

## M-READ

**To:** Articles

**From:** [REDACTED]

**Date:** August 7, 2023

**Re:** S-19445 — Rethinking School Integration and the Problem of School Policing

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- I. **RECOMMENDATION:** Yes to C-Read. My vote is on the fence because of questions about drawing too much from one city's example. But the contribution is valuable and provocative enough that I think it definitely warrants discussion (especially among those better equipped to evaluate its methodological rigor).

### II. SYNOPSIS

[REDACTED] holistic Rotopool provides a great summary. Here's my briefer version:

The core **thesis** is that based on data from the Los Angeles school system, Black students in mostly White schools have more negative encounters with school police than do Black students in mostly Black schools. This fact shows that integration without true equity is inadequate to realize *Brown's* goals of truly desegregating schools.

**Part I** reviews an empirical analysis of school police arrest and citation data from the LAPD. The data, which breaks down by race, gender, and type of interaction, shows that Black students in predominantly White schools are the most likely to have negative interactions with school police, and that most of the interactions are citations for non-violent offenses.

**Part II** asks for a "comprehensive reassessment of *Brown's* integrationist's ideals." *Brown* asks for integration, though a long line of subsequent cases and scholarship has shown it failing to have that effect. The author focuses on two failings of *Brown's* model: seeking integration without true equal educational opportunity, and ending de jure segregation without recognizing the discriminatory barriers students of color will face in white schools.

**Part III** dives into the empirical data to tell stories of Black students policed in white spaces. It tells sobering tales of LA students blamed for conduct they did not commit or cited for exaggerated reports because officers and others did not believe the Black students fit in the White spaces. These examples, told through personal stories, illustrate how Black students often have to marginalize their own race while in these White spaces to avoid scrutiny or even arrest.

**Part IV** considers how to “operationaliz[e] police-free schools.” Its conceptual intervention is to call for a “race-place-institution approach to school policing.” And its specific interventions are to propose ways to remove the people and institutions that make these white schools exclusionarily White spaces, by reforming local policy to promote integration (not just focusing on predominantly Black schools), removing school police, having school police focus on property protection (not personal policing), or replcaing school police with “culture keepers.”

Overall, the piece usese novel data to illustrate a troubling trend, centers the voices of those impacted, connects the problem to legal theory, and offers a framework to help us solve it. We might wonder whether the claims are too broad given the dataset’s geographic limitations, and I think the solutions are sometimes caught between reform and abolition. But this could be a rare piece that’s able to do something v different from what we usually publish—and do it well.

### III. PRELIMINARY LITERATURE REVIEW

I’m incredibly not worried about preemption for this piece given the article’s unique dataset of interviewing LA students and its unique empirical analysis of the LA police database (which does not seem to be cited widely if at all in law reviews). We might worry about whether the piece is treading too familiar ground in arguing that Brown has not succeeded in creating integrated schools with true educational equality, a point which has been around since *Brown*’s immediate aftermath and later in the work of Derrick Bell and others.<sup>1</sup> Additionally, the author draws on others’ work in developing the race-place-institution framework, but not in a way that poses a preemption risk, as the solutions are all targeted to the finding of over-policing in White schools that appears not to be broadly discussed.

### IV. ANALYSIS

#### Yays

*Excellent combination of empirical and qualitiative data:* I loved how the author built logically from the empirical data on police stops to mbring the issues alive with interviews. The stories themselves were harrowing, illustrating so clearly why this piece and its interventions matter for the real people subject to this overpolicing. The sttories also neatly tied into the four logics (discussed below) that the author develops, which make them memorable for readers.

*New intervention in important debate:* It would be easy to dismiss another piece on *Brown* and integration, which has been debated since *Brown* itself. But this Article helpfully brings our lens to overlooked aspects of integration; not its failure to happen, but its failure to succeed in providing educational opportunity even when it does happen. This rigorous and compelling framework is especially useful in light of some truly nonsensical (sorry to anyone I’m losing here) reinterpretations of *Brown* in *SFFA* as being hands-off colorblind.

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<sup>1</sup> See, e.g., Derrick A. Bell Jr., *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 *Yale L.J.* 470 (1976).

*Scope of solutions:* Part IV is always bad (we should write an article about it), but I thought this did a good job providing a range of plausible solutions that tied clearly in with the previous sections. Reframing school police as just about property, for example, could have broad buy-in. “Culture keepers” is a clever name for an interesting solution that should generate debate. The specific fixes to the California BSAP may be seen as too narrow to California, but I think it’s likely this kind of approach is common across progressive jurisdictions, and changing it would make a difference for students who are often not policymakers’ focus.

*Structure:* I loved that the Article *slightly* adapted typical law review structure by first putting the unique data forward, then stepping back to more of a literature-review style section in Part II. While ██████ rightly pointed out the Article was at times repetitive, I thought the continued connections back to the main point (policing happens more of Black students in White schools because White institutions attempt to marginalize those who don’t seem to belong) helped keep the focus in each Part.

*Career impact:* I’m always skeptical that L. Rev. Articles will change the law, but I am less skeptical that *HLR* publications will make a difference in academic careers. This scholar is a young academic of color on an upward trajectory at UVA, and I think our publication would help advance his career (and legitimate the kind of mixed-method, center-impact writing that he’s propounding).

*Readability:* I do think the article is over-academically written at points, but I actually listened to this article on the plane, and despite my app messing up the sentences frequently, I was able to follow the point on 5 hours of sleep, which indicates good things for readability!

## **Nays**

*Los Angeles Scope:* This isn’t necessarily a negative. But we might worry that the dataset and interviews are so concentrated in LA. It makes for a really deep dive into the experiences of those particular students. Yet it limits the ability of the Article to persuasively claim that the phenomenon is true nationwide, as there may be particularities of LA that lead to these non-integrationist results (or at least make them manifest differently). Additionally, the anecdotal nature of the qualitative section might turn off some readers; are these students’ experiences the norm, or exceptional? We can’t fully know that from the dataset (compounded by how limited it is to LA), so again, it takes away from how broad the author can make claims. To me, this is the primary debate around the piece: If the local case study is a useful entre into the policing and integration debate, this is a super valuable piece; if it’s better suited as a focus on California or LA, I think it’s better for a more local journal (and maybe *HLR* can take the national follow-on study . . .).

*Jargon/Framing:* The piece is written in a CRT-esque framework, and the language it uses reflects that. “Race-place-institution” is the primary example of terminology that may be tough to follow if you’re not enmeshed in the debates. There’s a lot of “structural” and “systemic” and “institutional” analysis that might lose readers who think more individualistically. The empirical and qualitative sections also include methodological moves (“inter-rater reliability,” “data

triangulation,” “constant comparison method”) that make the piece a bit harder to read, although this is unavoidable in this kind of piece, and I thought the author did a reasonable job making the methodology accessible.

## **IDKs**

*Bluebooking:* For a former editor-in-chief of a great L. Rev., the article is oddly not Bluebooked in places – missing *supras*, not changing the font on some journal titles, different font sizes in the footnotes. But I don’t think this should weigh against the article at all. I just want to point out our own Bluebook supremacy.

*Not a ton of law:* This can’t be a negative for I, [REDACTED]. But I concede there is not a lot of doctrine going on here. The main engagement with law itself is through Brown, which is familiar territory, even if the author helpfully uses the new data to situate why Brown’s integrationist ideals may fall short if they don’t consider how institutional racism might manifest in White schools. I also would annoy Bowie if I didn’t mention the discussion of the Black Student Achievement Plan, which is a legal discussion in so far as it seeks to change local policy.

*Four Logics:* I can’t tell what I think about the “four logics” of the piece. As a reminder, they’re: 1. Schools are unsafe; 2. withouts safety, (White) children can’t learn; 3. policing (Black) children (who are presumed troublemakers) will make (White) children safer, maintaining their “good” schools and neighborhoods; and 4. policing (Black) children is thus a normative good. To me, this frame steps *a bit* beyond what the author has proven so far, and might require more justification to connect the empirical and qualitative data on these points. Still, I think it’s a helpful catch-all of the trends he’s identifying, assisting in framing the race-place-institution approach that makes the piece sing.

*Transinstitutional Policing:* I just don’t remember how much our 137 piece talks about policing in schools (especially white schools), given that I’ve heard it’s been re-written almost entirely. Flagging here in case there’s too much overlap!

*Typos:* There are some random grammatical and noun-verb agreement issues that pop up a bunch, but I don’t think this should be a big deal; just flagging for the future Galleys/Pages-ers.