

2021

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Recommended Citation

Riley-Brown, Maleah; Osman, Samia; Shannon, Justice C.; Hanna, Yemaya; Burress, Brandie; Sanchez, Tony; and Cottle, Joshua (2021) "This is Minnesota: An Analysis of Disparities in Black Student Enrollment at the University of Minnesota Law School and the Effects of Systemic Barriers to Black Representation in the Law," *Mitchell Hamline Law Review*: Vol. 47 : Iss. 4 , Article 2.

Available at: <https://open.mitchellhamline.edu/mhlr/vol47/iss4/2>

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THIS IS MINNESOTA: AN ANALYSIS OF DISPARITIES IN BLACK
STUDENT ENROLLMENT AT THE UNIVERSITY OF MINNESOTA
LAW SCHOOL AND THE EFFECTS OF SYSTEMIC BARRIERS TO
BLACK REPRESENTATION IN THE LAW

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INTRODUCTION

Lawyers often occupy powerful positions in the highest levels of our government and economy. Whether drafting legislation, prosecuting, or defending crimes, representing indigent clients in housing court, or finalizing corporate mergers, attorneys influence and operate within one of the most

* Maleah Riley-Brown is a second-year law student at the University of Minnesota Law School. Copyright © 2021 by Maleah Riley-Brown. Samia Osman is a first-year law student at the University of Minnesota Law School. Copyright © 2021 by Samia Osman. Justice C. Shannon is a first-year law student at the University of Minnesota Law School. Copyright © 2021 by Justice C. Shannon. Maleah, Samia, and Justice each contributed their own invaluable perspective and personal stories within this article, in addition to their insightful empirical research and writing on enrollment disparities.

† Yemaya Hanna is a second-year law student at the University of Minnesota Law School. Copyright © 2021 by Yemaya Hanna. Brandie Burris is a second-year law student at the University of Minnesota Law School. Copyright © 2021 by Brandie Burris. Tony Sanchez is a first-year law student at the University of Minnesota Law School. Copyright © 2021 by Tony Sanchez. Joshua Cottle is a third-year law student at the University of Minnesota Law School. Copyright © 2021 by Joshua Cottle. Yemaya, Brandie, Tony, and Joshua contributed empirical research on enrollment disparities, writing on the legal implications of these disparities, and compiled interviews and stories from alumni and students. All authors are grateful for the research and contributions of Mallory Harrington and Michaela Liesenberg. We are also appreciative of the editors of the *Minnesota Law Review* for their invaluable editorial assistance. This Article was originally published in *Minnesota Law Review Headnotes*. See Maleah Riley-Brown, Samia Osman, Justice C. Shannon, Yemaya Hanna, Brandie Burris, Tony Sanchez & Joshua Cottle, *This is Minnesota*, 105 MINN. L. REV. HEADNOTES 251 (2021).

critical professions in the United States. Lawyers can have a profound impact in designing and changing laws, influencing major policy regimes, and leading cities and communities. The law is often lauded for being a tool to guide society—a method to promote a system of justice and fairness. But for too long, the law has enforced a system of justice based in White supremacy and oppression. Laws were designed and implemented to steal land from indigenous communities, to enslave and oppress Africans, and to force Japanese-Americans into internment camps, amongst many other atrocities.¹ To this day, the law is used to both expand and diminish civil rights as we continue to struggle to ensure all people are treated equitably within our society. Whether the level of power and influence in the hands of attorneys is overinflated remains an important question. However, this Article seeks to bring attention to those we are training and educating to wield this power and influence. Within the legal profession and legal education system, we must be more proactive in examining who we are leaving out and whose voices are not given a chance to be a part of this profession.

The University of Minnesota Law School, like so many other institutions in the legal field, must contend with the reality of which students it is educating and positioning to be leaders in its community. As students of Minnesota Law, we must look inward at our own student body and institution. Minnesota Law is often touted as the preeminent law school in the state of Minnesota, educating students who have become Vice President of

1. Indian Removal Act of 1830; 21st Congress, Session 1, Ch. 148, <https://guides.loc.gov/indian-removal-act> (“The Indian Removal Act was signed into law by President Andrew Jackson on May 28, 1830, authorizing the president to grant lands west of the Mississippi in exchange for Indian lands within existing state borders. A few tribes went peacefully, but many resisted the relocation policy. During the fall and winter of 1838 and 1839, the Cherokees were forcibly moved west by the United States government. Approximately 4,000 Cherokees died on this forced march, which became known as the “Trail of Tears.”); Stephen Middleton, *Repressive Legislation: Slave Codes, Northern Black Laws, and Southern Black Codes*, OXFORD RSCH. ENCYCLOPEDIAS (Feb. 28, 2020), <https://oxfordre.com/americanhistory/view/10.1093/acrefore/9780199329175.001.0001/acrefore-9780199329175-e-634> [<https://perma.cc/C4QA-NT68>] (“After the Revolution, many states passed black laws to deprive blacks of the same rights as whites. Blacks commonly could not vote, testify in court against a white, or serve on juries. States barred black children from public schools. The Civil War offered the promise of equality with whites, but when the war ended, many southern states immediately passed black codes to deny blacks the gains won in emancipation.”); Slave Codes, BRITANNICA, <https://www.britannica.com/topic/slave-code>; *Korematsu v. United States*, 323 U.S. 214 (1944) (ruling that the U.S. government could force Japanese-Americans into “relocation camps” because of national security concerns during World War II).

the United States, State Attorneys General, Minnesota Supreme Court Justices, Congressmembers, City and County Attorneys, and many more. With such an illustrious alumni base, it is critical to examine the students the law school educates because they may soon become leaders in Minnesota, the Midwest, across the United States, and even internationally. In the 2019–20 academic year, 0.6 percent of Minnesota Law students identified as Black or African-American. Out of 667 students enrolled, four identified as Black or African-American. At the same time, over 75 percent students enrolled in the J.D. program at the University of Minnesota identified as White. Even more alarming, the total number of self-identifying male Black or African-American students was lower than in 1894, the first year that a Black or African-American student graduated from Minnesota Law.²

With many students becoming leaders within the legal, political, and business community, it is imperative that Minnesota Law make a more concerted effort to attract, admit, and educate a student body representative of the communities we live in and the communities we serve. We must reckon with the nature of the legal system within which we are trained: one that is built upon a system of oppression and inequity often touted as justice, safety, and fairness. A student body more reflective of the communities we live in and serve is only the first step in enhancing the legal profession’s capacity to equitably and effectively serve all individuals and communities who seek legal assistance.

This Article seeks to emphasize perspectives often pushed away from legal education and the legal system. Not only does this Article present the experiences of Black students to highlight their unique and nuanced perspectives, but also to offer an alternative to the supposed objective nature of our legal system and education. In the classroom, law students are encouraged to subvert their individual experience with the presumed objectivity of the law. However, this lens of “objective logic” is rooted within the same system of White supremacy and oppression which has guided our society and legal system for centuries. Through this lens, the law diminishes the ideas and voices of those who do not share these experiences. Our legal system and legal education must adapt by incorporating and understanding perspectives of all those who seek to become attorneys, as well as those within the communities we serve.

2. *History*, UNIV. OF MINN. L. SCH., <https://www.law.umn.edu/about/history> [<https://perma.cc/R3XG-5QVE>].

Part I of this Article presents the personal narratives of three students currently enrolled at Minnesota Law. These courageous students have chosen to share stories of their path to law school and the barriers they faced as Black students traversing the United States' educational system. Part II discusses the experiences of students and alumni of Minnesota Law collected through interviews and surveys within the Minnesota legal community. Part III presents an empirical analysis of the disparities within student enrollment at Minnesota Law. Part IV explores the ways in which these disparities inhibit the legal profession and legal system. Finally, Part V proposes a series of actions that Minnesota Law should take to remedy some of the harms caused by these disparities and enhance the educational environment to contend with the realities of racism within the law.

I. PERSONAL EXPERIENCES OF BLACK STUDENTS AT THE UNIVERSITY OF MINNESOTA LAW SCHOOL

In this Part, we present stories and experiences from three current students of Minnesota Law. These narratives come from three of our authors and current students, Maleah Riley-Brown, Samia Osman, and Justice C. Shannon.

A. Maleah Riley-Brown

“You have to be twice as good to get half as much as them, remember that.” I’m sure most Black and Brown Americans have heard this phrase uttered by a parent, a mentor, or an educator who sternly whispered it to you the one time you chose to slack off, even if it was just for a second. However, growing up in the Bronx and attending public school, I didn’t encounter them. I was learning amongst my Black and Brown peers at P.S. 78 in the North Bronx. There was no them, there were just Black kids—approximately 35 of us to be exact—with dreamy eyes toward the world where we believed that we could be anything. Of course, we learned about American history and how Martin Luther King, Jr. had this amazing speech that saved us all from segregation and racism. I had written a paper about Madame C.J. Walker and played her in a church production. It was this budding hope that gave me the idea that I could go to law school and medical school (of course, I only ended up in law school, but that’s another story). I reasoned that it would be out of this world for a Black girl to become a doctor twice. “They’d have to call me Dr. Dr. Riley-Brown!” I often exclaimed to my teachers who fostered that belief in me.

I carried that same sentiment in middle school. Again, surrounded by only Black and Brown peers, we never encountered them, but we knew they were out there. When it came time to prepare for the Specialized High School Admissions Exam (SHSAT), only a handful of Black students were chosen out of my gifted and talented middle school to stay after class and prepare for the exam. The school couldn't afford to sponsor us all for SHSAT prep, so they chose the ones they felt were best able to compete with them. My middle school teachers would teach me SHSAT material after school during the week, and on the weekend, a 13-year-old Maleah traveled on the bus to Fordham University to take prep classes. On the day of the exam, New York City got hit with a random snowstorm on a mid-October Saturday. I pulled my hood close over my head and continued as the snow got deeper (I had no one to drive me to and from the exam). Luckily, halfway home from the exam, my uncle found me trudging alongside Mosholu Parkway and took me home. I never did remember how I scored on the exam, but I remember my teacher telling me that it wasn't enough to go to school with them at Stuyvesant High School.

The first time I went to school with them was in high school. It was a prominent Lower East Side early college high school I had never heard of and only attended after I ignorantly applied because a friend of mine wanted to go—she didn't get in, but I did. That was enough for my guidance counselor to convince my parents and force me into a high school I had no interest in attending. "Do you know what this can do for you? You'll thank me one day!" Unfortunately, I never did thank my middle school guidance counselor, because the first time I went to school with them is when I felt uneasiness and doubt about my academic capabilities. My trip to school was a little under two New York hours, which is an important measurement of time when you take the train. I caught the random gem of a Manhattan bound 5 train at E 225th street coming from Nereid Ave on the 2 line. I'd sit on the 5 train until I made it to 14th Street—Union Square. I'd run with my bag strapped across my back because if you missed the M14D to Delancey and Essex, you'd be waiting forever and miss first period. I never made first period on time, and I never made many friends. The curriculum was odd, and suddenly I no longer knew how to do math. They taught algebra differently, and everyone seemed to understand it but me, making me appear stupid. I remember in ninth grade, a girl named Julia used to mimic Brooklyn accents, but I never paid it much mind. She turned to me one day and asked if I was from Red Hook, Brooklyn. "Why would I be from Red Hook? Where did you get that idea from? I don't even know Red Hook." She laughed it off and said I just seemed like I was from there. I went and

googled Red Hook, and sure enough, it was a poor, predominantly Black neighborhood in Brooklyn. It made me angry. I never attended school much after that. I went from a straight A student who loved to do math, to a teenager who skipped school every other day because I hated the environment. I transferred in the middle of the school year to another early college high school in the South Bronx, surrounded entirely by Black and Hispanic students. When it came time to apply for college, I was eighth in my class and had the highest SAT score, despite never taking prep classes because I couldn't afford it. I always considered the idea of law school, but I didn't have anyone I knew who had gone outside of my Government teacher. My guidance counselor spent most of her time focusing on the less fortunate students. I had always had a dream of attending NYU or Stony Brook. "You *could* apply for those schools, sure! But NYU is hard to get into. Don't we want to apply to somewhere safe, too? Like somewhere we *know* you can get in? Let's look at CUNY;³ did you look at CUNY?" I was the only student who applied to NYU and Stony Brook out of the class of 2016 who got accepted to NYU and Stony Brook. I finished with an associate degree and high school diploma at eighteen, but I didn't attend either school. I simply couldn't afford to.

I went to college for two years at Pace University, the quietly known sister school of NYU (but not really) where I was a Criminal Justice major. I encountered them full on. During orientation, everyone had their parents with them, but mine had to work. I felt it wouldn't serve me any good anyhow, as neither of my parents nor my siblings attended college. Quite often, I was one of two Black students at any given moment inside of a classroom. I was navigating this process alone and in doubt. It was in the heat of the 2016 election, and I was more excited than ever that I could vote. I sat in my Law Mock Trial course as this one student attempted to explain why she was voting for Donald Trump. "I just don't think he's racist, I mean look at what he's going to do for our economy. He is going to drain the swamp, and that is what is *most* important." That same semester I took an Organized Crime class with a professor who was also an ATF agent and United States Probation officer. I had a good relationship with him despite his right leaning ideologies. He worked in the Southern District of New York, covering Manhattan, and the Bronx. It was that semester that I developed a sort of mentoring relationship with the officer who would help lead a 5:00 AM raid at a Bronx public housing complex. Sweeping up dozens of men, the officers bulldozed into the homes of friends and family that I knew and accused

3. The City University of New York.

them of drug offenses and other RICO crimes. I listened to him boast about the arrests, and I felt uneasy. I listened to them parade and cheer about the bust. The rest of my time at Pace as a Criminal Justice major was spent listening to them say astronomically incorrect things. “‘Stop and Frisk’ actually worked; it didn’t harm anybody.” In fact, former mayor Michael Bloomberg apologized for the disproportionate impact that “Stop and Frisk” had on Black people in New York City. I know for a fact “Stop and Frisk” harmed me, and when I spoke up and announced how I was profiled, a student replied, “Well in that instance they were wrong, but overall ‘Stop and Frisk’ wasn’t bad. Like you aren’t committing crimes; you’re actually smart and stuff.” That was the first time ever that someone had done the classic “you’re not the Black people we are talking about” approach to me. I’m Black, but I’m not *those* Black people we read about in class, so I must be safe.

I didn’t fully decide that I wanted to go to law school until I was rejected from a master’s program I didn’t really want to attend. I was twenty years old and too afraid to go to law school, so I spent the summer after college working two jobs to afford LSAT prep classes. Twice a week, I would sit in a classroom somewhere near Grand Central terminal and learn tactics to score well on the exam. I was poor, so I had already decided this was my one and only shot at law school. Through encouragement and support, I took my LSAT and scored relatively well. After a not so intense application process and being waitlisted at the University of Michigan and a slow application process to Cornell, I decided to attend the University of Miami on a full tuition scholarship. I was hesitant about Florida; the last time I had gone, I was ten years old and it was my grandma’s funeral. I had just read *The Watsons Go to Birmingham - 1963*,⁴ and I was terrified of the South. But as a poor kid from the Bronx, there was nothing in the world that could keep me from a full tuition scholarship to law school.

It was in my first year of law school that I felt suffocated—not by the normal mental obstacles of law school or the heightened anxiety and panic attacks I faced, but by the sheer amount of micro-aggressive racism and prejudice that my peers and I faced. Ultimately, this led to some of us transferring. On my first day we were warned about a tenured Torts professor who had a habit of saying extremely racist things and often quoted Hitler. I had a roommate for about two months who I will only say falls into the category of them. I remember trying to explain to him that it’s important for Black

4. CHRISTOPHER PAUL CURTIS, *THE WATSONS GO TO BIRMINGHAM - 1963* (1995).

students to have the Black Law Student Association because we needed a safe space on campus. “Well there’s no way you *all* feel that way. Even *inserts the name of a Black 1L man* feels this way? But he talks to me! There’s no way you people *always* feel threatened. I mean Florida is racist, but Miami isn’t like that. It’s Miami! I just don’t believe that *all* of you experience racism.” I moved out shortly after. The remaining year was riddled with endless instances of overt or covert racism—a swastika was drawn in the law school library; my friends in Section D profusely argued with them about their incessant need to say “N*gga;” a fellow friend had to yell, scream, and cry for the professor and students of her Constitutional Law class to understand that, although *Dred Scott* says words like “Mulatto” and “Negro,” it is not okay to use such words, especially in the presence of Black and mixed race classmates. Out of 90 students in my section, I was one of five Black students, and for law school, that is a pretty large number. However, I was the only Black American woman in my section, and I always had to be the voice for “the people.” I raised my hand every chance I got and made my voice known because if I didn’t—who would? Perhaps one of the most interesting times was in Criminal Procedure, where my Professor asked a student if it was okay for police to pull Black men over based on their race alone. It was the fourth question that the professor had asked this student, and the student had not stumbled once. However, this question appeared to stump the student. It was a simple question—is it okay for police to pull over a vehicle solely on the race of the driver? “Uh, um, well I mean there may be reasons . . .” The awkward silence grew deafening as I turned in my seat to look at the student. “Let me stop you right there,” the professor said, “the answer is no. It is never okay to profile a driver based solely on race.” My professor continued, but I met the gaze of the Black men in my class who appeared absolutely stupefied by the interaction. In a friend’s Contracts class, the professor attempted to teach the class about “certain types of people who abuse their kids.” After a repeated mention of “those people,” a student spoke up and asked, “Professor, exactly *what* kind of people are you talking about.” Ever so boldly, the professor replied, “Oh, Haitians definitely. Yeah, they beat their kids because they just don’t know how to deal with them. I see it all the time; they are an abusive people.” There was a Haitian student in the class who walked out. It was hard to grasp such an atmosphere when administrators would publicly admire and openly gush over the diversity at the school as a “beautiful mosaic” of Black and Brown faces (yes, this was actually said). For Black law students to be reduced to an art piece that makes the school more “pretty” is to miss the mark of our existence in these spaces.

For these reasons and others, I transferred to the University of Minnesota's law school. This time I knew that I would be walking into a new atmosphere of passive racism and aggression. I had received my second acceptance letter from Minnesota three days after George Floyd was murdered by Minneapolis police. Riots had begun across the country, and I couldn't focus on petitioning for law review without feeling like a failure to my people. For Black Americans, the televised revolution was now, and due to the current Coronavirus pandemic, the world was forced to pay attention. All eyes were on Minneapolis, where thousands took to the streets and rioted, fed up from the murder and residual resentment from the murder of Philando Castille by St. Paul police a few years earlier. Here in Minneapolis, my blackness is a distant cousin twice removed but with all the same ancestral flaws. The air here is thick with the tension of the aftermath of what some have described as the new aged civil rights movement, and Black Americans can only hope educational institutions are paying attention. Before I came to Minnesota, I asked to speak directly to the Black students. I wanted the raw truth about Minnesota Law, and I got exactly that. "There's just not enough Black students. I think BLSA had seven members last year. There are virtually no Black faculty members. If you come here, you'll be sure to succeed. The school is really pushing for more diversity." But "more diversity" is an understatement. In many of my classes, I am the *only* Black person. It is so glaringly obvious that people have begun to recognize me by name, though they have never formally met me in person. In two of my classes, I am one of two Black students, and the other student is also a transfer. But this is a typical law school classroom. In a lot of them, you can't even find *one* Black student. In my first month at Minnesota, a sit-in was organized to protest a fourth-year medical student who defaced the George Floyd memorial in an attempt to dehumanize the Black Lives Matter movement.

So, what's the point of my life story? To navigate the world as a Black person is to navigate this essay and feel the same uneasiness deep in the pit of your moral compass that I felt at fourteen, at seventeen, and at twenty-two. I share my life story to say that higher education is not simply a few extra years in school for Black people. It is conscious awareness that we will be voluntarily placing ourselves into violent situations for the next however many years because higher education was not made for Black people. We have no safe space, no protection from constant mental warfare from them, even when we are just as good as them. "We need more Black people!" higher institutions say but make no effort to protect the Black people they

seek to bring into such a violent space. Perhaps the reluctance of Black students to attend predominantly White institutions is due to the lack of protection we have when we arrive. A lifetime of educators doubting our capabilities and classmates subtly impaling their academic heels into our foreheads, shoving us further down the ladder back into poverty and struggle, manifests into the glaring rhetoric we face in law school. “You do not belong here, but we will bring you here because it makes *us* look good. Good luck finishing, though.” Such an issue is systemic and does not cease to exist because a city or state is viewed as “progressive.” We grow up fighting twice as hard to be half as good, but when we are just as good, we are given a steeper hill to climb. Achieving the feat of “being good” is no longer enough. Law schools recognize that we can be *just as good*, and also recognize that our ancestral trauma makes us *just as tough*, if not tougher, to face the lackluster environment they choose to thrust us into. It would be asinine to place all the blame on higher education; after all, they are following the same path conditioned by our elementary, middle, and high schools, as well as some undergraduate colleges.

But in 2020, law schools are *finally* listening, or so they allege. They are vowing to listen to Black voices more, to increase Black enrollment, to create safe spaces for Black students. If my incomplete, less than box office breaking, autobiography were to be any indicator, it is that higher education should attempt to foster a learning environment where professors and students do not have free reign to practice covert racism and prejudice in the faces of the two Black students in the class just because they can. It is that the administration should not tolerate such divisive or offensive tactics and hide behind the rhetoric of “Oh, well that’s how it was said in the textbook.” Law schools can usher in as many Black people they can find until the school is flooded with a “beautiful mosaic,” but without administrative and curriculum changes, law schools are asking Black people to participate in a three year costly and unethical study of just how much academic violence this year’s cohort of Black students can face before we send them off to a nationwide profession where only *five* percent of the practicing attorneys are Black.

B. Samia Osman

For as long as I can remember, the ideal for an immigrant family’s success came from whether or not their kids became doctors, lawyers, engineers, or businessmen and women. To some, that may seem like too much pressure to put on a child’s shoulders. But for me, it was the guiding princi-

ple I lived by during my childhood. A necessary regiment of classes, religious studies, and cultural activities that helped mold me into a new person after the realities of being a refugee. This routine became a constant feature of my life that I could understand and follow without question or confusion. Looking back, I now understand that was because the rest of my life was full of questions and confusion. I constantly felt alone every time I left my little cultural bubble. Criticized and ostracized for the clothes I wore, the food I ate, the god I worship, and the color of my skin. But none of these were within my power to change without incredible insult to my culture, religion, and the foundation of my identity. I retreated to my communities to the point of extreme isolation. In a state like Minnesota, where White people and White culture is the norm, I somehow managed to avoid any meaningful contact with those outside of my culture and community aside from necessary communications.

One can imagine the culture shock I felt when I went to a primarily White institution for college. Until that time, I had been sheltered and had grown to love and accept who I was. However, I also rarely had to navigate who that person was in relation to American culture. College was the first time people turned to me with the expectation that I knew what racism and Islamophobia were and could handle them. I was expected to educate others on what I did not understand. Suddenly, I found myself completely lost on how parts of my identity interacted with American culture. I knew I was a Somali woman, but I did not understand that also meant I was a Black woman.

So, I did what I usually do when I don't understand something. I read. I questioned. I listened and I learned. I stumbled and felt overwhelmed. But most of all, I found my communities—those who had also stumbled, felt alone, confused, and ostracized for no more than living. Before long, I finally felt like I understood myself as a Black woman in this country. It was during that realization that I had to also take on all the burden of being a Black woman in this country. The disrespect, stereotyping, judgment, and constant expectation of failure. So why am I telling you this? Why am I writing this?

Despite these experiences in learning what it means to be who I am, I am incredibly proud of the journey I took to find myself. A journey that led to a top tier law school. But my journey is not unique. By many standards, it is the norm of being a Black kid in America. The fight to love yourself and excel in life against all odds, against all the people and systems that tell you are not good enough and cannot be good enough to sit at the table. A

fight that includes superhuman patience and forgiveness. A fight that is driven by our community. Because without community, I would have believed every teacher who told me I was bright but to have backup plans when I said I wanted to be a doctor or lawyer. I would have stopped when advisors kept ignoring me even when it was obvious I was struggling in college. I would have believed the people who looked at me and replied that law school isn't as easy as I think it is when I asked about the LSAT or for study materials. I would be hurt by the dismay that fills people's voices when I tell them I am a law student. But instead, I choose to go back to the schools and communities I come from. To be their mentor, their friend, and their community so that when the world tells them they cannot do it, I showed them my incredible Black mentors, friends, and colleagues who will show that they can because we did.

C. Justice C. Shannon

When I was in the ninth grade, there was a student at lunch that would not stop saying nigger. One day, when he would not stop saying nigger at lunch I told him to stop saying it again, and he refused. I looked to my left and there was a student eating an apple with his head down, avoiding the clearly uncomfortable moment. I took the half-eaten apple out of his hands, and I rubbed it in the cursing student's face. He and I had a stare down for a moment before he stood up and left.

Racism in Minnesota is White students deciding to have a "ghetto spirit day," wearing gold chains, doo-rags and sagging their pants. This led to Black students putting up posters demanding that the school administration do better. The police came to take down the posters. The students went to reclaim the posters from the police. The police claim that one of the students put his hands on them, and two Black students were charged with improper conduct. Yes, racism in Minnesota is two Black students getting charged with improper conduct after White students wear modern-day blackface to school.⁵

Racism in Minnesota is White children wanting to know why they can't say nigger or nigga because "there were no lynchings in Minnesota," even

5. Tim Post, *Two Hopkins High School Students Charged After Protest Over Alleged 'Ghetto Spirit Day,'* MPRNEWS (Apr. 17, 2013), <https://www.mprnews.org/story/2013/04/17/two-hopkins-high-school-students-charged-after-protest-over-alleged-ghetto-spirit-day> [<https://perma.cc/P9PR-GB89>].

though there were. But they'll never know that because our public schools don't properly teach or address Minnesota's history with racism.

Racism in Minnesota is someone having the audacity to call me a nigger at midnight because I took too long to cross the crosswalk. How safe they must have felt in Coon Rapids, Minnesota, in their lifted F-150 at midnight, without another car on the road and no one in sight to accost them for racial discrimination of a 16-year-old. They must have felt empowered to say whatever came to mind, like a 13-year-old with an XBOX live headset.

Racism in Minnesota is a White officer asking me why I am so uncomfortable when I got pulled over the month after George Floyd was murdered. Plainly stated, racism in Minnesota is ignoring the elephant in the room when police pull Black Minnesotans over, leaving us to address the elephant on our own.

Racism in Minnesota is Lake Calhoun finally getting its name changed, but not without significant resistance. The name was changed to Bde Mka Ska, but only after an organization named "Save Lake Calhoun" sued the state over the change and Minnesota state senators sought to preserve the name of a slaveholder as a reminder of the racism underlying Minnesota's history.⁶ This is racism in Minnesota, it's constant resistance to removal of tribute to slaveholders and racists in 2020, even though white people swiftly removed the Dakota name, Bde Mka Ska, when they moved to Minnesota in the 1800s.⁷

Racism in Minnesota is having a city named Coon Rapids, because nobody acknowledges that 'coon' is a word used to dehumanize Black people by comparing them to racoons before lynching them.

Racism in Minnesota is Philando Castille being killed in his car by a police officer in 2016. Then in response, the University of Minnesota Law School does nothing, and in fact the law school enrolled the fewest Black law students of any high ranking law school in the country for the next three years. This failure only enables the cycle to repeat by keeping the number

6. Elizabeth Shockman, *Calhoun or Bde Maka Ska? Lake Name in Limbo*, MPRNEWS (Apr. 30, 2019), <https://www.mprnews.org/story/2019/04/30/calhoun-or-bde-maka-ska-lake-name-in-limbo> [<https://perma.cc/HPB9-2W7B>].

7. *Id.*

of Black lawyers who can fight for policing reform limited. Racism in Minnesota is George Floyd being killed by a police officer three years after Philando Castille. This is not to say the University's failure to enroll more Black students killed George Floyd. This is to say the failure to enroll more Black students keeps the population that is most proximate to the cause from fighting for the cause, which can only be seen as stifling progress towards that cause.

Racism in Minnesota looks like public schools that are suspending Black students at a rate that is fifteen percent greater than White students. Then everyone throws up their hands and wonders why the Black students give up on the education system before they can even apply for postgraduate education opportunities. If the public education system seemingly had more interest in punishing you than educating you, why would you pursue public education?

Racism in Minnesota is being one of the top ten states for White high school graduation rates and the bottom ten for Black high school graduation rates. Minnesota public universities have some of the lowest graduation rates for Black students in the country. If you ask me, this can only be attributed to the very same racism that allows cities to be named Coon Rapids.

II. INTERVIEWS AND SURVEY RESULTS

In this Part, we discuss the experiences of three current students and two alumni of Minnesota Law all of whom identify as Black. These respondents came to us after we sent requests for interviews and survey responses to approximately thirty Black-identifying alumni and approximately twenty Black-identifying current students. We ultimately conducted one interview and received four survey responses. Participants were told that the information they shared would be used in a *Minnesota Law Review* article aimed at demonstrating the barriers and negative experiences facing Black law students in Minnesota and how such experiences affect their education and careers. The survey responses were collected anonymously. While this sample is not necessarily representative of all Black-identifying Minnesota Law alumni, these responses provide important insight into their experiences while in law school and in the Minnesota legal market.

The questions asked both in the survey and in the interview were organized into four sections: (1) experiences before enrolling in law school, (2) experiences while enrolled at Minnesota Law, (3) experiences after graduation, and (4) impressions of the Minnesota legal market. In section one, we collected information on participants' inspiration for applying to law

school, their communities' responses to their choices to attend law school, their exposure to lawyers or law students while growing up, support and encouragement from their communities to attend college and law school, and methods for or barriers to preparing to take the LSAT. In section two, we collected information on students' interactions and discussions with classmates, professors, and staff members regarding their sense of community, experiences with class discussions about race, instances of blatant or covert racism, the job search process, and students' overall impression of their time at Minnesota Law. In section three, we collected information on why graduates chose or did not choose to stay in Minnesota post-graduation, and whether they would encourage other students to do the same. In section four, we asked participants whether they believed the state of Minnesota struggles to attract and retain Black attorneys and what it needs to do to increase Black law student enrollment and retention of Black law school graduates. The responses we received demonstrated significant diversity in the thoughts and experiences of Black individuals before, during, and after their time at Minnesota Law.

A. Experiences Before Attending the University of Minnesota Law School

Our findings indicate that a lack of understanding of the law school application process, lack of exposure to legal professionals, lack of community support, and lack of encouragement to attend college or build resumes are barriers which may contribute to the low number of Black law students in Minnesota. Our research only presents findings from students who ultimately made it to law school, but those discoveries indicate that many of them still encountered these barriers. Therefore, further research is needed to understand why certain Black-identifying students who are interested or might have an interest in pursuing legal education are better positioned to overcome these barriers than others.

Lack of exposure to the legal field in general was also a point of common discussion among the respondents. Out of the five respondents we interviewed or surveyed, only two had considered a career in the legal profession before graduating from high school.⁸ And none of the five respondents

8. Experiences of Black Law Students Research Survey (September 2020) [hereinafter Research Survey]; Anonymous Telephone Interview (September 25, 2020) [hereinafter Anonymous Interview].

could remember an instance where someone explained the law school application process to them in high school.⁹ One respondent who had considered a legal career before graduating high school reported that they had independently learned about the application process online.¹⁰ Only one out of the five respondents received this information in college from a pre-law guidance counselor.¹¹ Further, two out of five respondents had lawyers in their family or in their close community while they were growing up, but only one of those two believed that this factor influenced their decision to attend law school.¹² One respondent reported that their only interaction with a member of the legal profession was meeting a judge when they were ten years old.¹³

Our findings further indicate that the opinions and attitudes of those in a potential law student's community may affect their decision to pursue a legal education. The two respondents who had considered a career in the legal profession before graduating from high school also reported experiencing bullying, microaggressions, or doubtful comments from classmates, teachers, or family members about their desire to attend law school. One survey respondent wrote, "[i]n middle school, several of my classmates would make comments that I wouldn't be able to be a lawyer or that it didn't seem like something I would be good at."¹⁴ When asked about the response of their communities when they were accepted to law school, the majority

9. See Research Survey, *supra* note 8; see Anonymous Interview, *supra* note 8. Respondents in the research survey and interview were each asked: "While you were in high school and/or college did anyone explain the law school application process to you? (i.e., what schools are looking for, how to prepare for the LSAT, when to apply.) If yes, could you anonymously explain the guidance and who provided it?"

10. See Research Survey, *supra* note 8.

11. *Id.*

12. *Id.* Respondents were asked: "Did you know or interact with any lawyers or people in law school while you were growing up? (i.e., family members or family friends). If yes, could you anonymously explain how, if at all, these individuals inspired, influenced, or assisted you in your journey to law school?"

13. *Id.*

14. *Id.* Respondent was asked: "Had you considered a career in the legal field before graduating from high school? If yes, did you ever experience any bullying, doubtful comments, or microaggressions from a classmate, teacher, family member, or any other person about your desire to attend law school? Would you be willing to anonymously share a description of your experience(s)?"

of respondents reported positive reception.¹⁵ However, three respondents received comments that could be classified as microaggressions¹⁶ regarding the caliber of the school relative to the respondent's perceived level of intelligence.¹⁷ One respondent wrote that members of their community "congratulated me but then sounded genuinely almost insultingly surprised when they found out I would be attending MN Law," using a tone which "implied they wouldn't have guessed that I could have gotten into that school."¹⁸ Another respondent wrote, "[a]cquaintances generally were shocked that I got into a Top 20 law school."¹⁹ In one of our interviews, the respondent described an instance when she was locked out of her car and sought the help of a stranger to retrieve her keys, but the stranger asked to see her ID when he noticed the Minnesota Law sticker on her car because he didn't believe she attended the school.²⁰ These types of microaggressions may not be considered blatantly racist, but they demonstrate assumptions and ideas that Black students may face when entering a profession in which they are extremely underrepresented.

So why did these students ultimately apply to and choose to attend law school despite these barriers? Due to the scope of our research, we are unable to assess the reasons why other Black-identifying high school and college students in Minnesota do not pursue legal education. However, one commonality across all five survey respondents was the positive encouragement from those in their communities to attend college.²¹ Of those four students, three were specifically encouraged to build their resumes during high school and college.²² Our findings indicate that for potential students who

15. *Id.* Respondents were asked: "Can you describe the reactions from people once they learned you were accepted to law school?"

16. A microaggression is a "comment or action that subtly and often unconsciously or unintentionally expresses a prejudiced attitude toward a member of a marginalized group." *Microaggression*, MERRIAM-WEBSTER COLLEGIATE DICTIONARY (11th ed. 2003).

17. *See* Research Survey, *supra* note 8.

18. *Id.*

19. *Id.*

20. *See* Anonymous Interview, *supra* note 8.

21. *See* Research Survey, *supra* note 8. Respondents were asked: "When you were in high school, did anyone encourage you to attend college?"

22. *Id.* Respondents were asked: "While you were in high school and/or college, did

did not receive the same encouragement to pursue a college education or to seek out resume-building experiences, the barriers discussed above may have been enough to deter them from pursuing law school completely.

B. Experiences While Enrolled at the University of Minnesota Law School

While there were many common points of discussion regarding barriers faced by Black students prior to applying to law school, the respondents had varying experiences once they began their legal education.²³ Responses varied with regard to the overall sense of community at the school and instances of racism or microaggressions on campus. For example, four out of five respondents indicated they struggled to feel a sense of community while enrolled in the law school.²⁴ The one respondent who felt they had a strong community at the law school was an alumna who graduated from Minnesota Law in 2013.²⁵ She discussed several factors which contributed to her sense of community, including: the administration's openness to addressing the underrepresentation of Black students at the school, the support and guidance Black faculty provided to the Black law students, the diversity within the population of Black students at the school, and the activeness of the Black Law Students Association.²⁶ One respondent expressed that she was surprised to hear about the current lack of Black faculty at the law school. She explained that a Black faculty member, who has since left the school, served as an adviser and mentor to the Black Law Students Association by creating space for difficult conversations and inviting them to social and

anyone encourage you to seek out opportunities to build your resume or explain the importance of building your resume?"

23. It should be noted that some of these experiences may not be representative of all Black student experiences at Minnesota Law due to the low response rate from alumni and the shifts in student and faculty demographics over time.

24. See Research Survey, *supra* note 8. Respondents were asked: "Did you feel a sense of community at the law school? Could you please anonymously explain why or why not?"

25. Between 2011 and 2013, Black student enrollment at the University of Minnesota Law School totaled 27, 27, and 21 students, respectively. Since 2013, however, the total number of Black students enrolled has consistently decreased down to just four students in the 2019–20 academic year. *ABA Required Disclosures*, AMERICAN BAR ASSOCIATION, <http://www.abarequireddisclosures.org/Disclosure509.aspx> [https://perma.cc/WFM8-YNNL].

26. See Anonymous Interview, *supra* note 8.

community events outside of the school.²⁷ When asked whether they felt the school administration cared about the Black law student community, three out of the five respondents answered in the negative.²⁸ One respondent said it seemed as though professors care, but had not formed an opinion with respect to the administration as a whole and another respondent said the school was very open to discussing ways to improve diversity and community on campus.²⁹

In stark contrast, the three current students who responded to the survey all expressed that they did not feel a sense of community at the school.³⁰ One student wrote that the presence of student “cliques” prevented a sense of community.³¹ One respondent, who even reported she felt a sense of community while at the school, indicated a similar feeling of being separated from other non-Black students.³² Specifically, she described one incident which exemplified to her the cultural difference between Black and White law students at the school.³³ One day, several Black students were having a casual conversation in the courtyard about “something unimportant” and a White student approached them and asked if everything was okay because the Black students were being so loud. Then, when the Black students looked around the courtyard, they noticed all of the White students watching them.³⁴

Our findings indicate that what this respondent and her friends experienced that day was not an isolated incident at Minnesota Law. Three out of four survey respondents indicated they had experienced microaggressions from a classmate, professor, or staff member at the law school, and

27. *Id.*

28. *See* Research Survey, *supra* note 8. Respondents were asked: “Did you feel that the law school cared about you and your community? Could you please anonymously explain why or why not?”

29. *Id.*

30. *See* Research Survey, *supra* note 8. Respondents were asked: “Did you feel a sense of community at the law school? Could you please anonymously explain why or why not?”

31. *Id.*

32. *See* Anonymous Interview, *supra* note 8.

33. *Id.*

34. *Id.*

one out of four respondents had experienced an incident of blatant racism.³⁵ One respondent gave an example of a microaggression which occurred regularly throughout their time at the law school. Often in their classes, students would “bring up other issues whenever racism is the topic at hand . . . [a]s if the discussion of racism implies that now is the perfect time to discuss solving other issues as well.”³⁶ Another wrote that they had experienced microaggressions “especially when it came to jobs and grades” but said it was difficult to think of one specific example.³⁷ One respondent recounted an incident of blatant racism when a fellow student told them that they only received their position at a firm because they were Black. The White student said that “they just hand out positions to diverse students.”³⁸ When asked whether they had ever been made uncomfortable by a discussion of race in the classroom, one respondent wrote: “There have been several classes where the professor or students would throw around the term ‘the Blacks’ when discussing civil rights cases or other discrimination cases,” and said there were several instances where professors would purposely steer the discussion away from race and would “clearly try to avoid having students participate in [those] conversations.”³⁹ Additionally, three out of five respondents had, at one time or another, gotten the impression that their contribution to the school’s diversity was one of the reasons they were admitted to the school.⁴⁰ One student wrote, “Based on the racial demographics of my incoming class and current events, it feels like that was a

35. See Research Survey, *supra* note 8. Respondents were asked: “Did you ever experience microaggressions from a classmate, professor, or staff member at the law school? If you are willing, could you please anonymously share a description of your experience?” and “Did you ever experience blatant racism from a classmate, professor, or staff member at the law school? If you are willing, could you please anonymously share a description of your experience?”

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.* Respondent was asked: “Were you ever made uncomfortable by a discussion about race in one of your classes? If yes, could you please anonymously explain the experience?”

40. *Id.* Respondents were asked: “Did any faculty, staff, or students ever make you feel as though your contribution to the school’s diversity demographics was the main or only reason you were admitted to the school? If yes, could you please anonymously explain your experience?”

significant contributing factor.”⁴¹ Another respondent heard comments from their classmates implying they thought diversity was a main factor in the student’s admission.⁴² The third respondent inferred this factor from their conversations with admissions staff during the application process.⁴³

Despite the prevalence of negative experiences and lack of community at Minnesota Law, only two out of five respondents considered transferring to another law school.⁴⁴ Both respondents indicated that the lack of Black students at the school was a significant factor in their consideration of transferring to another school.⁴⁵ One respondent wrote, “I came home to Minnesota expecting to find more people with experiences like mine only to find that I am one of a handful of Black students . . . at the law school.”⁴⁶ Another wrote, “I was just shocked by the culture at the school,” and indicated they often felt uncomfortable and found it difficult to make friends at the school.⁴⁷ One of these respondents wrote that they considered transferring “daily” and at the time the survey was administered had still not decided whether or not they would choose to leave Minnesota Law.⁴⁸ The other respondent, however, ultimately made the decision to stay at the school due to promising job prospects and the caliber of the legal education. This response indicates that the culture of Minnesota’s legal market has forced at least one student to compromise their comfort and desire for an inclusive environment in order to secure a job post-graduation.

C. Impressions of the Minnesota Legal Market

After collecting data on the individual experiences of University of Minnesota Law students, we wanted to learn more about their impressions

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.* Respondents were asked: “Did you ever consider transferring to another law school? If yes, can you anonymously explain why you considered it and why you ultimately chose to stay?”

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.*

of the Minnesota legal market. All respondents answered affirmatively when asked whether they believed Minnesota struggles to attract and retain Black attorneys.⁴⁹ The respondents each posed their own theories for these struggles. One respondent wrote that because “Minnesota is a ‘White’ state in general . . . the pipeline isn’t there to attract Black attorneys to retain them in the first place.”⁵⁰ Another posited that the reason firms struggle to retain the attorneys they do attract is because “many of our firms and legal employers lack a critical mass of Black attorneys . . . [so] it’s hard to be the only one.”⁵¹ Another respondent wrote that even though firms in Minnesota openly discuss this issue and their desire to correct it, they are often unsuccessful because “Minnesota is not an appealing destination for out-of-state, well-qualified lawyers.”⁵²

All five respondents suggested different programs and initiatives that Minnesota firms and law schools could implement to address the low number of Black law students and attorneys. Three respondents suggested a direct pipeline program targeting Black middle school, high school, and college students in Minnesota.⁵³ One respondent specifically suggested that Black law students should earn law school credit for “tutor[ing] local Black middle school and high school students,” and noted that this would “create face to face time with soon to be Black lawyers” and “ensure that they are getting the attention they need to learn, apply to college, and study for standardized tests.”⁵⁴ Two respondents wrote that the law school needs to increase recruiting efforts outside of Minnesota, focus these efforts on predominantly Black colleges, and increase financial support for Black students.⁵⁵ Another

49. *Id.* Respondents were asked: “Do you think Minnesota struggles to attract and retain Black attorneys? Could you anonymously explain why you do or do not hold this opinion?”

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.* Respondents were asked: “What do you think the law school or the Minnesota legal field generally need to do in order to increase Black law student enrollment and retention of Black law school graduates?”

54. *Id.*

55. *Id.*

respondent suggested that the law school focus more funding on hiring Black faculty.⁵⁶

In sum, our findings demonstrate that Black law students are not a monolith, and thus, Minnesota Law needs to take careful and calculated measures to address the needs of its current and future students. There was significant variance in the experiences, impressions, and overall attitudes of Black students at Minnesota Law. When asked to share any additional sentiments, one respondent wrote, “Black students, biracial students, and African students all come from different backgrounds and have extremely different life experiences. So until the school can increase the Black student population we will continue to feel a certain sense of isolation or unfulfillment.”⁵⁷ In the first section, we posited that one factor that may distinguish students who pursue law degrees from those who do not may be encouragement to attend college and seek out resume-building opportunities. As all five respondents suggested, in order to close this barrier, law schools should put energy and resources into connecting with Black middle and high school students who may lack this encouragement from members of their communities. By focusing on students before they decide whether or not to attend college, the law school can shape the future generation of prospective law students and drastically expand the pool of applicants. In turn, this will address the barriers and negative experiences we discovered in our research. Increasing the number of Black students at Minnesota Law will begin to correct instances of microaggressions by correcting the stereotypes held by some law students, faculty, and staff. Correcting these microaggressions and instances of blatant racism will prevent the alienation of Black law students and form a more cohesive student body. Continuing to grow the Black law student population will also help diversify the Minnesota legal market by creating a stronger community which will aid in the attraction and retention of Black attorneys and law students. Minnesota Law will need to take direct, purposeful, and sustained action in order to remove educational and social barriers and to foster a more inclusive environment on campus and in the broader Minnesota legal community.

56. See Anonymous Interview, *supra* note 8.

57. See Research Survey, *supra* note 8.

III. AN EMPIRICAL ANALYSIS OF BLACK STUDENT ENROLLMENT AT THE UNIVERSITY OF MINNESOTA LAW SCHOOL

In the 2019–20 academic year, Black students comprised 0.6 percent of Minnesota Law’s enrolled Juris Doctor (J.D.) student body.⁵⁸ Black students at Minnesota Law are disproportionately underrepresented compared to many of the law school’s peers. Minnesota Law has consistently maintained the lowest percentage of enrollment for Black students in the Top 25 ranked law schools since 2017 and in Minnesota since 2014.⁵⁹ This Part presents an empirical analysis depicting a sobering picture of consistent underrepresentation of Black students and exploring a series of comparisons examining whether the disparities present at Minnesota Law for Black student enrollment are present in peer law schools and educational institutions. At each level of comparison, Black student enrollment at Minnesota Law fails to align with its peers.

A. Data and Methodology

In order to examine the nature of disparities in enrollment at Minnesota Law, we analyzed the law school amongst several comparison groups. We considered Minnesota Law amongst its peers in the U.S. News Top 25 Rankings (Top 25),⁶⁰ law schools in the state of Minnesota, and American Bar Association (ABA) accredited law schools across the country using annual reports submitted to the ABA by each law school.⁶¹ Enrollment data is annually submitted by law schools to the ABA based on student self-identification of race and ethnicity. Throughout this Part, we compare the percentage of enrollment of a single group of J.D. students within Minnesota Law’s J.D. student body to the average enrollment of the same group of students at comparison institutions.⁶²

58. *ABA Required Disclosures*, *supra* note 25.

59. *Id.*

60. *2021 Best Law Schools*, U.S. NEWS & WORLD REP., <https://www.usnews.com/best-graduate-schools/top-law-schools/law-rankings>.

61. *See ABA Required Disclosures*, *supra* note 25.

62. For example, we compare the enrollment of Black students at Minnesota Law as a percentage of the law school’s student body and compare this percentage to the average percentage of enrollment of Black students at the top 25 highest ranked law schools.

In order to contextualize the law school within the state of Minnesota's educational infrastructure, we analyzed enrollment rates using annual student-level data from the Minnesota Department of Education,⁶³ high school graduation rates by state on an annual basis using the Common Core of Data from the National Center for Education Statistics (NCES),⁶⁴ and suspension rates within Minnesota's public education system.⁶⁵ Next, we compared Minnesota Law to the broader institution of the University of Minnesota by analyzing enrollment statistics for the undergraduate and graduate student populations using the Integrated Postsecondary Education Data Systems (IPEDS) from the NCES.⁶⁶ Finally, we compared Minnesota Law, the broader University of Minnesota, and the Minnesota public school system to Iowa and Wisconsin using the same groups.⁶⁷

B. A Comparison of Black Student Enrollment at the University of Minnesota Law School to Top 25 Law Schools and Minnesota Law Schools

In the 2019–20 academic year, Black students comprised 0.6 percent of Minnesota Law's student body, totaling four students in a school of 667.⁶⁸ Black student enrollment of 0.6 percent in 2019 is the most recent in a cascade of declining enrollment beginning in 2015.⁶⁹ Minnesota Law has seen

63. *Student*, MINN. DEP'T OF EDUC., <https://public.education.mn.gov/MDEAnalytics/DataTopic.jsp?TOPICID=2> [<https://perma.cc/K2YD-RZ5S>].

64. *Common Core of Data*, NAT'L CTR. FOR EDUC. STATS., <https://nces.ed.gov/ccd/> [<https://perma.cc/ZE5G-XT3S>].

65. *Discipline Data*, MINN. DEP'T OF EDUC., <https://public.education.mn.gov/MDEAnalytics/DataTopic.jsp?TOPICID=133> [<https://perma.cc/8LTL-6CX2>].

66. *IPEDS Survey Components*, NAT'L CTR. FOR EDUC. STATS., <https://nces.ed.gov/ipeds/use-the-data/survey-components> [<https://perma.cc/X6XB-K3GX>].

67. For data on enrollment at the University of Iowa and University of Wisconsin law schools, see *ABA Required Disclosures*, *supra* note 25. Data on enrollment in Iowa public schools was gathered from the Iowa Department of Education. See *Education Statistics*, IOWA DEP'T OF EDUC., https://educateiowa.gov/data-and-reporting/education-statistics#Student_Demographic_Information [<https://perma.cc/T7CQ-QK8Q>]. Data on enrollment in Wisconsin public schools was gathered from the Wisconsin Department of Public Instruction. See *WISEdash Data Files by Topic*, WIS. DEP'T OF PUB. INSTRUCTION, https://dpi.wi.gov/wisedash/download-files/type?field_wisedash_upload_type_value=Enrollment [<https://perma.cc/AT7T-WHXJ>].

68. See *ABA Required Disclosures*, *supra* note 25.

69. *Id.*

Black student enrollment decrease from 3.59 percent in 2011 to 0.60 percent in 2019, as depicted in Figure 1.⁷⁰ While the law school celebrates improvements in overall student diversity and its successful efforts to enhance the racial and ethnic equity of the school,⁷¹ Minnesota Law enrolled fewer Black students than any of its peer schools in the Top 25 in 2014, 2017, 2018, and 2019.⁷² Average enrollment for Black students in the Top 25 hovered around six percent from 2011 to 2020.⁷³ The smallest percentage of Black student enrollment at any law school in the Top 25, excluding Minnesota Law, was 1.61 percent, and only two institutions (Arizona State University and the University of Minnesota) saw Black student enrollment below two percent during this period. In stark contrast, White students are overrepresented at Minnesota Law and the percentage of White student enrollment has increased since 2014 from 65.33 percent to 72.85 percent in 2020.⁷⁴ Minnesota Law also diverges from its peers in the Top 25 where the average enrollment percentage of White students has remained relatively constant at just below 60 percent since 2011.⁷⁵ While Minnesota Law has either remained close to the average enrollment percentage as its peers in the Top 25 in many racial and ethnic categories as depicted in Table 1, enrollment trends of Black and White students display significant disparities at Minnesota Law.⁷⁶

70. *Id.*

71. See generally *Minnesota Law's Commitment to Social Justice*, UNIV. OF MINN. L. SCH., <https://www.law.umn.edu/admissions/equity-diversity-inclusion/commitment-racial-justice> [https://perma.cc/5FCL-PF4T]; Todd Nelson, *Law School Expands Racial Equity and Justice Offerings*, UNIV. OF MINN. L. SCH. (Oct. 9, 2020), <https://www.law.umn.edu/news/2020-10-09-law-school-expands-racial-equity-and-justice-offerings> [https://perma.cc/3VH5-CRQ5].

72. See *ABA Required Disclosures*, *supra* note 25.

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

Figure 1.⁷⁷

77. *ABA Required Disclosures*, *supra* note 25.

Table 1. Student Enrollment Percentage at the University of Minnesota Law School Compared to the Average Percentage of Top 25 Ranked Schools⁷⁸

Self-Identified Race or Ethnicity	2012	2013	2014	2015	2016	2017	2018	2019	2020
Black or African-American (Average)	.56 (5.97)	.86 (5.86)	.86 (5.98)	.50 (6.09)	.43 (6.20)	.41 (6.16)	.85 (6.19)	.60 (6.17)	.08 (6.46)
White (Average)	8.91 (58.16)	6.71 (59.24)	5.33 (58.53)	7.08 (58.24)	8.80 (59.79)	0.67 (59.56)	3.22 (59.51)	5.26 (59.76)	2.95 (59.75)
Asian (Average)	.62 (10.43)	.73 (10.29)	.17 (10.38)	.74 (10.44)	.45 (10.05)	.18 (9.56)	.59 (9.40)	.95 (9.53)	.30 (9.71)
Hispanic of any race (Average)	.90 (8.01)	.91 (7.90)	.01 (8.12)	.56 (8.08)	.08 (8.60)	.89 (9.15)	.25 (9.62)	.75 (9.83)	.46 (10.33)
Native Hawaiian	0 (.17)	0 (.15)	0 (.15)	0 (.15)	0 (.15)	0 (.17)	0 (.15)	0 (.15)	0 (.15)

78. ABA Required Disclosures, *supra* note 25.

or Other Pacific Is- lander (Aver- age)	0.08)	0.04)	0.11)	0.07)	0.08)	0.09)	(((
	0.06)	0.06)	0.06)						
Amer- ican Indian or Alaska Na- tive (Aver- age)	1 .05	0 .82	0 .86	0 .78	0 .52	0 .53	0 .12	1 .15	0 .30
	(((((((((
	0.53)	0.52)	0.54)	0.55)	0.51)	0.41)	0.37)	0.35)	0.60)
Non- resident (Aver- age)	6 .06	9 .55	1 2.03	1 1.23	9 .53	1 0.25	9 .32	7 .80	6 .68
	(((((((((
	3.82)	4.68)	5.21)	6.25)	6.02)	6.57)	6.50)	6.19)	5.53)

Minnesota Law has recently touted its success in reducing some of these disparities during the 2020–21 academic year.⁷⁹ The school’s administration stated that, “[s]ince 2016, [the law school’s] percentage of students of color (American Indian, Asian, Black, and Latino combined) has risen from 13% in 2016 to 24% of this fall’s incoming class.”⁸⁰ The increased diversity of the first-year class is cause for some enthusiasm and relief, with Black student enrollment increasing to 4.27 percent.⁸¹ Yet even with this drastic increase, Minnesota Law still maintains the fourth lowest percentage of first-year Black students in the Top 25.⁸² Similarly, Minnesota Law has the second-lowest percentage of Black students and the highest percentage of enrolled White students in its J.D. program amongst the Top 25.⁸³ While the more diverse representation of the law school’s incoming class is certainly one step into the right direction, this single year’s divergence from the trend of previous years, as illustrated in Table 2, does not guarantee a long-term solution to the years of decreasing enrollment for Black students.

79. *Dean Garry Jenkins Responds to the Open Letter from Students*, UNIV. OF MINN. L. SCH. (Aug. 19, 2020), <https://www.law.umn.edu/news/2020-08-19-dean-garry-jenkins-responds-open-letter-students> [<https://perma.cc/6N6B-H8TX>].

80. Based on the recently released 2020–21 ABA disclosures, this number is roughly 25 percent, rather than 24 percent. *See ABA Required Disclosures*, *supra* note 25.

81. *Id.*

82. *Id.*

83. *Id.*

Table 2. First-Year Student Enrollment & Percentage at the University of Minnesota Law School⁸⁴

Self-Identified Race or Ethnicity	012	013	014	015	016	017	018	019	020
Black Student Enrollment (Percent of First-Year Class)	2 (1.95)	2 (0.90)	2 (1.04)	2 (2.87)	2 (1.14)	2 (0.51)	2 (0.90)	2 (0.83)	2 (4.27)
Enrollment of Students of Color (Percent of First-Year Class)	4 (20.49)	3 (16.74)	3 (19.17)	2 (15.52)	2 (14.20)	3 (15.66)	3 (15.70)	4 (17.08)	5 (25.59)
First-Year Class Enrollment	05	21	293	174	176	198	123	240	211

Discrepancies in enrollment of Black students at Minnesota Law are not limited to comparisons with our peers in the Top 25 but extend to comparisons with law schools in Minnesota. Between 2011 and 2013, Black students were enrolled in Minnesota Law at rates that mirrored the average Black student enrollment at law schools in Minnesota, as depicted in Figure 3.⁸⁵ However, beginning in 2013, Black student enrollment at Minnesota

84. *ABA Required Disclosures*, *supra* note 25.

85. From 2011 to 2015, there were four ABA-certified law schools in Minnesota: The University of Minnesota Law School, The University of St. Thomas School of Law, William

Law declined sharply while average Black student enrollment at other law schools in Minnesota began to rise.⁸⁶ Between 2013 and 2018, the average Black enrollment at law schools in Minnesota increased from 2.84 to 4.63 percent.⁸⁷ At the same time, Black student enrollment at Minnesota Law decreased from 2.86 to 0.85 percent.⁸⁸ While Minnesota Law is the highest ranked law school within Minnesota, the discrepancies between Black student enrollment between law schools in Minnesota are not due to distinctions in admissions standards. As shown in Figure 1, Black student enrollment at Top 25 law schools has remained constant since 2011, demonstrating that Black students can and do gain admission at highly-ranked schools. Black students also remain attracted to Minnesota law schools as indicated by increased enrollment in Minnesota since 2011. These comparisons illustrate that Black students simply feel unwelcome or uninterested in attending Minnesota Law.

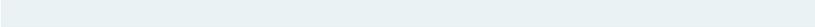


Figure 3.⁸⁹

When we extend our analysis to all ABA-accredited law schools, the discrepancies only expand. From 2011 to 2020, Black students comprised between seven and nine percent of the average law student population across all U.S. law schools.⁹⁰ During this period, the University of Minnesota's Black student enrollment declined while the average of Black student

Mitchell College of Law, and Hamline University School of Law. In 2016, William Mitchell and Hamline University merged to form Mitchell Hamline School of Law. *See ABA Required Disclosures*, *supra* note 25.

86. *Id.*

87. *Id.* This average incorporates the precipitous drop at Minnesota Law. Even with substantial decreases in Black student enrollment at Minnesota Law, average enrollment of Black law students in Minnesota increased.

88. *Id.*

89. *ABA Required Disclosures*, *supra* note 25.

90. *Id.*

enrollment across all U.S. law schools increased.⁹¹ By 2019, the enrollment gap between Black students at Minnesota Law and the average for U.S. law schools reached seven percentage points, doubling from only eight years earlier, when the gap was roughly 3.5 percentage points.⁹² In 2019, only four of the 203 ABA-accredited law schools had a smaller percentage of Black student enrollment than the University of Minnesota.⁹³

Whether the comparison is specific to Minnesota's peer schools within the Top 25, the state of Minnesota, or to the entire ABA-accredited law school community, Minnesota Law demonstrates a serious failure to attract Black students and create a law school environment where Black students are welcome and valued in the same way as other students.

C. Disparities in Black Student Enrollment Within the Context of Education and Segregation in Minnesota

The disparities in Black student enrollment at Minnesota Law are not isolated. They are rooted in an underlying educational framework within the United States and Minnesota that continues to restrict the opportunities available for many Black students. Minnesota's state public school system, including the University of Minnesota, depicts a system of disparity in achievement and success for Black students. In the 2017-18 academic year, Minnesota had the second lowest high school graduation rate in the country for Black students at just 67.40 percent.⁹⁴ This graduation rate is more than twenty percentage points lower than Minnesota's White high school students, who graduated at a rate of 88.40 percent.⁹⁵ The graduation rate for Black students was ten percentage points lower than the national average of

91. *Id.*

92. *Id.*

93. Two schools, the University of Puerto Rico and the Pontifical Catholic University of Puerto Rico, each enrolled zero Black students. The University of Wyoming, with 0.44 percent, and the University of Nebraska, with 0.51 percent, were the two other lowest ranking schools in terms of Black student enrollment. This follows the trend from recent years: in 2018, the University of Minnesota had the seventh smallest percentage of Black student enrollment, and in 2017, it had the fourteenth smallest percentage of percentage. *Id.*

94. *Student, supra* note 63.

95. *Id.*

77 percent, while the graduation rate for White students was equivalent to the national average of 88 percent.⁹⁶

Black students in Minnesota public schools also receive disproportionately high disciplinary actions.⁹⁷ Between 2014 and 2018, the enrollment percentage of Black students in Minnesota public K-12 schools was between ten and eleven percent, yet these students experienced between 38 and 40 percent of the disciplinary actions.⁹⁸ White students accounted for between 65 and 70 percent of the student population, but made up between 34 and 37 percent of disciplinary actions.⁹⁹ Students who are suspended at higher rates are likely to experience substantial reductions in academic achievement, and evidence is ambiguous as to whether suspensions are an effective way to discipline students.¹⁰⁰ This reduction in opportunity for many Black students at the middle school and high school level is reflective of the broader history of racism within Minnesota's educational framework and inhibits more equitable enrollment of Black students at the undergraduate and graduate levels.

These disparities within Minnesota are indicative of larger trends toward increasing inequality, racism and segregation within the Minneapolis-St. Paul community and Minnesota.¹⁰¹ The culture of racism and segregation

96. While the graduation rate for Black students in Minnesota has been slowly decreasing from 57.80 percent in 2012 and 62 percent in 2013, these rates continue to lag far behind the rest of the country. *Common Core of Data*, *supra* note 64.

97. A disciplinary action for purposes of this Article is defined as an "out of school suspension for one day or more, expulsion, or exclusion." *Discipline Data*, *supra* note 65.

98. *Id.*

99. These disparities in discipline have been the subject of action by the Minnesota Department of Human Rights. Nina Moini, *Human Rights Department Analyzes Discipline Disparities at MN Schools*, MPRNEWS (Aug. 3, 2018), <https://www.mprnews.org/story/2018/08/03/discipline-disparities-minnesota-schools-addressed-human-rights-department> [<https://perma.cc/H5Y2-6LSQ>]; see *Discipline Data*, *supra* note 65.

100. Johanna Lacoë & Matthew P. Steinberg, *Do Suspensions Affect Student Outcomes?*, 41 EDUC. EVALUATION & POL'Y ANALYSIS 34 (2019); *The Consequences of Suspension and What Schools Can Do Instead*, EDMENTUM (Apr. 11, 2018), <https://blog.edmentum.com/consequences-suspension-and-what-schools-can-do-instead> [<https://perma.cc/R77D-G8MZ>].

101. Alana Semuels, *Segregation Has Gotten Worse, Not Better, and It's Fueling the Wealth Gap Between Black and White Americans*, TIME (June 19, 2020), <https://time.com/5855900/segregation-wealth-gap/> ("Because of policy decisions at the federal, state, and

continues to pervade life for Black Minnesotans in housing, transportation and policing, amongst other areas. As one example, the Twin Cities and the state of Minnesota now exhibit some of the widest racial disparities in the country:

Recent data show alarming gaps between whites and non-whites in income, unemployment, health, and education. Poverty rates for black Minnesotans are more than four times those for whites while household incomes for blacks are less than half of those for whites; reading proficiency rates for black students are less than half those for whites in most school grades and years; incarceration rates for blacks are 20-25 times greater than for whites; and black unemployment rates are two to three times those for whites. All of these disparities put the region and state near the bottom of national rankings.¹⁰²

Systemic reductions in required levels of affordable housing for suburban areas allowed “intentionally racially segregated schools to persist indefinitely without penalty” increasing the need for affordable housing in urban areas.¹⁰³ At the same time, goals for affordable housing in majority-white suburbs were reduced, which had the effect of “revers[ing] progress towards integration.”¹⁰⁴ These disparities are deep within the state of Minnesota and are reflected not only in the educational and housing infrastructure, but also within state government, where state legislators planned interstate highways to split majority-Black neighborhoods and demanded residents sell their homes for a fraction of their value.¹⁰⁵ The culture of racism, segregation, and

local levels, Minneapolis, like many places in America, has become more segregated, not less, in the past three decades. As a result, Black Americans have been left behind in the nation’s economic growth.”)

102. *Id.* at 8 (citing Jonathan M. Rose, *Disparity Analysis: A Review of Disparities Between White Minnesotans and Other Racial Groups*, COUNCIL ON BLACK MINNESOTANS (2013)).

103. INST. ON METRO. OPPORTUNITY, WHY ARE THE TWIN CITIES SO SEGREGATED? (2015), https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1123&context=imo_studies [<https://perma.cc/ZV5C-GDN7>].

104. *Id.*

105. Ehsan Alam, *Before It was Cut in Half by I-94, St. Paul’s Rondo Was a Thriving African-American Cultural Center*, MINN. POST (June 19, 2017), <https://www.minnpost.com/mnopedia/2017/06/it-was-cut-half-i-94-st-paul-s-rondo-was-thriving-african-american-cultural-center/> [<https://perma.cc/7MEB-8LJ9>]; Emma Nelson, *From Ashes to Asphalt: St. Paul’s Systematic Destruction of Black Neighborhoods*, MEDIUM (Mar. 1,

inequality has been pervasive throughout Minnesota for centuries and continues to be fervently present within recent decades. As is well-known now, this culture of racism extends to the police killings of Philando Castille, George Floyd, Thurman Blevins, Jamar Clark, Alfred Abuka Sanders, Tycel Nelson, and many others.¹⁰⁶ While Minnesota Law is only one small indication of these effects, the stature of the law school requires attention and action that can be beneficial for its students, community, and the entire state.

D. Comparison of the University of Minnesota Law School to the Broader University of Minnesota

While some of the disparities at Minnesota Law can be attributed to the history of segregation and inequality within Minnesota and its educational environment of Minnesota, the law school also displays discrepancies in student enrollment that are not present at the University of Minnesota's undergraduate or graduate levels. The University of Minnesota's Black undergraduate student population steadily increased from 4.06 percent in 2011 to 4.92 percent in 2018.¹⁰⁷ At the same time, the Black graduate student population increased from 2.58 percent in 2011 to 3.16 percent in 2018.¹⁰⁸ In 2011, the law school enrolled Black students as 3.59 percent of its student body, exceeding the average of the graduate schools at the University of Minnesota and closely aligning with the undergraduate student population

2017), <https://medium.com/@enelson009/from-ashes-to-asphalt-st-pauls-systematic-destruction-of-black-neighborhoods-54ea9c0c25f> [<https://perma.cc/739J-848D>] (“A lush and vibrant neighborhood was effectively sliced in half, displacing nearly 600 families, 300 businesses and forcing thousands of African-Americans to seek alternative housing in a highly segregated city.”).

106. Lianna Matt McLernon, *This Minneapolis Street Is a Growing List of People Killed by Police*, MINN. MONTHLY (June 8, 2020), <https://www.minnesotamonthly.com/lifestyle/people/this-minneapolis-street-is-a-growing-list-of-people-killed-by-police/> [<https://perma.cc/DVC2-EE84>]; Matt Furber, John Eligon & Audra D. S. Burch, *Minneapolis Police, Long Accused of Racism, Face Wrath of Wounded City*, N.Y. TIMES (May 27, 2020), <https://www.nytimes.com/2020/05/27/us/minneapolis-police.html> [<https://perma.cc/94EE-7XYE>]; Jeff Hargarten, Jennifer Bjorhus, Mary Jo Webster & Kelly Smith, *Every Police-Involved Death in Minnesota Since 2000*, STAR TRIB. (Oct. 2, 2020), <https://www.startribune.com/fatal-police-encounters-since-2000/502088871/> [<https://perma.cc/M9UZ/E8PM>].

107. *IPEDS Survey Components*, *supra* note 66.

108. *Id.*

of 4.06 percent.¹⁰⁹ However, Black student enrollment at the law school sharply diverged from the undergraduate and graduate student population since 2013, as indicated in Figure 5.¹¹⁰ The lowest percentage of Black student enrollment in either the undergraduate or graduate student population in this time period was 2.46 percent of enrolled graduate students in 2013, far from the law school's 0.6 percent in 2019.¹¹¹

In our comparison of Minnesota Law to the broader public education infrastructure within the state of Minnesota,¹¹² the only institution experiencing a decrease in the percentage of enrollment of Black students since 2011 is Minnesota Law.¹¹³ In fact, the law school is the only one of these institutions to experience any decrease in the percentage of enrollment of Black students in any individual year since 2013. This comparison illustrates that the disparities present within the law school for Black student enrollment are not present because of a lack of available or talented students.

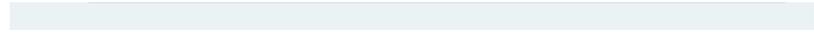


Figure 5.¹¹⁴

Examination of White student enrollment in Minnesota public schools and the University of Minnesota depicts an even more sobering picture. Each of these five institutional groups, except for the law school, experienced a decrease in its percentage of White student enrollment by more than five percent since 2011, as depicted in Figure 6.¹¹⁵ The law school mir-

109. *Id.*

110. *Id.*

111. *Id.*

112. For purposes of this Article, this infrastructure includes the University of Minnesota graduate and undergraduate institutions, as well as public middle schools and high schools.

113. See *ABA Required Disclosures*, *supra* Note 25; *Student*, *supra* note 63; *IPEDS Survey Components*, *supra* note 66.

114. *ABA Required Disclosures*, *supra* note 25.

115. *Id.* *Student*, *supra* note 63; *IPEDS Survey Components*, *supra* note 66.

rored these changes from 2011 to 2014, experiencing a decrease in the enrollment of White students by more than five percent.¹¹⁶ Since 2014, however, the law school increased its enrollment of White students from 65.33 percent in 2014 to 75.26 percent in 2019.¹¹⁷ The law school is the only one of these five institutions exhibiting any increase in the percentage of White student enrollment since 2014.

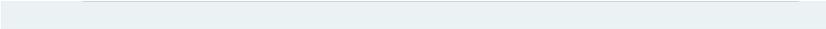


Figure 6.¹¹⁸

E. A Final Comparison: How the University of Minnesota Deviates From Iowa and Wisconsin

While the University of Minnesota's Law School's Black student enrollment may diverge from the trends of the University of Minnesota and the Minnesota public school system, the law school's peers may be experiencing similar deviations. In considering this explanation, we analyzed whether Wisconsin and Iowa displayed similar trends. Wisconsin and Iowa act as reasonable comparisons because of their geographic similarity, comparable situation as major Big Ten research institutions, and comparable law school ranking.¹¹⁹ Figure 5 shows that Minnesota Law deviated from the University of Minnesota undergraduate and graduate student bodies, as well as the Minnesota public school system in its enrollment of Black students. Neither law school at the University of Iowa nor the University of Wisconsin displayed similar trends over the same period. The University of Iowa Law School increased the enrollment percentage of Black students from 2.88 percent in 2011 to 4.02 percent in 2020.¹²⁰ This result was similar to in-

116. See *ABA Required Disclosures*, *supra* note 25; *Student*, *supra* note 63; *IPEDS Survey Components*, *supra* note 66.

117. See *ABA Required Disclosures*, *supra* note 25.

118. *ABA Required Disclosures*, *supra* note 25.

119. The University of Minnesota ranks as #21, the University of Iowa ranks as #27, and the University of Wisconsin ranks as #38 as of the most recent rankings. *2021 Best Law Schools*, *supra* note 60.

120. See *ABA Required Disclosures*, *supra* note 25.

creases in Black student enrollment at the University of Iowa at the undergraduate and graduate level since 2014.¹²¹ The Iowa K-12 public school system also displayed a steady increase in Black student enrollment from 5.13 percent in 2011 to 6.49 percent in 2019.¹²² Black student enrollment at the University of Wisconsin Law School has decreased since 2011, falling from 6.43 percent to 3.73 percent in 2020.¹²³ While this decrease remains a cause for concern, the University of Wisconsin's Black student enrollment decreased at both the undergraduate and graduate level from 2011 to 2019.¹²⁴ These patterns indicate that the decrease is not specifically limited to the law school but is indicative of broader institutional decline in Black student enrollment, which remains a cause for alarm. In addition, the Wisconsin public school system has seen a reduction in the percentage of Black student enrollment from 9.77 percent in 2011 to 8.98 percent in 2019.¹²⁵

At each level of analysis, Minnesota Law is an outlier from its peers. Within recent years, Minnesota Law has failed to cultivate an educational environment that is welcoming and attractive for Black students. As the law school has experienced a precipitous decrease in Black student enrollment, while enrollment for White students increased by over ten percent between 2014 and 2019.¹²⁶ This enrollment trend makes Minnesota Law an outlier

121. See *IPEDS Survey Components*, *supra* note 66.

122. See *Education Statistics*, *supra* note 67.

123. See *ABA Required Disclosures*, *supra* note 25.

124. See *IPEDS Survey Components*, *supra* note 66.

125. *Student and School Data*, WIS. DEP'T OF PUB. INSTRUCTION, <https://dpi.wi.gov/families-students/data> [<https://perma.cc/K2RP-K9JG>].

126. The timing of reductions in enrollment of Black students and increases in enrollment of White students following the 2012 and 2013 academic years is particularly alarming since the disparities in enrollment coincide with increasing pressure to reduce budget shortfalls at the University of Minnesota Law School and subsidies from the University of Minnesota. Josh Verges, *UMN Subsidy for Law School Soars as Applications Suffer a Steep Drop*, PIONEER PRESS (May 10, 2018), <https://www.twincities.com/2018/05/10/umn-subsidy-for-law-school-soars-as-applications-suffer-a-steep-drop/> (last visited Feb. 6, 2021) ("Since 2012-13, the U has given the law school \$39.9 million to cover budget shortfalls. The ongoing annual subsidy has reached \$7.5 million."); Peter Cox, *Law School Reckoning: University of Minnesota Wants More Subsidies to Stay Selective*, MPRNEWS (May 23, 2018), <https://www.mprnews.org/story/2018/05/23/law-school-reckoning-university-of-minnesota-wants-more-money-to-stay-selective>; Elizabeth Olson, *Minnesota Law School, Facing Waning Interest, Cuts Admissions*, N.Y. TIMES (May 12, 2016), <https://www.nytimes.com/2016/05/13/business/>

when compared to its peer law schools, the broader University of Minnesota, and the public school system within the state of Minnesota. The disparities within the law's school enrollment are not a Midwest problem and they are not a Minnesota problem. They are a Minnesota Law problem. The law school has only exacerbated disparities that are present within the educational framework of Minnesota and has failed to take meaningful action to repair these discrepancies.

IV. WHY LAW SCHOOLS AND THE LEGAL PROFESSION MUST ADDRESS DISPARITIES IN BLACK STUDENT ENROLLMENT

The path to becoming an attorney for Black students and other students of color is one littered with barriers in education, transportation, finance, and housing due to systemic racism. These discriminatory and prejudicial barriers necessitate action at each level of our education system. This Part examines the pervasive nature of these injustices and the ways in which they fundamentally hamper the capacity of the legal profession to effectively advocate and represent all members of our society. Parts I, II, and III exposed the realities of the numerous additional obstacles in education and life to become students at Minnesota Law. Yet, these realities are not isolated to these individuals or students in Minnesota. This section examines the detrimental effect of these barriers on representation and advocacy within the legal system profession.

There are well-documented negative effects from a law school experience that fails to incorporate interactions with individuals and ideas built on different life experiences. An education setting that values and incorporates diverse life experiences can lead to “reductions in prejudice, appreciation of other’s perspectives, improved critical thinking, greater connection to the institution, improved self-confidence, greater civic engagement, and enhancement of leadership and professional skills.”¹²⁷ These effects are so

dealbook/minnesota-law-school-facing-waning-interest-cuts-admissions.html
[<https://perma.cc/T8UC-7VAM>].

127. Louis M. Rocconi, Aaron N. Taylor, Heather Haeger, John D. Zilvinskis, & Chad R. Christensen, *Beyond the Numbers: An Examination of Diverse Interactions in Law School*, 12 J. OF DIVERSITY IN HIGHER EDUC. 27 (2019); Kevin R. Johnson, *The Importance of Student and Faculty Diversity in Law Schools: One Dean’s Perspective*, 96 IOWA L. REV. 1549, 1556 (2011) (A “racially diverse student body contributes to a better learning environment for students and a higher-quality legal education.”).

strong that the United States Supreme Court has recognized that student body diversity in higher education “promotes learning outcomes, and ‘better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals.’”¹²⁸ A lack of representation and community for many Black students in law school may inhibit the ability of all students to become better practicing attorneys in the future.¹²⁹ A critical component of this gap in meeting students’ potential is the tradition, format, and guise of legal education. Professor Aaron Taylor explored the ways in which our legal education, one “rooted in the centrality of White racial and cultural norms,” creates additional barriers for Black students once they reach law school.¹³⁰

These norms are reflected most notably in the racial and ethnic demographics of most law schools and the “race neutral” manners in which courses are often designed and presented. The further removed a student is from the default norms, the more taxing the law school experience. . . . An example of how this form of incomplete assimilation plays out is the “bifurcated thinking” that Black students and other underrepresented students often have to adopt as an academic survival tactic. On one end, issues of race are typically unspoken or ignored in case analyses and class discussions; in many cases these issues are framed as irrelevant. But on the other end, these students live in a world where they have observed, if not experienced first-hand, the relevance of race in the provision and durability of rights and privileges. In the end, they often have to take the extra mental step of disassociating their life experiences from their efforts to appease their professors.¹³¹

128. *Grutter v. Bollinger*, 539 U.S. 306, 330 (2003).

129. Kevin R. Johnson & Angela Onwuachi-Willig, *Cry Me a River: The Limits of A Systemic Analysis of Affirmative Action in American Law Schools*, 7 AFR.-AM. L. & POL’Y REP. 1, 15 (2005) (arguing that the isolating environment for many African American students because of significant underrepresentation in law school inhibits these students from performing to their potential).

130. Aaron N. Taylor, *The Marginalization of Black Aspiring Lawyers*, 13 FIU L. REV. 489, 509 (2019).

131. *Id.* at 509–10.

Taylor's arguments also address a key component of legal education: the desire to maintain an objective and neutral lens to ensure that one's individual experiences and perspectives do not impinge upon their legal logic. Professor Taunya Lovell Banks also considers the harms of legal education's reliance on "objectively reasoned arguments, often devoid of any humanistic concern."¹³² Not only does this focus create an illusion of a truly objective logic, but it often excludes and devalues life experiences, which raises "legal, social, and moral issues that are worthy of discussion and should be addressed by legal scholars because they reflect the law as it operates."¹³³ Our understanding of "objective" reasoning is also rooted in White racial and cultural norms and serves to disadvantage students who have not grown up adhering to or living within those norms.¹³⁴ A legal education that serves to diminish the importance of life experience and individual perspective both reinforces the legal system's emphasis on White culture and restricts students' future ability to engage with and advocate for clients with varied experiences and perspectives. In addition, educational environments lacking diverse life experiences "impoverishes the imagination of law students and other legal academics."¹³⁵

A legal education that diminishes and devalues varied life experiences serves to reduce the engagement and involvement of many students of color within the legal profession. This creates a cycle where fewer legal professionals are able or willing to incorporate these various experiences within their practice. Black students also receive fewer significant opportunities within law school, such as in law reviews and law journals.¹³⁶ Research indicates that law journal membership has been "associated with lower levels of diverse interactions," which may be due to the "insulated nature of journal

132. Taunya Lovell Banks, *Two Life Stories: Reflections of One Black Woman Law Professor*, 6 BERKELEY WOMEN'S L.J. 46, 48 (1991) (noting that "the nature of traditional legal dialogue within law schools and legal education devalues life experiences.").

133. *Id.* at 48-49.

134. See Kevin R. Johnson, *The Importance of Student and Faculty Diversity in Law Schools: One Dean's Perspective*, 96 IOWA L. REV. 1549 (2011) ("[A]n African-American man might understandably bring an entirely different set of perspectives, experiences, and knowledge to bear on the classroom discussion of the phenomenon of racial profiling by police in a criminal-law or criminal-procedure course than the average White colleague might be able to offer."); Taylor, *supra* note 130.

135. Banks, *supra* note 132, at 47.

136. Rocconi et al., *supra* note 127.

membership and work.”¹³⁷ Especially given the weighted role that law reviews and journals serve in publishing articles affecting tenure and professorship decisions, retaining a collection of students that come from diverse racial and ethnic backgrounds is critical to ensure that scholarship does not only fit into norms of White legal scholarship. Professors play a critical role in this cycle, but White professors are still heavily overrepresented in law faculty positions, making up 79 percent of full-time and 84 percent of part-time faculty positions, as of 2020.¹³⁸ At Minnesota Law, White professors represented over 90 percent of both full- and part-time faculty in 2020.¹³⁹ Enhanced opportunities for Black professors and other professors of color is critical to improving the current state of legal education by contributing to a more rich and robust legal education experience.¹⁴⁰ Additionally, increased numbers of professors of color throughout the country can show prospective and incoming students that they can achieve to the same levels as their White counterparts and that their experiences and perspectives are also valued by law schools.

The presence of historically underrepresented minorities on law faculties sends an unmistakable message to students of color—and most effectively “teaches” them—that they in fact belong in law school and the legal profession, as well as that they have the ability to be top-flight lawyers, scholars, judges, and policy makers.¹⁴¹

As law students transition into attorneys, the legal field continues to reflect similar disparities. Black attorneys and attorneys of color continue to

137. *Id.* at 35. The authors also note that “law schools should audit student journals to assess the amount of bias inherent in the selection process.” *Id.*

138. Erika Kubick, *How Diverse are the Law School Faculty in the United States?*, ILL. SUP. CT. COMM’N OF PROFESSIONALISM (Aug. 29, 2016), <https://www.2civility.org/diverse-law-school-faculty-united-states/> [https://perma.cc/9AQ5-FV24] (noting that, as of 2013, about 79% of full-time faculty members were White; 82.7% of full-time male faculty members were White; 75.9% of full-time female faculty members were White); see *ABA Required Disclosures*, *supra* note 25.

139. See *ABA Required Disclosures*, *supra* note 25.

140. Banks, *supra* note 132, at 56 (“My life stories influence my perspective, a perspective unable to function within a single paradigm because I am too many things at one time. My perspective often transcends race and gender and is sometimes fully or partially conscious of the complexities and intersection of race, gender, and class. It is a multiple perspective not represented in our casebooks or legal literature.”).

141. Johnson, *supra* note 134, at 1558.

face an uphill battle as they enter the legal market. As of 2019, Black workers comprised 12.5 percent of the workforce and 10.6 percent of the legal workforce.¹⁴² However, in a survey of large law firms, Black attorneys made up only “4.83% of associates and only 1.94% of equity partners.”¹⁴³ In 1996, Professors Wilkins and Gulati considered barriers that Black associates face:

Black associates face three significant barriers to getting on the training track. First, they are less likely than whites to find mentors who will give them challenging work and provide them with advice and counseling about how to succeed at the firm. Second, they face higher costs from making mistakes than their white peers. Third, their future employment prospects with other elite firms diminish more rapidly than those of similarly situated associates.¹⁴⁴

These same barriers continue to be reflected in recent stories. Professor Tsedale Melaku described stories from a few Black women attorneys who explained that they were being asked to make copies for their White colleagues, many of whom were in more junior positions, and that there were expectations that associates of color must “assimilate to firm culture.”¹⁴⁵ Black attorneys are constantly required to restrict part of their identities to become more like their White counterparts in these firms because the

142. Meg McEvoy, *Analysis: Black Workers Are Under-Represented in Legal Industry*, BLOOMBERG L. (June 11, 2020), <https://news.bloomberglaw.com/bloomberglaw-analysis/analysis-black-workers-are-under-represented-in-legal-industry> [https://perma.cc/C2DN-KKFL] (In contrast, “White lawyers made up 73.38% of associates and 89.87% of equity partners. Black lawyers are also underrepresented relative to other minorities.”); Tracy Jan, *The Legal Profession Is Diversifying, But Not at the Top*, WASH. POST. (Nov. 27, 2017), <https://www.washingtonpost.com/news/wonk/wp/2017/11/27/the-legal-profession-is-diversifying-but-not-at-the-top/> [https://perma.cc/36Y4-JBKZ] (discussing that, as of 2017, more than 90 percent of equity partners were White, even though one in four law firm associates was a person of color).

143. See McEvoy, *supra* note 142.

144. David B. Wilkins & G. Mitu Gulati, *Why Are There So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis*, 84 CAL. L. REV. 493, 568 (1996).

145. Tsedale M. Melaku, *Why Women and People of Color in Law Still Hear “You Don’t Look Like a Lawyer”*, HARV. BUS. REV. (Aug. 7, 2019), <https://hbr.org/2019/08/why-women-and-people-of-color-in-law-still-hear-you-dont-look-like-a-lawyer> [https://perma.cc/7F4W-P9PL].

“dominant value of the legal profession is a commitment to colorblindness in lawyers’ conduct so that professional socialization ‘bleaches out’ racial differences among lawyers.”¹⁴⁶ In addition, another attorney stated that the culture of racism and microaggressions within law firms continues to be pervasive because “people tend to gravitate to people who are similar to them, and I know I’m different than a lot of the people at the firm.”¹⁴⁷ Commitment to engage and mentor Black attorneys can also act as a detriment to future success. Time spent on social commitments (diversity committees, outreach programs, tokenism, etc.) is perceived as less valuable within the firm and takes away from other opportunities for meaningful mentorship and networking.¹⁴⁸ The nature of these harms are complex and systemic; the “fact that [B]lacks have had little success breaking into the upper echelons of the elite bar is emblematic of a deeper and more intractable set of problems facing those interested in workplace integration.”¹⁴⁹ In addition, it is increasingly difficult for Black women and women of color who simultaneously experience racism and sexism within the legal system and workplace.¹⁵⁰ The “very processes by which BigLaw extracts value from its lawyers’ gender and racial identities tend to undermine the success of women and minority lawyers at the firm.”¹⁵¹ Wald illustrates this challenge with the example that by “overburdening a Latina associate with service on the diversity and hiring committees, by expecting her to actively participate in firm events, and even by publicly displaying her image on its website, the firm distracts her and undermines her performance contrasted with her White male counterparts.”¹⁵² It is critical that individuals throughout the legal profession continue to question the norms of the workplace and ask “[w]hy attrition rates

146. Carla D. Pratt, *Way to Represent: The Role of Black Lawyers in Contemporary American Democracy*, 77 *FORDHAM L. REV.* 1409, 1412 (2009).

147. See Melaku, *supra* note 145.

148. Eli Wald, *Biglaw Identity Capital: Pink and Blue, Black and White*, 83 *FORDHAM L. REV.* 2509, 2511 (2015) (discussing that minority associates are pressured to attend more events and their absence is more noted because they are expected to be the face of diversity at all firm events).

149. See Wilkins & Gulati, *supra* note 144.

150. See Melaku, *supra* note 145.

151. See Wald, *supra* note 148.

152. “Fundamentally then, the core root of minority underrepresentation in positions of power and influence at BigLaw appears to boil down to this: while White male associates essentially get to exchange their labor for relatively low economic capital in the present (a

among women and people of color remain high, and their advancement rates so low? Why Black female associates are hired in greater numbers than Black male associates but are promoted to partner far, far less often?”¹⁵³ These questions highlight just one aspect of racism and sexism that Black attorneys face in the legal profession, but these experiences are by no means limited to the environment of large law firms.¹⁵⁴

Diverse voices are also necessary to interpret and inform our understanding of the laws to ensure that all of those who seek refuge, mercy, and justice receive equitable treatment. This can only be done when we allow varied life experience to “contribute to our interpretation and understanding of legal doctrine.”¹⁵⁵ The “exclusion of African Americans from judicial decision-making, like the wholesale exclusion of men or women from judging, removes critical analytical resources from judicial decision-making.”¹⁵⁶

At every step of the path for a Black student or a student of color to become an attorney, our legal system and education structure has erected barriers to ensure that these students work twice as hard to make it half as far. As this Article depicts, these barriers may be pronounced here in Minnesota, but they extend throughout the country and are deeply rooted within our legal framework. The expansive scope of these barriers requires action and response from the entire legal system that reckons with the gravity of the problem.

salary) and a shot at cultural, social, and high economic capital in the future, female and minority associates exchange their labor as well as identity capital for relatively low economic capital in the present.” *Id.* at 2539.

153. *Id.*

154. See Wilkins & Gulati, *supra* note 144, at 610 (“America’s long history of discrimination against [B]lacks exercises a similar hold on the problems we discuss . . . this history is partly responsible for the fact that high wages, pyramiding, and tracking are likely to have an especially adverse effect on the career opportunities of [B]lack lawyers. Slavery set this nation on a path in which it was necessary to portray [B]lacks as mentally, emotionally, and spiritually incapable of self-determination. Almost a generation after the last de jure remnants of this vicious system were put to rest, the stereotypes and predispositions that can be traced back to this ignoble past continue to shape race relations in this country.”).

155. *Id.*

156. Sherrilyn A. Ifill, *Racial Diversity on the Bench: Beyond Role Models and Public Confidence*, 57 WASH. & LEE L. REV. 405, 414 (2000).

V. RECOMMENDATIONS FOR CHANGE AT THE UNIVERSITY OF MINNESOTA LAW SCHOOL

“If there is any occupation in which one would expect to see meaningful equality of opportunity and results, given the profession’s lofty ideals and pronouncements, it should be the legal profession, but the reality is quite the contrary.”¹⁵⁷ Regardless of whether change comes at an industry or organizational level, institutions like Minnesota Law must act in a manner that considers the massive harms of these barriers. Racism within the law has depleted legal institutions of attorneys who can make groundbreaking change and innovate our field in ways that we have failed. This Part proposes a series of actions that Minnesota Law should take to remedy some of the harms caused by these disparities and enhance the educational environment to contend with the realities of racism within the law.

A. Create a Racial Justice Clinic That Takes Part in Impact Litigation and Community Mentoring with Priority Enrollment for Black Students

The clinical program at Minnesota Law encompasses 25 clinics which provide “free legal services, education, and outreach to those in our community in a wide variety of areas, addressing both individual legal needs and systemic issues, all while training students for practice.”¹⁵⁸ As “[s]tudent interest truly drives the success of [the law school’s] clinical programs,”¹⁵⁹ the law school should add a clinic specifically devoted to issues of racial justice in the Twin Cities and Minnesota. This clinic should take part in impact litigation, direct legal services, and community engagement on issues that disproportionately affect Black individuals and other individuals of color within our communities. There have been recent instances in Minnesota where major lawsuits have been brought to remedy discrimination and segregation against Black individuals and individuals of color.¹⁶⁰ This clinic can

157. Alex M. Johnson Jr., *The Underrepresentation of Minorities in the Legal Profession: A Critical Race Theorist’s Perspective*, 95 MICH. L. REV. 1005, 1006 (1997).

158. *Dean Garry Jenkins Responds to the Open Letter from Students*, *supra* note 79.

159. *Id.*

160. *Civil Rights Lawsuit Alleges Roseville Elementary School Teacher Assaulted, Segregated Black Students*, WCCO CBS MINN. (Sept. 28, 2020), <https://minnesota.cbslocal.com/2020/09/28/civil-rights-lawsuit-alleges-roseville-elementary-school-teacher-assaulted-segregated-black-students/> (last visited Feb. 6, 2021); Erin Golden, *Twin Cities School Segregation Case Proceeds After Ruling on Charter Schools*, STAR TRIB. (June 12, 2019), <https://www.startribune.com/school-segregation-case-proceeds>

contribute to the fight to reduce the history of racism and segregation throughout Minnesota.¹⁶¹ A racial justice clinic can provide opportunity for Black students and students of color to develop robust litigation experience in an environment where they may be able to help others who have faced similar barriers of racism. While this clinic should not be exclusively limited to Black students and students of color at Minnesota Law, it should allow priority enrollment for these students.

This clinic should also serve to engage younger students within the Twin Cities in the form of a pipeline program. While students at Minnesota Law currently take part in the Minnesota Justice Foundation's Street Law¹⁶² program for law students to teach middle school and high school students about the law, the racial justice clinic should also learn from programs like the one at the University of Denver's Sturm College of Law (SCOL).¹⁶³ Using its partnerships, law students at SCOL created a pipeline program with the Denver Urban Debate League (DUDL).¹⁶⁴ SCOL provided a physical space for DUDL and its executive director in SCOL's offices, as well as spaces for DUDL students to "practice and compete in the moot court facilities and use the resources of the law library."¹⁶⁵ In addition, law students, staff and faculty are judges, coaches and volunteers with DUDL.¹⁶⁶ Professor Catherine Smith emphasized that SCOL has a "broad interest in breaking down barriers that impede the success of marginalized individuals and

-after-ruling-on-charter-schools/511209602/?refresh=true [https://perma.cc/QK06-89KQ].

161. See *supra* Part III.C; Elizabeth Shockman, *Minnesota District Uses Student Voice to Combat Racism*, MPRNEWS (Sept. 13, 2019), <https://www.mprnews.org/story/2019/09/13/district-uses-student-voice-to-combat-racism> [https://perma.cc/7SBY-TT95].

162. "Law student volunteers teach fundamental legal rights, responsibilities, and resources to low-income, at-risk juveniles at various sites throughout Minnesota. During the academic year, many volunteers serve at local alternative learning centers, charter schools, or other educational/after-school programs." *Street Law*; MINN. JUST. FOUND., <https://www.mnjustice.org/street-law/> [https://perma.cc/C9VQ-5AG5].

163. Catherine E. Smith, *Seven Principles: Increasing Access to Law School Among Students of Color*, 96 IOWA L. REV. 1677 (2011).

164. *Id.* at 1690.

165. *Id.*

166. *Id.*

groups in our communities and in society.”¹⁶⁷ Similar to SCOL’s pipeline program with DUDL, Minnesota Law should commit to engage with local communities, whether through debate leagues or similar programs.

As discussed in Part III.D., discrepancies in Black student enrollment in comparison to middle schools and high schools in Minnesota identify a critical opportunity for outreach and engagement. As Minnesota Law considers how to increase Black student enrollment, it should look within Minnesota and the Twin Cities. Deep and meaningful connections with Black students near the law school’s community can be a great opportunity to increase interest in the law school, but also drive curiosity and attention in the collection of undergraduate and graduate opportunities throughout the University of Minnesota. A new clinic at Minnesota Law focused on racial justice can position the law school as a leader and innovator in advancing racial equality within the state of Minnesota and across the country. Not only would this clinic be a signal that the residents of Minnesota will gain an additional hand in the fight to remove the effects of systemic racism within our communities, but it will also provide momentum for other graduate schools and undergraduate departments within the University of Minnesota to partner with local organizations in similar ways. Partnership from the University of Minnesota with consistent and thoughtful investment in our local communities is critical to remove barriers to educational access and representation within Minnesota.

B. Adapt the Current 1L Foundations Curriculum to Teach and Incorporate Critical Race Theory into the Cases that Students Learn About in Their 1L Courses

Minnesota Law must find a way to adapt its curriculum to consistently incorporate critical race theory.¹⁶⁸ The ideal way to include critical race theory within the curriculum would be to provide regular or required courses

167. *Id.* at 1688.

168. “The critical race theory (CRT) movement is a collection of activists and scholars interested in studying and transforming the relationship among race, racism, and power. The movement considers many of the same issues that conventional civil rights and ethnic studies discourses take up, but places them in a broader perspective that includes economics, history, context, group- and self-interest, and even feelings and the unconscious. Unlike traditional civil rights, which embraces incrementalism and step-by-step progress, critical race theory questions the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law.” RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY*, NEW YORK UNIVERSITY PRESS 2-

on critical race theory and those that emphasize the lens of critical race theory within its pedagogy. While the law school has been unsuccessful in hiring faculty to teach in this area and is currently under a mandatory hiring freeze, the law school should begin by supplementing or adapting the current 1L Foundations curriculum¹⁶⁹ to include short lectures on foundational topics within critical race theory. Minnesota Law should first engage professors and faculty within the University of Minnesota who have studied and taught critical race theory. Enhanced connection with local professors and scholars can provide opportunity for enriched engagement between Minnesota Law and members of our local community.

These lectures should be followed by group discussions within students' main section or legal writing sections and facilitated by professors and upper-level students regarding how critical race theory interacts with the cases they have recently discussed in their classes. It would be critical that Minnesota Law invite scholars who have spent a considerable amount of time studying critical race theory, whether in legal practice or other academic areas, to provide an enriching base of knowledge for 1L students. For Minnesota Law to cultivate an environment that is welcoming and attractive for Black students, it is imperative that the curriculum educate the entire student body on the ways in which racism acts as a foundational concept of our legal system and the methods of reform.

C. Employ and Award Tenure to a More Diverse Collection of Professors and Endow Professorships in the Areas of Critical Race Theory, Racism, and the Law

As of the 2019–20 academic year, Minnesota Law reported that nine percent of its full-time faculty members self-identified as a “minority” and nine percent of non-full-time faculty members self-identified as a “minority.”¹⁷⁰ While the Dean of the law school has stated that the school has “doubled [its] adjunct faculty of color” since his arrival in 2016, this doubling represents increasing the group from just five professors out of 136 total

3 (2001).

169. 1L Foundations is a weekly required lecture series for 1L students. Previous sessions have included lectures on maintaining personal health and well-being as attorneys and students, academic success in the first semester of law school, speeches from the founder of the non-profit organization “We Are All Criminals,” and Financial Planning Courses.

170. See *ABA Required Disclosures*, *supra* note 25.

adjunct faculty in 2016.¹⁷¹ At the same time, however, the percentage of full-time faculty of color has decreased, dropping from thirteen percent in the 2016–17 academic year to nine percent in the 2019–20 academic year.¹⁷² While doubling adjunct faculty of color is an important step forward, full-time faculty play a unique and essential role in the law school environment. While the Dean has stated that “recruiting a race and the law scholar to join our community remains one of our top priorities,” recent hiring indicates an inability to meet this goal.¹⁷³ Future opportunities to meet this goal may also be difficult because the law school is “currently under a mandatory hiring freeze due to the pandemic.”¹⁷⁴

It is imperative that the law school commit to hiring candidates that have diverse racial and ethnic backgrounds. One way to do so is to partner with the Twin Cities legal community to endow professorships with a specific focus on critical race theory, racism, and the law. These professorships would ensure that Minnesota Law is not required to rely exclusively on its own funds to create these positions. In addition, it provides an opportunity to successfully meet the law school’s goal to recruit a race and the law scholar. Hiring new faculty members, especially full-time faculty members, who come from diverse racial and ethnic backgrounds or have engaged in meaningful scholarship on topics of race and the law can help to create a more attractive and welcoming environment for Black students. Minnesota Law must commit to bring in numerous professors from diverse racial and ethnic backgrounds to ensure they can thrive and grow as a part of the law school’s community.

D. Ensure that Black students Have a Strong Community Within Their 1L Sections.

Since 2011, the number of incoming Black law students at Minnesota Law has not exceeded nine students.¹⁷⁵ As is typical, first-year students are

171. *Dean Garry Jenkins Responds to the Open Letter from Students*, *supra* note 79; *ABA Required Disclosures*, *supra* note 25.

172. *See ABA Required Disclosures*, *supra* note 25.

173. *Minnesota Law Welcomes Three to Faculty*, UNIV. OF MINN. L. SCH. (Aug. 20, 2019), <https://www.law.umn.edu/news/2019-08-20-minnesota-law-welcomes-three-faculty> [<https://perma.cc/R3WD-DU4N>].

174. *Dean Garry Jenkins Responds to the Open Letter from Students*, *supra* note 79.

175. *See ABA Required Disclosures*, *supra* note 25.

divided into sections and spend much of their academic experience with the same collection of students. In many cases, the small number of Black students are separated into different sections. This exacerbates the isolation that many Black students already feel in this environment. To remedy this, Minnesota Law should ensure that Black students, for as long as their enrollment continues to be disproportionately small, can choose to be within a section with the other Black students within their class. For example, if there are six Black students within the first-year class, all six of these students should have the option be placed in one section. While arguably this could inhibit the learning experience of students in other sections by reducing the diversity of experiences in their classrooms, fostering a sense of community and belonging for the small number of Black students within the University of Minnesota's Law School should be the priority. In addition, an easy way for the law school to balance these two interests is simply to enroll more Black students and make the school more attractive for Black students in the future.

E. Develop and Expand Current Connections with Undergraduate Black Students and Students of Color at the University of Minnesota in the Form of a Pipeline Program

Minnesota Law should recommit itself to outreach to undergraduate students at the University of Minnesota to provide opportunities to learn about the law school, volunteer within the legal community, and prepare for the Law School Admissions Test (LSAT). The law school should expand upon current programs, such as the Minnesota Pre-Law Scholars (MPLS)¹⁷⁶ or programs from other law schools,¹⁷⁷ and directly partner with student organizations for Black students and students of color at University of Minnesota campuses. The law school should engage these students to ensure they have opportunities to become engaged in classes at the law school and within the broader Twin Cities legal community. In addition, the law school

176. The MPLS program “offers a select number of students a free LSAT prep class each summer” and provides the opportunity to “learn about law school admissions preparation.” *Minnesota Pre-Law Scholars Program*, UNIV. OF MINN. L. SCH., <https://www.law.umn.edu/admissions/minnesota-pre-law-scholars-mpls-program> [https://perma.cc/R696-YA6K].

177. *Summer Pre-Law Programs*, B.U., <https://www.bu.edu/prelaw/preparing-for-law-school/summer-pre-law-programs/> [https://perma.cc/63X3-GJEB]; *UHLC Pre-Law Pipeline Program*, UNIV. OF HOUS. L. CTR., <https://www.law.uh.edu/pipeline/about.asp> [https://perma.cc/JB9N-MVDS].

should partner with these organizations to help their students prepare for the LSAT. The law school could also encourage these students, who have shown interest in engaging with the local legal community and are well prepared for the LSAT, with incentives to apply to the law school.

F. The Admissions Department and Dean's Office Should Identify Specific Steps that the Law School is Taking to Enhance Recruitment and Matriculation of Black Students and Enhance Data Collection Practices

To ensure that Minnesota Law continues to be held accountable and take proactive steps to expand opportunity and enrollment for Black students, the law school should commit to providing more transparent data regarding student applications, admissions, and matriculation. In addition, the law school's administration and admissions department should identify specific actions to increase enrollment for Black students and how it is adapting its curriculum and educational environment to be more inviting and attractive for Black students. The admissions department should also publish data regarding disaggregated application and admissions rates of all applicants, as opposed to only releasing enrollment data.

The Dean's Office recently authored two statements¹⁷⁸ promoting initiatives by Minnesota Law to address issues of racism and the law. These statements describe admission efforts to expand enrollment of Black students and students of color, new courses related to racial justice added to the curriculum for the Fall 2020 semester, and support for student engagement in the practice of law and racial justice through public interest work and clinical programs.¹⁷⁹ Although encouraging, these statements do not provide assurance that the fervent nature of these new initiatives will continue beyond the Fall 2020 semester or the near future. While it is stressed that these new offerings are not a "temporary response," it took a nine-minute video of a police officer pinning his knee into the neck of George Floyd and killing Floyd for Minnesota Law to partner with professors to develop new courses on racial justice, include singular or optional discussions on racial justice and police within traditional classes, and conduct a "racial justice

178. See *Dean Garry Jenkins Responds to the Open Letter from Students*, *supra* note 79; Nelson, *supra* note 71.

179. See *Dean Garry Jenkins Responds to the Open Letter from Students*, *supra* note 79; Nelson, *supra* note 71.

scan” within the clinical program.¹⁸⁰ Commitment to racial justice at Minnesota Law requires time, effort, and resources devoted to anti-racist legal education when there is not widespread outcry at the local and national levels against police violence and racism within our legal system.

CONCLUSION

The ultimate fault is that too many higher education institutions and the public resources to support them exist for the elite upper classes while too few exist for the masses. But in the end the total society pays double. Because we fail to fully overcome the burden of historic exclusionary and discriminatory racial practices in the education system, we fail to fully use and develop our most valuable national resource, our human resource.¹⁸¹

The law is accorded a great deal of power,¹⁸² but actions to reform the current state of the legal system and legal education must truly contend with the nature of the harm. Individual seminars to increase awareness of racism or implicit bias or press releases that report solidarity with Black attorneys and attorneys of color without simultaneous action to meaningfully increase support and opportunity throughout the legal system are insufficient to reckon with the gravity of these issues.

This Article has depicted stories of some of our law school’s most courageous students and the nefarious barriers of racism they have repeatedly faced throughout their lives and educational path on the way to Minnesota Law. Their stories must be a further reminder of the despicable ways in which racism constantly inhibits the lives of many Black individuals here in Minnesota and throughout the country. For too long, Minnesota Law has failed to create an educational environment that is attractive, supportive, and desirable for Black students. We hope that this Article serves as a catalyst

180. See Dean Garry Jenkins Responds to the Open Letter from Students, *supra* note 79; Nelson, *supra* note 71.

181. Marvel Lang, *Barriers to Blacks’ Educational Achievement in Higher Education: A Statistical and Conceptual Review*, 22 J. OF BLACK STUD. 510, 520–21 (1992).

182. Johnson Jr., *supra* note 157, at 1022 (“The persuasive power of law as a tool to change or eliminate certain harmful or nonproductive behavior must, in part, be attributable to the respect and acquiescence afforded to the law and lawyers by those subject to it.”).

for additional work at Minnesota Law, as well as in numerous other sections of legal education and the legal profession.