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# Listen! Amplifying the Experiences of Black Law School Graduates in 2020

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Sarah J. Schendel\*

# Listen!: Amplifying the Experiences of Black Law School Graduates in 2020

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\* Associate Professor of Academic Support at Suffolk University Law School. My gratitude, respect, and all credit for this Article goes to the graduates who took the time to respond to the survey. Graduates: I’m humbled and grateful that you took the time and energy to share your experiences, and I dedicate myself to sharing them with as many people as possible. I’m sorry for the many ways you were failed by legal education and the legal profession, and I see your anger, your grief, your disappointment, and your determination.

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## I. INTRODUCTION

In the fall of 2017, over 41,000 new students started law school in the United States.<sup>1</sup> Less than one-tenth of those students—3,535 to be exact—were Black.<sup>2</sup> To arrive at this point, many Black students had to overcome challenges unique among their law school peers. Black students are more likely than white students to be the first in their families to go to college.<sup>3</sup> They are more likely to have been discriminated against through discipline during elementary and secondary school.<sup>4</sup> The standardized testing they had to conquer to get into college was mired in racism and classism<sup>5</sup>—as was the LSAT.<sup>6</sup> Even

1. *2017 1L Enrollment by Gender & Race/Ethnicity (Aggregate)*, A.B.A. (Apr. 2, 2018), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/statistics/2017\\_fall\\_1l\\_enrollment\\_gender\\_race\\_aggregate.xlsx](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2017_fall_1l_enrollment_gender_race_aggregate.xlsx) [https://perma.cc/4CG9-C9XB].
2. Specifically, 1,281 Black or African American men, 2,252 Black or African American women, and 2 Black or African American “other.” *Id.* For information regarding the decision to capitalize Black, see Nancy Coleman, *Why We’re Capitalizing Black*, N.Y. TIMES (July 5, 2020), <https://www.nytimes.com/2020/07/05/insider/capitalized-black.html> [https://perma.cc/B5UP-5S5S].
3. “Non-white students were more likely than white students to be first-generation students. [Forty-two percent] of Black students and 48% of Hispanic students were first-generation students, compared to 28% of white students.” *Factsheets: First-Generation Students*, POSTSECONDARY NAT’L POL’Y INST. (Feb. 1, 2021), <https://pnpi.org/first-generation-students/> [https://perma.cc/P3NN-TFSQ].
4. Nora Gordon, *Disproportionality in Student Discipline: Connecting Policy to Research*, BROOKINGS INST. (Jan. 18, 2018), <https://www.brookings.edu/research/disproportionality-in-student-discipline-connecting-policy-to-research/> [https://perma.cc/DH4S-639P]; Erica L. Green et al., ‘A Battle for the Souls of Black Girls,’ N.Y. TIMES (Oct. 1, 2020), <https://www.nytimes.com/2020/10/01/us/politics/black-girls-school-discipline.html> [https://perma.cc/MW8U-2LK6].
5. Mariana Viera, *The History of the SAT Is Mired in Racism and Elitism*, TEEN VOGUE (Oct. 1, 2018), <https://www.teenvogue.com/story/the-history-of-the-sat-is-mired-in-racism-and-elitism> [https://perma.cc/EE9H-MTA7].

before entering law school, Black college graduates have accrued, on average, nearly \$25,000 more in student debt than white graduates.<sup>7</sup>

While in law school, the challenges continue. Many Black law students see few—if any—faces that look like their own standing behind the podium.<sup>8</sup> In the classroom, Black students often experience cogni-

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6. LaTasha Hill, *Less Talk, More Action: How Law Schools Can Counteract Racial Bias of LSAT Scores in the Admissions Process*, 19 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 313, 313 (2019) (“Racial bias exists within the Law School Admissions Test (LSAT) and can be viewed through racial and ethnic score gaps. The racial score gap was initially discovered five decades ago and continues to be true today. White test-takers consistently and overwhelmingly score higher than minority test-takers.” (footnotes omitted)). Other metrics of ability and achievement do not demonstrate a similar gap between minority or underprivileged students and their white or wealthier peers, prompting extensive debate about the reasons for LSAT score differences.

The expense of the preparation courses that teach LSAT-taking skills is certainly one reason. Others suggest that the test itself has hidden racial biases, since it calls for analyses that might be performed differently by those with different backgrounds. (Or perhaps not so hidden: As late as 1986, LSAT takers had to answer questions about a reading passage set in a country where slavery was legal, featuring slaves who insisted that they found their condition “extremely pleasant.”

Erin Thompson, *Law Schools Are Failing Students of Color*, NATION (June 5, 2018), <https://www.thenation.com/article/archive/law-schools-failing-students-color/>; see also Pamela Burdman & Christopher Edley, Jr., *Don't Use the SAT or ACT To Undermine Education Accountability*, EDSource (May 26, 2019), <https://edsourse.org/2019/dont-use-the-sat-or-act-to-undermine-education-accountability/612942> [<https://perma.cc/6VEB-GBJF>] (explaining how the use of standardized admissions testing preserves inequality).

7. WHITE HOUSE INITIATIVE ON EDUC. EXCELLENCE FOR AFR. AMS., U.S. DEP'T OF EDUC., FACT SHEET: BLACK COLLEGE GRADUATES AND THE STUDENT DEBT GAP 1, <https://sites.ed.gov/whieaa/files/2016/11/Black-College-Graduates-and-the-Student-Debt-Gap.pdf> [<https://perma.cc/6CGQ-69S6>] (last visited Apr. 12, 2021) (revealing that, on average, Black individuals graduate with \$52,726 in student debt, while white individuals graduate with \$28,006 in student debt).
8. Stephanie Francis Ward, *How Many Tenured Law Professors Are Black? Public Data Does Not Say*, A.B.A. J. (Oct. 28, 2020, 3:25 PM), <https://www.abajournal.com/web/article/how-many-tenured-law-professors-are-black-public-data-does-not-say> [<https://perma.cc/587D-MB7R>]. “We know from the little data available that there are very few tenured Black law professors in the U.S. . . . One of the key findings from my book is that the low numbers of Black tenured professors and other professors of color contribute to ongoing biases in legal academia.” *Id.* (quoting Meera Deo, author of *Unequal Profession: Race and Gender in Legal Academia*). Neither the A.B.A.’s Section of Legal Education and Admissions to the Bar, the national accrediting agency for law schools, nor any other legal group publish such demographic information. *Id.* Even when law schools hire women of color, they are more likely to work in the “pink ghetto”—non-tenure-track skills positions like legal writing or clinic, which have lower status, pay less, are frequently segregated from tenure-track faculty, and are stereotypically female. Renee Nicole Allen et al., *The “Pink Ghetto” Pipeline: Challenges and Opportunities for Women in Legal Education*, 96 U. DET. MERCY L. REV. 525, 525–28 (2019); see also Catherine Martin Christopher, *Normalizing Struggle*, 73 ARK. L. REV. 27, 36 (2020) (“It’s undeniably important for students to see professionals who look

tive dissonance when they are confronted with an “intellectual mismatch of the world’s racial realities on the one hand and the racial silence-cum-neutrality of their legal education on the other hand.”<sup>9</sup> A recent study found that twenty-six percent of Black women in law school see their schools doing “very little” to create an environment supportive of different racial and ethnic identities.<sup>10</sup> In contrast, only 5.5% of white men see their law schools failing in this way.<sup>11</sup> When they arrive at internships and summer jobs, Black law students may find themselves in environments where they continue to be in the significant minority.<sup>12</sup> If they appear in court as student attorneys, they may be mistaken for defendants, clients, or staff.<sup>13</sup> They are less likely to find judges, attorneys, or mentors who understand their experiences.<sup>14</sup> In the professional sphere, they face microaggressions,<sup>15</sup> im-

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like them, but an academic support faculty that is visibly different from doctrinal faculty sends terrible messages to all students about the roles and expectations for minority students.” (footnote omitted)).

9. Shaun Ossei-Owusu, *For Minority Law Students, Learning the Law Can Be Intellectually Violent*, A.B.A. J. (Oct. 15, 2020, 11:23 AM), [https://www.abajournal.com/voice/article/for\\_minority\\_law\\_students\\_learning\\_the\\_law\\_can\\_be\\_intellectually\\_violent](https://www.abajournal.com/voice/article/for_minority_law_students_learning_the_law_can_be_intellectually_violent) [https://perma.cc/C58D-P6HJ].
10. MEERA E. DEO & CHAD CHRISTENSEN, IND. UNIV. CTR. FOR POSTSECONDARY RSCH., *DIVERSITY & EXCLUSION: 2020 ANNUAL SURVEY RESULTS 7* (2020), <https://lsse.indiana.edu/wp-content/uploads/2020/09/Diversity-and-Exclusion-Final-9.29.20.pdf> [https://perma.cc/U3WU-QSLY].
11. *Id.*
12. Black attorneys account for only five percent of the legal population. AM. BAR ASS’N, NATIONAL LAW. POPULATION SURVEY: 10-YEAR TREND IN LAWYER DEMOGRAPHICS, (2021), [https://www.americanbar.org/content/dam/aba/administrative/market\\_research/2021-national-lawyer-population-survey.pdf](https://www.americanbar.org/content/dam/aba/administrative/market_research/2021-national-lawyer-population-survey.pdf) [https://perma.cc/7R6Z-74TR].
13. 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/49UG-2RZR]; see also JOAN C. WILLIAMS ET AL., AM. BAR ASS’N’S COMM’N ON WOMEN IN THE PRO. & MINORITY CORP. COUNS. ASS’N, *YOU CAN’T CHANGE WHAT YOU CAN’T SEE: INTERRUPTING RACIAL & GENDER BIAS IN THE LEGAL PROFESSION 7* (2018) <https://www.americanbar.org/content/dam/aba/administrative/women/you-cant-change-what-you-cant-see-print.pdf> [https://perma.cc/UYH4-JZZY] (“Women of color reported that they had been mistaken for administrative staff, court personnel, or janitorial staff at a level [fifty] percentage points higher than white men.”).
14. Democracy & Gov’t Reform Team, *Examining the Demographic Compositions of U.S. Circuit and District Courts*, CTR. FOR AM. PROGRESS (Feb. 13, 2020, 12:01 AM), <https://www.americanprogress.org/issues/courts/reports/2020/02/13/480112/examining-demographic-compositions-u-s-circuit-district-courts/> [https://perma.cc/XZJ9-4UPX] (reporting that in almost half of circuit courts in the U.S. Courts of Appeals, eighty percent of active judges are white, and demonstrating that women—especially women of color—and LGBTQ individuals are woefully underrepresented on the bench). While Black people make up over thirteen percent of the population of the United States, they make up only five percent of lawyers. *QuickFacts: United States*, U.S. CENSUS BUREAU, <https://>

plicit bias, and discriminatory dress codes.<sup>16</sup> Due to a lack of financial assistance from their families, Black law students are “far more likely to work during law school”<sup>17</sup> and therefore are less likely to have the privilege of focusing solely on their education. Upon graduation from law school, Black law students are more likely than their white peers to have over \$120,000 in law school debt.<sup>18</sup> Black law students starting law school in 2017 faced some, if not all, of these challenges.

Then came 2020.

\* \* \*

The class of 2020 graduated law school in the midst of a pandemic that, as of May 2020, had infected 1,716,078 and killed 101,567 in the

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- www.census.gov/quickfacts/fact/table/US/PST045219#qf-headnote-a [https://perma.cc/T7CF-H5UP] (last visited Feb. 15, 2021); AM. BAR ASS'N, *supra* note 12.
15. See *Microaggression*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/microaggression> [https://perma.cc/6RHR-6G3T] (last visited Feb. 22, 2021); Catharine Wells, *Microaggressions: What They Are and Why They Matter*, 24 TEX. HISP. J.L. & POL'Y 61 (2017).
  16. See, e.g., Ellen Milligan, *Black Attorneys Call Out Racism as Law Firms Vow To Change*, BLOOMBERG BUS. (July 11, 2020, 10:24 AM), <https://www.bloomberg.com/news/articles/2020-07-06/black-attorneys-call-out-racism-in-u-k-law-s-world-of-whiteness> [https://perma.cc/6BU4-FJZX]; Samantha Joseph, *'White Guilt': Black Attorneys Talk Frankly About Race and Implicit Bias [FULL VIDEO]*, LAW.COM (Nov. 10, 2020, 11:29 AM), <https://www.law.com/2020/11/10/white-guilt-black-attorneys-talk-frankly-about-race-and-implicit-bias-full-video/> [https://perma.cc/2BE9-YULR]; Ciera Berkemeyer, Note, *New Growth: Afro-Textured Hair, Mental Health, and the Professional Workplace*, 44 J. LEGAL PRO. 279, 282–84 (2020) (“Black employees in the American corporate world may have several mental health problems associated with, and created or maintained by, the stressors created by grooming policies and microaggressions. Among other mental health issues, anxiety, depression, and PTSD can be created or aggravated by an unfriendly or hostile work environment.”). For a discussion on how to prevent bias in hiring, see WILLIAMS ET AL., *supra* note 13, at 14–17.
  17. Nareissa Smith, *Factors Affecting Bar Passage Among Law Students: The REAL Connection Between Race and Bar Passage*, AFR. AM. ATT'Y NETWORK (May 15, 2018), <https://aaattorneynetwork.com/factors-affecting-bar-passage-among-law-students-the-real-connection-between-race-and-bar-passage/> [https://perma.cc/L6EX-SRCG] (“Many Black students face severe financial pressures. For instance, while only 27% percent of all law students are first-generation students, 43% percent of these are African American. Being the first-generation has significant financial consequences, as 93% percent of these students take out loans. Only nine percent of Black students get financial help from their parents.”).
  18. Debra Cassens Weiss, *Study Finds Widening Gap in Expected Law School Debt Based on Race and LSAT Score*, A.B.A. J. (Mar. 1, 2016, 7:47 AM), [https://www.abajournal.com/news/article/study\\_finds\\_widening\\_gap\\_in\\_expected\\_law\\_school\\_debt\\_based\\_on\\_race\\_and\\_lsat](https://www.abajournal.com/news/article/study_finds_widening_gap_in_expected_law_school_debt_based_on_race_and_lsat) [https://perma.cc/FCY8-SWC7] (reporting that the 2015 Law School Survey of Student Engagement found that sixty-one percent of Black students, fifty-six percent of Hispanic students, and about forty percent of white and Asian students estimated their post-graduation debt would top \$100,000; further, almost half of Black students expected over \$120,000 in debt).

United States alone.<sup>19</sup> Of those impacted, Black Americans experienced one of the highest death rates, with a mortality rate twice that of whites.<sup>20</sup> At the same time, “police killings continue[d] unabated, at 2.5 times the rate for Black men as for white men.”<sup>21</sup> Nationwide protests for racial justice and against police brutality gained urgency and momentum after George Floyd and Breonna Taylor were murdered by police,<sup>22</sup> even as demonstrators themselves were subjected to violence from law enforcement.<sup>23</sup> Meanwhile, the United States economy posted its worst drop on record, leaving many people unemployed.<sup>24</sup>

With these crises unfolding, Black law graduates in the class of 2020 were told to study for the bar exam—the culmination of their years of effort and the gatekeeper of entry to the legal profession. Then the exam was postponed, changed to an online format, or remained in person with new restrictions.<sup>25</sup> The software used to proctor remote exams relied on facial recognition technology that did not reliably acknowledge darker skin.<sup>26</sup> In states where the exam was postponed, graduates exhausted the money meant to support them during bar study. Job start dates were delayed. Some Black law school graduates felt anger, fear, and guilt as they were forced to choose between studying for the bar to secure professional success and financial stability or joining their communities in protest.<sup>27</sup>

While most 2020 law school graduates faced challenges, many of these stressors were particularly acute for Black graduates. The sum-

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19. WORLD HEALTH ORG., CORONAVIRUS DISEASE (COVID-19) SITUATION REPORT – 132, at 6 (2020), [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200531-covid-19-sitrep-132.pdf?sfvrsn=D9c2eae2\\_2](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200531-covid-19-sitrep-132.pdf?sfvrsn=D9c2eae2_2) [https://perma.cc/A7Q3-XKWG].

20. *The Color of Coronavirus: COVID-19 Deaths by Race and Ethnicity in the U. S.*, AM. PUB. MEDIA RSCH. LAB (Mar. 5, 2021), <https://www.apmresearchlab.org/covid/deaths-by-race> [https://perma.cc/75P9-SZFR].

21. ARMED CONFLICT LOCATION & EVENT DATA PROJECT, DEMONSTRATIONS & POLITICAL VIOLENCE IN AMERICA: NEW DATA FOR SUMMER 2020, at 2 (2020) (citations omitted), [https://acleddata.com/acleddatanew/wp-content/uploads/2020/09/ACLED\\_USDataReview\\_Sum2020\\_SeptWebPDF\\_HiRes.pdf](https://acleddata.com/acleddatanew/wp-content/uploads/2020/09/ACLED_USDataReview_Sum2020_SeptWebPDF_HiRes.pdf) [https://perma.cc/FSX2-CE2M].

22. *Id.*

23. Tobi Thomas et al., *Nearly 1,000 Instances of Police Brutality Recorded in US Anti-Racism Protests*, GUARDIAN (Oct. 29, 2020, 11:00 PM), <https://www.theguardian.com/us-news/2020/oct/29/us-police-brutality-protest> [https://perma.cc/QUN5-8YMV].

24. Anneken Tappe, *US Economy Posts Its Worst Drop on Record*, CNN BUS. (July 31, 2020, 1:02 PM), <https://www.cnn.com/2020/07/30/economy/us-economy-2020-second-quarter/index.html> [https://perma.cc/5SN9-ZUGE].

25. Marsha Griggs, *An Epic Fail*, 64 HOW. L.J. 1, 11, 25–27 (2020).

26. Joe Patrice, *Online Bar Exams Rely on Facial Recognition Tech and Guess What? It's Still Racist!*, ABOVE LAW (Sep. 18, 2020, 12:32 PM), <https://abovethelaw.com/2020/09/online-bar-exams-rely-on-facial-recognition-tech-and-guess-what-its-still-racist/> [https://perma.cc/3AXU-C4SN].

27. *See infra* app. at p. 127–34.

mer of 2020 exacerbated and highlighted long-standing biases in legal education and in the bar exam. We are only beginning to understand effects of the events of the year on Black law students' and attorneys' health and well-being, career prospects, and financial stability. The first step in comprehending the ramifications is to listen to the experiences of the 2020 graduating class of Black law students. This Article includes the results of a pilot survey<sup>28</sup> designed to determine the predominant themes in the experiences of Black law school graduates in 2020, with a particular focus on the intersection of the COVID-19 pandemic and race.

## II. THE SURVEY

### A. Methodology

Initially, I did not intend to write up this survey as a complete article, instead wanting to begin an investigation into the experiences of Black graduates that I was hearing about in person and reading about online. However, once I began to receive survey responses, I felt that it was necessary and urgent to share these experiences publicly. Though the survey questions reflect my inexperience with writing surveys, my goal in drafting the questions was to convey to Black law school graduates taking the survey that many of the struggles they may have faced were unusual and to affirm their challenges as very real. These questions also reflect my ongoing concern for the political state of the country during 2020 and the particularly virulent anti-Black racism that gained news attention and widespread acknowledgement during the summer. My experiences and personal objectives may have resulted in biased questions.

The survey acknowledged the unique challenges facing these bar takers, namely (1) the COVID-19 pandemic, which continues to disproportionately impact communities of color, and (2) daily coverage and occurrences of police brutality against Black, Indigenous, and People of Color (BIPOC),<sup>29</sup> the protests in response to this violence, and the heightened political environment around the November 2020

28. I intend to check in with this group of students in 2022. Hopefully, by that time there will be more research on these issues and more data on the number of students who took the bar exam in 2020 and their passage rates. It is my hope that a more in-depth 2022 survey will allow us to continue to understand the impact of 2020 on this group of Black law graduates and on Black lawyers more generally.

29. Sandra E. Garcia, *Where Did BIPOC Come From?*, N.Y. TIMES (June 17, 2020), <https://www.nytimes.com/article/what-is-bipoc.html> [https://perma.cc/884C-VBMJ]. Some reject the acronym BIPOC and the term people of color as insufficient to encompass the diverse experiences of the communities they purport to respect. See, e.g., Shereen Marisol Meraji et al., *Is It Time To Say R.I.P. to 'POC'?*, NPR (Sept. 30, 2020, 12:22 AM), <https://www.npr.org/2020/09/29/918418825/is-it-time-to-say-r-i-p-to-p-o-c> [https://perma.cc/48K7-WNLF].



election. This is not an exhaustive survey or, as I have noted, an entirely unbiased one, but instead is intended to document these experiences and provide feedback to those in legal education and to bar examiners.

This survey was developed in compliance with the Suffolk University Institutional Review Board process. I used Qualtrics<sup>30</sup> to distribute the eight-question survey. I used the following methods to recruit respondents: posting to Twitter<sup>31</sup> and requesting that others working in legal education and in the legal profession share and retweet;<sup>32</sup> posting on the Law School Academic Support list-serv; directly reaching out to law school graduates, lawyers, professors, and current law students; emailing career services offices at Historically Black Law Schools; emailing Black Law Students Association (BLSA) Chapters; emailing editors of law journals; and emailing Black and African American lawyer associations, the National Bar Association, the American Bar Association - Law Student Division, the Massachusetts Supreme Judicial Court Standing Committee on Lawyer Well-Being, and the Council on Legal Education Opportunity (CLEO). A total of 122 graduates responded before the survey closed on November 13, 2020. These graduates studied and sat for bar exams in a wide variety of states, including California, Connecticut, Florida, Illinois, Massachusetts, Missouri, New York, Ohio, Texas, and Washington.

## B. Survey Questions

The survey was comprised of eight questions—a mix of “yes” or “no” and open-ended questions. Respondents were free to answer as few or as many of the questions as they chose. They were assured that responses would be kept anonymous. The questions were as follows:

1. Did you sit for a bar exam during the period of July–October 2020? [Yes/No]
2. How, if at all, do you feel the COVID pandemic impacted your experience studying for and taking the bar exam? (For example: health (did you or your family members have COVID or increased health concerns); care-taking (did you have any increased care-taking responsibilities); finances (were you or your family financially impacted by COVID))[]

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30. Qualtrics is a web-based survey and data collection tool. See *Qualtrics for Faculty*, QUALTRICS, <https://www.qualtrics.com/education/student-and-faculty-research/> [https://perma.cc/6R2S-RK87] (last visited May 28, 2021, 1:32 PM).

31. I have found Twitter to be a valuable site of professional discourse, law student discussions I might not otherwise be privy to, and ideas for pedagogy and research. My Twitter handle is @s\_james\_s.

32. A particularly important retweet was by @BarExamTracker, a Twitter account that many students relied on for bar exam updates and word of mouth news throughout the summer and fall.

3. How, if at all, do you feel that the political climate in the United States\* impacted your experience studying for and taking the Bar exam? \*including incidents of police brutality, protests in response to these incidents, and the November 2020 election[.]
4. Was the bar exam you sat for postponed and, if so, how did this impact your studying and/or your decision to sit for the bar?
5. Was your bar exam given in an online/remote format? If so, how did this impact your experience?
6. Did you feel supported by your law school during the bar study experience? [Yes/No]
7. Did anyone from your law school explicitly acknowledge the impact of the pandemic, police brutality, and racism on your study experience? [Yes/No]
8. What did you find most helpful for support and encouragement during your bar study experience?

### III. AN OVERVIEW OF RESPONSES

Responses to the questions revealed a number of trends. In addition to this Article, I strongly encourage readers to read the responses in the Appendix; this summary is merely intended as an overview.

#### A. “A Grief Gap”: The Mental, Physical, and Emotional Toll of COVID-19

*“And now the COVID-19 crisis has laid those inequities bare. It is not a coincidence and it is not a matter of genetics that more than 70% of African Americans . . . personally know someone who has been hospitalized or died from COVID-19. The same disparities ingrained in our economy, our housing system, our food system, our justice system, and so many other areas of our society have conspired in this moment to create a grief gap that we cannot ignore.”*<sup>33</sup>

Graduates’ responses revealed a number of common concerns and trends—first, the mental, physical, and emotional toll of the COVID-19 pandemic. Of course, the coronavirus impacted the mental health of many students, “turn[ing] the typical law school experience on its head, and ripp[ing] away the one thing we all need when feeling anxious and depressed[—]a social network we can talk to, gain support

33. Marcella Nunez-Smith, Chair, COVID-19 Equity Task Force, *Biden Health-Related Nominees and Appointees*, C-SPAN, at 38:31 (Dec. 8, 2020), <https://www.c-span.org/video/?507086-1/president-elect-biden-announces-health-team-covid-19-priorities-100-days#> [https://perma.cc/Z7PR-FDPA].

from, and re-center our perspective of the future.”<sup>34</sup> Physical health was also of consequence, as Black Americans and their families continued to be impacted by disproportionately high death rates due to the coronavirus throughout the year.<sup>35</sup> A task force studying the impact of COVID-19 on the mental health and emotional well-being of young people of color found that the “pandemic has cast deeply-ingrained inequities in American society into stark view. Just as pre-existing health conditions have made individuals more vulnerable to COVID-19, structural racism has made certain communities more vulnerable to the disease.”<sup>36</sup>

Unsurprisingly, survey responses showed that the pandemic had a similar influence on graduates. Graduates wrote that their mental health suffered “significantly”<sup>37</sup> as a result of the pandemic—that they felt “the weight of death surrounding” them as they attempted to focus on studies.<sup>38</sup> For some, it was concerns about the impact of the pandemic on their own physical health, including complications of unrelated or preexisting conditions like asthma and bleeding ulcers.<sup>39</sup> For others, the pandemic hit home because family members tested

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34. Carrie Sperling, *Our Students Are Stressed; Exercise Compassion*, BEST PRACS. FOR LEGAL EDUC. BLOG (Oct. 29, 2020), <https://bestpracticeslegaled.com/2020/10/29/our-students-are-stressed-exercise-compassion/> [https://perma.cc/YX56-DXPB].

35. *The Color of Coronavirus*, *supra* note 20.

36. THE STEVE FUND CRISIS RESPONSE TASK FORCE, ADAPTING AND INNOVATING TO PROMOTE MENTAL HEALTH AND EMOTIONAL WELL-BEING OF YOUNG PEOPLE OF COLOR: COVID-19 AND BEYOND 1 (2020), <https://www.stevelfund.org/wp-content/uploads/2020/09/CRISIS-RESPONSE-TASK-FORCE-STEVE-FUND-REPORT.pdf> [https://perma.cc/KL8B-F68Q].

37. *See infra* app. at p. 118.

38. *See infra* app. at p. 117.

39. One respondent recalled: “I had increased health concerns. I was supposed to take the test [in] July 2020, however I got very ill and feared that I had COVID. After waiting a couple of days for results, I realized I was negative. It ended up being bleeding ulcers in my stomach.” *See infra* app. at p. 119. Preexisting conditions were also a source of concern: “As an asthmatic I had to obtain all of my refills for my inhalers (daily and rescue) at once because I was afraid of what would happen if I fell ill to the virus.” *See infra* app. at p. 121. Another graduate wrote:

I had a suspected case of COVID back in early March, right before the pandemic was declared. Ever since, I’ve experienced a host of symptoms that never bothered me before, ranging from rashes to breathing issues to heartburn/GERD. All while I was studying for the bar exam from June to October, I was also going back and forth with doctors who barely listened to my concerns and only treated the most obvious conditions (like the rashes) without actually trying to get to the root of the issue. Dealing with studying and a series of inattentive doctors while having unexplained health concerns was incredibly stressful and possibly exacerbated some of my symptoms.

*See infra* app. at p. 119–20.

positive,<sup>40</sup> household members had precarious health conditions, or the students themselves had generalized health concerns as a result of COVID-19.<sup>41</sup> The responses to the survey reflected the mental, physical, and emotional toll COVID-19 took on the graduates and their communities, compounded by the reality of racism in medicine. When Black Americans seek medical care, they are more likely to experience lower-quality care at hospitals and may also face implicit bias from medical providers.<sup>42</sup> Not only are Black American adults twice as likely to die from COVID-19 as their white neighbors,<sup>43</sup> they reported higher rates of depression, anxiety, and trauma-related symptoms as a result of the pandemic than whites.<sup>44</sup> Knowledge of this bias, past negative experiences with health care providers, and a fear of such treatment likely exacerbated Black Americans' stress and fear during the pandemic.<sup>45</sup>

## B. The Mental, Physical, and Emotional Impact of Racism

*"I felt extremely helpless, ignored and depressed. I have a black son, brothers, and fiancé. I am also a black woman. The constant streaming of black dead bodies and murdering of black people was a lot."*<sup>46</sup>

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40. See *infra* app. at p. 120–21 ("On top of that I had family members with covid so that's just added to the mental strain.").

41. See *infra* app. at p. 119 ("My family and I had increased health concerns.").

42. Ali Pattillo, *Doctors Clarify Why Racism Against Black Americans Is a Public Health Crisis*, INVERSE (June 3, 2020, 10:08 AM), [https://www.inverse.com/mind-body/racism-is-a-public-health-crisis?fbclid=IWAR2Nh\\_CWbAsMxtxv7r4dz1dfL3aLVr3mCwXerOznxZBI5gbEgoCN9wJRW6U](https://www.inverse.com/mind-body/racism-is-a-public-health-crisis?fbclid=IWAR2Nh_CWbAsMxtxv7r4dz1dfL3aLVr3mCwXerOznxZBI5gbEgoCN9wJRW6U) [<https://perma.cc/VP3D-T6R7>]; April Dembosky, *'All You Want Is To Be Believed': The Impacts of Unconscious Bias in Health Care*, KAISER HEALTH NEWS (Oct. 21, 2020), <https://khn.org/news/all-you-want-is-to-be-believed-the-impacts-of-unconscious-bias-in-health-care/> [<https://perma.cc/4BZB-HUW8>] ("Research shows how doctors' unconscious bias affects the care people receive, with Latino and Black patients being less likely to receive pain medications or get referred for advanced care than white patients with the same complaints or symptoms, and more likely to die in childbirth from preventable complications.").

43. *The Color of Coronavirus*, *supra* note 20.

44. THE STEVE FUND CRISIS RESPONSE TASK FORCE, *supra* note 36.

45. Dembosky, *supra* note 42.

46. See *infra* app. at p. 119.

The killings of Breonna Taylor in March 2020,<sup>47</sup> and of George Floyd in May<sup>48</sup> set off months of protests, police brutality against protestors, and fraught, long-overdue conversations about race in schools, companies, and places of worship. For many Black law school graduates, the stark contrast between the singularly focused and apolitical world of bar study and the emotional, immediate, and intense occurrences outside their books created cognitive dissonance.<sup>49</sup> For some, the conflict between the two was actually at their doors. One graduate wrote, “I was living in [city] at the time of the bar exam and I was attempting to study while there were literally protests and looting happening on the first floor of my apartment building. I was mentally exhausted and just numb.”<sup>50</sup>

“Exhausted” and “exhausting” were words graduates used repeatedly with regard to the impact of anti-Black violence and police brutality.<sup>51</sup> Even if the protests were not outside their doors, many graduates reported feeling distracted and guilty at the idea of choosing to study for the bar exam over joining their communities in protest.<sup>52</sup> Graduates felt “torn,” “guilty,” “useless,” and a sense of “tension” about not being able to participate in protests against police brutality when they prioritized studying for the bar.<sup>53</sup>

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47. One survey respondent shared:

This was an awful experience watching the murder of George Floyd and then learning about Breonna Taylor, Ahmaud Arbery, and Elijah McClain’s murders. All of this against the backdrop of repeated incidents of police brutality and the rising covid death toll. It was difficult focusing on hypothetical issues of law when real life repeated violations of civil rights was taking place. Definitely traumatic and the various bar associations and NCBE were largely dismissive of this reality.

*See infra* app. at p. 129.

48. Another graduate stated:

I suffered a nearly 3 week mental crash not long after the murder of George Floyd. Prior to that, I was already dealing with Covid anxiety and having to suddenly homeschooling my daughter as I finished up my semester. The Floyd incident sent me over the edge, resulting in a mental and emotional crash.

*See infra* app. at p. 120.

49. Griggs, *supra* note 25, at 14.

50. *See infra* app. at p. 126.

51. As one individual responded: “I was exhausted. It’s exhausting to think back on. As a Black woman I had to fight to stay alive from a virus and police brutality. It affected me emotionally and I did not have the bandwidth to continue to study for the exam.” *See infra* app. at p. 126.

52. *See infra* app. at p. 125–31 (“The political climate made it difficult to focus solely on studying. I felt an upmost duty to get involved in protests or other types of civil engagement while studying for the bar.”).

53. A respondent admitted: “I was torn with guilt as to study or protest.” *See infra* app. at p. 125. “[T]here was constant anxiety, disappointment and tension between having to study for the bar and wanting to participate in the protests to show my support for my community.” *See infra* app. at p. 126. “It was really hard to study black letter law when black people are dying for being black in America.

It was extremely difficult to focus on something as abstract and that solely serves a racist, classist, gate keeping function as the bar exam in the midst of so much Black death and resulting protests. I wanted to be in the streets and felt I could not be due to the bar, but felt very guilty not to be there which did not help my focus.<sup>54</sup>

For some, the protests were—somewhat ironically—both emotionally tolling and also a reminder of why they attended law school in the first place. One graduate shared: “[T]hese incidents placed a heightened emotional and mental toll on me, with an added pressure to pass the bar in order to be in the position to help those impacted by racial injustice.”<sup>55</sup>

The contrast between studying for an exam on law purporting to apply equally to all people and the inequality on view in the streets of the United States was a contrast too painful and stark for many to bear.

Perhaps the most difficult part about bar prep was learning law that I knew didn’t apply to my people in real life. Every incident of police brutality reminded me that the things I was learning in my bar prep course, didn’t apply to us. During my entire bar prep I constantly battled with whether or not I still wanted to be part of this profession or the “legal system.” I think the only reason why I even made it through the exam is because my family and I have already put in way too much money for me to walk away.<sup>56</sup>

Another graduate wrote: “The political climate has impacted me mentally. After I watched George Floyd murdered on television, I was at a loss[s]. There is not much drive in you to focus on constitutional law that was never meant to protect you.”<sup>57</sup> The exam preparation questions themselves could be a terrible reminder of how unequally the law is applied in the United States.

[A]ll those stupid property rules that say property cannot be defended with deadly force just felt like salt in the wound. Plus the multiple choice questions about police unlawful arrests where [the] answer is that a person can use “reasonable force” to resist an arrest they believe to be unlawful made me angry. Hard to effectively study in that kind of head space . . .<sup>58</sup>

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I felt guilty studying instead of going to a protest.” *See infra* app. at p. 127. Another bar-taker wrote:

I have never felt collective trauma like I have this summer. Between the pandemic and all of the killings of Black people and loss of Black figures such as Chadwick Bo[s]leman, I have felt depression that I haven’t experienced in over a decade. Additionally, my feeling unable to participate in protests because I felt like I needed to study for the bar added to my depression and feeling of utter uselessness. I came to law school to help people and the bar prevented me from helping people in an incredible time of need.

*See infra* app. at p. 129.

54. *See infra* app. at p. 128.

55. *See infra* app. at p. 129.

56. *See infra* app. at p. 125.

57. *See infra* app. at p. 125.

58. *See infra* app. at p. 127.

The intersection between the pandemic and the murder of George Floyd and other victims of police brutality was clear to many graduates. One wrote:

Prior to the exam, we were already dealing with massive attempts to divide our country on racial lines by our political leaders. The current [Trump] administration has purposely sent many indications of its disdain for people of color. The death of George Floyd and other minorities by the police was another factor in my inability to focus. Finally, learning about the hundreds of thousands of people that have been contracting and ultimately dying from the virus, in the midst of other loss of life not due to COVID impacted my bar prep experience. The simple fact is, the COVID deaths were avoidable. The unequal treatment of Black people is also avoidable.<sup>59</sup>

One study described how the “multiple and intersecting marginalized identities carried by many students of color—such as socioeconomic, immigration and ability status; sexual orientation; gender identity; and cultural background—can amplify these disparities and trauma-related symptoms.”<sup>60</sup> This trauma was further deepened by a summer filled with anti-Black violence and a heightened political climate.<sup>61</sup> Jessica Graham-Lopresti, a professor of psychology, summarized the compounding stressors:

We, as Black people, have all of the normal human stressors—work, family, finances—and then we’re inundated with racial pressure at all levels . . .

This idea that, for Black people, we don’t feel—currently in this country—that we have the ability to control our environment and protect ourselves and our families. . . . We could still be gunned down in the street. That creates anxiety. That creates stress.<sup>62</sup>

Many Black Americans shared the experience of facing “normal” daily expectations and obligations in the face of an abnormal combination of traumatic events.

Between a pandemic endangering black lives at disproportionately high rates and the recent killings of black people like George Floyd and Breonna Taylor, “every black person I’ve spoken to is numb,” Jameta N. Barlow, a community health psychologist, told [Tonya Russell, a freelance writer for the New York Times] recently. “Yet, they’re expected to show up to work, if they

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59. *See infra* app. at p. 121.

60. THE STEVE FUND CRISIS RESPONSE TASK FORCE, *supra* note 36; *see also* Keith Zubrow, *The Impact of Racism on Mental Health*, CBS NEWS (Apr. 18, 2021), <https://www.cbsnews.com/news/racism-and-mental-health-60-minutes-2021-04-18/> [<https://perma.cc/6DUH-J47H>] (interviewing David Williams, professor of public health and chair of the Department of Social and Behavioral Sciences at the Harvard T.H. Chan School of Public Health, who stated that “every police shooting of an unarmed African American led to worse mental health for the entire Black population in the state in which it occurred for the next three months”).

61. Corey Williams, *Experts: Police Brutality, Racism Pushing Black Anxiety*, AP NEWS (Nov. 1, 2020), <https://apnews.com/article/election-2020-race-and-ethnicity-virus-outbreak-police-police-brutality-ea845aacd10bf7babe371ce2ee86a5df>.

62. *Id.*

are still employed, and perform the job optimally. This is the true definition of insane expectations.”<sup>63</sup>

Similarly, Black law school graduates faced an unrealistic expectation to show up to a summer of bar exam study with the same focus as their non-Black peers. Needless to say, this pressure and a “wide range of emotional responses is ‘not a recipe for academic success or balance.’”<sup>64</sup> Of the summer and the impact of the protests and anti-Black violence in the streets, one graduate bluntly wrote: “It was all a traumatic experience that I will never forget.”<sup>65</sup>

### C. The Impact of Changes to the Bar Exam

*“[I]t was postponed twice. My state’s board of admissions was not transparent, was insensitive to the plight of the candidates and the administration of the bar was fraught with decisions that were questionable at best[.]”*<sup>66</sup>

#### 1. Postponement

State by state, many exam administrators changed plans for how the exam would be administered and proctored throughout the summer.<sup>67</sup> Some moved the exam online.<sup>68</sup> Others gave priority to in-state applicants due to decreased seats.<sup>69</sup> Many postponed the exam—most

63. Tonya Russell, Opinion, *Check In on Your Black Employees, Now*, N.Y. TIMES (June 2, 2020), <https://www.nytimes.com/2020/06/02/opinion/police-killings-black-mental-health.html> [https://perma.cc/M6L9-47KV].

64. Greta Anderson, *The Emotional Toll of Racism*, INSIDE HIGHER ED (Oct. 23, 2020) (quoting Annelle Primm, senior medical director of the Steve Fund), [https://www.insidehighered.com/news/2020/10/23/racism-fuels-poor-mental-health-outcomes-black-students?utm\\_source=inside+Higher+Ed&utm\\_campaign=7aece3e2ae-WNU\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_1fcb04421-7aece3e2ae-236011861&mc\\_cid=7aece3e2ae&mc\\_eid=6557f40fd2](https://www.insidehighered.com/news/2020/10/23/racism-fuels-poor-mental-health-outcomes-black-students?utm_source=inside+Higher+Ed&utm_campaign=7aece3e2ae-WNU_COPY_01&utm_medium=email&utm_term=0_1fcb04421-7aece3e2ae-236011861&mc_cid=7aece3e2ae&mc_eid=6557f40fd2) [https://perma.cc/L69J-XN5D].

65. See *infra* app. at p. 126.

66. See *infra* app. at p. 132.

67. *Bar Exam Modifications During COVID-19: 50-State Resources*, JUSTIA (Apr. 2021), <https://www.justia.com/covid-19/50-state-covid-19-resources/bar-exam-modifications-during-covid-19-50-state-resources> [https://perma.cc/CWS5-P5EU].

68. States that moved at least some portion of their bar exam online included Arizona, California, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Tennessee, Texas, and Vermont. *Id.*

69. Andrea A. Curcio et al., *Insight: Bar Exam Repeaters Shouldn’t Be Pushed to the Back of the Line*, BLOOMBERG L. (June 1, 2020, 3:01 AM), <https://news.bloomberglaw.com/us-law-week/insight-bar-exam-repeaters-shouldnt-be-pushed-to-back-of-the-line> [https://perma.cc/ZCZ7-RLYB]. For instance, New York gave priority to in-state applicants. See Stephanie Francis Ward, *New York Limits Bar Exam to In-State Graduates Because of Coronavirus Concerns*, A.B.A. J. (May 1, 2020, 12:27 PM), <https://www.abajournal.com/news/article/new-york-limits-bar-exam-to-in-state-graduates> [https://perma.cc/QV4G-W2EB]; Kerriann



commonly, moving it from July to October.<sup>70</sup> The effect of these changes, postponement specifically, impacted exam takers in a number of ways.

For the first few months of summer, not knowing when or how the exam would be administered—and rumors of delays or cancellations within days of testing dates—caused stress and anxiety.<sup>71</sup> Respondents reported that the up-in-the-air nature of the experience was “unnerving”<sup>72</sup> and “caused [them] to [lose] momentum and hope.”<sup>73</sup> Some respondents had planned on taking more than one bar exam, a plan which became unfeasible due to delays or changes in the rules.<sup>74</sup> The perceived lack of transparency and breakdown in trust and communication between test takers and both the state bar and the admissions board added insult to injury.<sup>75</sup> Postponement also had a very real and intense financial impact on test takers. For instance, one test taker wrote: “I was studying full-time up until July 2 when the July exam was cancelled. I had only planned financially for the summer and was forced into distress by the delay. I am now planning to sit in

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Stout, *New York BOLE Screws Repeat Bar Exam Candidates*, ABOVE L. (May 5, 2020, 11:18 AM), <https://abovethelaw.com/2020/05/new-york-bole-screws-repeat-bar-exam-candidates/> [https://perma.cc/VAF2-M3HM]. As one respondent noted:

NY was arguably the worst offender during this time. The state first didn't allow non-NY law school grads to register. This forced me and many others to attempt to register in two other states. Then after struggling to make the higher and unforeseen costs of registration work, I was fortunate enough to get a seat in NY but the lack of communication made studying very difficult.

*See infra* app. at p. 132.

70. *See, e.g.,* Liam Knox, *Mass. Bar Exam Postponed Due to Coronavirus*, WBUR (Apr. 4, 2020), <https://www.wbur.org/news/2020/03/30/massachusetts-bar-exam-delayed-covid> [https://perma.cc/989T-28LX]; Edward Miller, *Bar Exam Postponed One Month Due to Coronavirus*, CT. NEWS OHIO (July 22, 2020), [http://courtnewsohio.gov/happening/2020/barExamPostponement\\_072220.asp#.YHTBuhRKj0p](http://courtnewsohio.gov/happening/2020/barExamPostponement_072220.asp#.YHTBuhRKj0p) [https://perma.cc/5HVX-BCWY].
71. “I don’t think anyone is meant to study for the bar exam for 6 whole months because the impact on mental health when the exam is postponed, then on again, is some bullshit,” one graduate stated. *See infra* app. at p. 133.
72. *See infra* app. at p. 134.
73. *See infra* app. at p. 134.
74. “Due to the changing dates and reciprocity rules, I had to register for and study for 3 different exams over the course of the summer. I eventually was able to take one, but all of that change definitely had a negative impact on my mental health.” *See infra* app. at p. 118–19. “All of the bar exams I applied to take and studied for were postponed with changing reciprocity rules. I wanted to just wait until February but I had to continue to study for and take a bar exam to ensure that I still had an employment offer.” *See infra* app. at p. 133. “I planned on taking two bar exams, New York and California. The pandemic made it impossible to know whether I would be able to take either until August, when it became clear that I would have to take the New York exam in October.” *See infra* app. at p. 118.
75. “My state’s board of admissions was not transparent, was insensitive to the plight of the candidates and the administration of the bar was fraught with decisions that were questionable at best[.]” *See infra* app. at p. 132.

February but must work now to stay afloat.”<sup>76</sup> Another graduate described how the prolonged study period and the subsequent delay in entering the work force made them “feel like a burden on [their] family.”<sup>77</sup>

Some graduates were not able to remain unemployed in order to solely focus on the exam. A graduate whose planned exam was postponed twice faced the stress of whether to begin working in addition to studying.<sup>78</sup> They noted: “I was also thinking about working because we had been in the pandemic for so long and because I was bar prepping, I wasn’t working. I didn’t have the privilege to only focus on bar prepping.”<sup>79</sup> These decisions, and the stress of having to make them, weighed on graduates. Even once an exam date was set, this sense of unease continued. While some felt that the extra time benefited them,<sup>80</sup> the overall impact of postponement led some exam takers to worry that further changes could come at any moment. One graduate stated, “I had a constant fear of it being canceled right up until I took the exam.”<sup>81</sup> Although these concerns were spread across all bar takers, Black law school graduates may have been additionally burdened by the unanticipated delays and financial impact because they are likely to have greater debt than white graduates.<sup>82</sup> For some, the combination of the financial strain and general uncertainty led to the decision not to sit for the bar exam.<sup>83</sup>

I chose not to sit for the exam for both financial and mental reasons. My jurisdiction that I signed up for . . . took almost . . . two months to tell us what was going on. I could not financially wait for a decision to be made nor study for an additional 2.5-3 months. On top of that I had family members with covid so that’s just added to the mental strain.<sup>84</sup>

While the results of the 2020 bar exam are still being analyzed and fully understood, there is reason to believe that students with the resources to wait were rewarded.<sup>85</sup> “Pass rates rose in many jurisdic-

76. *See infra* app. at p. 118.

77. “My family was financially struggling and I considered withdrawing from the exam and getting a legal job. [H]owever I felt forced to stick it out because I’ve already lost out on months worth of income by waiting to take this exam.” *See infra* app. at p. 132.

78. *See infra* app. at p. 135.

79. *See infra* app. at p. 135.

80. “It actually made the study process easier I set up a study plan where I only had to study for 3 hours a day.” *See infra* app. at p. 132.

81. *See infra* app. at p. 135.

82. *See* White House Initiative on Educ. Excellence for Afr. Ams., *supra* note 7; Cassens Weiss, *supra* note 18.

83. *See infra* app. at p. 116.

84. *See infra* app. at p. 120–21.

85. Deborah Jones Merritt et al., *Pandemic Bar Exams Left Many Aspiring Lawyers Behind*, BLOOMBERG L. (Jan. 6, 2021, 3:01 AM), <https://news.bloomberglaw.com/us-law-week/pandemic-bar-exams-left-many-aspiring-lawyers-behind> [<https://perma.cc/2UP5-KVR6>].

tions. In New York, the overall pass rate rocketed to 84% on the October exam, which was administered online—compared to just 65% on the July 2019 exam. But for candidates who lacked those resources, the pass rate was 0%.”<sup>86</sup>

## 2. Technology

Perhaps one of the most shocking and stressful aspects of an unexpected shift to the online bar exam was the issue of facial recognition software that could not reliably register BIPOC faces.<sup>87</sup> As one student wrote:

[T]he face recognition technology (FRT) could not detect my dark-complexioned face, even in direct light. Sure, I could manually bypass the FRT failure, but it was incredibly demeaning and the state bar never should have used that technology.

The other very demeaning aspect of being remotely proctored was that I was more likely to be improperly flagged if the software couldn’t detect my face.<sup>88</sup>

The impact of the facial recognition technology on Black test takers and the panicked steps they took to address the issue are staggering. Graduates reported, for example, that “the software never recognized my face from my picture,”<sup>89</sup> “the program did not identify me in about half my login attempts,”<sup>90</sup> and “[t]he software was unable to verify my

86. *Id.*

87. Patrice, *supra* note 26; Janelle McPherson, *Some Dark-Skin Students Getting ‘Unable To Identify Your Face’ Messages While Attempting To Take Online Bar Exam*, NAT’L JURIST (Dec. 3, 2020, 8:03 AM), <https://www.nationaljurist.com/national-jurist-magazine/some-dark-skin-students-getting-%E2%80%98unable-to-identify-your-face%E2%80%99-messages-while> [https://perma.cc/WLM5-A5GQ].

88. *See infra* app. at p. 140. The graduate goes on to say:  
Furthermore, it was impossible to sit perfectly still to avoid being flagged. I sneezed a couple times, I scratched my head, I looked away, I adjusted myself in my seat. I know for a fact that I was flagged in each of the eight sessions but I’ll be damned if the bar examiners try to suggest that any of my actions amounted to cheating. I also hate that the human reviewers might hold more implicit bias against me as a Black person, and assume I cheated even though I did not.

*See infra* app. at p. 140. Another bar taker wrote:

I was concerned about the innate racism of AI software from its inability to properly detect darker skin tones to the opaque nature of what will be considered to be cheating and whether that analysis will be impacted by the race of the applicant. I also struggled with finding a sufficiently quiet place in my home to take the exam.

*See infra* app. at p. 142; *see also* Allie Yang, *Law Grads Faced Financial, Medical Challenges To Take the Bar This Year*, ABC NEWS (Dec. 4, 2020, 1:02 PM), <https://abcnews.go.com/US/law-grads-faced-financial-medical-challenges-bar-year/story?id=74511388> [https://perma.cc/D4KU-DFF6] (discussing the experience of graduate Areeb Been Khan, which sheds further light on facial recognition issues facing bar applicants of color).

89. *See infra* app. at p. 139.

90. *See infra* app. at p. 140.

identity/face for both days of the exam.”<sup>91</sup> In anticipation of this frustrating barrier to the test, some graduates “purchased a special extra bright light . . . to take the exam”<sup>92</sup> or, as one graduate explained,

[I] re organized the area where I was taking the exam to make sure there was enough light to show my face, I had extra lamps around just in case. I think I worried more about the software than the actual exam because I was so terrified of being flagged simply because the system couldn’t pick up my face because I’m black.<sup>93</sup>

The impact of this stressful and dehumanizing experience on Black graduates cannot be overstated. Even the promise that there would be human review of any flagged incidents did not soothe their anxieties. Students were on edge at the idea of being watched and “recorded,”<sup>94</sup> and had concerns that even small movements would register as cheating. The ACLU Foundations of California raised these concerns in a letter to the Supreme Court of California. It wrote:

Although the State Bar has indicated that it will not rely on the software’s facial recognition technology to make any final determinations regarding the Exam, this does not adequately remedy the discriminatory effect of technology that is inherently biased. Nor does the proposed process of human review . . . Although the State Bar asserts that these barriers to identity verification will not preclude an Exam taker of color from continuing with an exam session, it is likely they will trigger additional human review based on race. Accordingly, the racial biases embedded in facial recognition technology create a substantial likelihood that human reviewers will be watching exam takers of color with a closer eye.<sup>95</sup>

Expectations that students not move or get up from their seat were particularly acute for bar takers who had health conditions including pregnancy<sup>96</sup> or diabetes.<sup>97</sup> Apart from these incredibly worrisome issues, multiple students noted their frustration with various format issues, including having to scroll to see the entirety of the question stem;<sup>98</sup> not having scratch paper for the MEE and MBE;<sup>99</sup> and the

91. *See infra* app. at p. 141.

92. *See infra* app. at p. 140.

93. *See infra* app. at p. 139.

94. *See infra* app. at p. 141.

95. Letter from Am. C.L. Union Founds. of California to the Sup. Ct. of California (Oct. 1, 2020) (footnotes omitted), [https://www.aclunc.org/sites/default/files/ACLU\\_Opp\\_to\\_Remote\\_Proctoring\\_CA\\_Bar\\_Exam\\_2020.10.01.pdf](https://www.aclunc.org/sites/default/files/ACLU_Opp_to_Remote_Proctoring_CA_Bar_Exam_2020.10.01.pdf) [<https://perma.cc/79NK-3LKX>].

96. *See infra* app. at p. 136–37.

97. *See infra* app. at p. 133; *see also* Yang, *supra* note 88 (describing the story of Caitlyn Tallarico, a graduate with diabetes).

98. One respondent noted:

Lastly, I had a very frustrating experience trying to navigate the online performance test where the attachment was impossible to read and the text of the PT could only be highlighted in the 2” question stem box (side note: we had no ability to practice the PT with the text in the question stem, so seeing it for the first time on the actual exam was very overwhelming).

*See infra* app. at p. 140–41.

small font size and related eye strain.<sup>100</sup> Some students were glad for the move online due to lessened risk of exposure to COVID-19,<sup>101</sup> while others did not feel that the change impacted their experience.<sup>102</sup> For some, the change to an online bar and the overall unpredictability led to a decision to postpone.<sup>103</sup> Again, while many bar takers suffered anxiety around the unanticipated technological changes, the fact that Black graduates were also burdened with concerns about facial recognition technology—essentially told that their skin color was an additional barrier to a successful bar-taking experience—caused a significant disparate impact.

#### D. The Financial Toll

*“I would say that I’m blessed not to be on the streets.”*<sup>104</sup>

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99. For instance, one graduate wrote:

It was online. The format was horrific. Time was lost by having to scroll because we could not see the entire question stem. We were not able to have scratch paper for essays or MBE. I am a hand writer - I would have handwritten my essays for an in person exam. The online format negatively impacted me greatly. I ran out of time and did not do what I knew to do on my exam because the format truly worked against me. I almost regret not withdrawing.

*See infra* app. at p. 139. Another graduate stated, “I was uncomfortable taking the MPT with no scratch paper and reading on the computer. I had been studying as if it would be a paper test so I was unprepared.” *See infra* app. at p. 132. A third respondent noted:

Not being allowed scratch paper as a student who hand wrote exams for all 3 years of law school and being told by bar review instructors to chart things out was immensely frustrating. Additionally, where we were able to have some sort of scratch paper did not help in any real way because there was no copy and paste allowed for rules or tests, and the window where the information covered up the text box.

*See infra* app. at p. 141.

100. *See infra* app. at p. 139 (“The online MPT was so small that I had to scroll left to right and up and down so much, that I definitely lost needed minutes. I’m not a strong test taker, so to potentially lose points based on the technical format of the exam makes me angry in the sense that I’ll probably have to go back to studying in December.”).

101. *See infra* app. at p. 141 (“It made it a bit less stressful because I didn’t have to worry about COVID.”).

102. *See infra* app. at p. 141 (“Exam was remote but I had an office at my law firm to take it in. It didn’t impact my experience.”).

103. One respondent wrote, “It was postponed all the way to October so I decided to wait until Feb. 2021 and even now I’m waiting to hear what that decision is[.]” *See infra* app. at p. 134. Another graduate noted:

I ultimately decided to delay my bar exam and sit for the February 2021 test. With the regular cancellations and changes to my state’s bar exam, then the adoption of a new online abridged, non-UBE exam, I did not want to be in the ‘guinea pig’ group of testers. But my choice in delaying my exam does have me nervous about my ability to do well since there’s a lengthy gap in my studying after graduation.

*See infra* app. at p. 133.

104. *See infra* app. at p. 121.

In the summer of 2020, Black law school graduates were financially impacted by the pandemic, bar postponement, and the bar moving online.

### 1. *Financial Impact of the Pandemic*

*“The primary impact of COVID on my life pertained to finances. I had three job offers lined up prior to graduation, then they were all rescinded or put “on hold”- which greatly affected my ability to study for the Bar Exam because I had more pressing matters of keeping a roof over me and my mother’s head.”*<sup>105</sup>

Many law school graduates save up throughout law school in order to stop working during the summer that they study for the bar. Even for students who intended to do so and saved in advance, the unforeseen impact of the pandemic on the economy and on job security threw a wrench in these plans. One graduate stated, “We also both suffered a major pay cut that forced me to have to work longer than I would have originally. I initially planned to have 2 months off but couldn’t due to covid and a reduced salary.”<sup>106</sup> Multiple graduates moved in with family, suffered job losses, and incurred debt.<sup>107</sup> One graduate facing incredible challenges wrote, “Lost my job had to homeschool 3 kids financially strapped. My anxiety and depression increase[d] ten fold.”<sup>108</sup> Those who did not have jobs at the time of graduation faced a newly terrifying job market.<sup>109</sup> Unsurprisingly, these concerns constituted a major distraction for graduates attempting to focus on the bar exam.<sup>110</sup> This was particularly acute for those with children or other

105. *See infra* app. at p. 118.

106. *See infra* app. at p. 122; *see also* Abigail Johnson Hess, ‘Literal Hell’—How the Pandemic Made the Bar Exam Even More Excruciating for Future Lawyers, CNBC (Aug. 19, 2020, 5:40 PM), <https://www.cnbc.com/2020/08/19/literal-hellthe-pandemic-has-made-the-bar-exam-more-excruciating.html> [<https://perma.cc/R6CG-DQPZ>] (discussing the negative impact of the pandemic on the bar exam).

107. “Financially, I had to stay home with my parents and take out loans to survive.” *See infra* app. at p. 118. “My family and I were hit financially by the virus. I lost my job, and my parents were forced to cover my medical expenses. They are in significant debt and it is hard for me to not be upset. My search for a job has been futile.” *See infra* app. at p. 119. “I had to take tens of thousands of dollars in additional loans out without knowing when I will make any income because of the effects of covid on public defender budgets. I do not have family financial support because covid has affected my parents incomes as well.” *See infra* app. at p. 122.

108. *See infra* app. at p. 120.

109. “The lack of money was exacerbated by the priority to study and not get a job, and employment was it’s own stressor in the sense that there were no jobs to work because of the pandemic anyways.” *See infra* app. at p. 118.

110. *See infra* app. at p. 120 (“[COVID-19] was a major distraction for me and my family. Faced with issues surrounding day-to-day living expenses, it was really hard to be mentally and emotionally focused at all times.”).

dependents.<sup>111</sup> While many graduates felt this impact, COVID-19 disproportionately impacted people of color economically. “In the second quarter of 2020, the unemployment rate among Black and Latino people was more than 16%, compared to 12% for whites.”<sup>112</sup> Even once the exam was over, these financial stresses remained—as did the debt.

We tried to help out financially where we could but with me not working and him being the only income, it was hard. Around the end of July, my fiancé lost his job. I picked up hours where I could at my job but from July-mid August, I was more focused on work than I was on bar prep. My mother is over 50 and is a diabetic. She also works in a factory. As much as we wanted her to stop working to reduce her exposure, we didn’t have that financial luxury. I was and still am in a state of constant anxiety just thinking of what she could be exposing herself to. Our main focus became making sure that the internet and cable bill was paid so that I could have internet to do bar prep and take the exam. We skipped rent and essentially on focused on the internet bill and food. The exam itself is over but now we’re trying to make up for the 4 months that I went without a job.<sup>113</sup>

## 2. *Financial Impact of Bar Postponement*

For many students, setting aside one to three months to solely focus on studying for the bar exam is already a significant financial strain. Having this time period extended was untenable.<sup>114</sup> One graduate wrote:

The pandemic had a big impact on my finances and created living concerns. Because the exam was pushed back two whole months, I was forced to scramble for housing. I was fortunate enough to stay with my parents for a short period, but I incurred many unforeseen costs like those associated with having to move more than once.<sup>115</sup>

For some, the postponed bar delayed results, which in turn pushed back their job start dates and first paychecks.

111. Graduates wrote that providing for their children was a major stressor. *See infra* app. at 118 (“Care taking - my 3 y/o son was out of daycare, I had to take my finals and do most of my studying with him in house. I am a single parent and was unable to work during that time, so I lost my apartment as well.”).

112. THE STEVE FUND CRISIS RESPONSE TASK FORCE, *supra* note 36.

113. *See infra* app. at 117–18.

114. One graduate, who decided not to sit for the exam, noted:

I chose not to sit for the exam for both financial and mental reasons. My jurisdiction that I signed up for . . . took almost . . . two months to tell us what was going on. I could not financially wait for a decision to be made nor study for an additional 2.5-3 months.

*See infra* app. at 120–21. “COVID had a financial impact on my studying. I had to begin working earlier than anticipated because my test was pushed back[.]” *See infra* app. at 120. “I was studying full-time up until July 2 when the July exam was cancelled. I had only planned financially for the summer and was forced into distress by the delay. I am now planning to sit in February but must work now to stay afloat.” *See infra* app. at 118.

115. *See infra* app. at 117.

I was accepted to the Army JAG corps so I had to take the earliest bar exam possible. Because we do not receive our bar results until December, my commission was postponed. Furthermore, I spent a lot of my time seeking alternate housing for my son and I because we lost our apartment and I had to take a last minute job as a runner at a law firm to make ends me[et] toward the end of the period.<sup>116</sup>

### 3. *Financial Impact of the Bar Moving Online*

Graduates also faced financial stress because they needed to find a secure, quiet place to take the bar exam virtually and had to comply with certain computer specification requirements. Those who were able rented an office space to study and to take the exam.<sup>117</sup> Some had to purchase new computers<sup>118</sup> and Wi-Fi equipment<sup>119</sup> to have reliable service and to meet the requirements of ExamSoft and its testing software, Examplify. The bottom line is that the varied financial challenges of 2020 impacted some more than others. “Financially secure candidates with few family responsibilities were able to weather those reversals, along with other burdens imposed by the pandemic. Candidates with fewer financial resources or greater family responsibilities had to relinquish their ambitions.”<sup>120</sup>

## E. Logistics and Living Situations

For many bar takers, the impact of coronavirus was felt in the form of changes to their living situation and logistics, and inability to study in public, communal spaces like the law school, the library, or at coffee shops. Perhaps adding to these concerns is the fact that, on average, Black Americans are more likely to live with multiple generations of family than white Americans, impacting their access to quiet places to study.<sup>121</sup> In a story familiar to many parents, one graduate lost child-

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116. *See infra* app. at p. 133.

117. *See infra* app. at 141 (“It was online i had to rent an office space at an additional expense and blow to my savings. I have no quiet or private area at home.”).

118. One bar examiner shared their expenses, stating:

After hearing about so many people’s passwords and other sensitive information being compromised after they downloaded ExamSoft, I decided proactively that the only way to protect myself was to buy a brand-new laptop and start from a clean slate, and that new laptop cost me about \$500 (which I had to draw from the savings I kept to pay bills until I could start working), including the cost of antivirus software. The tech specs that ExamSoft required were also so strict but thankfully my new laptop met them.

*See infra* app. at p. 140.

119. “I had to get new wifi equipment and provider[.]” *See infra* app. at p. 141. “I faced job insecurity and did not have income to afford wifi or rent for a period of time until my unemployment checks began.” *See infra* app. at p. 119.

120. Merritt et al., *supra* note 85.

121. *See* D’vera Cohn & Jeffrey S. Passel, *A Record 64 Million Americans Live in Multigenerational Households*, PEW RSCH. CTR. (Apr. 5, 2018), <https://www.pewresearch.org/fact-tank/2018/04/05/64-million-americans-live-in-multigenerational-households/>



care for his toddler as a result of the pandemic, which impacted his ability to study.

Before the pandemic, I could study unimpeded during working hours because I paid for child care. COVID hit. The school closed. Day care shut down. My wife and I tandem parented our two year old daughter, but she missed hours in the lab every day (she's a research scientist) and I failed miserably to find consistent time to study. We had no workspace in our townhome where I could pull away from the sound my family generates, so I spent hours each day studying outside, around campus, in the elements.<sup>122</sup>

The lack of a quiet place to study felt like a clear disadvantage when contrasted with students who lived alone or had family houses (or second houses) to escape to.<sup>123</sup> Access to a consistent internet connection was also a concern.<sup>124</sup>

On the days of the exam, the lack of quiet space and reliable internet access reared its head anew. For those who lived with family members—many also working from home—concerns about external noise or movement resulting in notifications or flagging by bar software were paramount.<sup>125</sup> Some law schools attempted to help by opening up limited space at the school or subsidizing hotel rooms where students could take the exam, but for many this was not enough.<sup>126</sup> While many graduates faced these issues, they were more

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[www.pewresearch.org/fact-tank/2018/04/05/a-record-64-million-americans-live-in-multigenerational-households/](http://www.pewresearch.org/fact-tank/2018/04/05/a-record-64-million-americans-live-in-multigenerational-households/) [https://perma.cc/7R22-VQN2] (“Among Hispanics and blacks, the shares [of persons living in multigenerational family households] in 2016 were 27% and 26%, respectively. Among whites, 16% lived with multiple generations of family members.”).

122. *See infra* app. at p. 121–22. One graduate wrote, “My biggest issue was the fact I wasn’t able to study at a law school library. Also the space I had to take the bar exam was less than ideal.” *See infra* app. at p. 117. Another bar taker stated:

I live with several at-risk and older individuals who were highly susceptible to contracting COVID. I made the decision to extend my quarantine period despite several business and shops opening in my area. This made studying at home very challenging at times. I barely was able to scrape up enough money to book an Airbnb to take the exam in.

*See infra* app. at p. 119.

123. *See infra* app. at p. 121 (“I feel that those who did have access to quiet spaces were certainly advantaged.”).

124. *See infra* app. at p. 119 (“I did not have the luxury of studying at a library or lecture halls like graduates before me, so I had to study the best I could at home with my two year old who never goes a day without crying. . . which is normal for him and not his fault. Then having to take the bar exam at my sister’s apartment was nerve racking because I do not have consistent wifi at home.”).

125. One bar taker elaborated:

Because I share a living space with my mother who works from home I had to find somewhere else to take the exam because her job requires her to talk on the phone. Any background noise could result in my exam being thrown out and my only other option was the take the exam on my bed. So I had to go to a relative’s house, while they were at work.

*See infra* app. at p. 142.

126. For instance, one graduate wrote:

of a barrier and a challenge for low-income graduates and graduates who lived with roommates and extended family.

#### F. Concerns for Family—Racism

*“The political climate was another reason that caused anxiety, worry, stress. I have a husband and sons who I did not want to leave the house for fear of something happening to them not just by police but regular old racists too.”*<sup>127</sup>

For Black law school graduates, the summer was full of anxiety and fear—not only for their own health and well-being but also for the safety of their family members and loved ones. Respondents to the survey noted that while these fears had always been present, even “more of [their] time than usual was spent worrying about [their] siblings, parents, and other extended family members and the violence they are likely to face in the world.”<sup>128</sup> One graduate personally witnessed their father be confronted by the police, and also had a sister “forced into a very undesirable interaction with the police.”<sup>129</sup> These heightened concerns added yet another stress to already overwhelmed graduates studying for the bar, and pitted long-term career goals head to head with very immediate fears for safety.

#### G. Caretaking and Concerns for Family—COVID-19

At the same time, these graduates were fearful about the impact of COVID-19 on vulnerable family members. For some, there were explicit caretaking needs.<sup>130</sup>

At the very end of my last law school semester, my fiancé’s mother tested positive. This was around the middle of May 2020. I planned to start my bar prep at the beginning of June. Luckily, she was able to recover within 3 weeks

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[I]t was difficult to get a place absent of noise and no books. I requested for a special accommodation as the Bar Admissions board told us to. I thought they would personally provide rooms for us to take the exam. But they responded and said that my college of law would reach out to me because my college of law has an accommodation. When they reached out, it was a subsidized hotel booking. Even though it was subsidized, I was unemployed. So I could not afford to book a hotel even if I wanted to. It was the Black Lawyers Association of [city] that helped me get a room at a local law firm to take the exam for free.

*See infra* app. at p. 142.

127. *See infra* app. at p. 126.

128. *See infra* app. at p. 125.

129. *See infra* app. at p. 125.

130. “Additionally, my caretaking responsibilities for my mother increased exponentially.” *See infra* app. at p. 118. “I was terrified for my family and I’s health. It impacted my ability to study . . . .” *See infra* app. at p. 121. “My dad has an underlying condition so we had to make sure he wouldn’t be exposed. It was initially difficult to find mask and hand sanitizers. We lost a family friend who also had underlying conditions so we did our best to prevent my parents [from] being exposed[.]” *See infra* app. at p. 120.

roughly. However, in that time, my fiancé and I became responsible for grocery/medicine deliveries. By the time that I started my bar prep in June, his sisters, grandmother, aunt and uncle have all tested positive. His grandmother went into a coma for a week and was on the ventilator for an additional week after she came out of her coma.<sup>131</sup>

The combination of caretaking duties, increased concerns for health, and financial strain all worked together to be—understandably—overwhelming. For instance, one graduate wrote:

The pandemic also caused my post-bar job offer to be pushed from September to December so I'm currently unemployed, despite completing the bar exam several weeks ago. I've been living at my mom's house since the end of July and feel awful that I can't really contribute anything. On the other hand, my mom is also being a caretaker for her husband (my stepdad) because he's undergoing cancer treatment at a special hospital . . . hours from home, so they're paying the house mortgage and the costs of my mom's out of town hotel stays. Money is tight and I feel awful that there's nothing I can do to help, not even relieving my mom of her caregiver duties since it's a health risk to have different people providing care.<sup>132</sup>

One graduate described the overall “nature of trying to stay safe and keep family safe from the virus” as “oppressive, stress inducing,” and detrimental to focusing on the bar.<sup>133</sup> Some worried that this inability to focus on studying may have made their efforts in school and afterwards a waste of time should they fail to pass the bar.<sup>134</sup> While some family members tried to lend support, the fact that most of them had no direct experience with attending law school meant they were unable to fully understand the experiences and challenges of the graduates.<sup>135</sup> Again, this experience may have been particularly acute for first-generation law students<sup>136</sup> with caretaking responsibilities and for Black graduates who were more likely than their white peers to have a family member sick with COVID-19.

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131. *See infra* app. at p. 117.

132. *See infra* app. at p. 120.

133. *See infra* app. at p. 118.

134. One bar taker expressed concerns, stating:

I hate to admit it but there's a high probability that I didn't pass this exam because my mind was on family members who were positive for COVID. I constantly felt guilty for missing funerals in order to study. I constantly felt guilty that so many people around me were testing positive and becoming very sick, yet I was “focused” on this exam.

*See infra* app. at p. 117–18.

135. “My family told me just keep studying because more time would mean i might be able to understand it better. I studied from the middle of May until October and they ENCOURAGED me not to take a day off.” *See infra* app. at p. 148. “As a first-generation attorney, my family tried to be understanding but the fact of the matter is that they just couldn't relate.” *See infra* app. at p. 147.

136. For a discussion of the unique problems first-generation law students face, see Jessica Tomer, *First-Generation Law Students: Struggles, Solutions and Schools That Care*, NAT'L JURIST (March 22, 2019, 8:39 AM), <https://www.nationaljurist.com/national-jurist-magazine/first-generation-law-students-struggles-solutions-and-schools-care> [https://perma.cc/BV5M-ZK3W].

## H. Perceptions of Law School and the Legal Profession

*“As a black woman that comes from a mostly male family, I came into this profession because I knew that the system was broken when it comes to us (black people). During this summer, I completely lost faith in this system. I still have no faith.”*<sup>137</sup>

Unsurprisingly, many Black graduates emerged from the summer with less than hopeful or positive ideas about the legal field they worked so hard to join. The racism they confronted not only in their own lives but also every day in the news made their hard-won education and degrees feel like inadequate protection against violence.

[T]he excessive amounts and blatant racist attacks kind of made studying for bar, and even going to law school, seem pointless. It’s regularly understood that it doesn’t matter how educated you are, or how you present yourself, existing in this country with black skin is an automatic crime, something no bar exam score can change.<sup>138</sup>

For some, the attempts to reconcile their faith and expertise in the law with the events of the summer of 2020 are still ongoing. As one graduate stated, “I’m not sure exactly how my overall attitude towards my investment in law school will evolve.”<sup>139</sup> Another graduate wrote, simply and devastatingly, “A feeling of hopelessness still plagues me.”<sup>140</sup>

## IV. IMPLICATIONS AND SUGGESTIONS

Addressing the entirety of inequity and racism within legal education and the legal profession is beyond the purview of this Article, to say the least. But the challenges facing Black law school graduates in 2020 must be viewed within broader discussions of legal education and considered when reassessing the state of the profession. Eventually,

[t]he Pandemic will end, and law students will once again have full access to law school facilities. But this glimpse into the real differences in backgrounds and resources should be a starting place for us to look at the law school experience, the gateway to the legal profession.

If any good can come from the experience of being so much closer to our students’ day to day lives, it should be an increased urgency to think about how we can make law school more inclusive.<sup>141</sup>

137. *See infra* app. at p. 125.

138. *See infra* app. at p. 126.

139. *See infra* app. at p. 118.

140. *See infra* app. at p. 126.

141. Jennifer S. Bard, *Using What We’ve Learned About the Effect of Racism and Economic Disparities on Law Students During the Pandemic*, BEST PRACTICES FOR LEGAL EDUC. BLOG (Dec. 15, 2020), <https://bestpracticeslegaled.com/2020/12/15/using-what-weve-learned-about-the-effect-of-racism-and-economic-disparities-on-law-students-during-the-pandemic/> [https://perma.cc/E768-27TC].

What follows is a brief overview of the reoccurring issues noted by graduates and an examination of the underlying causes of many of their stressors. While these issues did not cause the unique storm of a pandemic and increased anti-Black violence during 2020, they placed Black law school graduates at a disadvantage upon graduation and left them particularly vulnerable to its impact.

## A. Lessons for Law Schools

### 1. Student Debt

*“Student debt cancellation is a racial justice issue.”*<sup>142</sup>

The financial impact of the pandemic only deepened existing economic inequalities. On average, Black law students face additional stress before they even enter the door of the law school, including in the form of undergraduate debt which is quickly followed by a disproportionately heavy burden of law school debt.<sup>143</sup> Law school is not alone in this reality. Broadly speaking, “[d]isparities in student loan debt and repayment are extremely pronounced when controlling for race.”<sup>144</sup> The structure of law school financial aid—due to its dependence on the LSAT—further exacerbates this divide.<sup>145</sup>

Minority students generally pay more for the privilege of going to these lesser schools, again thanks to the LSAT. Schools offer merit scholarships to students with high scores in order to increase their rankings. Lower-scoring students pay full sticker price and so, in essence, fund those scholarships, which tend to go to a wealthier, less diverse group of students in what some critics have dubbed a reverse Robin Hood effect.<sup>146</sup>

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142. Rep. Ayanna Pressley (@RepPressley), TWITTER (Nov. 16, 2020, 10:37 AM), <https://twitter.com/reppressley/status/1328376533463941141?lang=en> [<https://perma.cc/45H5-9L5C>].

143. Cassens Weiss, *supra* note 18.

144. Valerie Fontenot, *Disparities in Student Loans: How Did We Get Here and What Can We Do?*, A.B.A. (July 16, 2019) (citing Rebecca Safier, *Study: Student Loans Weigh the Heaviest on Black and Hispanic Students*, STUDENT LOAN HERO (Sept. 17, 2018), <https://studentloanhero.com/featured/study-student-loans-weigh-heaviest-black-hispanic/> [<https://perma.cc/YF5Z-ABPV>]), <https://www.americanbar.org/groups/litigation/committees/diversity-inclusion/articles/2019/summer2019-disparities-in-student-loans/> [<https://perma.cc/MM7F-3AZ7>]. Regarding debt repayment, another study found the gap even more pronounced for Black and Hispanic women. Catherine Hill, *Pay Gap Especially Harmful for Black and Hispanic Women Struggling with Student Debt*, AM. ASS’N U. WOMEN (Feb. 8, 2016), <https://ww3.aauw.org/2016/02/08/pay-gap-especially-harmful-for-black-and-hispanic-women-struggling-with-student-debt/> [<https://perma.cc/V57P-KJBK>]. Compared with the thirty-seven percent of debt paid by white women, Black and Hispanic women only paid nine percent and three percent, respectively. *Id.* (using data from 2007–2008 college graduates in full-time employment from 2009–2012).

145. See Thompson, *supra* note 6.

146. *Id.*

Any law school serious about increasing the diversity of their community and the legal profession needs to look carefully at the way money is distributed and who bears the most significant financial burdens.<sup>147</sup> Admitting more Black applicants to law school at the cost of their own financial future is a system designed to fail.

## 2. Caretaking Obligations

Law schools, like all institutions of higher education, would do well to remember that many students do not have the luxury of focusing solely on their studies.<sup>148</sup> Many of the survey respondents noted that their studying, career plans, and financial situations were impacted by caretaking responsibilities.<sup>149</sup> Support for those with caretaking responsibilities—whether it be for children, parents, partners, or others in their household—can take the form of offering flexible class times and options. For instance, online and hybrid course options may

147. There is an increasing number of scholarships aimed at promoting diversity in law school. *See, e.g., Diversity Scholarships*, LAW SCH. ADMISSION COUNCIL, <https://www.lsac.org/discover-law/diversity-law-school/raciallyethnically-diverse-applicants/diversity-scholarships> [https://perma.cc/UWY2-MPEG] (last visited Apr. 12, 2021); *HBCU Scholarship*, SUFFOLK UNIV., <https://www.suffolk.edu/law/about/diversity-inclusion/hbcu-merit-scholarship#:~:text=guaranteed%20%2420%2C000%20Scholarship%20to%20Graduates%20of%2025%20HBCUs&text=this%20award%20will%20guarantee%20at,Bowie%20State%20University> [https://perma.cc/6VWH-D6UZ] (last visited Apr. 12, 2021). Law schools are finding ways to lessen the disparity during bar exam study due to the financial challenges students may incur by paying for a bar preparation course and taking time off to study for the exam. *See* Stephanie Francis Ward, *More Law Schools Are Covering Bar Review Costs: Is It Improving Pass Rates?*, A.B.A. J. (Oct. 20, 2016, 8:30 AM), [https://www.abajournal.com/news/article/more\\_law\\_schools\\_covering\\_bar\\_review\\_costs\\_is\\_it\\_improving\\_pass\\_rates](https://www.abajournal.com/news/article/more_law_schools_covering_bar_review_costs_is_it_improving_pass_rates) [https://perma.cc/GU6E-VRET]. Some law schools add the cost of a bar preparation course into law school fees, therefore guaranteeing that all students are able to take the same course. *See, e.g., Law School – Tuition & Fees*, SUFFOLK UNIV., <https://www.suffolk.edu/about/directory/bursars-office/tuition-fees/law> [https://perma.cc/5YG5-R6LF] (last visited Jul 11, 2021). Other law schools ask alumni for donations to cover bar preparation courses as a way to raise passage rates. Ward, *supra*.

148. The LSSSE has undertaken some of the much-needed research into caretaking responsibilities among law students. *See* Jakki Petzold, *Time Spent Caring for Others, Part 1*, LSSSE BLOG (Aug. 24, 2020), <https://lssse.indiana.edu/blog/time-spent-caring-for-others-part-1/> [https://perma.cc/A668-QJ27]; Jakki Petzold, *Time Spent Caring for Others, Part 2*, LSSSE BLOG (Sept. 7, 2020), <https://lssse.indiana.edu/blog/time-spent-caring-for-others-part-2/> [https://perma.cc/6EY5-46X5] (“Nearly half (49%) of students with caretaking duties spend more than five hours per week commuting to class while only 37% of students without caretaking duties report the same. Students without dependents tend to spend more time on leisure activities such as socializing and exercising whereas students with dependents are more likely to work for pay and have longer commutes to class. This suggests that caretaking students meet the needs of their dependents at the expense of time that might otherwise be spent on self-care activities.”).

149. *See supra* section III.G.

allow working parents and others to balance commitments. Recognizing this, an increasing number of law schools have flexible part-time, hybrid, and evening programs.<sup>150</sup> One small gesture professors can make is to add “basic needs statements” (a short statement acknowledging the impact of food and housing insecurity on learning) in their syllabus.<sup>151</sup> Professors should also be flexible about deadlines where appropriate.

Law schools may additionally support students with caretaking responsibilities by making sure that professional development opportunities are offered at multiple different times (whether evening or daytime). Dean of Students Offices often don’t receive enough credit for their work to provide a wide variety of programming to students across a tight schedule; when fewer students are on campus, this can become even more of a challenge.<sup>152</sup> Law schools should also encourage students to discuss family needs and financial considerations with mentors and those in career services. All of these school-wide and professor-specific changes represent a holistic approach that will benefit all law students.

### 3. *Microaggressions, Curriculum, and Other Burdens in the Classroom*

Some of the challenges facing Black law school graduates in 2020 were unique—hopefully—to a particularly fraught year in the United States. However, other challenges and the stressors that compound them are unfortunately common in legal education. Among the most common and persistent is the barrage of microaggressions Black law students face in the classroom. Many Black law students arrived at the bar exam already taxed by the emotional toll of racism and bias in

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150. See, e.g., *Northeastern Law Launches Part-Time, Online and On-Campus FlexJD Option*, NE. UNIV. SCH. LAW (Jan. 20, 2021), <https://law.northeastern.edu/northeastern-law-launches-part-time-online-and-on-campus-flexjd-option/> [https://perma.unl.edu/4C2M-AL9G]; *Hybrid Online JD*, SUFFOLK UNIV., <https://www.suffolk.edu/law/academics-clinics/juris-doctor/hybrid-online-jd> [https://perma.cc/D6S8-64T4] (last visited Jul. 11, 2021); *Earn Your J.D. from Your Hometown*, MITCHELL HAMLINE SCH. LAW, <https://mitchellhamline.edu/admission/intro/earn-your-j-d-from-your-hometown/> [https://perma.cc/E5YN-MZDV] (last visited May 12, 2021).
  151. Sarah J. Schendel, *The Pandemic Syllabus*, DENV. L. REV. F., Nov. 30, 2020, at 1, 12–13, [https://static1.squarespace.com/static/5cb79f7efd6793296c0eb738/t/5fc65b3e9ee0f32b872d37bf/1606835006423/Schendel+Pandemic+Syllabus\\_Final.pdf](https://static1.squarespace.com/static/5cb79f7efd6793296c0eb738/t/5fc65b3e9ee0f32b872d37bf/1606835006423/Schendel+Pandemic+Syllabus_Final.pdf) [https://perma.cc/L944-3NE9].
  152. See Jeff Doyle, *Fostering Student Success Outside of Online Classes*, INSIDE HIGHER ED (Apr. 7, 2020), <https://www.insidehighered.com/advice/2020/04/07/whats-role-student-affairs-and-academic-support-staff-when-most-students-arent> [https://perma.cc/8G8Y-U3M9].

law school classroom interactions.<sup>153</sup> According to Professor Russell McClain, “[t]here are two psychological dynamics that can have a negative effect on the academic success of minorities in law school. They are implicit bias and stereotype threat.”<sup>154</sup> These can combine to create an incredible amount of pressure on Black law school students seeking merely to participate in class.

When you are in the minority, you experience greater pressure to speak for your group, to succeed, to prove that you belong. . . . In education, these dynamics can interfere with learning, increasing in intensity as one reaches higher levels of education. If ignored, they can prevent minorities from realizing their full academic and professional potential.<sup>155</sup>

Much has been written about racialized interactions in the law school classroom.<sup>156</sup> Some have described law school as a “white space,”<sup>157</sup> a space perceived by Black visitors as “informally ‘off limits’” where they may be presumed to have a “deficit of credibility.”<sup>158</sup> One Black law professor, Shaun Ossei-Owusu, recently wrote that he felt “compelled to apologize” to minority law students “not because of some personal responsibility, but because the learning of law—particularly for racial minorities—can be intellectually violent. It pales in comparison to the structural and physical violence that people experience outside the ivory tower, but it is also unforgiving, can feel unrelenting[,] and often goes unnamed.”<sup>159</sup>

Law schools looking to mitigate and minimize this violence need to address both the way classes are conducted and taught,<sup>160</sup> and the curriculum prescribed to students (and professors).

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153. See Kathryn Rubino, *Black at Harvard Is the Instagram Account You Need to Read Right Now*, ABOVE L. (June 24, 2020, 2:42 PM), <https://abovethelaw.com/2020/06/black-at-harvard-law-school-is-the-instagram-account-you-need-to-read-right-now/> [<https://perma.cc/TK43-UM3G>]; THE NALP FOUND. FOR CAREER RSCH. & EDUC. & THE CTR. FOR WOMEN IN L., WOMEN OF COLOR: A STUDY OF LAW SCHOOL EXPERIENCES (2020) <https://www.nalpfoundation.org/uploads/products/WomenofColor-AStudyofLawSchoolExperiencesReport.pdf> [<https://perma.cc/5VSL-MHWN>].

154. RUSSELL A. McCLAIN, THE GUIDE TO BELONGING IN LAW SCHOOL 18 (2020).

155. *Id.* at 2.

156. See Erin C. Lain, *Racialized Interactions in the Law School Classroom: Pedagogical Approaches To Creating a Safe Learning Environment*, 67 J. LEGAL EDUC. 780 (2018).

157. Elijah Anderson, “The White Space,” 1 SOCIO. RACE & ETHNICITY 10 (2015); see also *The Law School as a White Space?*, FORDHAM UNIV. SCH. L. CALENDAR (presenting a webinar on whether law schools are white spaces), <https://go.activecalendar.com/FordhamUniversity/site/law/event/zoom-webinar—the-law-school-as-a-white-space/> [<https://perma.cc/V3B4-Q539>] (last visited May 12, 2021).

158. Anderson, *supra* note 157, at 10, 13.

159. Ossei-Owusu, *supra* note 9.

160. See Tiffany D. Atkins, *Amplifying Diverse Voices: Strategies for Promoting Inclusion in the Law School Classroom*, 31 SECOND DRAFT 10 (2018).



Antiracism ought to inform every facet of legal education[—] hiring, promotion and tenure, admission, graduation[—]and it ought to be a through-line in the core law school curriculum. When it isn't, we risk graduating lawyers who do not understand the origins of the law or its potential impact on clients, we perpetuate systems of inequality as if they were inevitable and deserving of maintenance, and we do a disservice to our students and to the profession, all the while undermining the commitment to equality we so proudly etched in stone.<sup>161</sup>

Francesco Arreaga, a current law student at University of California–Berkeley, urges schools to “ensur[e] that the law school curriculum requires students to learn about how the legal system has promoted inequality and racism.”<sup>162</sup> Some scholars note that race is often improperly siloed into upper-level classes, whereas its impact should be more broadly understood through classically 1L classes such as torts and criminal law.<sup>163</sup> One such scholar posits, for example, that “[r]acial bias informs definitions of reasonableness and credible threat, shapes our views of what constitutes intentional infliction of emotional distress, and influences criminal sentencing and civil recovery.”<sup>164</sup> While some may be concerned about classroom disruption as a result of discussing race in a law school course, others point out that it may not only be inevitable but also positive.<sup>165</sup>

In addition to curricular changes, there are a number of concrete steps professors and administrators can take to change grading systems<sup>166</sup> and make law schools “more equitable, inclusive, challenging, and effective for all of our students—not just those for whom it has

161. Darcy Meals, *Race Ought To Be a Through-Line in Core Law School Curriculum*, BEST PRACT. FOR LEGAL EDUC. BLOG (Dec. 7, 2020), <https://bestpracticeslegaled.com/2020/12/07/race-ought-to-be-a-through-line-in-core-law-school-curriculum/> [https://perma.cc/NAC4-4VXG].

162. Francesco Arreaga, Blog, *Law Schools Have a Moral and Social Responsibility To End Systemic Racism*, CALIF. L. REV. ONLINE (2020), <http://www.californialawreview.org/law-schools-systemic-racism> [https://perma.cc/5Y7H-5329].

163. See Meals, *supra* note 161.

164. *Id.*

165. Alexi Nunn Freeman & Lindsey Webb, *Positive Disruption: Addressing Race in a Time of Social Change Through a Team-Taught, Reflection-Based, Outward-Looking Law School Seminar*, 21 U. PA. J.L. & SOC. CHANGE 121 (2018).

166. For a discussion of the impact of the 1L curve on Black students, see Jonathan P. Feingold & Doug Souza, *Measuring the Racial Unevenness of Law School*, 15 BERKELEY J. AFRICAN-AMERICAN L. & POL'Y 71, 92–101 (2013).

Beyond signaling talent or merit to future employers, first-semester and first-year grades indicate to students whether law school was the proper choice, the proper fit, and whether “I belong here.” In an environment that is often competitive and disorienting, early failure can erode students’ confidence and sense of self. Compounded by racial unevenness, Students of Color who experience academic disappointment may be particularly vulnerable to disassociate from law school. In the aggregate, disassociation and related underperformance may reproduce stereotypes about who does and does not belong in a particular institution.

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been particularly well suited.”<sup>167</sup> In addition to this systematic change, white law school professors should educate themselves on their own biases and look for ways to “mentor students of color and then leverage their white privilege to open professional doors for these students, [which] will reduce implicit bias and may ultimately increase the retention of diverse attorneys.”<sup>168</sup>

It is true that—despite all these very real issues and very clear suggestions—some institutions remain wary of incorporating issues of race head on for fear of politics, student critics, or charges of bias. These institutions should be assured that their silence speaks volumes. “Stated or not, the influence of systemic racism pervades the law school curriculum because it permeates the entirety of the American legal system.”<sup>169</sup> When administrators and professors attempt to avoid the topic and “[w]hen race is absent from class discussions, that silence sends the message that the law is neutral and operates equally for all, when that is not the lived experience for so many.”<sup>170</sup>

#### 4. Faculty Diversity

One of the clearest ways to prevent Black law students from feeling isolated and unsupported is to make sure that these students see and are taught by professors who share at least some of their experiences. Professor Meera Deo, author of the urgent book *Unequal Profession: Race and Gender in Legal Academia*, puts it frankly: “One of the key findings from my book is that the low numbers of Black tenured professors and other professors of color contribute to ongoing biases in legal academia.”<sup>171</sup> While some blame the pipeline for a lack of BIPOC law school professors, the issue is not so simple. In addition to bias in the hiring committee experience,<sup>172</sup> an increasingly common

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Assuming that racial unevenness is present during the first semester of law school, Students of Color confront unique hurdles, and therefore must do more to achieve the same result, than their White colleagues.

*Id.* at 95.

167. Jennifer S. Bard, *Let's Take This Period of Unprecedented Change To Consider How Grading Practices Can Affect Issues of Diversity and Inclusion in Our Law Schools*, BEST PRACS. LEGAL EDUC. BLOG (June 8, 2020), <https://bestpracticeslegaled.com/2020/06/08/lets-take-this-unprecedented-period-of-rapid-change-to-consider-how-grading-practices-affect-issues-of-diversity-and-inclusion-in-our-law-schools-part-one/> [https://perma.cc/9CRN-F8ZZ].

168. Leslie P. Culver, *White Doors, Black Footsteps: Leveraging “White Privilege” To Benefit Law Students of Color*, 21 J. GENDER RACE & JUST. 37, 37 (2017).

169. Meals, *supra* note 161.

170. *Id.*

171. Ward, *supra* note 8.

172. Carliss N. Chatman & Najarian Peters, *The Soft-Shoe and Shuffle of Law School Hiring Committee Practices*, 69 UCLA L. REV. DISCOURSE (forthcoming 2021), (<https://www.uclalawreview.org/the-soft-shoe-and-shuffle-of-law-school-hiring-committee-practices/>) [https://perma.cc/G5HL-V7GF].

expectation for law professors to have a Ph.D. creates yet another barrier to entry.<sup>173</sup> Some scholars have noted that diversifying faculty search committees to “include individuals with a variety of perspectives and with different disciplinary networks” is not only a “deliberate step toward recruiting faculty of color” but also has the benefit of exposing committee members “to new forms of scholarship, which could chip away at the misperceptions that still linger about race-based scholarship and the research of faculty of color.”<sup>174</sup>

Black women face unique challenges in both legal education and the legal profession,<sup>175</sup> facing the most extreme and most pervasive bias, according to a survey by the A.B.A. Commission on Women in the Profession in conjunction with the Minority Corporate Counsel Association.<sup>176</sup> This intersectional “raceXgender bias facing women-of-color faculty . . . manifest[s] as silencing by colleagues, a presumption of incompetence from students, outright discrimination in hiring and promotion, and a general feeling of lack of belonging among non-traditional faculty.”<sup>177</sup> Intersectional bias often translates to a lack of mentorship and community, which exacerbates isolation and stymies career advancement for Black women in the legal profession. Additionally, it is well-documented that anonymous student evaluations are a particularly insidious source of bias and racism in ways that can

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173. “They tried—although the vast majority of current faculty do not have PhDs, Visiting Assistant Professorships, or fellowships, there is now an unspoken requirement to have one of these to teach law, unless the candidate is white, in which case all that matters is a desire to teach.” *Id.* (footnote omitted); *see also* Ward, *supra* note 8 (discussing how “obtaining credentials beyond the law degree in order to enhance the opportunity to enter teaching is expensive. The expense is a deterrent for people of color, as we have larger debt burdens when we graduate undergraduate and law school,” [Dean Sean] Scott, who is Black, told the ABA Journal.”); NAT’L CTR. FOR SCI. & ENG’G STATS. & NAT’L SCI. FOUND., DOCTORATE RECIPIENTS FROM U.S. UNIVERSITIES: 2019, at 6 (2020) (finding that Black doctorate recipients only make up seven percent of all doctorate recipients in the United States).
  174. Marybeth Gasman et al., *Effectively Recruiting Faculty of Color at Highly Selective Institutions: A School of Education Case Study*, 4 J. DIVERSITY HIGHER EDUC. 212, 221 (2011) (“Dispelling misconceptions and perceptions is a step toward raising the significance of having a diverse faculty and decreasing attitudes among some majority faculty members that promote diversity, quality, and eminence as mutually exclusive.”).
  175. DESTINY PEERY ET AL., LEFT OUT AND LEFT BEHIND: THE HURDLES, HASSLES, AND HEARTACHES OF ACHIEVING LONG-TERM LEGAL CAREERS FOR WOMEN OF COLOR (2020), <https://www.americanbar.org/content/dam/aba/administrative/women/leftoutleftbehind-int-f-web-061020-003.pdf> [<https://perma.cc/8BSU-JBQK>].
  176. Arreaga, *supra* note 162 (quoting *New Study Finds Gender and Racial Bias Endemic in Legal Profession*, A.B.A. (Sept. 6, 2018), <https://www.americanbar.org/news/abanews/aba-news-archives/2018/09/new-study-finds-gender-and-racial-bias-endemic-in-legal-professi/> [<https://perma.cc/9HXN-F73F>]).
  177. Meera Deo, Opinion, *Diversity and Exclusion Within Legal Education*, REGUL. REV. (Nov. 9, 2020), <https://www.theregreview.org/2020/11/09/deo-diversity-exclusion-legal-education/> [<https://perma.cc/Z7LH-6QC5>].

seriously damage a professor's well-being and career growth.<sup>178</sup> Beyond legal education, scholars have

identified six barriers to the recruitment and retention of faculty of color: isolation and lack of mentoring for faculty of color, occupational stress experienced by faculty of color, devaluation of "minority" research in the academy, the "token hire" misconception of faculty of color, racial and ethnic bias in recruiting and hiring, and racial and ethnic bias in tenure and promotion practices and policies.<sup>179</sup>

Clearly all of these are broader than the hiring process alone, and only a holistic approach to retention will create opportunities for diverse faculty to succeed and flourish. The challenges facing Black law professors cannot be overestimated. As Professor Tiffany Jefers powerfully states, "I have questioned how I can teach my students to implement the laws of a system that consistently and blatantly fails to protect the lives of Black women."<sup>180</sup> In addition to hiring Black law school faculty, schools must support these scholars and listen to their experiences both in and out of the classroom.<sup>181</sup>

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178. For example, Deo's interviews revealed that women of color law faculty encounter issues with students that are comparatively disproportionate in number and in severity:

[S]tudents directly challenge particular faculty in class, sometimes through verbal and even physical abuse, and write insensitive and irrelevant race- and gender-based comments on anonymous teaching evaluations. These encounters often have negative effects on the professional trajectory of women of color law professors, most notably when these individuals seek promotion and tenure.

Meera E. Deo, *A Better Tenure Battle: Fighting Bias in Teaching Evaluations*, 31 COLUM. J. GENDER & L. 7, 7 (2015).

179. Gasman et al., *supra* note 174, at 213 (citing Caroline Sotello Viernes Turner et al., *Exploring Underrepresentation: The Case of Faculty of Color in the Midwest*, 70 J. HIGHER EDUC. 27, 30–32 (1999)).

180. Tiffany Jefers, Opinion, *As a Black Female Law Professor, I'm Nurturing a System That Doesn't Protect People Like Me*, USA TODAY (Nov. 4, 2020, 6:52 PM), <https://www.usatoday.com/story/opinion/policing/2020/11/04/black-female-law-professor-im-nurturing-system-abandons-me-column/6161526002/> [https://perma.cc/U6HT-V3DM].

181. Hiring Black faculty does not lead to retention without additional efforts and changes on behalf of the university. See Bridget Turner Kelly et al., *Recruitment Without Retention: A Critical Case of Black Faculty Unrest*, 86 J. NEGRO EDUC. 305 (2017). Researchers conducted a critical case study of a large public research institution and concluded that

The findings demonstrate building a more culturally diverse and inclusive campus environment needs concerted efforts beyond recruitment. Attending to recruiting Black faculty without building an environment that is welcoming and appreciative of what Black faculty contribute to the campus is a recipe for resistance and protests. The internal data in the case showed a revolving door for Black faculty and a decrease in the number of tenured Black faculty over a 20-year period.

*Id.* at 314; see also Rachel Endo, *Retaining and Supporting Faculty Who Are Black, Indigenous, and People of Color: The Promise of a Multi-Leveled Mentoring-Partnership Model*, 22 MULTICULTURAL PERSPS. 169 (2020) (suggesting a model to retain and advance BIPOC faculty members).

### 5. *Diversity in Admissions*

One of the most challenging and important areas for improvement in the diversity of law schools exists before students even enter the building for the first day of class—admissions. Admissions offices serve as gatekeepers, and efforts to diversify law school student bodies should include the consideration of various factors that “counteract racial bias of LSAT scores” and “bring more fairness into law school applicant evaluations, especially for minority applicants.”<sup>182</sup> “Some of the most common obstacles to law school admissions and graduation tend to arise well before submitting their applications and, because of that, they often go unrecognized in admissions efforts.”<sup>183</sup> These obstacles include financial debt, limited access to mentors, family caretaking obligations, and systematic racism.<sup>184</sup> One law professor, Mitch Crusto, recently introduced the “Black Lawyers Matter Code” as a “concrete model that law schools should adopt to bring about transformative change in successfully educating Black lawyers[,]” including changes to admissions.<sup>185</sup>

### 6. *Mental Health and Well-Being*

However, bringing a more diverse group of students into legal education is not enough. Just as hiring BIPOC professors without a plan for support and retention is ineffectual (and potentially abusive), recruiting students of color into the law school space without adequately preparing and supporting them can be harmful. In a forthcoming article, Professor Meera Deo writes that

[w]e have arrived at the end of affirmative action. Now, more than ever, institutions of higher learning must move beyond a single-minded focus on educational diversity, which admits students of color primarily to enrich the

182. Hill, *supra* note 6, at 314. These factors include asking “applicants to directly discuss whether they think their UGPA [undergraduate grade point average] or LSAT score accurately reflects their merits and abilities,” whether they took an LSAT prep course, and other holistic background questions. *Id.* at 336–37 (quoting Paula Lustbader, *Painting Beyond the Numbers: The Art of Providing Inclusive Law School Admission To Ensure Full Representation in the Profession*, 40 CAP. U. L. REV. 71, 136 (2012)).

183. *Supporting the Next Generation of Black Lawyers: Steps Law Schools Can Take*, SCHOLASTICA BLOG (Nov. 24, 2020), <https://blog.scholasticahq.com/post/supporting-next-generation-black-lawyers/> [https://perma.cc/724X-L9RN].

184. *Id.*

185. *Id.* According to Mitch Crusto’s code, law schools should  
 1. Promote more effective pre-law advising[,] 2. Reduce or eliminate application fees[,] 3. Provide free LSAT prep courses[,] 4. Provide diversity scholarships[,] 5. Provide more financial aid[,] 6. Provide students with faculty and graduate mentoring[,] 7. Employ more professors of color[,] 8. Assist students in obtaining intern and extern experiences[, and] 9. Assist students in obtaining post-graduate employment.

*Id.*

classroom experiences of their white peers and then ignores what they may need to maximize both engagement and retention.<sup>186</sup>

What Black students need to succeed in law school includes attention to their mental health and well-being. Even before 2020, “students of color were more likely to report feeling overwhelmed at college and keeping their concerns to themselves. In one study . . . 26% of Black students . . . with mental health problems sought treatment vs. 46% of white students.”<sup>187</sup> The psychological impacts of racism are well-documented.<sup>188</sup> Within legal education specifically, women of color are the most likely to report considering leaving law school.<sup>189</sup> The legal field and legal education have taken admirable strides towards acknowledging and working to remedy the rampant mental health and addiction issues in the profession.<sup>190</sup> However, the legal education system and profession must address the systemic challenges and biases that affect the mental health of students of color, going beyond an excessive focus on individual efforts—including positive psychology, grit, and resilience—that can unintentionally place additional pressure and blame on Black law students who are suffering from systematic challenges and biases.<sup>191</sup>

### 7. Online Education and Proctoring

One issue that reared its head during the 2020 bar season and continued to be a point of contention throughout the school year is online

186. Meera E. Deo, *The End of Affirmative Action*, 100 N.C. L. REV. (forthcoming 2021) (manuscript at 1).

187. THE STEVE FUND CRISIS RESPONSE TASK FORCE, *supra* note 36, at 3 (citing Sarah Ketchen Lipson et al., *Mental Health Disparities Among College Students of Color*, 63 J. ADOLESCENT HEALTH 348, 353 (2018)).

188. See, e.g., Interview by Jenna Wortham with Monnica Williams, Dir., U. Louisville's Ctr. Mental Health Disparities, *Racism's Psychological Toll*, N.Y. TIMES MAG. (June 24, 2015), <https://www.nytimes.com/2015/06/24/magazine/racisms-psychological-toll.html> [<https://perma.cc/S5HQ-PF8C>]; David R. Williams, *Stress and the Mental Health of Populations of Color: Advancing Our Understanding of Race-Related Stressors*, 59 J. HEALTH & SOC. BEHAV. 466 (2018); Shawn O. Utsey et al., *Cultural, Sociofamilial, and Psychological Resources that Inhibit Psychological Distress in African Americans Exposed to Stressful Life Events and Race-Related Stress*, 55 J. COUNSELING PSYCH. 49 (2008).

189. THE NALP FOUND. FOR CAREER RSCH. & EDUC. & THE CTR. FOR WOMEN IN L., *supra* note 153, at 18 (reporting that thirty-one percent of women of color, twenty-four percent of white women, twenty-two percent of men, and twenty-six percent of men of color report they have seriously considered leaving law school; among women of color, thirty-eight percent of Black women report that they have seriously considered withdrawing from law school).

190. E.g., *Mental Health Resources*, A.B.A., [https://www.americanbar.org/groups/lawyer\\_assistance/resources/covid-19-mental-health-resources/](https://www.americanbar.org/groups/lawyer_assistance/resources/covid-19-mental-health-resources/) [<https://perma.cc/P8CJ-TBBU>] (last visited May 12, 2021).

191. See Christian B. Sundquist, *Beyond the 'Resiliency' and 'Grit' Narrative in Legal Education: Race, Class, and Gender Considerations*, 50 J. MARSHALL L. REV. 271 (2017).

exam proctoring. Many law schools rushed to use remote proctoring in the spring of 2020 out of an urgent need to change exam administration in the immediate wake of the pandemic. However, as the need for remote administration of exams stretches into months and years, some are reexamining legal education's reliance on these technologies. Remote proctoring is worth a close look, solely for its effect on students.<sup>192</sup> The anxiety and stress of being watched impacts all students, but concerns about facial recognition are particularly stressful for Black students.<sup>193</sup> Even if some of the issues around racial bias and facial recognition technology are remedied or able to be worked around, "optics matter; schools owe it to marginalized students not to rely on a category of software that's known to be discriminatory."<sup>194</sup> As Professor Gabe Teninbaum writes, "students deserve to feel that their institutions are working to protect their dignity and provide fair testing conditions."<sup>195</sup>

More broadly, the monitoring disproportionately impacts those without means even once they are logged in. Having family, roommates, or a less than camera-ready living situation for the world—or AI capturing every frame—to see causes significant stress for many students. While some of these concerns can be addressed and mitigated, the anxieties remain. Law schools would also benefit from acknowledging and seeking to bridge the digital divide, an issue confronting educators across the country, as some students struggle with unstable internet connections, subpar computers, and lack of access to printers and other technology.<sup>196</sup> It is worth noting that Black students in non-law school settings have found online learning a welcome respite from microaggressions in the classroom<sup>197</sup> and during

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192. See Anushka Patil & Jonah Engel Bromwich, *How It Feels When Software Watches You Take Tests*, N.Y. TIMES (Sept. 29, 2020), <https://www.nytimes.com/2020/09/29/style/testing-schools-proctorio.html> [https://perma.cc/4NDC-U5AA].

193. See *supra* subsection III.C.2.

194. Monica Chin, *ExamSoft's Proctoring Software Has a Face-Detection Problem*, VERGE (Jan. 5, 2021, 9:31 PM), <https://www.theverge.com/2021/1/5/22215727/examsoft-online-exams-testing-facial-recognition-report>.

195. Gabe Teninbaum, *Report for ExamSoft's ExamID Feature (and a Method To Bypass It)*, J. ROBOTICS, A.I., & L. (forthcoming 2021).

196. See Ana-Paula Correia, *Healing the Digital Divide During the COVID-19 Pandemic*, 21 Q. REV. DISTANCE EDUC. 13 (2020).

197. See Elizabeth Miller, *For Some Black Students, Remote Learning Has Offered a Chance To Thrive*, NPR (Mar. 1, 2021, 5:00 AM), [https://www.npr.org/2021/03/01/963282430/for-some-black-students-remote-learning-has-offered-a-chance-to-thrive?utm\\_term=NPrnews&utm\\_medium=social&utm\\_source=twitter.com&utm\\_campaign=npr](https://www.npr.org/2021/03/01/963282430/for-some-black-students-remote-learning-has-offered-a-chance-to-thrive?utm_term=NPrnews&utm_medium=social&utm_source=twitter.com&utm_campaign=npr) [https://perma.cc/HXD9-UV9F] (quoting developmental psychologist Valerie Adams-Bass's assessment that the fact that some Black students do better learning from home is because "[t]here is emotional energy and a cognitive energy that goes along with navigating the spaces where you don't feel welcome or comfortable. You're always on alert, you're always on, you're always deflecting, so you would be exhausted at the end of the day on top of growing.").

internships.<sup>198</sup> Moving forward, educators will ideally embrace the positive impacts of technology on the student experience while being mindful of its limitations. Luckily, many scholars have been working long before the pandemic to research best practices for online learning, including ways to use technology to improve issues of equity in class participation.<sup>199</sup>

## B. Lessons for Bar Examiners and the Legal Community

### 1. *Rebuilding Trust*

Administrators, professors, and policymakers managing the bar exam in 2020 were, by and large, doing their best in difficult times. It is understandable they may feel defensive when faced with the criticism of graduates. However, in order to move forward as a profession and a community, it is important that we find ways to rebuild trust. This not only includes the trust between bar examiners and graduates but also encompasses the trust between law students and the legal community as a whole. Graduates noticed when their law school deans and professors spoke out on their behalf and when they stayed silent.<sup>200</sup> Graduates saw insensitive tweets and articles from lawyers

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198. Brandon Busteed, *Non-White Students Twice as Likely To Desire Virtual Internships, Jobs Upon Graduation*, FORBES (Mar. 27, 2021, 9:00 AM), <https://www.forbes.com/sites/brandonbusteed/2021/03/27/non-white-students-twice-as-likely-to-desire-virtual-internships-jobs-upon-graduation/?sh=61ed438b366e> [<https://perma.cc/UL96-94XZ>] (stating the fact that white employees are seven times more likely than Black employees to want to return to an office setting, in addition to BIPOC students' preference for virtual employment or internships, "starts to point toward the notion that a major factor here is the climate of micro-aggressions and overt racism that persists (arguably disproportionately) in the physical world of both American higher education and the workplace").
  199. See Yvonne M. Dutton & Margaret Ryznar, *Law School Pedagogy Post-Pandemic: Harnessing the Benefits of Online Teaching*, J. LEGAL EDUC. (forthcoming 2021) (manuscript at 16) ("[A] well-designed asynchronous course naturally avoids the problem identified by many studies of the traditional classroom—reduced classroom participation by certain groups of students, often including women and minority students."); see also Christian Sundquist, *The Future of Law Schools: Covid-19, Technology, and Social Justice*, 53 CONN. L. REV. ONLINE, at 1, 3 (2020) (explaining the impact of COVID-19 on law schools, the increased need to address social and racial issues within the legal field, and the disruption of artificial intelligence in testing procedures).
  200. See, e.g., *NY Law Professors & Deans Support Diploma Privilege*, CAL. DESERT TRIAL ACAD. COLL. L. (Sept. 9, 2020), <https://cdtalaw.com/cdta/ny-law-professors-deans-support-diploma-privilege/> [<https://perma.cc/HAG7-F6CG>]; Letter from Michael Coyne, Dean, Massachusetts Sch. of L., et al. to C.J. Ralph D. Gants, Massachusetts Supreme Jud. Ct. (July 8, 2020), <https://hls.harvard.edu/dept/dos/letter-to-the-massachusetts-supreme-judicial-court/> [<https://perma.cc/3YQD-74ZN>]; Angela Onwuachi-Willig, *The Fire This Time: Reflections on Recent Killings and Protests*, BOSTON UNIV. SCH. LAW (June 1, 2020), <https://www.bu.edu/law/record/articles/2020/dean-angela-onwuachi-willig-commentary-the-fire-this-time/> [<https://perma.cc/Z6AK-7TH9>]; see also *Law School Deans Create Antiracist*



calling bar takers whiners or dismissing their challenges as a rite of passage.

For example, take the disastrous meeting held by the Texas Board of Law Examiners in July, attended by over 1,700 people.<sup>201</sup> Some individuals felt that “board members appeared distracted and disinterested” and “[t]he chairman of the board downplayed the health risks and potentially devastating economic threats as happenstance.”<sup>202</sup> This had a damaging impact on law students’ and lawyers’ perception of licensing committees. More recent efforts at transparency and communication, such as an informative update from the Oregon State Board of Bar Examiners about plans to hold an in-person bar exam,<sup>203</sup> can help set a new standard.

Finally, non-Black graduates may also wish to rebuild relationships with their classmates who are now their colleagues. Some Black graduates reported feeling isolated from classmates because not all faced the same challenges during their bar-taking experience.<sup>204</sup> One student wrote, “Even some of my friends/classmates who also took this year’s bar weren’t helpful because their circumstances allowed them to insulate themselves from certain issues.”<sup>205</sup> New lawyers who are invested in the well-being of the profession should continue to educate themselves about the disparities in the practice of law and to advocate for access to justice—for clients and colleagues alike.

## 2. *Reconsidering the Bar Exam*

If the bar has ever been an accurate measure of legal competency,<sup>206</sup> many doubted it could be in 2020.

Dean of the South Texas College of Law[,] Michael Barry concluded that no bar exam administered in 2020, whether online or in-person, would accurately measure minimum legal competency. Instead, a 2020 bar exam would undeni-

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*Clearinghouse*, ASSOC. AM. L. SCHS. (discussing the Antiracist Clearinghouse Project, which provides information and resources to help faculty address racism), <https://www.aals.org/about/publications/newsletters/aals-news-summer-2020/law-deans-create-new-resource-to-help-law-schools-address-systemic-racism/> [https://perma.cc/4J48-7UXQ] (last visited Apr. 16, 2021).

201. Lauren Hutton-Work & Rae Guyse, *Requiring a Bar Exam in 2020 Perpetuates Systemic Inequities in the Legal System*, APPEAL (July 6, 2020), <https://theappeal.org/2020-bar-exam-coronavirus-inequities-legal-system/> [https://perma.cc/F8F9-HAM5].

202. *Id.*

203. Statement from the Oregon State Bd. of Bar Exam’rs (Mar. 26, 2021), [https://www.osbar.org/\\_docs/admissions/2021-03-26BBXStatementonJuly21Exam.pdf](https://www.osbar.org/_docs/admissions/2021-03-26BBXStatementonJuly21Exam.pdf) [https://perma.cc/2QT7-4MUL].

204. *See infra* app. at 130–31.

205. *See infra* app. at 147.

206. *See* DEBORAH JONES MERRITT & LOGAN CORNETT, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., BUILDING A BETTER BAR: THE TWELVE BUILDING BLOCKS OF MINIMUM COMPETENCE (2020), [https://iaals.du.edu/sites/default/files/documents/publications/building\\_a\\_better\\_bar.pdf](https://iaals.du.edu/sites/default/files/documents/publications/building_a_better_bar.pdf) [https://perma.cc/QV3G-ZATW].

ably disadvantage examinees who are disproportionately impacted by COVID-19.<sup>207</sup>

Many have long advocated for reexamination of the structure of and the need for the bar exam, and even more have spoken out in the wake of a disastrous 2020;<sup>208</sup> those discussions are incredibly valuable and numerous but are beyond the scope of this Article. A number of law professors joined efforts to create the Collaboratory on Legal Education and Licensing for Practice and found that a “disorganized response by bar examiners to the [COVID-19] pandemic disadvantaged many prospective bar exam takers this year” and “reduced the number of new lawyers, lessened diversity among them, and show[ed] why the profession needs to pay more attention to the licensing process.”<sup>209</sup> In the wake of bar results, it was easy to congratulate ourselves, our institutions, and our students for making it through the grueling process, and we were rewarded with higher pass rates in many jurisdictions.<sup>210</sup> However, “the dark side of this year’s summer/fall bar exam” is that “[m]ore than 8,000 qualified candidates never took the exam.”<sup>211</sup> As a result, states welcomed thousands fewer new lawyers this year.

Clients facing evictions, job loss, and domestic violence will miss those thousands of lawyers. These clients are unlikely to feel “protected” by their state court’s insistence on an exam that, according to substantial research, bears little relationship to the skills and knowledge new lawyers need.

Clients will also note a lessened diversity in the new lawyers available to them. The pandemic disproportionately burdened women, people of color, and people with disabilities. Candidates in those groups were most likely to find the heightened burdens of the bar exam unbearable.<sup>212</sup>

We cannot allow the graduates in this Article—whether or not they sat for or passed the bar exam—to be left behind in the wake of a devastating pandemic and disastrous year.

### C. What Graduates Found Helpful

One starting place for those looking to improve legal education and the bar-taking experience is the words of graduates on what helped them during this unusually difficult time. Many graduates found community, solace, and encouragement in social media.<sup>213</sup> Hearing from

207. Hutton-Work & Guyse, *supra* note 201.

208. *E.g.*, Vikram David Amar, *What About the Bar Exam After the 2020 Dust Settles?*, VERDICT (Sept. 17, 2020), <https://verdict.justia.com/2020/09/17/what-about-the-bar-exam-after-the-2020-dust-settles> [<https://perma.cc/C2CU-LJZJ>].

209. Merritt et al., *supra* note 85.

210. *Id.*

211. *Id.*

212. *Id.*

213. *See infra* app. at 147 (“In reality, the only true support I found was in other bar takers who were vocal about their concerns for the bar exam and who fought for diploma privilege.”). One bar taker wrote, “I believe that certain persons on Twit-

fellow bar takers spread across the country, diploma privilege advocates, and those on the ground at bar exams went a long way towards informing, empowering, and comforting bar takers.<sup>214</sup> Specifically, Twitter accounts like @BarExamTracker that centralized information across states and verified word-of-mouth updates were mentioned by many respondents.<sup>215</sup> Many graduates got involved with advocates pushing for diploma privilege and found hope and community in this effort. Respondents also voiced appreciation for deans and others in legal education who explicitly advocated on their behalf with the board of bar examiners.<sup>216</sup> Particularly, support from Black law professors was crucial.<sup>217</sup> This is yet another reminder that admitting Black applicants to law school is not enough—the health of these students and the legal community depends on creating, sustaining, and supporting broader networks that can understand and affirm their experiences.

## V. CONCLUSION

At the time of writing, the United States remains in the midst of both the pandemic and a national reckoning with racism. The two also remain inextricable, as “the pandemic is exposing and exacerbating the deep inequities that have long shaped American public education.”<sup>218</sup> This survey is but one small collection of the experiences endured by Black law school graduates in 2020. These graduates represent a new generation of law students who may have different expectations and demands of legal education and of the profession.<sup>219</sup> These graduates experienced a lack of support that impacted not only their own health and careers but also will continue to impact a public that desperately needs more qualified, hard-working, and diverse at-

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ter and even having @BarExamTracker doing updates, was helpful for some peace of mind.” *See infra* app. at 147. Another graduate agreed, stating: “Many of the accounts on Twitter that shared their experiences [were helpful for support].” *See infra* app. at 146.

214. *See infra* app. at p. 146–49.

215. *See infra* app. at p. 146–48.

216. *See infra* app. at 147–48. “I did appreciate the fact that the [law school’s] dean advocated on our behalf to the board of law examiners and reached out about the racial issues in the country.” *See infra* app. at 148. “Law school deans fighting for diploma privilege among us” was among the most helpful for support and encouragement during bar studying. *See infra* app. at 147.

217. *See infra* app. at 147.

218. Benjamin Herold, *The Disparities in Remote Learning Under Coronavirus (in Charts)*, EDUCATIONWEEK (April 10, 2020), <https://www.edweek.org/technology/the-disparities-in-remote-learning-under-coronavirus-in-charts/2020/04> [https://perma.cc/5KQE-PZW4].

219. *See* Tiffany D. Atkins, #Fortheculture: Generation Z and the Future of Legal Education, 26 MICH. J. RACE & L. 116 (2020).

torneys.<sup>220</sup> The Author intends to follow this community of graduates through the coming years to learn more about the ways their health, families, and career paths were impacted by 2020.

It is the Author's hope that the discussions, wounds, failures, and passions unearthed in 2020 continue to contribute to change in the years to come. For too long, "[l]egal education has failed . . . minorities. This shouldn't be surprising, since the entire American system of restricting admission to the practice of law has long been designed, explicitly or implicitly, to exclude minorities."<sup>221</sup> While facing our own pandemic-related challenges, many of us in legal education may have failed to adequately protect or advocate on behalf of the Black law school graduates of 2020. It is too late to change their experiences. But we must listen to the challenges they faced, work to help them recover from these wounds, and pledge to invest in the safety, success, and futures of Black law students and lawyers. If we undertake this challenging work and heed the call for change ringing clearly in the voices of these survey respondents, we have the potential create a stronger, more vibrant, engaged, and powerful legal community—one that our country desperately needs.

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220. See Merritt et al., *supra* note 85 ("New York's October 2020 bar exam produced 2,217 fewer lawyers than its July 2019 exam. Texas netted 26% fewer new lawyers from this year's two fall exams compared to last year's July exam." (citations omitted)).

221. Thompson, *supra* note 6.

## VI. APPENDIX

**Q1: Did you sit for a bar exam during the period of July-October 2020?**

94 (77.0%) of respondents replied “Yes.”

14 (11.5%) of respondents “No.”

14 (11.5%) of respondents did not respond.

**Q2: How, if at all, do you feel the COVID pandemic impacted your experience studying for and taking the bar exam? (For example: health (did you or your family members have COVID or increased health concerns); care-taking (did you have any increased care-taking responsibilities); finances (were you or your family financially impacted by COVID))**

“Mostly emotional impact. Feeling the weight of death surrounding you while trying to log on to Zoom and keep it together long enough to get what I need for the final.”

“Had more time to study, actually, since school was remote and I didn’t have to travel”

“My biggest issue was the fact I wasn’t able to study at a law school library. Also the space I had to take the bar exam was less than ideal.”

“The pandemic had a big impact on my finances and created living concerns. Because the exam was pushed back two whole months, I was forced to scramble for housing. I was fortunate enough to stay with my parents for a short period, but I incurred many unforeseen costs like those associated with having to move more than once. I also had to juggle the concerns of ensuring I didn’t put at-risk family members in precarious positions as I navigated those moves and studied for the exam.”

“At the very end of my last law school semester, my fiancé’s mother tested positive. This was around the middle of May 2020. I planned to start my bar prep at the beginning of June. Luckily, she was able to recover within 3 weeks roughly. However, in that time, my fiancé and I became responsible for grocery/medicine deliveries. By the time that I started my bar prep in June, his sisters, grandmother, aunt and uncle have all tested positive. His grandmother went into a coma for a week and was on the ventilator for an additional week after she came out of her coma. We tried to help out financially where we could but with me not working and him being the only income, it was hard. Around the end of July, my fiancé lost his job. I picked up hours where I could at my job but from July-mid August, I was more focused on work than I was on bar prep. My mother is over 50 and is a diabetic. She also works in a factory. As much as we wanted her to stop working to reduce her exposure, we didn’t have that financial luxury. I was and still am in a state of constant anxiety just thinking of what she could be exposing herself to. Our main focus became making sure that the internet and cable bill was paid so that I could have internet to do bar prep and take the exam. We skipped rent and essentially on focused on the internet bill and food. The exam itself is over but now we’re trying to make up for the 4 months that I went without a job. I hate to admit it but there’s a high probability that I didn’t pass this exam because my mind was on family members who were positive for

COVID. I constantly felt guilty for missing funerals in order to study. I constantly felt guilty that so many people around me were testing positive and becoming very sick, yet I was “focused” on this exam.”

“My mental health suffered significantly. Financially, I had to stay home with my parents and take out loans to survive.”

“I was studying full-time up until July 2 when the July exam was cancelled. I had only planned financially for the summer and was forced into distress by the delay. I am now planning to sit in February but must work now to stay afloat. I had two family members contract covid right around the midterm point of bar prep. I was actually tested the day before my midterm. This has been the worst possible time to study because there is no space where I can be alone. I had to move back home where everyone is also home. There are no libraries or spaces open for me to take advantage of.”

“The primary impact of COVID on my life pertained to finances. I had three job offers lined up prior to graduation, then they were all rescinded or put “on hold”- which greatly affected my ability to study for the Bar Exam because I had more pressing matters of keeping a roof over me and my mother’s head. Additionally, my caretaking responsibilities for my mother increased exponentially.”

“Care taking - my 3 y/o son was out of daycare, I had to take my finals and do most of my studying with him in house. I am a single parent and was unable to work during that time, so I lost my apartment as well.”

“I was not impacted by COVID.”

“My mother tested positive for Covid during the prep period so there was increased anxiety with that. She did eventually test negative. Just the general nature of trying to stay safe and keep family safe from the virus was oppressive, stress inducing, took away from focus.”

“I planned on taking two bar exams, New York and California. The pandemic made it impossible to know whether I would be able to take either until August, when it became clear that I would have to take the New York exam in October. The lack of money was exacerbated by the priority to study and not get a job, and employment was its own stressor in the sense that there were no jobs to work because of the pandemic anyways. On top of all of that, the burnout from studying for an exam for 2 months, then having it get cancelled twice; then studying for another 4 months really messed with my motivation and I’m not sure exactly how my overall attitude towards my investment in law school will evolve.”

“Due to the changing dates and reciprocity rules, I had to register for and study for 3 different exams over the course of the summer. I eventually was able to take one, but all of that change definitely had a negative impact on my mental health. I became so depressed and de-

moralized by the lack of care and empathy expressed by BLEs across the board that I had to go on medication to be able to continue. I also was dealing with family members (mom and brother) who contracted covid and worrying about them while simultaneously trying to worry about my own future and career. I am the first of my family to go to law school so although my family was supportive, they didn't really understand what I was going through."

"First, Further, I live with several at-risk and older individuals who were highly susceptible to contracting COVID. I made the decision to extend my quarantine period despite several business and shops opening in my area. This made studying at home very challenging at times. I barely was able to scrape up enough money to book an Airbnb to take the exam in. Second, my finances were dramatically impacted due to the pandemic. I was out of a job offer and behind on several bills because I had only budgeted to be out of work for 2-3 months maximum."

"I had increased health concerns. I was supposed to take the test on July 2020, however I got very ill and feared that I had COVID. After waiting a couple of days for results, I realized I was negative. It ended up being bleeding ulcers in my stomach. My family and I were hit financially by the virus. I lost my job, and my parents were forced to cover my medical expenses. They are in significant debt and it is hard for me to not be upset. My search for a job has been futile."

"My family and I had increased health concerns. I faced job insecurity and did not have income to afford wifi or rent for a period of time until my unemployment checks began."

"I felt extremely helpless, ignored and depressed. I have a black son, brothers, and fiancé. I am also a black woman. The constant streaming of black dead bodies and murdering of black people was a lot. I did not have the luxury of studying at a library or lecture halls like graduates before me, so I had to study the best I could at home with my two year old who never goes a day without crying. . .which is normal for him and not his fault. Then having to take the bar exam at my sister's apartment was nerve racking because I do not have consistent wifi at home."

"I was very lucky. I was able to move home and study. My father is an attorney so he knew the drill"

"I had a suspected case of COVID back in early March, right before the pandemic was declared. Ever since, I've experienced a host of symptoms that never bothered me before, ranging from rashes to breathing issues to heartburn/GERD. All while I was studying for the bar exam from June to October, I was also going back and forth with doctors who barely listened to my concerns and only treated the most obvious conditions (like the rashes) without actually trying to get to the root of the issue. Dealing with studying and a series of inattentive



doctors while having unexplained health concerns was incredibly stressful and possibly exacerbated some of my symptoms. The pandemic also caused my post-bar job offer to be pushed from September to December so I'm currently unemployed, despite completing the bar exam several weeks ago. I've been living at my mom's house since the end of July and feel awful that I can't really contribute anything. On the other hand, my mom is also being a caretaker for her husband (my stepdad) because he's undergoing cancer treatment at a special hospital almost gathered hours from home, so they're paying the house mortgage and the costs of my mom's out of town hotel stays. Money is tight and I feel awful that there's nothing I can do to help, not even relieving my mom of her caregiver duties since it's a health risk to have different people providing care."

"Lost my job had to homeschool 3 kids financially strapped. My anxiety and depression increases ten fold"

"It was a major distraction for me and my family. Faced with issues surrounding day-to-day living expenses, it was really hard to be mentally and emotionally focused at all times."

"I was physically able to study, financially able but mentally unable to"

"Yes. Unable to study in quiet spaces so there were constant distractions, my school was unwilling/unable to assist with making any types of accommodations for testing and/or studying throughout the months, family members testing positive for COVID which caused worries and scares of exposure, and unemployed for months with little to no assistance."

"I suffered a nearly 3 week mental crash not long after the murder of George Floyd. Prior to that, I was already dealing with Covid anxiety and having to suddenly homeschooling my daughter as I finished up my semester. The Floyd incident sent me over the edge, resulting in a mental and emotional crash. Prior to that crash I was doing well adhering to the strict study schedule I'd set for myself. Every morning during that two and a half weeks, I would attempt to study and could barely focus."

"It was a financial and traumatic nightmare especially after the death of George Floyd"

"My dad has an underlying condition so we had to make sure he wouldn't be exposed. It was initially difficult to find mask and hand sanitizers. We lost a family friend who also had underlying conditions so we did our best to prevent my parents from being exposed"

"COVID had a financial impact on my studying. I had to begin working earlier than anticipated because my test was pushed back"

"I chose not to sit for the exam for both financial and mental reasons. My jurisdiction that I signed up for for my CFS [city] took almost a two months to tell us what was going on. I could not financially wait

for a decision to be made nor study for an additional 2.5-3 months. On top of that I had family members with covid so that's just added to the mental strain."

"I would say that I'm blessed not to be on the streets. I was approved for a bar study loan but only after a parent co-signed for me (I'm 26). COVID destroyed my study habits, my school became only open to state takers, and the bar coaches paid little attention to non-state takers leaving me to figure it out on my own"

"I was terrified for my family and I's health. It impacted my ability to study and financially we were hit pretty hard."

"The pandemic definitely caused disruption in the bar prep process. Not having access to a quiet place to study due to the law school and all libraries being closed was difficult, and I feel that those who did have access to quiet spaces were certainly advantaged. My family did have financial issues due to one of my parents losing their job due to COVID, and that had an impact on the support I was able to receive during the summer."

"My family was financially impacted"

"One of my family members passed away due to COVID-19 before I began studying. I have asthma and the stress of thinking I would need to take the bar in person and risk contracting the virus as a high risk individual who had already lost a family member impacted my mental health, though my state eventually switched to remote."

"I believe the pandemic was directly responsible for my inability to focus on studying for, and taking the bar exam. Prior to the exam, we were already dealing with massive attempts to divide our country on racial lines by our political leaders. The current administration has purposely sent many indications of its disdain for people of color. The death of George Floyd and other minorities by the police was another factor in my inability to focus. Finally, learning about the hundreds of thousands of people that have been contracting and ultimately dying from the virus, in the midst of other loss of life not due to COVID impacted my bar prep experience. The simple fact is, the COVID deaths were avoidable. The unequal treatment of Black people is also avoidable."

"I barely made it to my first paycheck. I was fortunate to get grants from my school thanks to a class gift from previous years. But I still stressed out about money every week. The exam delays meant delays in my ability to maintain let alone get ahead. As an asthmatic I had to obtain all of my refills for my inhalers (daily and rescue) at once because I was afraid of what would happen if I fell ill to the virus."

"Before the pandemic, I could study unimpeded during working hours because I paid for child care. COVID hit. The school closed. Day care shut down. My wife and I tandem parented our two year old daughter, but she missed hours in the lab every day (she's a research

scientist) and I failed miserably to find consistent time to study. We had no workspace in our townhome where I could pull away from the sound my family generates, so I spent hours each day studying outside, around campus, in the elements. Focus proved difficult in the extreme. I don't know if I passed the [state] bar; between the pandemic imposed quarantine and the ongoing activism of the diploma privilege crowd, the summer brought only distractions. I do not recommend bar prep during a pandemic; no one exists to help you, no one views your experience as much more than a talking point they can warp for their own purposes. I was abandoned and alone and expected to pass the [state] bar exam."

"Covid made studying extremely difficult. Having to work from home in a shared space with someone else working from home was challenging. Where we live is loud. Not being able to go anywhere else was challenging. We also both suffered a major pay cut that forced me to have to work longer than I would have originally. I initially planned to have 2 months off but couldn't due to covid and a reduced salary. I ended up going to my parents' house for a little while where I was able to work and study in a slightly quieter environment."

"General impact by COVID (lost employment on 6/30/2020) and opted for no health insurance because cobra is too costly. Increased health concerns because of pre-existing conditions."

"I was forced to move across the country not once but twice and both times by myself because of the pandemic. I had to take tens of thousands of dollars in additional loans out without knowing when I will make any income because of the effects of covid on public defender budgets. I do not have family financial support because covid has affected my parents incomes as well. I have not been able to afford a car nor do I feel comfortable taking public transportation and I was in a serious accident in a Lyft in June, so I am stuck in my urban neighborhood."

"While my family wasn't directly affected by COVID in that no one close to me got sick, COVID drastically changed the way I studied for the bar. For example, my husband lives abroad but was visiting me at the time my city went into lockdown. Due to the travel restrictions he ended up not being able to fly back home and ended up sharing my tiny, dorm-like room for over two months. Normally, I would have been able to study at the law library, public library, or at a cafe, but of course none of these were options. Instead, I studied in a 10x12 foot room, shared with my husband, in an apartment with five other roommates (all of whom were of course there 24/7 due to the lockdown). Halfway through the study period I discovered I was pregnant and had to contend with nausea and fatigue through the remainder of the study period (coincidentally, my first trimester ended on exactly the day of the bar exam)."

"Overall, I think I had an advantage in my studying environment. I studied/lived in my mother's home and had my own room. I would say that the house could be noisy at times and I probably would've gone to the library to study if it were safe/absent the pandemic."

"My state was one of the few that instituted diploma privilege. However, while I was studying, I lived at home with my elderly father who is high-risk. I was lucky enough to have study space at home but was very reticent to leave my home - even for errands - because getting covid would throw off my study schedule. There was heightened stress overall."

"I am the financial caretaker of my family."

"I had to work full time from home, assist my kids with e-learning including one with autism, and find time to study for the bar exam. So, yes, my caretaking responsibilities increased."

"The COVID pandemic caused uncertainty that weighed on me, but likely not in a fashion that was abnormal to the population taking the bar."

"I had some financial concerns regarding my continued health insurance until my law school (upon pressure from the class of 2020) extended the student plan until January. Outside of that, just the extend of the bar prep period was extremely mentally draining and not great for my health."

"I felt as if Covid stopped be from connecting with professor and peers who could have provided help. It also affected my finances while I should have been focused on my studied I was more worried about how I was going to keep a roof over by head especially since I spent more time at home."

"Yes we were financially impacted, my father could no longer work because he did uber and my mom worked less and it was unpaid. I could not work because of the bar and I did not financially plan for the bar to be rescheduled twice in the state of [state]."

"I had multiple family members pass, I couldn't afford rent and moved in with my parents, I wasn't able to leave the house for months with the exception of my backyard which caused me to spiral and begin taking prescription anxiety medication."

"mental health ( family members had and died from COVID, increased health concerns, and increased isolation from people); finances (I was no longer able to drive for uber for extra income)"

"Several family members contacted COVID, and my mother had to move into my apartment due to being laid off."

"It was incredibly stressful financially but also emotionally because we were all putting ourselves on the line as essential service workers. My family was directly impacted by Covid because my father is an entrepreneur selling African cuisine. He had to lay off all of his staff, leaving my brother and cousin as the only staff. My mother had

to pitch in even though she had a full-time job. After school, I also moved back home to help how I could and strategize. In addition, my brother contracted covid, causing the business to shut down for a month. We were all at risk of contracting covid but tested Negative. Studying for the exam during this time was also stressful because of the constant changes and uncertainty. Overall, my family was greatly financially impacted, my brother was sick from constant contact with customers, and I had to face several mental health challenges to prepare myself for the bar exam.”

“Had an uncle who passed away from COVID-19 and other relatives who passed from natural causes but we could not attend their funeral due to restrictions. Have been unable to see my parent, who is in a long-term care facility, since March. Finances were incredibly difficult so had to work while studying for the exam. Have roommates as a cost-saving measure which greatly interfered with my studying since we were all home round the clock. Unstable internet. Socio-political climate of the country, particularly as it relates to race, really took a toll on my mental health (as did being isolated and confined indoors for 7 months).”

“The Covid-19 pandemic made my studying for the Bar Exam very difficult. As a father of a one year old son, it forced me to work to provide financially, which made it hard to focus and study. My community was also a hot spot in [city], and my wife was a frontline physician, which added an added to the pressure we felt daily around safety in regards to this deadly virus.”

**Q3: How, if at all, do you feel that the political climate in the United States\* impacted your experience studying for and taking the Bar exam? \*including incidents of police brutality, protests in response to these incidents, and the November 2020 election**

“My bar prep is just beginning, but it feels daunting. All the purpose I felt coming into law school is gone because it doesn’t seem like the world will be around long enough for me to make an impact.”

“It didn’t”

“Honestly the terrible political climate of 2020 did not affect my studying. I was going through a painful separation during the bar study period and that had more of an effect.”

“The political climate negatively impacted my experience and mental health greatly. I personally witnessed my father get confronted by White violence and the police. My sister was also forced into a very undesirable interaction with the police. This summer’s unrest made focusing on studying nearly impossible when much more of my time than usual was spent worrying about my siblings, parents, and other extended family members and the violence they are likely to face in the world.”

“As a black woman that comes from a mostly male family, I came into this profession because I knew that the system was broken when it comes to us (black people). During this summer, I completely lost faith in this system. I still have no faith. Perhaps the most difficult part about bar prep was learning law that I knew didn’t apply to my people in real life. Every incident of police brutality reminded me that the things I was learning in my bar prep course, didn’t apply to us. During my entire bar prep I constantly battled with whether or not I still wanted to be part of this profession or the “legal system”. I think the only reason why I even made it through the exam is because my family and I have already put in way too much money for me to walk away.”

“Racial inequality and injustice had always been a part of my experience as a black woman but in conjunction with the pandemic and the political environment, it was especially taxing on my wellbeing. There were days where I couldn’t concentrate on the bar because I was overwhelmed. I would say it affected my ability to study greatly.”

“The political climate has impacted me mentally. After I watched George Floyd murdered on television, I was at a lost. There is not much drive in you to focus on constitutional law that was never meant to protect you. I not only witnessed that but even had it brought up on a Kaplan live course by another student whom I didn’t know but the comments were completely out of line. I was torn with guilt as to study or protest. I fear that this will only elevate after the election next

week. I do not feel safe nor comforted by the lack of empathy that I have received from those in places of power.”

“I think the political climate in general always affects BIPOC law students. This year, the excessive amounts and blatant racist attacks kind of made studying for the bar, and even going to law school, seem pointless. It’s regularly understood that it doesn’t matter how educated you are, or how you present yourself, existing in this country with black skin is an automatic crime, something no bar exam score can change.”

“there was constant anxiety, disappointment and tension between having to study for the bar and wanting to participate in the protests to show my support for my community. A feeling of hopelessness still plagues me.”

“Not affected”

“The political climate was another reason that caused anxiety, worry, stress. I have a husband and sons who I did not want to leave the house for fear of something happening to them not just by police but regular old racists too.”

“This summer of madness greatly impacted my ability to study. The powers that be have said shit like ‘wear a mask, save lives,’ ‘Cases! Cases! People need to stay home because Cases!’ Yet, there go thousands of pastel hair-colored attention seeking millennials/generation z-ers, marching in close proximity to one another during the day, and destroying shit at night. It’s impossible to stay motivated to study when borderline cointelpro/psy-ops shit is going on; it’s too hard to look away from what is happening. Don’t even get me started on some of the white people I met this summer. To me, ‘black lives matter’ is a fucking truism and people who act like the tea party from 2008 make me sick. I will always remember my 6 months of studying for the bar exam as the time period in which the U.S. took a turn for the worst.”

“I was living in [city] at the time of the bar exam and I was attempting to study while there were literally protests and looting happening on the first floor of my apartment building. I was mentally exhausted and just numb.”

“Black people were murdered and protest subsequently ensued during the middle of bar prep. Any Black law graduate with a conscience would be affected by these incidents. Some of us went out and joined the protests, while others choose to stay behind. Either way, as a community, our emotional well-being was gravely impacted. A standardized exam should have been the least of our worries.”

“I was exhausted. It’s exhausting to think back on. As a Black woman I had to fight to stay alive from a virus and police brutality. It affected me emotionally and I did not have the bandwidth to continue to study for the exam.”

“It was all a traumatic experience that I will never forget.”

"It was really hard to study black letter law when black people are dying for being black in America. I felt guilty studying instead of going to a protest.

Also all those stupid property rules that say property cannot be defended with deadly force just felt like salt in the wound. Plus the multiple choice questions about police unlawful arrests where they answer is that a person can use "reasonable force" to resist an arrest they believe to be unlawful made me angry. Hard to effectively study in that kind of head space when you know that answer is categorically n tries ESPECIALLY if you're black."

"The first thing I'd like to note is just that the civil rights of Black people are not a political issue but rather a human rights issue so I disagree with police brutality and the protests being lumped in with this year's election. If I'm being honest, I couldn't really allow myself to be affected by any of these issues while I was studying. If I would have, then I never would have gotten any studying done and would have been poorly prepared for the bar exam. Given the vast issues that affected me more directly as an individual, like the stress of preparing for the bar exam during the pandemic and personal and family health concerns, I really had to pick and choose what I was going to allow to affect me."

"It did not"

"Police brutality trigger my experience with being brutalized by the cops years prior which impacted my ability to remain focused."

"The incidents that occurred were very disheartening. However, those incidents increased the necessity for lawyers who work for under-served, less privileged communities."

"Zero"

"Everything has caused extra worries due to being unsure of what 'else' will happen. The stress of bar study was enough but constantly being reminded of the real world issues definitely had an impact on my mental health."

"The political climate also contributed to the emotional crash I mentioned."

"It didn't"

"My attention was never fully on studying"

"It was very difficult some days focusing on studying when innocent African Americans were being killed for non violent offenses. Some days I just stopped studying. I felt the commander in chief added fuel to the flames by refusing to address the actions by the officers as crimes. It was very difficult both emotionally and physically to focus and do any work on some days"

"It had more of a mental impact than anything. There were times when I felt helpless because I was studying and couldn't do anything"



"This year I was more anxious than I had ever been. It was extremely hard to stay focused for more than a day or two at a time without feeling completely drained by everything happening outside of studying."

"It was disturbing. I could not focus. I was terrified to leave the house at times."

"The George Floyd situation and the events that followed were definitely distressing, and as much as I wanted to contribute and participate, I unfortunately had to disconnect in order to study. I don't feel it necessarily hurt my ability to study, but it was definitely on my mind."

"It was extremely difficult to focus on something as abstract and that solely serves a racist, classist, gate keeping function as the bar exam in the midst of so much Black death and resulting protests. I wanted to be in the streets and felt I could not be due to the bar, but felt very guilty not to be there which did not help my focus."

"These instances of recent police brutality had the effect of ripping a bandaid off of a deeply rooted wound that Black people have been nursing our entire lives. This made it especially difficult to exist each day without becoming emotional about the current state of affairs. The media coverage of each of these incidents inflicted more pain but also made clear that being Black in America is a status that will ultimately subject us to the rights of a 3/5 person under the constitution. Seeing the president order attacks on peaceful protesters for a photo opportunity added to that stress. Hearing the "dog whistles" by the president and other political leaders toward peaceful protesters on behalf of the Black Lives Matter movement was also impactful. Seeing countless Black men and women suffer from police brutality and no real consequences for the actions of their murderers, or receiving a hero's reward for "keeping Black people in their place" was disheartening.

"How are Black law students supposed to focus when we see people that look like us are being gunned down for being Black? We don't understand how Black people can be shot because the police "fear for their safety since they don't know if the Black person has a gun" but when the anti-maskers showed up to their state capitol steps dressed in fatigues and carrying weapons openly are allowed to peacefully protest without anyone losing their lives. How are we supposed to study for the biggest exam of our lives while processing this racial injustice by the police and our political leaders? How can we try to remember all of the intricate nuisances of the law when the very same law does not afford us equal protection and full citizenship? I don't understand how we are supposed to do well when emotionally, spiritually, and for some of us, physically, we are struggling with accepting substandard citizenship."

"The political climate made it difficult to focus solely on studying. I felt an upmost duty to get involved in protests or other types of civil engagement while studying for the bar. Also, these incidents placed a heightened emotional and mental toll on me, with an added pressure to pass the bar in order to be in the position to help those impacted by racial injustice."

"It made it extremely hard to focus. I was constantly asking myself why I was studying for an exam meant to keep people like me out of the profession when people needed me on the ground. How am I supposed to care about the Rule Against Perpetuities when I am literally fighting against a system of racism daily by just being. My body is a threat and I can't change that by simply passing the bar exam or by staying in my house and studying for it. It felt like a waste and impossible to do for a few days."

"The United States political climate did not affect my bar prep at all. Black people die continuously at law enforcement hands in the modern era; however tragic, these police powers did not make day care untenable or convince my law school to close all libraries and office space so students lacked reasonable study space. Local concerns affected me; national concerns did not."

"Well the racial reckoning in the country made the inequities of the exam stand out that much more. Feeling like we (people of color) didn't matter to our state Supreme Court and/or to our bar examiners really made me reevaluate why I want to be a part of this profession. But through it all, the lack of a national plan to deal with covid, the climate change, not being able to go out because of fires and just the racist history of the bar exam in this moment in history was something I thought about often."

"This was an awful experience watching the murder of George Floyd and then learning about Breonna Taylor, Ahmaud Arbery, and Elijah McClain's murders. All of this against the backdrop of repeated incidents of police brutality and the rising covid death toll. It was difficult focusing on hypothetical issues of law when real life repeated violations of civil rights was taking place. Definitely traumatic and the various bar associations and NCBE were largely dismissive of this reality."

"I have never felt collective trauma like I have this summer. Between the pandemic and all of the killings of Black people and loss of Black figures such as Chadwick Bozeman, I have felt depression that I haven't experienced in over a decade. Additionally, my feeling unable to participate in protests because I felt like I needed to study for the bar added to my depression and feeling of utter uselessness. I came to law school to help people and the bar prevented me from helping people in an incredible time of need."

“The George Floyd murder and the protests were very, very hard. They resulted in a lot of impossible conversations with loved ones and two of the law school groups I had held leadership roles in prior to graduation fell into some incredibly nasty drama that ended up in involving the whole school. It was extremely emotionally draining to watch these two organizations I had worked so hard for for two years fall into nastiness and infighting. Honestly, though, this all came so early in the summer that I’m not sure how much it affected my studying. There was so much else going on in my life—the death of a family member, pregnancy, a move, job uncertainty, two close family members directly in the fire zone of one of the [state] wildfires—that the national headlines were always secondary. I think the political events (in addition to those mentioned, RBG’s death and Amy Coney Barrett’s nomination were pretty big blows) definitely took a psychological toll, but honestly one only has so much capacity for trauma and all the things going on in my personal life really dwarfed these larger issues.”

“I think the matters above had minimal impact on my studying.”

“This made it much harder to study. Blocking out painful, disturbing images was almost Impossible. On top of that, because of my need to study and stay covid free, I couldn’t participate in any peaceful protests. I felt completely helpless and lost while trying to study for the biggest test of my life.”

“Watching the deaths of Breanna Taylor and Amhaud Arbery made it harder for me to study.”

“The police killings, protests, riots, and backlash were a constant distraction and very stressful for me. I live in a major city where protests were happening close to my home.”

“Far more impactful than COVID. It had me questioning what sort of professional world I would be entering. A new development, positive or negative couldn’t be fully explored by me without feeling like I was also betraying myself by not fully studying. What’s worse is that this betrayal was felt on the other side of this dilemma, because the issues are personal to me as a black man. Additionally, as became clear during this summer, black men are always taking the general temperature and pulse of their surroundings. As things began to get more tense and volatile, I began to worry for the safety of those I cared about and those I felt would be vulnerable to violence, which was also happening at a rate that we hadn’t seen since racialized violence was all but state-sanctioned. . . Troubling to say the least.”

“A lot. At times it was hard to focus because I felt that instead of fighting for rights, and voicing my opinion, I was studying for a test that was literally created to stop people who look like me (people of color) from becoming an attorney talking about the irony. I also could help but think that because I am black and most of my peers have

different view than I, that I felt more isolated and alone than I ever felt in my life.”

“The political climate was emotionally draining. I had to take off social media because it was overwhelming seeing people justify the murder of unarmed black people. But then I felt guilty for not being able to protest or speak out because it affected my community.”

“I couldn’t go on social media at all. I felt like crying all the time and would often take breaks from studying to do so. I couldn’t participate in any volunteer or advocacy work because my state bar only went online 2 weeks before the July bar was supposed to occur. Months later, I am still exhausted.”

“n/a I shut it out”

“Significantly, I had to worry about betting active in the community on top of studying for the bar and everything else.”

“The political climate greatly impacted my studying experience. I did not feel safe when I moved back to [city] to study. My attention was solely focused on the uproar of the nation, causing me to fall behind in my studies. I couldn’t begin to truly focus until a few weeks before the exam.”

“It has been traumatic and I’m sure I have undiagnosed PTSD. It was incredibly harmful to witness the devaluing of Black lives and the unwillingness for the law to step in in any meaningful way as I was studying for the bar exam. It was incredibly difficult to feel motivated to study when I was too afraid to even go grocery shopping for fear of having an altercation or otherwise encountering a hostile person. It was incredibly toxic for there to be debates about whether my black life mattered - when that should go without saying.”

“Being a black student while trying seeing the constant trauma of state-action violence against black bodies made the Bar Exam appear as a second priority. As a black person (man) who has experience police brutality first hand, I felt the pressure to protest and make my voice heard. Also, as one who is engaged spiritually and politically, I believe that my very being in this country called me to be present. Furthermore, this election only stoked the flames of racism and divisiveness, which also emotionally was draining.”

**Q4: Was the bar exam you sat for postponed and, if so, how did this impact your studying and/or your decision to sit for the bar?**

“Yes. It actually made the study process easier I set up a study plan where I only had to study for 3 hours a day.”

“It was. This part was very frustrating”

“Yes. The bar exam I sat for was postponed twice. I sat for the NY exam. NY was arguably the worst offender during this time. The state first didn’t allow non-NY law school grads to register. This forced me and many others to attempt to register in two other states. Then after struggling to make the higher and unforeseen costs of registration work, I was fortunate enough to get a seat in NY but the lack of communication made studying very difficult. I am from a state that has been spiking the entire pandemic. I called NYBOLE multiple times to see whether there would be a two-week quarantine exemption for bar takers and no one could give me a straight answer. I explained that I began my job in September, so if I needed to quarantine, I would have to ask for time off (and potentially withdraw before the deadline if I didn’t get that time off). I also expressed my concern at potentially having to stay in a hotel for two weeks before the exam, which would have been another, very high, unexpected cost. I was not met with any empathy and was instead essentially told to wait and see. Fortunately, the exam was moved online. But that brought on another list of concerns and created difficulties in studying because I had to relearn to take some questions without scratch paper, for example. After months of dealing with NYBOLE & NCBE’s poor communication and confusion, I ultimately took the exam because my employer gave me the two days off.”

“The exam was postponed twice. Each one set me back on my studying. After the second postponement I started to not care anymore. My family was financially struggling and I considered withdrawing from the exam and getting a legal job. however I felt forced to stick it out because I’ve already lost out on months worth of income by waiting to take this exam.”

“Yes it was postponed twice. My state’s board of admissions was not transparent, was insensitive to the plight of the candidates and the administration of the bar was fraught with decisions that were questionable at best”

“Yes it was postponed on July 2 to September. Then pushed from September to online in October. I was uncomfortable taking the MPT with no scratch paper and reading on the computer. I had been studying as if it would be a paper test so I was unprepared. I transferred my application to the February exam in August. I will now have to work while studying which I know is possible but was not something I wanted to do.”

"I ultimately decided to delay my bar exam and sit for the February 2021 test. With the regular cancellations and changes to my state's bar exam, then the adoption of a new online abridged, non-UBE exam, I did not want to be in the 'guinea pig' group of testers. But my choice in delaying my exam does have me nervous about my ability to do well since there's a lengthy gap in my studying after graduation."

"Yes, I was accepted to the Army JAG corps so I had to take the earliest bar exam possible. Because we do not receive our bar results until December, my commission was postponed. Furthermore, I spent a lot of my time seeking alternate housing for my son and I because we lost our apartment and I had to take a last minute job as a runner at a law firm to make ends meet toward the end of the period."

"The exam was postponed twice. I had to rearrange the schedule multiple times."

"Yes until October. It absolutely negatively impacted my studying. I had been studying since April and was burnt out. I was so stressed that I ended up in the hospital 3 weeks before the exam. The stress of that period basically broke my body. I went to the emergency room with a blood sugar level high enough to kill me and ended up being diagnosed with type 2 diabetes. We were all shocked by the diagnosis as it does not run in my family and I am otherwise healthy and not overweight. I knew that there would be no chance of getting an accommodation even though I would need it with this new diagnosis so I didn't even try. I went ahead and took it because I had come this far and really wanted to be done with it. My suspicion is that my condition negatively impacted my performance. My blood sugar levels were still being regulated/ balanced. High sugar levels cause brain fog among other things. If we had some other path to licensure, some concern from the [state] BLE then I believe I wouldn't have had that happen to me. This is a pandemic. People are dying. This is not just some run of the mill happening that has no impact on all of our lives. The cruelty and disdain with which BLE's all over the country acted is truly disgusting. The bar exam needs to be abolished."

"I don't think anyone is meant to study for the bar exam for 6 whole months because the impact on mental health when the exam is postponed, then on again, is some bullshit."

"All of the bar exams I applied to take and studied for were postponed with changing reciprocity rules. I wanted to just wait until February but I had to continue to study for and take a bar exam to ensure that I still had an employment offer."

"The [city] bar exam was postponed to October 5-6. I began studying for the July bar in May. In total, I spent almost 5 months studying for the bar. I did not take a break in fear that I would begin to forget

the earlier concepts that I had learned. Withdrawing my application and waiting until Feb. was not an option for me.”

“No it was not postponed. My bar was only in-person July or defer to February.”

“The bar was postponed which effected my income and housing. I had to move while studying for the bar because my lease ended in Sept. I planned to move to a different state by the end of my lease, instead I had to find other housing.”

“I originally registered to take the bar exam in July, in [state]. It was postponed to September or October. I chose the October exam but the uncertainty of it for months was truly exhausting and mentally deadly.”

“Yes it was postponed. Didn’t effect my decision, don’t really have a choice in the matter. I have a post grad job that required me to sit for the bar.”

“It was postponed but did not impact my study due to ample notice”

“It was postponed till oct. the pause caused me to loose momentum and hope”

“Yes, it was unnerving”

“Yes, it made studying harder and made me feel like a burden on my family”

“Yes, postponed from July with an option to sit in person in a hotel in September and sit remote in October. Due to potential exposure and further scares of being around so many people with no tracking, I opted for the remote option.”

“Yes. I did not have the option to avoid sitting for the bar because my law firm requires associates to sit for the exam before joining. The uncertainty and the cancellations significantly affected my studying and turned an 8-10 week study period into a 15-16 week endeavor. I was fortunate to have the bandwidth and the mental stamina to continue progressing on my Barbri schedule, but it was a miserable experience.”

“My July bar exam was postponed 3 weeks prior to the scheduled date! During the week they held public meetings to decide if they should cancel it or not, I did not study. It was messing with my nerves and I was just about done with my bar prep course. Once they changed the date I took a 2 week break ( I intended only 1) before resuming to study for the new September date”

“Yes it was postponed. It didn’t affect my decision to sit for the bar and it just prolonged my studying”

“It was postponed all the way to October so I decided to wait until Feb. 2021 and even now I’m waiting to hear what that decision is”

“Yes. [City’s] UBE was postponed till October which gave me extra time to study, but it was too long. Every day felt like torture to study that material for that long”

“Yes. Twice. I took little breaks in between but I had a constant fear of it being canceled right up until I took the exam”

“Yes, my exam was postponed from July to September. I went forward with the September administration, but the postponement messed up my Barbri prep schedule. With the way Barbri reviews the topics, it is difficult to retain certain information for an extra month and a half.”

“Yes it was postponed twice. This affected my studying in two folds: I had to reschedule my plan for studying because the boras of examiners took so long in announcing when the July exam whether the July exam would be postponed. But they postponed to September 9. At that time we were thought the exam was going to come on in September. I was ready for studying to over and get over this thing. However, they again postponed it to October 5-6 to a remote exam. At this point I had given up on studying. I was also thinking about working because we had been in the pandemic for so long and because I was bar prepping, I wasn’t working. I didn’t have the privilege to only focus on bar prepping. Posting the exam increased my anxiety. It felt like nothing was certain and these board examiners did not care about us examiners. “

“Yes, my exam was postponed twice. I did not feel I had the choice to not take the bar whenever it was offered due to my employment status. The second postponement was made with no clear view of what the end result would be for about a week between when it was initially cancelled and the eventual rescheduling and that week of limbo made it impossible to plan what the best study choices were and really caused me to lose focus and struggle with my mental health when the exam was rescheduled.”

“The bar exam was originally scheduled for July, then postponed to September, then scheduled for October. This added more time for studying but it is the most time any law student had to wait to take the exam. There is a reason why most people take the exam in July. There’s only so much time we can hold all of this information in our short-term memory. This means I had to review subjects multiple times, over many months. This also meant more time off of work. I had to take the first available opportunity to sit for the exam due to personal reasons. I just wish that would’ve occurred in July, which would’ve been closer to the completion of school.”

“Yes the bar was postponed. While I had more time to study, it was hard to figure out how many hours to commit a day without over exerting myself. Also, this delayed opportunities for finding a job, because I decided to postpone my job search after taking the bar.”



“Yes, the exam was pushed back to September and then pushed back again until October. I didn’t have a choice in postponing because my job wanted me to sit before starting work. Study wise it was very frustrating because bar prep companies were not prepared to handle these timeline changes. I completed everything my prep course had to offer and had to start seeking outside supplements to keep myself sharp.”

“The [state] bar exam was postponed twice until we settled on October 5 & 6. This made studying next to impossible, because the uncertainty it spawned made planning study next to impossible. Add this to the pandemic isolation, and I couldn’t really tell how much studying I should have covered daily. We were fighting the cut score in the pitch black void for months, strung along by the certainty that we would (eventually) have to take the exam. It was not helpful.”

“Yes, postponed multiple times. It messed up my studying flow. More time given didn’t mean it was quality time. I was always going to sit for the exam regardless of what happened but it was harder to prepare for.”

“I was originally scheduled for July 2020 bar, then Sept 2020 and finally October 5-6, 2020. The stops and starts resulted in a stuttered study pattern awaiting rescheduling and/or diploma privileges. Not sure that this was the ideal (if there is such a thing) environment to study.”

“Yes, it was postponed to October. It was infuriating and felt like I would never stop studying while at the same time making me feel inadequate because I had so much time to study but I just couldn’t focus on the bar during the entire time.”

“My state’s bar was one of the first to be rescheduled, from July to September. At the end of July it was again postponed until October, and up until days before the test it was unclear whether or not it would be held as planned (other states on the same schedule cancelled in the last weeks, and a lot of people were pushing for ours to do so as well). As far as studying goes, I have no basis for comparison, but I can say that it was very difficult to have studying stretch over four months. Personally, I found it impossible to sustain the intensity of the studying over that period and my inputs dwindled significantly in the last month before the exam (although this may have been due to the first trimester pregnancy symptoms). For what it’s worth, I had a pretty solid work ethic during school—I took the maximum allowed credits my final semester, in addition to interning for a Second Circuit judge one and a half days a week (not for credit), and completing my publishable Note. I had no trouble transferring this level of intensity to bar prep for the first month or two, but during the last two months (whether due to Themis fatigue or pregnancy or generalized 2020 fa-

tigue) my study intensity fell to maybe half what it had been earlier in the summer.”

“The delay and uncertainty in regards to taking the bar exam was discouraging and lead to a lack of motivation. Also, the former, and the court(s)’s reluctance in granting diploma privilege put my life/ability to make income on hold, and a great amount of bar-studying was an uncomfortable experience.”

“The [state] bar association offered diploma privilege in addition to a July and September bar date. I decided to accept diploma privilege.”

“The bar exam was postponed twice. The constant changes of format, software providers was also a major distraction for me. I appreciated the extra time to study but it didn’t lessen my anxiety leading up to the exam, especially since it seemed that the rules kept changing.”

“Yes. It made things more difficult, but at that point it was about maintaining focus. The biggest change was that now, all of a sudden, it was going to online, and in your own space, which mentally was a barrier and difficult thing to overcome, as I benefit from a change of scenery.”

“It was postponed twice and the format changed 3 times over the summer. My job required me to take the bar but I took a months long break after going through most of my study materials in July. I couldn’t bring myself to ever buckle down again.”

“it was postponed multiple times; it extended my length of study and need to retain A LOT of information for a longer period of time”

“Yes, I was ahead of schedule so I had to take a month off of studying and by the time I got back I had to relearn some topics.”

“The bar was postponed twice. This impacted me financially, emotionally, and physically. Financially, I had to spend more time studying which led to fewer financial opportunities to explore. With work starting in January, my salary advance was not enough to cover all of my expenses. In addition, studying for the bar exam for about 5 months was tremendously draining on me emotionally and mentally. Lastly, I had plans to move back to [city] and help my family business much sooner, however, the postponements led to me not being able to help out in the way my family needed me to. I am not in a financial position to take a February bar, so I had to succumb to the constant changes and hope that I pass on the first try even amidst everything going on in the world.”

“Yes. It was scheduled for July, then moved to September then again to October. I secured employment with a September 1 start date which meant I had to study while working a full-time job. I was often to exhausted to study and lacked sleep. I would literally keep myself awake until my body could not take it, then nap, go to work, come home and study and do it all over again. I thought about postponing the bar but the deadline to move to February was in July. Again - I

started work in September and then realized doing both work and study was not very feasible. At that point it was too late for me to push back my test and refunds were not an option. I had no choice but to stick it out.”

“The postponing of the test put stress on my family financially and on the test preparation process. I made my decision to sit for the Bar Exam because my offer at the law firm I’m going to was contingent upon my sitting for the bar in October.”

**Q5: Was your bar exam given in an online/remote format? If so, how did this impact your experience?**

“Online. . .it made the exam much harder for me because I am not the best typer and for the MBE it was hard to stare at the screen bc I got eye fatigue”

“Yes. It added anxiety”

“it was online and it was terrible. The first half of day one wasn’t so bad but the second half was slow. It was slow on move from question to question. I had a period where I would type and the letters wouldn’t show up for at least 10 seconds. I was paranoid about being flagged the entire time. I was paranoid that the AI system would not be able to detect me in the video because it was reported that it was not detecting POC. I re organized the area where I was taking the exam to make sure there was enough light to show my face, I had extra lamps around just in case. I think I worried more about the software than the actual exam because I was so terrified of being flagged simply because the system couldn’t pick up my face because I’m black.”

“Online. Again it was incomprehensible why they did not do a stress test beforehand. Luckily I had no technical issues but if I had they would have disclaimed all responsibility”

“I recently found out the February 2021 Exam will be online, but it will be the full version. I’m nervous because no Bar Prep program has yet to change their study format and best practices to accommodate the change to online examinations.”

“Yes, there were some glitches. We also could not annotate the MPT document which is critical to my personal internal processing and understanding of the material.”

“Online. My experience was great. I did not have any problem taking the exam.”

“It was online. The format was horrific. Time was lost by having to scroll because we could not see the entire question stem. We were not able to have scratch paper for essays or MBE. I am a hand writer - I would have handwritten my essays for an in person exam. The online format negatively impacted me greatly. I ran out of time and did not do what I knew to do on my exam because the format truly worked against me. I almost regret not withdrawing.”

“The online MPT was so small that I had to scroll left to right and up and down so much, that I definitely lost needed minutes. I’m not a strong test taker, so to potentially lose points based on the technical format of the exam makes me angry in the sense that I’ll probably have to go back to studying in December.”

“Online, the software never recognized my face from my picture. I was (And still am) worried but just attempted to push through”

“The [city] bar exam was given in an online/remote format. Examsoft was the chosen vendor. There were several data security breaches

(ex. Michigan bar exam), examinees banking information was accessed, examinees computers began to malfunction, and more. During the exam, examinees were stressed concerning if their internet connection would fail or if they would be flagged for background noise. Most importantly, the software did not recognize the facial features of some Black and Brown persons when entering the exam. Overall, the experience was horrible.”

“The remote exam poses many threats to my security and it was impractical to administer given the size of the exam, the inability to highlight and copy/paste on the PT, and for overall PT file. It was Not user friendly. Additionally, I felt defeated because of the claims that people accessed the exam files early and that the software could not even support the exam in totality.”

“Online and remote”

“Online. Horrible experience. I purchased a special extra bright light that I used to take the exam. Also the program did not identify me in about half my login attempts”

“Yes, the [state] bar exam was administered remotely. This was a poorly organized experience. After hearing about so many people’s passwords and other sensitive information being compromised after they downloaded ExamSoft, I decided proactively that the only way to protect myself was to buy a brand-new laptop and start from a clean slate, and that new laptop cost me about \$500 (which I had to draw from the savings I kept to pay bills until I could start working), including the cost of antivirus software. The tech specs that ExamSoft required were also so strict but thankfully my new laptop met them. Fortunately, because I had the money available to buy a new computer, I was able to take the exam without any major software glitches, EXCEPT that the face recognition technology (FRT) could not detect my dark-complexioned face, even in direct light. Sure, I could manually bypass the FRT failure, but it was incredibly demeaning and the state bar never should have used that technology.

The other very demeaning aspect of being remotely proctored was that I was more likely to be improperly flagged if the software couldn’t detect my face. Furthermore, it was impossible to sit perfectly still to avoid being flagged. I sneezed a couple times, I scratched my head, I looked away, I adjusted myself in my seat. I know for a fact that I was flagged in each of the eight sessions but I’ll be damned if the bar examiners try to suggest that any of my actions amounted to cheating. I also hate that the human reviewers might hold more implicit bias against me as a Black person, and assume I cheated even though I did not.

Lastly, I had a very frustrating experience trying to navigate the online performance test where the attachment was impossible to read and the text of the PT could only be highlighted in the 2” question

stem box (side note: we had no ability to practice the PT with the text in the question stem, so seeing it for the first time on the actual exam was very overwhelming). The PT was the last of the eight sessions, immediately after the very difficult MBE sets, so by then I had so much pent up stress and frustration that I just couldn't hold back anymore, and I wound up crying for the first 30 minutes of the PT, on camera, so some human reviewer will literally spend 30 minutes watching me cry. Again, that is incredibly demeaning."

"Exam was remote but I had an office at my law firm to take it in. It didn't impact my experience."

"It was online i had to rent an office space at an additional expense and blow to my savings. I have no quiet or private area at home."

"No, it was held at a hotel"

"Online. I had to get new wifi equipment and provider"

"Remote. It was horrible due to being so afraid of moving too much to alert the remote proctor of any "potential" cheating plus, I'm a naturally fidgety person. Additionally, doing certain sections (e.g. MPT) are horrible via online only format."

"I not take the exam in a remote format if I had the option to do it over. The software was unable to verify my identity/face for both days of the exam and constantly being recorded made me feel extremely uncomfortable."

"Online. No problems. Just delayed five months"

"No it was in person"

"It was online/remote. I really don't know how it impacted my experience"

"Online. It was terrible. The questions the NCBE prepared were NOT question types that review courses prepared us for. I felt cheated and that the NCBE was doing it's job of fate-keeping unless you could afford THEIR bar review packages. Not being allowed scratch paper as a student who hand wrote exams for all 3 years of law school and being told by bar review instructors to chart things out was immensely frustrating. Additionally, where we were able to have some sort of scratch paper did not help in any real way because there was no copy and paste allowed for rules or tests, and the window where the information covered up the text box. So re-writing rules and tests took time. Having to read then write, as opposed to doing them at the same time, took time. I'm surprised i finished the essay/MPT portion"

"Yes. It made it a bit less stressful because I didn't have to worry about COVID."

"No, my exam was in person, but it took place in individual hotel rooms rather than one large room, which was a very interesting experience."

“It was remote and online. There was a lot of fear going because I had heard horror stories from other jurisdictions where some examiners couldn’t get in to the exam because of password issues. They also couldn’t get hold of Exemplify or Examsoft tech employees to get any assistance. Sadly, this meant that they had to defer this exam after having studied for it tremendously. So I was afraid that the same thing may happen to us. I mean there was no assurance and the The Supreme Court of [state] Bar admission board made us wave our rights indicating that it would not be their fault in the event of a technical impediment that prevents an examiner successfully taking and uploading the exam . Another issue was where to find a quiet place absent of noise and lol the restrictions the Bar Admissions board of [state] requested. I don’t know whether they truly didn’t care about us succeeding but I know it was difficult to get a place absent of noise and no books. I requested for a special accommodation as the Bar Admissions board told us to. I thought they would personally provide rooms for us to take the exam. But they responded and said that my college of law would reach out to me because my college of law has an accommodation. When they reached out, it was a subsidized hotel booking. Even though it was subsidized, I was unemployed. So I could not afford to book a hotel even if I wanted to. It was the Black Lawyers Association of [city] that helped me get a room at a local law firm to take the exam for free.”

“Yes. I was concerned about the innate racism of AI software from its inability to properly detect darker skin tones to the opaque nature of what will be considered to be cheating and whether that analysis will be impacted by the race of the applicant. I also struggled with finding a sufficiently quiet place in my home to take the exam.”

Yes. The remote format was not user friendly and made it difficult to take the exam. Also, my options of places to take the exam were limited, and not the best choices for doing well on the exam.”

“Online. Because I share a living space with my mother who works from home I had to find somewhere else to take the exam because her job requires her to talk on the phone. Any background noise could result in my exam being thrown out and my only other option was the take the exam on my bed. So I had to go to a relative’s house, while they were at work. It was an odd experience but it worked out okay. I didn’t care much for the software system itself. I was not confident in the system’s performance going into test day.”

“I completed the bar exam online, through ExamSoft. Once my law school authorized me to take the exam itself in one of their rooms, I was fine. I experienced no technical issues of any kind. The only downside was that the copy/ paste function did not work for me during the performance test, which ate time because I had to type statutes by hand. At any rate, this was the program functioning as intended, not a

technical glitch, so my exam experience was not appreciably affected by the online format.”

“Yes. It was terrible. Through all of law school we are taught to prepare for the exam a certain way and that was not how the exam was given. Not having access to scratch paper was ridiculous and the PT with no printed materials was infuriating. Just shameful that we had to be the beta testers for such an important test. The MBEs were not reflective of what we practiced either and to have to worry about scoring because of the reduced amount of questions was yet another pain point. Not to mention if the exam could be so easily altered, what really is it testing and who is it really protecting. Finally the video proctoring was the final straw. For me it was something constantly on my mind during the exam. Like “oops, I looked up. Is that gonna get me flagged.” The camera didn’t even recognize me most of the time when I logged in, so idk how it’s going to turn out.”

“Online. The online format was limiting without the ability to underline, highlight, or copy and paste text. Especially difficult on the MPT portion and the pock up window to read the file was adjustable but hid the answer portal to enter your response. A second monitor would have been useful but that was not allowed. In addition, not having a physical scrap paper to use for the MBE’s was a huge adjustment.”

“Yes. I had considerable anxiety leading up to the exam about getting flagged for things in my room. I completely rearranged my room to take the test. I had anxiety during the exam because I tend to look around a lot when I’m thinking and I couldn’t do that because we were supposed to look at the screen the entire time. I was also worried because my apartments gardener was outside using a weed whacked and I was worried that I would get flagged for that. I turned my ac off the entire time because I was worried about getting flagged for that.”

“I took the bar remotely in October. To be honest, I found the remote experience pretty painless and stress-free. The only thing I had an issue with was the requirement that one stay in the camera’s view. I was at the tail end of my first trimester when I took the exam, and for the three days prior I had been suffering from a constant need to urinate and intense, lie-in-a-pitch-dark-room-with-headphones-playing-white-noise migraines (no real pain medication while pregnant!). I was terrified that I would have to urinate during the exam or take a break to try and stave off a migraine. Before the exam started, I had a talk with the baby and asked her to please, please, please let me have four hours today and tomorrow to take this exam. Apparently she heard me, because other than a faint headache at the end of day one and a very desperate need to pee at the end of day two, everything went smoothly and I didn’t need to leave the camera view. I feel very,



very lucky about this though, and incredibly blessed to have such an accommodating baby.”

“Yes. I think it was an advantage doing it on the computer. The software features were helpful.”

“It was online. The rules surrounding administration of the exam were confusing. I have kids so I couldn’t take it at home, so I was stressed about finding a location that would meet the criteria. It was also anxiety-inducing not knowing what exactly would flag me. So I was maybe too conscious of my movements and where I looked instead of focusing on the exam.”

“Online. Definitely impacted it, because I was consistently worried about how I showed up on the camera. As I’m writing about the experience, it was the duality implicit in being a black man: I’m worried about completing my task-the test; but I’m also worried about how I’m showing up while completing that task, and if my facial expressions will be misconstrued. . .”

“It was online and the uncertainty of being unnecessarily flagged gave me a panic the day before the test.”

“It was given online, but I petitioned to take it in person due to not having the requisite computer; I was able to take it in person”

“Online, I had to find a location to take the exam because it would be feasible at home.”

“I took the remote exam. It was difficult because the MPT and MEE were very inconvenient with no extra time. Using the MPT was not very user friendly. I spent more time taking notes because the file packet wouldn’t save the last position. I couldn’t highlight the file packet either. The font remained blurry once zooming in. Overall, it was just very difficult to use my small laptop screen to spot issues, take notes, highlight, and type a coherent essay. We only had 1 month to adapt to the remote formate and some of the promised functions, such as the highlighting in the MPT, were not present.”

“Yes. I had unstable internet so I had to coordinate to use the home of a friend. By the time of the exam, I had already moved out of the state where I went to law school so my school was not an option.”

“My bar exam was given in an online/remote format which was different than I originally expected. As someone with a learning disability, I felt it put me at a disadvantage for such a difficult exam. Last, the virtual proctoring did not make for a comfortable test setting.”

**Q6: Did you feel supported by your law school during the bar study experience?**

28 (22.9%) of respondents replied “Yes.”

30 (24.6%) of respondents “No.”

64 (52.5%) of respondents did not respond.

**Q7: Did anyone from your law school explicitly acknowledge the impact of the pandemic, police brutality, and racism on your study experience?**

31 (25.4%) of respondents replied “Yes.”

27 (22.1%) of respondents “No.”

64 (52.5%) of respondents did not respond.

**Q8: What did you find most helpful for support and encouragement during your bar study experience?**

“I have a strong group of professors that reach out to me and support me, but I am the exception. Black students shouldn’t have to be exceptional to get the school to care about them. We should be able to be as mediocre as our white classmates and have the same experience they do.”

“I went to [law school] and each student was assigned a bar mentor and my mentor gave me essays and MPTs to do each week and it help me be accountable during the bar study process.”

“My classmates, especially the women of my school’s BLSA, were extremely supportive during our months of bar prep. This experience was extremely difficult but it felt more manageable when we were rooting for and supporting each other.”

“Mostly my fiancé, my friends and family and Professor [X]. she wasn’t my official bar prep mentor but I kind of forced myself into her schedule. She was the ONLY person from [law school] that made it a point to acknowledge everything else that was going on, especially for black people during this time. We created a study schedule, a study plan but she also made me feel like it was ok to have distractions and would randomly email me just to check in. We had conversations about this strange bar period and she helped me adjust my entire study plan when necessary without making me feel guilty for taking a weekend off. Yes it was very helpful to have someone to guide me through my studying but it was even more helpful to have someone that understood that I had a life outside of bar prep and took the time to help me balance that life with studying I think [law school] stopped emailing us around august, maybe sooner. We didn’t even get a good luck email from the deans.”

“My law school was there for us from Day One. They were instrumental in the fact that we did not completely fall apart”

“Just an open forum. I really appreciated it being acknowledged. It came from my bar prep director who also is a black woman so it felt very genuine. I thought the administration should have, but I was not surprised by the lack of acknowledgement.”

“It would be extremely helpful to have constant updates and maybe even informational virtual study sessions on how to best adapt the study routine to accommodate an online testing experience.”

“My professor personally checked on me and met with me weekly to help me sift through the bar materials.”

“My family”

“Family. Friends. Those who were also taking the test. Many of the accounts on Twitter that shared their experiences.”

“Not opening my inbox, going on trips into nature, smoking weed, reading books.”

"Fellow black law students at my school"

"Family/friends and Bar prep study forms."

"Friends and family reaching out to check on me. Other than that, I really did not feel supported at all, especially not by my law school which was very disappointing."

"I believe that certain persons on Twitter and even having @BarExamTracker doing updates, was helpful for some peace of mind."

"I did not find anything helpful or encouraging."

"Law school deans fighting for diploma privilege among us."

"I would eventually pass the bar, be admitted, and wreak havoc upon everyone that caused this horrible situation"

"While my law school did provide support in terms of extending its annual bar essay writing program, they didn't offer any additional support that was specifically to address hardships caused by the pandemic, the protests, and other events of this year. As a first-generation attorney, my family tried to be understanding but the fact of the matter is that they just couldn't relate. The one distant cousin I do have who's been an attorney for nearly 20 years was extremely tone deaf and only told me to keep my head in my books and forget about the pandemic, the protests, my health concerns, the mismanagement of the bar exam, etc. It's like she believed that learning the material would somehow resolve all my other concerns, but of course her only perspective on bar exam prep comes from her personal experience almost two decades ago when the issues of today didn't exist at current levels. Even some of my friends/classmates who also took this year's bar weren't helpful because their circumstances allowed them to insulate themselves from certain issues.

In reality, the only true support I found was in other bar takers who were vocal about their concerns for the bar exam and who fought for diploma privilege."

"My partner, who was also studying for the exam"

"Other students experiencing the same"

"Tiktok and other escapes"

"My family. Around July I felt completely neglected by school, honestly. There was little to no reaching out to check on graduates unless you had ties to the school in some way."

"Black professors at the law school."

"[Associate Dean at law school] at is an angel and exemplifies how students should be supported, in my opinion . . . I felt like during this marathon, we received several emails each week with bar exam information and supportive statements. What was most helpful was not being in the dark. There were so many bar changes, as a student trying to study, it was overwhelming trying to keep up with state bars.

Having information put me at ease to make the most informed decision for myself and my family.”

“Bar Facebook group”

“To create a weekly task for each day! It held me accountable, as well as my study partner! Creating this task every week helped me to accomplish things I needed to do! Made me feel less anxious!”

“Taking periodic days off to recharge”

“Nothing. My family told me just keep studying because more time would mean i might be able to understand it better. I studied from the middle of May until October and they ENCOURAGED me not to take a day off. My support and encouragement came from myself, telling myself that even with how bad I was mentally that i was in a better situation than others.”

“My friends and bar exam tracker.”

“I appreciated my family’s support, and I did appreciate the fact that the [law school’s] dean advocated on our behalf to the board of law examiners and reached out about the racial issues in the country.”

“Commiserating with other summer/fall 2020 bar takers”

“My mentors and family”

“Seeing posts from members of “law twitter” that acknowledge how crazy this exam period was, how unfair it was, and how it shouldn’t define us as future practitioners was comforting.”

“My school’s academic skills program spent time trying to deconstruct the regularly changing information we received from the State Bar of [state]. That was helpful, along with my school’s partnership with AdaptiBar.”

“Twitter. Bar exam tracker, the diploma privilege movement and some classmates. Family was good too but unless you’ve gone to law school or taken the bar exam, you don’t fully understand.”

“So while it (police brutality, unfair impact of covid) we were repeatedly told to block it out and focus on studying. I understand that we can’t be distracted but we are not robots and to watch the death toll rise everyday and manage finances without income is an insurmountable task and “just ignoring” it does not seem like sound advice and may not even qualify as support.”

“The United for Diploma Privilege Twitter fam and advocates. They inspired me so much. I also studied with a friend via Skype everyday for the entire month of September. We just sat there and silently studied separately.”

“It was very possibly the worst experience of my life, quite likely but not definitively outstripping watching my adored father die in extreme pain from pancreatic cancer five years ago. It’s kind of hard to talk about support and encouragement given this context—I think my school, my family, and my support network did their best, but it was

just an awful, awful time. As I mentioned, this was likely due in part to the fact that the final two months of study coincided with the first trimester of pregnancy for me, as well as the death of my father-in-law and the resulting loss of my main support (my husband) to grieving and funeral/estate arrangements on the other side of the ocean. Friends helped, the chatty barista at my coffee shop helped, study breaks in the park helped, Joe Patrice castigating the NCBE on Above-the-Law helped, Seamless and noise-cancelling headphones helped. It was still awful though.”

“Just having the understanding that I’ll be okay whether I pass or not. Jd is valued.”

“My own fear of financial ruin if I failed the bar and lost my job was the most motivating factor.”

“Setting my study schedule and sticking to it no matter what.”

“Personally, it was speaking to a professor that I had grown close to. She was awesome during this period and it was great to speak to her and see her growth in the area of minute-racial issues. She showed up to try to be her best self, and that really really meant a lot to me and will be a lesson that I will carry with me for the remainder of my life. Other than that, it was thinking about having put forth three years of my life, and really having put my life on hold for three years, and that a matter of months would not be enough for me to just throw three years’ work away.”

“To be honest I didn’t have much support during the Bar Exam. My teachers were nice but at the end of the day I was my biggest support.”

“Other bar takers on social media. Largely, other lawyers and state bars made me feel unwanted and unsure about entering a profession in which I am clearly not cared about.”

“Minority bar associations”

“The amazing people fighting for diploma privilege and other forms of advocacy. We created Facebook groups that encouraged us to continue studying even while we felt disrespected by the NCBE and BLEs.”

“My BLSA friends and my loved ones.”

“The constant Bar Study classes provided by the school. However, I felt the difficulty of the black experience was not fully appreciated, although it was acknowledged.”—