

**Opening Statement of Professor of Law Regina Austin  
Penn Public Safety Review and Outreach Initiative Hearing  
August 13, 2020**

I want to thank the organizers of the Penn Public Safety Review and Outreach Initiative for inviting me to speak at the first of the series of virtual hearings. The issues you are grappling with are not new. Between 1999-2001, I was chair of a subcommittee of the University Council Committee on Pluralism and chair of the Council Committee on Safety and Security Committee, both of which considered diversity in the University community and the Division of Public Safety. I applaud the advisors to the Initiative for stating that their goal is “to assess Penn’s success in creating a physically and emotionally safe environment on campus and in the surrounding community, while treating every person with dignity and respect, and in a way that prioritizes and promotes antiracism, racial equality, and justice.”

I want to use my time to analyze the account of a student/campus police officer encounter that occurred at Yale, not Penn. It was extensively covered by *The New York Times*. The events involved a black student, but they might just as well have involved any young person of color lawfully and innocently on campus grounds. Furthermore, the events speak to the universal predicament of maintaining public safety at a predominately white elite urban university surrounded by minority communities experiencing substantial stress (from gentrification, environmental injustice, poor schools, healthcare inequities, etc.).

Charles Blow is a Black *New York Times* Op-Ed columnist and the father of three. In an article entitled “Library Visit, Then Held at Gunpoint” published in January of 2015, Blow describes how his son, a 21-year-old junior at Yale, was stopped by a campus police officer, gun drawn, and forced to lie on the ground. The officer had concluded that the child matched the description of a burglary suspect: “‘tall black male’ wearing a ‘black coat,’ a ‘red and white hat’ and shoes with orange detailing.” The child (and he was someone’s precious child) was “6-foot-1 and was wearing a burgundy, gray and red hat, and a navy blue pea coat.” His shoes were not described. The student and the officer disagreed about whether the gun was pointed at the student or the ground. Ultimately, officers got

around to asking for his ID. Blow got apologies from the Dean and the chief of police. An internal police investigation eventually cleared the officer.

Blow's analysis of this encounter and the harm done to his child and himself is interesting. My intent is not to criticize his views, but to do what we do in law school, that is test the limits of the reasoning. I do it in light of the recent calls for the defunding of campus police.

First, Blow finds no problem with the stop itself. "Now don't get me wrong: If indeed my son matched the description of a suspect, I would have had no problem with him being questioned appropriately. School is his community, his home away from home, and he would have appreciated reasonable efforts to keep it safe." Perhaps something is amiss in his failure to question such stops. Black and Brown students on white campuses like Yale's or Penn's pay a higher physical and emotional price for public safety than white students by being subject to reasonable stops. The Black and Brown students bear a larger share of the costs associated with securing such universities as relatively safe oases amid minority inequality, if not deprivation. No similarly dressed white student would have been stopped because she or he did not match the sought suspect's most significant characteristic. Without the stop, Blow's child would not have had a gun pointed at him. The stop itself was painful to the child and infuriating to the parent. Would the stop have been less painful or infuriating if the gun had never left its holster? Shouldn't the question be what can we do to stop the stops?

Second, Blow acknowledges that he, his son, and other Black men are members of "an inglorious club" bound by "intergenerational stories about encounters with the police in which our lives hung in the balance." He continues, "When that moment came, I was exceedingly happy I had talked to him about how to conduct himself if a situation like this ever occurred. Yet I was brewing with sadness and anger that he had to use that advice." "The Talk" about surviving encounters with the police, which minority parents see as a way to protect their children, is treated like an admission that the onus is on the minority young person to control her or his emotions and refrain from asserting his or her rights. It is as if the minority young person were in control of the situation. Parents give "The Talk" to protect the child, not the officer or the institution that employs her or him. Do white people have "The Talk" with their children? Here is

another cost borne by minority young people and their parents that is not shared by others.

Blow concludes, “[T]here is no way to work your way out—earn your way out—of this sort of crisis. . . . There is no amount of respectability that can bend a gun’s barrel. All of our boys are bound together.” It may be that the institution and its officers would have an easier job of policing if Black people worked harder to demonstrate a respectability which sets them apart from the Black “criminal element.” That would impose a cultural and economic burden on them that whites do not bear. I agree with Blow that such an attempt would likely prove fruitless. I’m afraid I have to disagree with Blow’s gender categorization of the problem. He underestimates the threat to Black girl children whose sassy ways can land them in trouble with the police.

The oasis cannot be turned into a fortress on the backs of young minority people. The idea of the university being a benign oasis has to be questioned and deconstructed.

A university ought to have more ambitious, ethical goals for its policing than a local governmental entity. Still, past studies and assessments of campus security measures suggest that the values articulated by the Initiative’s advisors are likely to remain more aspirational than operational. A cynic would say that, if the children of a university’s wealthiest donors were treated the way Blow’s child was, the university would find a way to eliminate the burdens they bear because of erroneous stops . . . and do it fast. It would be worth its while. Can we conceive of any scenario in which every guilty-until-proven- innocent Black or Brown child, student and non-student alike, who comes into contact with campus police were treated like the kids of the wealthiest donors?