 110 ILL. COMP. STAT. ANN. 1020/1 (West 2015).

202. See Sanjali De Silva, *Police Divestment Efforts Must Include Universities*, ACLU (July 31, 2020) (reporting that the University of Chicago Police

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>203</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 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>204</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>205</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>206</sup> Institutions with small enrollments maintain campus security or police

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Department patrols surrounding areas of the University of Chicago as well as campus itself [perma.cc/4WN6-395Z].

203. See Juliet Eldred, *Let Our Impact Grow From More to More: UChicago's Land Use and Expansion, 1890-2017*, UNIV. CHI. (describing the evolution of the University of Chicago Police Department to become the primary police force for the thirty block area) [perma.cc/7D3L-SPWW].

204. See *id.* (reporting the contact made between University of Chicago Police Department and individuals within their patrol area).

205. See FISHER & SLOAN, *supra* note 4, at 293 (noting that campus police have evolved into “a part of the fabric of higher education”).

206. See Brian A. Reaves, *Campus Law Enforcement 2011-2012*, U.S. DEP'T OF JUST. 2 (2015) (stating those schools operated their own campus law enforcement agency).

departments.<sup>207</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>208</sup>

Nearly 70 percent of campus police departments have a memorandum of understanding (MOU) or other formal agreement with outside law enforcement agencies.<sup>209</sup> For example, the University of Washington Police Department (UWPD) has an MOU with the Seattle Police Department and King County Sherriff's Office to enhance reporting and responses to violent and hate crimes on campus.<sup>210</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>211</sup> The University of Mississippi also works closely with other community law enforcement agencies, such as the Oxford Police Department and the Lafayette County Sherriff'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>212</sup> It provides \$150,000 to fund the salaries of four full-time officers and supply resources such as money and body wires.

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207. 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 COLL. (highlighting the current campus safety staff at Sweet Briar College) [perma.cc/9C6K-8WKF].

208. *See* Brian A. Reaves, *Campus Law Enforcement 2011-2012*, U.S. DEP'T OF JUST. 1 (2015) ("About 9 in 10 public campuses used sworn police officers . . . compared to about 4 in 10 private campuses . . .").

209. *See id.* at 4 (noting that those agencies using these formal agreements employ 71% of officers).

210. *See* UNIV. OF WASHINGTON, ANN. SECURITY AND FIRE SAFETY REP. 2021-2022 [perma.cc/XS6Z-UVKY].

211. *See* SEATTLE POLICE DEP'T MANUAL § 16.250 (permitting detectives to investigate crimes on the University of Washington Campus after the chief or a designee has requested it) [perma.cc/A268-MCUL].

212. *See* Molly Minta, *College Board OK's University of Mississippi Funding Controversial Drug Unit for Another Year*, MISS. TODAY (Nov. 18, 2021) (describing the continued funding from The University of Mississippi to support the drug unit that uses students as informants) [perma.cc/QES8-FRW7].

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>213</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 paramilitarized 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>214</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

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213. See Sara Weissman, *Over 100 Campus Police Departments Got Military Equipment Through its Federal Program*, DIVERSE ISSUES HIGHER EDUC. (July 20, 2020) (covering the University of Maryland police departments decision to return military equipment received through the program) [perma.cc/D4GT-7NA5].

214. See Valerie Strauss, *University of Minnesota Limits Ties to Minneapolis Police Department After Death of George Floyd*, WASH. POST (May 28, 2020) ("University President Joan Gabel said in a letter to the university community that the school would no longer contract with the police department to provide additional law enforcement support for football games, concerts and other large events, or for specialized services . . . at university events.") [perma.cc/J7JZ-AGXT].



law enforcement agencies, citing the police killings as a pandemic exposed within a pandemic.<sup>215</sup>

## *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>216</sup> In most states, campus police officers

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215. Students at New York University, Georgetown University, and the University of California, Berkeley demanded their respective institutions reduce the presence of police 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.

216. See FISHER & SLOAN, *supra* note 4, at 293 (“[T]oday’s campus executives recognize the necessity of having campus police forces available to provide most

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>217</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>218</sup> Temple University allotted over \$31.6 million for public safety in 2020, a budget larger than nine of the university's academic colleges and centers.<sup>219</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>220</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>221</sup> These multi-million-dollar campus police

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of the same services rendered by police departments in similar sized municipalities.”).

217. 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, 6 (July 29, 2020) (demonstrating the projected budget for the following academic year was even higher) [perma.cc/394P-LPL2].

218. See *id.* at 6 (providing a complete summary table for the academic year prior to 2019-2020 and the projected budget for the 2020-2021 academic year).

219. See TEMPLE UNIV., PROPOSED BUDGET FISCAL YEAR 2022–2023.

220. See *Ohio State Announces Additional \$20 Million for Safety and Security*, OH. STATE UNIV. NEWS (Sept. 24, 2021) (describing that the funding increase was in response to an increase in gun violence near campus) [perma.cc/58ZN-NMBJ].

221. See Daniel Smithson, *UF Trustees Approve \$100M in Projects*, GAINESVILLE SUN (June 6, 2019) (noting “the new facility will maximize public

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>222</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>223</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>224</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 of their state authorized power to expand the carceral state on campus.

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accessibility and police visibility, as well as increase police response time to campus-area crimes”) [perma.cc/G4ZH-2R8G].

222. See Josh Moody, *Making Campus Police More Approachable*, INSIDE HIGHER ED. (Apr. 15, 2022) (noting the effort to build trust between campus police and the community) [perma.cc/7LC5-T3J8].

223. See *id.* (explaining how campus police in 2017 transitioned their uniforms to cargo pants and polo shirts as a result of “conversations with students”); see also *CWU Police Change Uniforms to Become More Approachable for Students*, NBC RIGHT NOW (Dec. 5, 2017) (reporting the police chief’s belief that the new uniforms will increase approachability and comfort in seeking campus police support) [perma.cc/8XLV-JFYC].

224. See Caelen McQuilkin, *ACPD Unmarks Vehicles, Prompting Student Concern*, AMHERST STUDENT (Mar. 30, 2022) (“While the department states that this choice was an attempt to reduce police presence on campus, students report feeling increased fear and uncertainty from the change.”) [perma.cc/83S7-5TGM].

The unmarked clothing and vehicles can serve to only exacerbate issues of state surveillance and militarization on campus.

### *VII. 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."

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 days later, the student's ex-boyfriend killed her.	The university's Police Chief retired, the Deputy Police Chief stepped down, and the officer quit prior to the investigation. These officers, in addition to two former officers, sued the university for 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	The university suspended the professor for the rest of the semester while it launched an investigation into her conduct for

		removed her from the classroom.	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 student's jaw and the roof of his mouth.	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 expletives and threatening to shoot at a person during a traffic stop.
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### VIII. 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>225</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.

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225. See generally BRADFORD W. REYNS & BILLY HENSON, CRIMINAL VICTIMIZATION IN HIGHER EDUCATION: COLLEGE STUDENTS AS CRIME VICTIMS (2019).



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 trespassers 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>226</sup> Racially marginalized students, 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 delegitimized 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

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226. See generally THE RACIAL CRISIS IN AMERICAN HIGHER EDUCATION: CONTINUING CHALLENGES FOR THE TWENTY-FIRST CENTURY (William A. Smith, Philip G. Altbach, & Kofi Lomotey eds., rev. ed. 2002) (analyzing through a series of articles the ways in which race and racism play a role in understanding discrimination against racially marginalized students on campuses, in society, and in our institutions of higher education).

investigation into bananas found on campus hanging on nooses after the first Black woman student body President is elected<sup>227</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>228</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>229</sup>

Data reveals that racially marginalized students are more likely to be disciplined or arrested for alleged “classroom disruption” than their white colleagues.<sup>230</sup> Black students often

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227. See Gina Cook, *American University Ends Hate Crime Investigation a Year Later*, NBC4 WASH. (Apr. 18, 2018) (explaining how American University ended an investigation into a hate crime wherein bananas were hung from nooses and marked with the letters “AKA”, after a member of Alpha Kappa Alpha, a historically Black sorority, became the first Black woman student government president at the school) [perma.cc/HT8C-QD5D].

228. See Isabel Hope, “*It is Blatant Racism*”: *UA Student Shares Story of Arrest on Instagram*, CRIMSON WHITE (Mar. 2, 2022) (explaining an incident wherein a Black student claimed that a white woman with white passengers tried to hit her with her car, after which the student got into an altercation with a passenger in an elevator, and was arrested the next day under the claim that she assaulted the passenger) [perma.cc/MCN5-8X2W].

229. See Cobretti D. Williams, *Race and Policing in Higher Education*, ACTIVIST HIST. REV. (Nov. 19, 2019) (overviewing a history of police violence against Black and other marginalized students on campuses) [perma.cc/HUF6-AD29].

230. See Marty J. Alvarado, *Campus Police Reform is a DEI Priority Moving Forward on the Call to Action*, CAL. CMTY. COLLS. (“While a small percentage of overall arrests, student data have revealed that students of color were more likely

face disciplinary action for conduct that white students regularly engage in. Professors have called campus police on Black students for tardiness,<sup>231</sup> perching their feet on the seat in front of them,<sup>232</sup> and sitting in class charging their laptop<sup>233</sup>. Students and employees have also called campus police on Black and Indigenous students for napping in their dormitory common rooms<sup>234</sup>, eating lunch on campus,<sup>235</sup> and going on university tours.<sup>236</sup>

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to be arrested for classroom disruptions than their white peers.”) [perma.cc/5PC2-Z8JA].

231. See Colleen Flaherty, *Classroom 911*, INSIDE HIGHER ED (Apr. 4, 2022) (detailing how a Black professor at Georgia State University called campus police on two tardy Black students) [perma.cc/2USW-B54Q].

232. 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) (detailing how a white professor at the University of Texas San Antonio called campus police on a Black student for perching her feet on the chair in front of her, resulting in the professor being suspended for the remainder of the semester, but UTSA did not find racial bias) [perma.cc/ZMH3-V25G].

233. 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) [perma.cc/4CUR-4ASR].

234. See Britton O’Daly, *Yale Responds After Black Student Reported for Napping in Common Room*, YALE DAILY NEWS (May 10, 2018) (recounting that a white graduate student at Yale University called campus police because a Black graduate student she did not recognize was asleep in the graduate dormitory’s common area. Campus police interrogated the Black student for several minutes, asking for identification, and then left) [perma.cc/89EU-HXVT].

235. See Emma Whitford, *Police Called on Black Student Eating Lunch*, INSIDE HIGHER ED (Aug. 3, 2018) (detailing when a school employee called campus police on a Black graduate student eating, claiming they looked “out of place”) [perma.cc/RK8A-XNHM].

236. 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

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 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

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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) [[perma.cc/M5W8-PH5M](https://perma.cc/M5W8-PH5M)].

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>237</sup>

Research shows that college students are experiencing their highest levels of depression and anxiety.<sup>238</sup> A professor at Boston University reports the high levels of depression and anxiety are a sign of the mounting stress from COVID-19, political unrest, and systemic racial oppression.<sup>239</sup> A professor at the University of Michigan found that almost 85% of students reported at least one

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237. See Sara Weissman, *Higher Ed Institutions Reexamine Role of Police in Student Mental Health Care*, DIVERSE ISSUES HIGHER EDUC. (Oct. 24, 2020) (providing professorial input on what the extent of and limits to campus police officer involvement in conversations around and responses to mental health crises ought to be) [perma.cc/3HVV-HX5B].

238. See Justin Heinze, *Anxiety, Depression Reached Record Levels among College Students Last Fall*, UNIV. MICH. SCHOOL PUB. HEALTH (Feb. 25, 2021) (“Among the respondents, 47% screened positive for clinically significant symptoms of depression and/or anxiety—up from 44% last year and the highest since the survey was started in 2007. The study included data from 32,754 students from 36 colleges and universities (response rate 14%).”) [perma.cc/F79F-ZLXM]; Kat J. McAlpine, *Depression, Anxiety, Loneliness Are Peaking in College Students*, BRINK (Feb. 17, 2021) (“A survey by a Boston University researcher of nearly 33,000 college students across the country reveals . . . [h]alf of students in fall 2020 screened positive for depression and/or anxiety.”) (internal quotations omitted) [perma.cc/52VY-KXXU].

239. See McAlpine, *supra* note 238 (describing the rise of depression and anxiety in young people as “a sign of the mounting stress factors due to the coronavirus pandemic, political unrest, and systemic racism and inequality”).

day of academic impairment due to mental health.<sup>240</sup> In particular, Black college students have higher levels of psychological distress due, in part, to racism and discrimination.<sup>241</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>242</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>243</sup>, shot a Black graduate student in the face<sup>244</sup>, and placed a Black student

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240. See Heinze, *supra* note 238 (“[A] substantial majority of students indicated that their mental health has negatively affected their academic performance, with 83% reporting at least one day of academic impairment due to mental health in the last four weeks.”).

241. 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, 147 (2019) (“Discrimination not only contributes to a diminished sense of belonging, but also places Black students at risk for higher levels of psychological distress.”).

242. See Ebony O. McGee & David Stovall, *Reimagining Critical Race Theory in Education: Mental Health, Healing, and the Pathway to Liberatory Praxis*, 65 EDUC. THEORY 491, 493 (2015) (“[B]lack students work themselves to the point of extreme illness in attempting to escape the constant threat (treadmill) of perceived intellectual inferiority . . . [The] energy required to manage [academic and social stress] as well as systemic and everyday racism can be overwhelming and taxing.”) [perma.cc/GNS6-8C7Q].

243. 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 in-patient psychiatric facility for evaluation. Bernie Pazanowski, *American University Must Face Suit Over Mental-Health Seizure*, BLOOMBERG L. (Jan. 19, 2022) (detailing Gianna Wheeler’s involuntary seizure and removal from her dormitory) [perma.cc/39ST-2E8H].

244. 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

on a 72-hour psychiatric hold without notifying family members<sup>245</sup>. Campus police officers are 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>246</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 often lack community input or oversight.<sup>247</sup> Unlike many of their municipal counterparts<sup>248</sup>,

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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 "damaged part of [Adu-Brempong's] jaw and the roof of his mouth." Nathan Crabbe, *Two Years After being Shot, UF Grad Student Still Undergoing Treatment*, GAINESVILLE SUN (Mar. 1, 2012) [perma.cc/8XYB-SZTS].

245. 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 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. Renee Walker, *Under Lock and Key: How Cal Poly Pomona Treats Mental Illness*, POLY POST (Feb. 22, 2022) [perma.cc/7THN-HYST].

246. See Johnson & Dizon, *supra* note 183 (describing the "college-prison nexus" as a way to conceptualize the carceral connections between institutions of higher education and carceral state powers).

247. 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.

248. 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.

campus police departments often 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>249</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 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

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See *NYPD Member of Service Histories*, NYC CIVILIAN COMPLIANT REV. BD. [perma.cc/X4CA-DL8C].

249. See *The Right to Remain a Student: How CA School Policies Fail to Protect and Serve*, ACLU (Sep. 22, 2021), (“Courts have routinely found districts to be liable for the unlawful acts of police on campus, forcing districts to compensate victims and amend policies.”) [perma.cc/2UZP-HE7Q].



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>250</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

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250. See Johnson & Dizon, *supra* note 183 (explaining the college-prison nexus as the connection between the ways in which higher education institutions exert carceral state powers).

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 fundamentally changed the nature of campus policing.<sup>251</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>252</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>253</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>254</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

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251. See e.g., 20 U.S.C. § 1092 (Clery Act); 20 U.S.C. § 1681–1688 (Title IX); 20 U.S.C. § 1323(g) (FERPA) (regulating the procedures for reporting and safety on college campuses).

252. See Edward Davis, *It’s Time to Reform the Clery Act*, INSIDE HIGHER ED (May 15, 2020) [perma.cc/QC64-DBCX].

253. See *id.* (noticing trends of reports that was around 20 pages expanding to more than 100 pages of dense statistical information that take a massive undertaking pulling resources away from vital campus safety operations).

254. 20 U.S.C. § 1092(f).

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>255</sup> Most 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>256</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

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255. 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 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. *See* Lyndsey Layton, *Virginia Tech Pays Fine for Failure to Warn Campus During 2007 Massacre*, THE WASH. POST (Apr. 16, 2014) [perma.cc/FQ4P-TXA8].

256. 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) [perma.cc/Y2NV-LSUX]; *see* Jake New, *Historic Fine for Penn State*, INSIDE HIGHER ED (Nov. 4, 2016) (reporting that 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) [perma.cc/CQ28-M8HL].

marginalized communities. Specifically, crimes of sexual assault or sexual violence<sup>257</sup> and hate crimes<sup>258</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>259</sup> Nearly 80% of rapes and sexual assaults are unreported to law enforcement.<sup>260</sup> Though research on reporting statistics vary, current estimates suggest that 26.4% of women and 6.9% of men are sexually assaulted while in college.<sup>261</sup> While most postsecondary institutions maintain structures in place to report and investigate sexual assault on campus, university leaders often ignore the intersection of gender and race when addressing campus sexual assault.<sup>262</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>263</sup> Furthermore, Black men are often overlooked as

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257. See Maya Finoh & Jasmine Sankofa, *The Legal System Has Failed Black Girls, Women, and Non-Binary Survivors of Violence*, ACLU (Jan. 28, 2019) [perma.cc/4W55-VW8J].

258. See Tanner Stening, *Why Hate Crimes are Underreported – And What Police Departments Have to Do With It*, NEWS NE. (Aug. 23, 2021) [perma.cc/AVB3-QRGX].

259. See Cameron Kimble & Inimai M. Chettiar, *Sexual Assault Remains Dramatically Underreported*, BRENNAN CTR. JUST. (Oct. 4, 2018).

260. See Rachel E. Morgan & Grace Kena, *Criminal Victimization, 2016: Revised*, U.S. DEP'T OF JUST. 1, 7 (2018) (showing that only 23.4% of rapes and sexual assaults were reported to the law enforcement).

261. David Cantor et al., *Report on the AAU Campus Climate Survey on Sexual Assault and Misconduct*, WESTAT xi–xii (last updated Jan. 17, 2020).

262. See J.C. Harris, *Women of Color Undergraduate Students' Experiences with Campus Sexual Assault: An Intersectional Analysis*, 44 REV. HIGHER EDUC. 1 (2020) (“Many higher education scholars, policy makers, and practitioners continue to ignore the intersections of race and gender when focusing on campus sexual assault for the undergraduate student population.”).

263. See *id.* at 3 (“[A]pproximately 25% of Native American women, 23% of Latina women, 22% of multiracial women, 21% of Pacific Islander women, 18% of Black women, and 12% of Asian American women who report encountering CSA[.]”).

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>264</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>265</sup> Some universities even reported zero.<sup>266</sup> The small number of reported racially based 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.

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

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264. *See id.*

265. *See 2021 Annual Safety and Security Report*, UNIV. OF KY. (2021) (reporting that the University of Kentucky reported zero hate crimes in 2018, one hate crime in 2019, and zero hate crimes in 2020); *NC State University Annual Security and Fire Safety Report*, NC STATE UNIV. POLICE DEP'T (Oct. 2021) (stating that the North Carolina State University reported two hate crimes in 2019 and three hate crimes in 2020).

266. *See 2021 Annual Security and Fire Safety Report*, UNIV. OF S.C. DIV. L. ENFT & SAFETY (2021) (reporting that the University of South Carolina reported zero hate crimes between the years 2018 and 2019); Clery Compliance Committee, *Annual Fire and Safety Report 2021*, COLO. STATE UNIV. (2021), (finding that Colorado State University reported zero hate crimes in 2020); *2021 Annual Security and Fire Report*, LA. STATE UNIV. (2021) (reporting zero hate crimes between the years 2018 and 2020).

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.

### *IX. 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 the carceral state on campus.