

2013

What Doesn't Kill You: Existential Luck, Postracial Racism, and The Subtle and Not So Subtle Ways the Academy Keeps Women of Color Out

Jennifer Lisa Vest

Follow this and additional works at: <https://digitalcommons.law.seattleu.edu/sjsj>

Recommended Citation

Vest, Jennifer Lisa (2013) "What Doesn't Kill You: Existential Luck, Postracial Racism, and The Subtle and Not So Subtle Ways the Academy Keeps Women of Color Out," *Seattle Journal for Social Justice*: Vol. 12 : Iss. 2 , Article 7.

Available at: <https://digitalcommons.law.seattleu.edu/sjsj/vol12/iss2/7>

This Article is brought to you for free and open access by the Student Publications and Programs at Seattle University School of Law Digital Commons. It has been accepted for inclusion in Seattle Journal for Social Justice by an authorized editor of Seattle University School of Law Digital Commons. For more information, please contact coteconor@seattleu.edu.

What Doesn't Kill You: Existential Luck, Postracial Racism, and The Subtle and Not So Subtle Ways the Academy Keeps Women of Color Out

Jennifer Lisa Vest, PhD*

“The University killed me. Don't let them do this to you.”

- Professor Barbara Christian

I. REFUSING TO BE KILLED

I was sitting on the curb, surrounded by cops, with my feet in the street when the ambulances arrived. The small Latina paramedic crouched down to take my pulse and blood pressure. She looked alarmed and signaled for the gurney. “I can walk,” I offered, embarrassed by my weakness. “Yes, but it's better if you don't,” she replied diplomatically. “Your vitals aren't good.” I lay down on the rolling bed while they strapped me in, thinking, “oh, no, not again.”

I was not a stranger to ambulances or trips to the hospital. I had had two heart attacks, various ischemic attacks, and four cardiac procedures over the preceding three years. But this time was different. This time, I was worried about more than dying...

In the 45 minutes before the paramedics arrived, I had been pulled over by one cop who called four more cops and a dog for backup. I had been

* I owe a special thanks to my colleague and good friend, Professor Kieu Linh Valverde, without whose encouragement and support, this article never would have been written. Thanks also are due to my sister Julia Lynn Vest, LCSW, who encouraged me and edited early drafts of this paper. Thank you also to Professor Carmen Gonzales, for insisting I tell my story.

called names, cussed at, threatened, manhandled, felt up, searched, and terrorized to such an extent that it provoked a cardiac event.¹ This had happened on the campus of the university where I was a philosophy professor. I had broken no laws and had committed no crimes. Instead, I made the mistake of staying late in my office to work on my tenure binder. I made the mistake of having brown skin, an ambiguous phenotype, an androgynous gender presentation, and a disability. I made the mistake of taking a job in central Florida. And I was paying for these mistakes.

The police are killing Black and Brown people every day. Oscar Grant, Trayvon Martin, Rekia Boyd, Jordan Davis, and Rodney King all taught us that.² What is less understood is the extent to which the Academy is also killing people of color: the extent to which it is sacrificing Women of Color in particular. In subtle and unsubtle ways, through microaggressive and macroaggressive forms—from the perverse hatreds of powerful individuals to the institutional structures of patriarchal racism, homophobia, and ableism—universities are killing women of color.

When the cops surrounded my car, placed their hands on their guns, and threatened to use force, I thought about Assata Shakur. When I opened the car door to step out and they grabbed me, I thought about Rodney King. When they started calling me names and telling me they were going to arrest me “no matter what,” I thought about Oscar Grant. I knew too much, had read too much, and had seen too much. I had been an activist all my life. I had seen protestors beaten, pepper-sprayed, and tazed. I had lived in the ghetto and seen Black and Brown men beaten by cops. I knew I wasn’t

¹ Ischemic Heart disease and Small Vessel Coronary Disease.

² Oscar Grant was a 22-year old Black college student shot in the back while handcuffed face down by Police In Oakland in 2009. Rekia Boyd, an unarmed 22-year-old black woman was killed by an off-duty police officer in Chicago while standing in a park in 2012. Jordan Davis, an unarmed 17-year old black teen, was killed by a white Floridian who did not like the music he was playing. Trayvon Martin, an unarmed 17-year old teen was killed by a white Hispanic man in Florida for “acting suspicious” in 2012. Rodney King, an unarmed black man, was beaten severely by four police officers on videotape in Los Angeles in 1990.

safe. I knew what they could do, what they could get away with, and even as I told myself, “no, that’s not going happen to me,” a part of me knew that it could. It was that part of me that was terrified.³

As I lay on the gurney watching the heart monitor beep, I thought about my car and considered the possibility that the cops might plant something in it if they had access to it all night while I was in the hospital (their threats indicated this was a real possibility). I thought, if I had a heart attack in jail, the guards might refuse me medical treatment and that going to jail entailed that very real risk. I felt the elephant getting comfortable in its familiar seat on my chest, and I willed my heart to get better. I thought about dying and about my family. I weighed heart attacks and dying against having them plant evidence in my car, charge me with a crime I did not commit, and the havoc that would wreak on the rest of my life . . . and I decided to take a risk.

“No,” I told the paramedic, “I cannot go to the hospital.” She scolded me, warning me of the dangers. But I already knew the dangers. There were many. I convinced her I knew what a heart attack felt like and this wasn’t one. She forced the cops to give me my nitroglycerin to take. I told her I felt better. I don’t know if she believed me, but she struck a compromise with me: she would make me stay in the ambulance until she saw improvement in my vitals.

I did not die that night nor did I go to jail. It was, in the words of one of the belligerent racist cops, “my lucky night.” I did not feel lucky. During the next six months of police retaliations, highly publicized assaults on my character, and being stalked by the press, I did not feel lucky. During the next six months of grievances, complaints, lawyers, and cardiac rehabilitation, and trauma therapy to recover, I did not feel lucky. During

³ On May 2, 1973, Black Panther activist Assata Shakur was pulled over by the New Jersey State Police, shot twice and then charged with murder of a police officer. See ASSATA: AN AUTOBIOGRAPHY (1999); RODNEY KING, THE RIOT WITHIN: MY JOURNEY FROM REBELLION TO REDEMPTION (2012).

the next three years of flashbacks, triggers, night terrors, and finally, the loss of my hard-won tenured professorship, I did not feel lucky. Besides, I knew what lucky looked like and who had existential luck.

My white colleagues who would never know what it was to be stopped and abused by campus police had existential luck. My nondisabled colleagues who would never know the terror of chest pain while cops confiscate your nitroglycerin, who would never struggle to get to class because of mobility issues, would never have to fight to get accommodations, had existential luck. My male colleagues, who would never have to worry about being touched inappropriately by police, or stalked by male students, had existential luck. My white colleagues who no matter how they dressed, what music they played, or what car they drove, would never know what it was like to have their existence on campus questioned, had existential luck. My European-descended students, who would never be discouraged from studying the intellectual traditions of their own people, who would never contend with widely held beliefs by those in a position to define disciplines that their people had no such traditions, they also had existential luck. They all possessed the one thing I did not.

Existential luck is the luck of being born into a society where one's physical markings and what those markings signify are linked to social standings that guarantee specific rights and privileges. Such privileges are those that one does not have to earn, privileges that are not in any way determined by one's choices, moral or otherwise. Among the privileges accorded to possessors of existential luck are the presumptive possession of innocence and an immunity from categorical attacks on one's existence, one's rights, or one's life. They could be attacked for what they did, and for what they said, but they would never be attacked for who they were, for their simple existence. Existential luck is abhorrent and morally repugnant, but it is also absurd.

My assault by the campus police, like so many other events in the life of my academic career, demonstrated that I was in possession of bad

existential luck. Working late at my office was a choice I made, as was taking a job in Florida. But my gender, my race, my sexuality, my skin color, my disability, and the physical markings that signified these identifying categories could not be said to be choices or mistakes. They were key components of my existence. They were not mistakes made by me. To have bad existential luck is to pay for the mistakes made by those with good existential luck.

Having bad existential luck does not mean that one's life is entirely predetermined, but it does mean it is over determined. I was mistreated both because I was brown and disabled and female and queer and middle class AND because the cops were white and male (or male-identified), and heterosexual, and able-bodied, and working class. Existential Luck is created in the context of racial and gender formations, institutionalized forms of body violence, homophobia, cultural hegemony, and racial and sexual contracts.⁴ Existential Luck explains the intersecting oppressions and privileges that groups and subgroups inhabit, and it explains the fate of women of color professors: Women of Color are over determined to fail or to leave or to die in the Academy. This needs to change.

II. POLICE BRUTALITY: RACE AND GENDER

Twenty years ago white cops beat up my big sister in rural Indiana. Right before they did, they asked her if she was King's daughter. Cops know better these days. We live in a Postracial society.

My victimization at the hands of the campus police occurred in the context of larger societal patterns of racist patriarchal violence directed specifically at Black, Latina, and Native American women. These women

⁴ CHARLES MILLS, *THE RACIAL CONTRACT* (1997); CAROLE PATEMAN, *THE SEXUAL CONTRACT* (1989); PATRICIA WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* (1991); Deborah K. King, *Multiple Jeopardy, Multiple Consciousness: The Context of a Black Feminist Ideology*, 14 *SIGNS* 42-72 (1988); PATRICIA H. COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT* (2000).

are race-gender profiled, subjected to police misconduct, and arrested and incarcerated in numbers disproportionate to their numbers in the general population. In particular, they are often singled out and suspected of drug-related crimes.⁵ A considerable amount of data exists regarding the tendency of police to racially profile women of color as “street-level drug mules” and drug users.⁶ Because of this race-gender profiling, stereotypes of Black and Brown women’s behaviors and propensities are employed to justify misconduct on the part of the police. According to Black feminist blogger, Charing Ball,

[W]omen who are likely to be viewed as ‘masculine’—including African-American, working-class and low-income women, who routinely are systematically devalued — ‘are consistently treated by police as potentially violent, predatory, or non-compliant regardless of their actual conduct or circumstances, no matter how old, young, disabled, small, or ill’ [They] are more likely to be subjected to abusive language . . . [to]

⁵ In New York, 91 percent of women sentenced to prison for drug crimes are Women of Color, although they make up just 32 percent of the state’s female population. THE COLOR OF VIOLENCE: INCITE ANTHOLOGY (INCITE! Women of Color Against Violence ed., 2006) [hereinafter INCITE].

⁶ ACLU & The Rights Working Group, *The Persistence of Racial and Ethnic Profiling In the United States: A Follow-Up Report to the U.N. Committee on the Elimination of Racial Discrimination*, ACLU (Aug. 2009), https://www.aclu.org/files/pdfs/human_rights/cerd_finalreport.pdf; See also ACLU, *Break the Chains*, & Brennan Center For Justice, *Caught in the Net: The Impact of Drug Policies on Women and Families* (2005), http://www.aclu.org/images/asset_upload_file431_23513.pdf [hereinafter *Break the Chains*]; LISA MAHER, *SEXED WORK: GENDER, RACE, AND RESISTANCE IN A BROOKLYN DRUG MARKET* (1998); See also Kareem Faheem, *The Moving Target: Profiles in Racism*, AMNESTY INT’L MAGAZINE, 2003; ANDREA RITCHIE, *LAW ENFORCEMENT VIOLENCE AGAINST WOMEN OF COLOR IN COLOR OF VIOLENCE: THE INCITE! ANTHOLOGY:INCITE! WOMEN OF COLOR AGAINST VIOLENCE* (2006); Amnesty International, *Stonewalled: Police Abuse and Misconduct Against Lesbian, Gay, Bisexual and Transgender People in the U.S.*, Amnesty Int’l, <http://www.amnesty.org/en/library/info/AMR51/122/2005> (last visited Mar. 9, 2014).

have their handcuffs tightened excessively and treated with greater physical harshness by law enforcement officers than [white] women.⁷

The ACLU has also found that, Native-American women are frequently racially profiled “as drug users, alcohol abusers, and as bad mothers.”⁸

Despite the large amount of exculpatory evidence at their disposal, the cops who stopped me decided I was a drug user and/or drug dealer. The fact that I was a middle-aged woman professor did not alter their preset views of me, nor did the fact that my license and registration were in order and free of points. Neither the fact that the confiscated prescription bottle of heart medication was clearly marked with my name, my doctor’s name, and the name of the pharmacy, nor the fact that he had called it in and (in his own words) “verified its authenticity” affected his prejudgment that I was a criminal. The first officer had 15 minutes (while waiting for backup) to look up my faculty stickers and thus to avail himself of the data available to him through the University Parking database. Neither the fact that I was employed at the university as a professor for six years, nor the fact that my office was close to where he had stopped me, nor the fact that I had never been ticketed on campus before, nor the fact that I had used a disabled parking permit for the last three years affected his determination that I was a

⁷ Charing Ball, *The Abuse of Power: Philly Cop Found Not Guilty in Punching Woman on Camera Proves that Police Brutality is Gender-less*, MADAME NOIRE (Mar. 4, 2013), <http://madamenoire.com/265042/the-abuse-of-power-philly-cop-found-not-guilty-in-punching-woman-on-camera-proves-that-police-brutality-is-gender-less/>. According to Incite, “Women of color are the fastest growing population of people being imprisoned for drug offenses — since 1986, the number of Women of Color in prison has increased 800%.” *The War on Drugs*, Incite, 1 (last visited Mar. 9, 2014), http://incite-national.org/sites/default/files/incite_files/resource_docs/9462_toolkitrevwarondrugs.pdf.

⁸ A 2000 US government General Accounting Office (GAO) study revealed that Women of Color—whether African-American, African, Latina, or from the Caribbean—are “frequently stereotyped by law enforcement agents as couriers in the international drug trade [and] . . . are disproportionately targeted for strip searches as part of border interdiction activities, even though they are less likely than white women to actually be transporting drugs.” Black women are targeted the most. Break the Chains, *supra* note 5, at 28; LUANA ROSS, *INVENTING THE SAVAGE: THE SOCIAL CONSTRUCTION OF NATIVE AMERICAN CRIMINALITY* 87, 89-90 (1998).

criminal and not where I belonged. Instead, this officer called four other officers and a K9 unit to investigate me for the possession of drugs.⁹ Exculpatory evidence is irrelevant if you are a woman of color suspected of carrying drugs.¹⁰

My case is not unique. It is part of a structural problem wherein women of color are targeted. The fact of my innocence was also not unique, for despite this excessive scrutiny, women of color are more likely than whites to be innocent of the crime. According to the US Government Accountability Office (GAO), Black women were “9 times more likely than White women who were US citizens to be x-rayed after being frisked or patted down . . . [even though] . . . on the basis of x-ray results, Black women who were US citizens were less than half as likely to be found carrying contraband as White women.” Similarly, Hispanic women . . . were 4 times more likely to be x-rayed than White women despite being 33 percent less likely to be found with contraband.¹¹

⁹ Incite, *Stop Law Enforcement Violence Toolkit*, INCITE, <http://www.incite-national.org/page/stop-law-enforcement-violence-toolkit> (last visited Mar. 9, 2014).

¹⁰ *Department of Justice Statistics Show Clear Pattern of Racial Profiling*, ACLU (Apr. 29, 2007), <https://www.aclu.org/racial-justice/departement-justice-statistics-show-clear-pattern-racial-profiling>:

The . . . Department of Justice report on racial profiling shows an alarming racial disparity in the rate at which motorists are searched by local law enforcement The report found that blacks and Hispanics were roughly three times as likely to be searched during a traffic stop, blacks were twice as likely to be arrested, and blacks were nearly four times as likely to experience the threat or use of force during interactions with the police . . . [and] while [they] were more likely than whites to be searched . . . they were less likely to be harboring contraband.

Id.

¹¹ *U.S. Customs Service: Better Targeting of Airline Passengers for Personal Searches Could Produce Better Results*, US GOV'T PRINTING OFFICE, <http://www.gpo.gov/fdsys/pkg/GAOREPORTS-GGD-00-38/html/GAOREPORTS-GGD-00-38.htm> (last visited Mar. 9, 2014); In a recent case demonstrating the prevalence of this profiling bias, two Black women in Texas were subjected to cavity searches by police for speeding. See Michael Zennie & Alex Greig, *Pictured: The Two Women Suing Police After They were Subjected to Humiliating Roadside Cavity Search as They Wore Only Their Bikinis*,

It was never clear what race the officers thought I was. It was only clear that they did not think I was white. Three of the four officers declined to fill out the race box in their reports about the incident. One officer identified me as “Hispanic” on one report and “Other” on another. The press identified me as Mixed-race. Of course, in a Postracial world, it is wise to pretend not to notice race. To avoid being accused of profiling, cops need simply fail to report race on tickets and reports. “Racially profiling? We didn’t even notice what race she was....” Except of course they don’t treat white women the way they treated me.

Online Commentary- local newspaper

“Is this the first mixed race woman to be stopped by the police?
What race is this mongrel anyway?”¹²

In the union grievance, I accused the campus police that stopped me, and the administrators who refused to investigate or discipline the officers, of discriminating against me on the basis of race, gender, sexuality, and disability. Despite filing this grievance, I did not receive justice. The publically-promised Citizen Review Board charged with investigating my formal written complaint of police abuse was never set up. An independent review of police misconduct never took place. ¹³Neither the police nor the university ever apologized for the abuse. Moreover, my department failed to

MAIL ONLINE (July 5, 2013), <http://www.dailymail.co.uk/news/article-2356618/Pictured-The-women-suing-police-unconstitutional-roadside-cavity-search.html>.

¹² See *White Male Police Officers Think They're Above the Law*, ONTD Political (Aug. 31, 2010), <http://ontd-political.livejournal.com/6869515.html#ixzz2diHEwVmt>. Comments section of a news story that has since been deleted. Comments reposted on a blog here: ONTD Political: <http://ontd-political.livejournal.com/6869515.html#ixzz2diHEwVmt>.

¹³ After I filed an official police complaint and after a considerable amount of press that attended the student protests demanding an investigation of the police, and in response to my request for one, the administration made a public promise to allow an independent Citizen’s Review Board to investigate my claims of police misconduct. The Board was to be run by an independent non-police third party, with the running a neutral a fair investigation of my complaint.

accommodate the well-documented medical disability that I suffered from as a direct result of the abuse.¹⁴

The police misconduct happened at the hands of not one, but five (or more) police officers. The incident was not the result of one misguided, poorly-trained, or bigoted officer. The police chief's reaction to my complaint was to call my house and tell me that he had a tall stack of complaints on his desk and that he rarely had time to concern himself with them. He told me I was lucky he took the time to call me. His officers were allowed to retaliate against me—calling my house and e-mailing me every day, demanding that I come “down to the station for questioning” AFTER I filed a complaint. The police department opened a retroactive investigation against me in response to my filing of a police complaint. The university administrators did not move swiftly enough to address the misconduct. They repeatedly postponed meetings and hearings. They refused to allow an independent external investigation of the police. What the collusion and complicity of so many actors (from the police chief to the President) proved was that the problem was systemic. Unfortunately, this outcome was also not unique. Nationally, “the overwhelming majority of instances of police brutality involve a victim of African-American or Latino heritage and a white officer, and that more often than not, the victim received no form of justice while the accused officer received little to no punishment whatsoever.”¹⁵

Police assaults on women of color, especially queer and gay women, and the disabled, are indicative of the gendered, ablest patriarchal racist structure within which women of color (faculty members or not) must operate. Any attempt to understand the oppression of women through a

¹⁴ Three different doctors filled out detailed medical leave forms documenting the physical and psychological damages I incurred as a result of the abuse. I suffered from an increase in ischemic heart disease symptoms (chest pain, shortness of breath) and was diagnosed with PTSD.

¹⁵ Kim M. Lersch & Joe R. Feagin, *Violent Police-Citizen Encounters: an Analysis of Major Newspaper Accounts*, 22 *CRITICAL SOCIOLOGY* 29-49 (1996).

single analytical lens would be inadequate. Women of color are strip-searched, frisked, and sexually assaulted in addition to being frisked and physically assaulted like men of color. Women of color, who are queer, have experiences that cannot be explained simply by racial analyses or by discourses on homophobia. A “National Report on Hate Violence Against Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Communities” which documented 2,016 “incidents of anti-LGBTQ violence in 2012,” found that “LGBTQ people of color were 1.82 times as likely to experience physical violence compared to white LGBTQ people.¹⁶ The report also found that “transgender people were 1.67 times as likely to experience threats and intimidation compared to LGBTQ non-transgender survivors and victims.¹⁷“ Transgender women, in particular, face the most discrimination. The report found that, “transgender women were 2.90 times as likely to experience police violence compared to overall people reporting violence, [and that] transgender women were 2.71 times as likely to experience physical violence by the police compared to overall people reporting violence.”¹⁸ These reports mirror a larger trend of the disproportionate targeting of people of color and transgender people. As if this were not bad enough, the report also found that many of the LGBTQ of color, who were mistreated by the police, were disabled. A woman of color who is queer is seen as violent and as such her frailties—in the form of disabilities—are invisible beneath the gendered/raced stereotypes through which she is seen.¹⁹

¹⁶ The National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender, Queer and HIV-Affected Hate Violence In 2012*, NCAVP, http://www.avp.org/storage/documents/ncavp_2012_hvreport_final.pdf (last visited Mar. 11, 2014) [hereinafter National Coalition].

¹⁷ *See id.*

¹⁸ *Id.* ANDREA J. RITCHIE, VIOLENCE EVERY DAY: POLICE BRUTALITY AND RACIAL PROFILING AGAINST WOMEN, GIRLS, AND TRANS PEOPLE OF COLOR 138-56 (2014); *See* INCITE, *supra* note 5.

¹⁹ In 2012, 40 percent of survivors and victims reported having a disability. *See* National Coalition, *supra* note 16. According to Andrea Ritchie,

On the night in question, the cops were not sure what gender I was. One thought I was a woman and one thought I was a man. While I am not transgender, I am a gender-bender-I do not conform to the gender binaries of mainstream society. The female officer who searched me felt my breasts up at length while accusing me of having guns, knives and drugs in my B-cup wireless sports-bra. I felt like she was searching more for my breasts than for contraband. While I stood in the street with my hands raised five officers and a dog searched my computer bag, and the interior and trunk of

Individuals perceived to be transgressing racialized gender norms, or who are framed within gendered racial stereotypes, are more frequently subjected to verbal abuse, invasive searches, and use of excessive force during encounters with police; are more likely to suffer abuse while in police custody; and are often denied protection by law enforcement when crimes are committed against them. The interactions of transgender women, often perceived as the ‘ultimate’ gender transgressors, with law enforcement are generally marked by insistence on gender conformity and punishment for failure to ‘comply,’ including harassment, verbal abuse, and physical violence at the hands of police, often based on perceptions that they are fraudulent, deceitful, violent, or mentally unstable because of their perceived gender disjuncture. Women framed as “masculine”—including African-American women, who are routinely ‘masculinized’ through systemic racial stereotypes—are consistently treated by police as potentially violent, predatory, or noncompliant regardless of their actual conduct or circumstances, no matter how old. Young, disabled, small, or ill.

See RICHIE, *supra* note 18, at 138-56, 143. The testimony of raced and gendered others as to the brutality of the police is bolstered by the testimony of emergency room physicians. J.S. Ford, *Emergency Physicians and Police Brutality*, 26 EMERGENCY MED. J. 761 (2009). In the following study, the following was discovered:

Of 393 emergency physicians surveyed, 315 (80.2%) responded. Of the respondents, 99.8% (95% CI 98.2% to 100.0%) believed excessive use of force actually occurs and 97.8% (95% CI 95.5% to 99.1%) replied that they had managed patients with suspected excessive use of force. These incidents were not reported by 71.2% (95% CI 65.6% to 76.4%) of respondents, 96.5% (95% CI 93.8% to 98.2%) had no departmental policies and 93.7% (95% CI 90.4% to 96.1%) had not received training in the management of these cases.

H.R. Hutson, D. Anglin, P. Rice, D.N. Kyriacou, M. Guirguis & J. Strote, *Excessive Use of Force by Police: A Survey of Academic Emergency Physicians*, 26 EMERGENCY MED. J. 20-22 (2009).

PRESUMED INCOMPETENT

car. Despite the fact that they found nothing but prescription heart medications, books, and papers, their accusations escalated from accusing me of possessing drugs to possessing guns and knives. They repeatedly told me they were “taking me down” that they “got me” and that “no matter what” they were arresting me for drugs and that I should just confess so they could “go easier on” me.

A few minutes after the humiliating body-length feel down of my body (that went from my scalp to the tips of my toes), they called for “transport of a female suspect.” I began to develop chest pain and weakness, standard symptoms of ischemia. The humiliation of the body search, after all of the yelling and threats, and after standing in the 90 degree heat had been too much for my heart. I asked if I could take my nitroglycerin and explained that I always kept it nearby in case I developed symptoms such as these. They refused. The chest pain intensified. I asked again. I tried to explain ischemic heart disease to them. After a prolonged discussion among the five officers present, they agreed to call an ambulance. Although my license clearly showed that I had two feminine names and my gender was marked on my license as female, and although I had already had my breasts searched at length by a female cop, the officer who called for the ambulance informed the dispatcher that he needed an ambulance for “a man claiming to have chest pain.”

Neither my clothing, my mannerisms, nor my body language conformed to the strict gender binaries of Central Florida society and fashion. Although I was not wearing my usual suit and tie the night the cops stopped me, I was wearing a men’s dress linen shirt, non-gendered linen pants. During the six years that I resided in Florida, my androgyny had been an issue for many a Floridian. For others it was not so much a problem as it was simply proof that I was a male. I had frequently been called “sir” in stores and other businesses. I had had students complain about my wearing ties to class and “dressing like a man.” Being perceived as challenging gender norms is risky business in a patriarchal society that relies upon gender binaries to

control women's bodies and punish gender nonconformists. In Central Florida, it proved life-threatening.

A month after my victimization by the police I submitted my tenure binder for review. Nine months later, I received a letter notifying me I had earned tenure and promotion. It was an achievement that no longer felt very important against the backdrop of what I was still dealing with—recurrent flashbacks, nightmares, sleeplessness, and a near constant feeling of terror. I suffered from Post Traumatic Stress Disorder (PTSD), and felt afraid to be on campus.²⁰ I was paying students to drive me on and off campus. A selected contingent of students followed me everywhere where I went to serve as my body guards on campus. The officers who had harmed me and who had violated my rights still roamed the campus unrestrained. I was a shadow of my former self. A high-level university official had publically proclaimed that nothing I said was true. My reputation as a morally upright role model for youth was tarnished. The colleagues in my department no longer spoke to me. The police who mistreated me had not been disciplined; they had not received any additional training. They would do it again.

The semester after I got tenure I went on unpaid medical leave, left the state to escape the triggering environment and finish writing my Philosophy book. I finished the book, but I never returned to school.

Online Commentary

Aug. 30, 2010 at 6:10 pm

“The prof. was probably being insubordinate and unruly. Philosophy is a joke anyway.”²¹

²⁰ Post-Traumatic Stress Disorder is a psychological disorder resulting from trauma, defined in the Diagnostic and Statistical Manual of Mental Disorders(DSM) http://www.ptsd.va.gov/professional/PTSD-overview/dsm5_criteria_ptsd.asp.

²¹ See Kevin Wolkenfeld, *UCF Police Officers Under Investigation After Professor Claims Racial Profiling*, Knight News (Aug. 30, 2010, 12:37 PM), <http://knightnews.com/2010/08/ucf-police-officers-under-investigation-after-professor-claims-racial-profiling/comment-page-1/#comment-18349> (A person commenting on the incident involving the campus police).

Although some will see my case as an extreme one, research would indicate that the police mistreats many women like me. What is important about my case is not that I was mistreated, but rather that the macroaggression of police violence is part of a continuum of racist homophobic patriarchal violence that all women of color experience on various levels.²² Women of Color professors experience macroaggressions as serious assaults on their physical safety while also enduring microassaults in the profession. The end result is that women of color often leave the university or are forced out. They experience chronic or life-threatening illnesses, become disabled, and sometimes they die.

My dissertation advisor, Professor Barbara Christian, a Black feminist literary scholar, while on her deathbed, told her mentees, that the University had killed her. She cautioned us not to let it do the same to us. Another one of my professors, Latina Feminist scholar Norma Alarcon, was forced to early retire due to medical disability brought on by stress. Viola Cordova, one of the founders of Academic Native American Philosophy, and an important mentor for me as a Native philosopher, died in her fifties of ischemic stroke after a long stressful career working in untenured positions at numerous universities where she was marginalized. The Academy is killing women of color.²³

²² While it is true that class has a mitigating influence on sexism and other oppressions for white people, Women of Color find that much of the oppression they face transcends class lines. For example, according to a Kaiser Family Foundation study, "Women of Color . . . are disproportionately burdened by poor health outcomes and have high incidence and mortality rates for diseases like cancer, heart disease, diabetes, and stroke, regardless of their socioeconomic status or highest degree earned (2012 *Employer Health Benefits Survey*, KAISER FAMILY FOUNDATION (Sept. 11, 2012), <http://kff.org/private-insurance/report/employer-health-benefits-2012-annual-survey/>. Kelly Mack, *Diversifying STEM Faculty: Bridging Individual and Collective Concerns*, 41 ASSOC. AMER. COLLEGES AND UNIVERSITIES (2012).

²³ See Kristie Dotson, *Tracking Epistemic Violence, Tracking Practices Of Silencing*, 26 HYPATIA 236 (2011) (examples of accounts of how Women of Color are being impacted in Philosophy); See also Kristie Dotson, *Concrete Flowers: Contemplating the Profession of Philosophy*, 26 HYPATIA 403 (2011); Kathryn T. Gines, *Being a Black Woman Philosopher: Reflections on Founding the Collegium of Black Women*

III. TALKING WITHOUT WALKING: WHAT'S WRONG WITH DIVERSITY?

What about diversity? Universities will point to their diversity programs. They will point to their recruitment of faculty of color, and they will say if the faculty of color are dying or failing to succeed they just do not have what it takes to succeed. It is easier to blame the victim than to change the system. Universities are rarely willing to examine the role they play in this destruction, and they use the existence of diversity programs as a screen behind which they can hide their apathy and inaction. As a result, in cases where women of color professors transcend stereotypes, they will be bullied and harassed into states of physical and mental collapse such that their physical demise will ensure that they cannot retain the jobs that, after all, really do not belong to them. You can't enjoy the fruits of tenure when you're dead.

Diversity is a word that does not offend, does not highlight inequality, does not refer to historical injustices, or point the finger or lay blame. diversity has a certain neutrality about it that makes it palatable. diversity training does not acknowledge or address existential luck. It is for this reason that universities still have diversity programs even if they have abandoned Affirmative Action. Talk of diversity welcomes an avoidance of discussions on racism, sexism, power and justice, oppression, domination, colonialism, slavery, homophobia, or hate crimes. It does not require institutional change. It does not explain or address racial profiling or police brutality. But it is precisely because diversity allows us to avoid both talk and action on these crucial issues that it fails not only to do the good it seeks, but can also cause harm. Diversity programs do not currently constitute a component of an institutional ethics: thus they fail to take on the moral repugnancy of existential luck.

Philosophers, 26 HYPATIA 429 (2011); George Yancy, *Situated Black Women's Voices in/on the Profession of Philosophy*, 23 HYPATIA 155 (2008).

In the past, a variety of strategies were employed by institutions to address inequalities in the Academy, including Affirmative Action, Equal Opportunity programs, and Diversity programs. In 1964, Congress passed the Civil Rights Act and established the Equal Employment Opportunity Commission (EEOC) to enforce the law. Section 706(g) of Title VII specified that a court might order an organization to adopt “such Affirmative Action as may be appropriate” as both punishment and correction for a finding of discrimination.²⁴ Soon after the Civil Rights Act went into effect. President Lyndon Johnson signed Executive Order 11246 which extended the implementation of Title VII so that it could be applied proactively in in advance of specific documented discrimination. “The order mandated that the Federal government and all its contractors take Affirmative Actions to ensure fairness within their organizations.”²⁵ At first, the order was limited to considerations of race, color, national origin, and religion; but in 1967, it was extended to include sex. Later, the regulations came to include differently-abled persons, disabled veterans, and veterans of Vietnam.”²⁶

As a result of the 1978 Bakke case and numerous judicial and legal challenges over the years, most schools today do not actively employ Affirmative Action policies. Although white people have been the primary beneficiaries of Affirmative Action, much of the anti-Affirmative Action rhetoric has been racial and much of the animosity engendered by AA programs has been directed toward racial and ethnic minorities. Racial animosity- often directed at Blacks- fueled the dismantling of Affirmative Action, despite the fact that its primary impact served as a corrective for gender and disability discrimination, not racial discrimination.

²⁴ SUSAN D. CLAYTON & FAYE J. CROSBY, JUSTICE, GENDER, AND AFFIRMATIVE ACTION (1992).

²⁵ F.A. Holloway, *What is affirmative action?*, in AFFIRMATIVE ACTION IN PERSPECTIVE 9-19 (Faye J. Crosby, & F.A. Blanchard eds., 1989).

²⁶ Faye J. Crosby, Faye, *Understanding Affirmative Action*, 15 BASIC & APPLIED SOCIAL PSYCHOLOGY 13-41 (1994).

Despite the “reverse discrimination” rhetoric, during the battle to dismantle Affirmative Action in Washington, “The Washington State Department of Personnel [revealed] that 59.6 percent of participants were white women and 18.7 percent were Vietnam-era veterans who were white males. Of the 21.7 percent classified as people of color, less than 7 percent were African-American.”²⁷ Similarly, a nationwide analysis by the Department of Labor found “that white women are the primary beneficiaries of Affirmative Action.”²⁸

The elimination of Affirmative Action and its replacement with diversity has led to a flattening of the discourse, a silencing of explicit calls for justice, and a relinquishment of any sustained ethical engagement with the historical and contemporary ubiquity of racism, sexism, and intersectional oppression in American culture. We do not need diversity rhetoric. We need commitments to ending discrimination and oppression articulated as ethical concerns of educational institutions. We need institutional commitments to the encouragement and development of intersectional analyses of institutional racist patriarchal heteronormative oppression of women, men of color, queers, and the differently-abled.

There is no evidence to suggest that the creation of university hiring and campus climate policies that seek to “increase diversity” and variety in the university has decreased forms of oppression on campuses. In an article published in the *Journal of Social Philosophy* in 2010, Daniel Kelly and his colleagues found that neither teaching people about race, nor placing persons in close proximity with diverse others had a substantial impact on changing racist views. They found instead that racism could accommodate

²⁷ Blair S. Walker, *States Under New Affirmative Action Attack*, THE PEW CHARITABLE TRUSTS (Apr. 19, 1999), <http://www.pewstates.org/projects/stateline/headlines/states-under-new-affirmative-action-attack-85899391804>.

²⁸ THE AFRICAN AMERICAN POLICY FORUM, FOCUS ON AFFIRMATIVE ACTION: 13 MYTHS ABOUT AFFIRMATIVE ACTION, *available at* <http://aapf.org/wp-content/uploads/2013/01/Affirmative-Action-Primer-Focus-on-Affirmative-Action.pdf> (last visited Feb. 13, 2014).

encounters with contradicting evidence. From a review of psychological studies they discovered that “[p]eople will be disposed to develop counter-explanations to keep the views they are motivated to have, and question the strength and viability of evidence against them. As a result, it becomes unlikely that the racial beliefs and stereotypes that justify those views will be easily undermined.”²⁹ Without explicit dialogue and action on ending oppression and privilege, diversity programs cannot change racist, sexist, homophobic, and ableist beliefs and practices and they will not change existential luck. Because of the persistence of racism, in its gendered, ableist, and heterosexist forms, diversity programs cannot substitute for anti-racist, anti-sexist, or anti-homophobic social justice programs.

IV. HAVING THEIR CAKE AND EATING YOU TOO: DIVERSITY HIRING

Many Women of Color are hired as part of diversity hiring initiatives, and this fact often contributes to the discrimination and harassment they face. Because of *racist cognitive dissonance*, many white, male, and able-bodied faculty members can simultaneously argue for diversity hiring while believing that diversity comes at a cost, that hiring non-white, non-male, or disabled faculty leads to lower standards, and that diversity, like affirmative action, is code for special treatment. In this way, racist/sexist/ableist/heterosexist cognitive dissonance allows faculty to promote diversity hiring while maintaining racist, sexist, ableist, and homophobic views about the presumed inferior abilities of the colleagues they hired.

²⁹ Daniel Kelly, Luc Faucher & Edouard Machery, *Getting Rid of Racism: Assessing Three Proposals in Light of Psychological Evidence*, 41 (3) J. SOC. PHIL. 293-322, 299, available at <http://web.ics.purdue.edu/~drkelly/KellyFaucherMacheryGettingRidRacism.pdf>. They argue that dissemination hypothesis like that proposed by Naomi Zack will not eliminate racism. *Id.*

According to Educational Administrator Faye Crosby, people find it easier to think special treatment is in place than to confront the reality and ugliness of injustice. She writes the following:

Rather than recognize that an entire social structure needs revamping, people may respond to a confrontation of inequalities by blaming the victims of the inequalities. A discussion of racial issues in which inequalities are made very salient may, thus, lead to some people taking psychological refuge in the (mis)perception of unequal abilities. Psychologically, it is easier to make attributions about people than about situations, and it is easier to locate causality in humans than in systems. Because Affirmative Action is a policy that singles out gender and ethnicity for special attention, because the perception of injustice is uncomfortable, and because people are prone to commit the fundamental attribution error, it is unfortunately very easy to fall into the trap of mistaking Affirmative Action for a policy that singles out ethnic minorities and White women for special treatment.³⁰

University diversity hiring programs become the perfect instruments for allowing racist, sexist, homophobic, and ableist faculty to have their anti-discrimination cake while simultaneously consuming and destroying the best and the brightest women of color scholars in the country.

V. EQUAL OPPORTUNITY TO COMPLAIN: JUST MORE AMMUNITION FOR THE RACISTS

Diversity is not the only institutional program that hypocritically supports structural oppression in the Academy. University-run “Equal Opportunity

³⁰ Faye J. Crosby, Aarti Iyer & Sirinda Sincharoen, *Understanding Affirmative Action*, 15 BASIC & APPLIED SOC. PSYCHOL. 13, 20 (1994). Also, one major problem with the policy of Affirmative Action, in short, is that it constitutes a significant psychological challenge to the basic human conceit of believing that one has been the originator of one’s own good fortune. *Id.* at 35; See LUZ DEL ALBA ACEVEDO, TELLING TO LIVE: LATINA FEMINIST TESTIMONIOS (2001).

Programs” also aid and abet racists and other oppressors by shifting the focus from addressing structural oppression to a focus on bias. This move

[P]laces the locus of attention at the individual level whereas Affirmative Action place[ed] it at the systems level. In the assumptive world of Equal Opportunity policies, discrimination occurs because an individual . . . makes unjustified or unfair distinctions between other individuals In the assumptive world of Affirmative Action, discrimination can occur in the absence of ill will or prejudice on the part of any individual currently in the organization.”³¹

Thus, while “Affirmative Action . . . does not require individuals to come forward and protest on their own behalf,” Equal Opportunity programs do.³² The onus is on the recipient of unfair treatment to seek to change it. Victims of oppression find themselves in the unlucky position of having to convince members of the dominant communities that they have oppressed them. But *Diversity Racists*³³ will view such complaints as just another instance of the unqualified colleague wanting “special treatment.” To accuse someone of racism in a “postracial” world renders one vulnerable to being labeled a racist.

VI. THE DECLINING SIGNIFICANCE OF RACE OR . . . POSTRACIAL RACISM

The fate of women of color professors is also determined by the way in which racism has evolved. One of the “proofs” offered for the declining significance of race, and the diminishing of racism, is the claim that we no longer see racism expressed in its more explicit, traditional forms. We

³¹ Crosby, *supra* note 26, at 19.

³² *Id.* at 26.

³³ *Diversity Racists* are Proponents of Diversity hiring who maintain their racist views and use their support of diversity to buttress their racist beliefs and actions. Diversity sexists, homophobes, and ableists also exist.

rarely have public lynchings.³⁴ Racial epithets are seldom heard in public discourse. Racist employees, realtors, and teachers no longer provide explicitly-stated racist reasons for discriminatory behavior. People claim we live in a “postracial” society where being “colorblind” is the only way to prove one is not a racist. In such a society, any talk of race becomes taboo. Nobody admits bias. Everyone claims to have evolved past such baseness. But this postracial society we live in is not post-racist. Racism has merely morphed. It has become outwardly milder, while remaining inwardly, interpersonally, and structurally destructive.

Women of Color professors face what modern race theorists call *modern racism*,³⁵ *symbolic racism*,³⁶ or *aversive racism*.³⁷ These new theories “emphasize that racism: (a) is more likely than ever to be disguised and covert; and (b) has evolved from the ‘old fashioned’ form, in which overt racial hatred and bigotry is consciously and publicly displayed, to a more

³⁴ One notable exception is found in the dragging death of James Byrd Jr. by two white supremacists in Jasper, Texas in 1998.

³⁵ J.B. McConahay, *Modern racism, ambivalence, and the Modern Racism Scale*, in PREJUDICE, DISCRIMINATION AND RACISM 91 (John F. Dovidio & Samuel L. Gaertner eds., 1986). Daniel Solórzano, Miguel Ceja, & Tara Yosso, *Critical Race Theory, Racial Microaggressions, and Campus Racial Climate: The Experiences of African American College Students*, J. NEGRO EDUC. 69 (2000). John F. Dovidio, Kerry Kawakami & Samuel L. Gaertner, *Implicit and Explicit Prejudice and Interracial Interaction*, J. PERSONALITY & SOC. PSYCHOL. 82, 62-68 (2002).

³⁶ Sears, D. O., *Symbolic racism*, in ELIMINATING RACISM: PROFILES IN CONTROVERSY (Phyllis A. Katz & Dalmas Arnold Taylor eds., 1988) 53–84. David Sears & P.J. Henry, *Over Thirty Years Later: A Contemporary Look at Symbolic Racism*, 37 ADVANCES IN EXPERIMENTAL SOCIAL PSYCHOL. 95 (2005). D. Ramona Bobocel, Leanne S. Son Hing, Liane M. Davey, David J. Stanley & Mark P. Zanna, *Justice-based opposition to social policies: Is it genuine?*, 75 J. PERSONALITY & SOC. PSYCHOL. 653 (1998), available at http://www.uky.edu/AS/PoliSci/Peffley/pdf/Sniderman/Bobocel.etal.1998.JPSP.Justice-Based%20Opposition%20to%20Social%20Policies_Is%20It%20Genuine.pdf.

³⁷ John F. Dovidio & Samuel L. Gaertner, *Aversive racism and selection decisions: 1989-1999*, 11 PSYCHOL. SCI. 315 (2000). John F. Dovidio, Samuel L. Gaertner, Kerry Kawakami & Gordon Hodson, *Why can't we all just get along? Interpersonal biases and interracial distrust*, 8 CULTURAL DIVERSITY & ETHNIC MINORITY PSYCHOL. 88 (2002).

ambiguous and nebulous form.”³⁸ This new racism is expressed through microaggressions.

Psychologist Chester Pierce, who coined the term “racial microaggression,” defines these expressions as “subtle, stunning, often automatic, and nonverbal exchanges, which are ‘put downs’” directed toward people of color often unconsciously.³⁹ These new forms of racism characterize both institutional and individual behaviors,⁴⁰ and they occur across class lines; people of color, regardless of education, income, and status, experience them.⁴¹

Academics, armed with intellectual resources, employ microaggressions, insults, and assaults in a sophisticated way in their exercise of power. Women of color professors, instead of having to contend with explicit

³⁸ Derald Wing Sue, Christina M. Capodilupo, Gina C. Torino, Jennifer M. Bucceri, Aisha M. B. Holder, Kevin L. Nadal & Marta Esquilin, *Racial Microaggressions in Everyday Life: Implications for Clinical Practice*, AM. PSYCHOL. 271 (2007), available at <http://olc.edu/~jolson/socialwork/OnlineLibrary/microaggression%20article.pdf>.

³⁹ Chester Pierce, Jean Carew, Diane Pierce-Gonzalez & Deborah Willis, *An Experiment in Racism: TV Commercials*, in TELEVISION AND EDUCATION (C. Pierce ed., 1977) 62, 66. Ron McGee, *Unintended Consequences: The Impact of Microaggressions on public relations*, PR TACTICS (2008). Wing Sue, *supra* note 33, at 272. See also Paul Gorsk, *Language of Closet Racism: An Illustration*, <http://www.edchange.org/multi-cultural/papers/langofracism2.html> (last visited Feb. 14, 2014). David Solorzano, Miguel Ceja & Tara Yosso, *Critical Race Theory, Racial Microaggressions and Campus Racial Climate: The Experiences of African American College Students*, 60 J. NEGRO EDUC., 60 (2000). David Solorzano, *Critical Race Theory, Racial and Gender Microaggressions, and the Experiences of Chicana and Chicano Scholars*, 11 INT’L J. QUALITATIVE STUD. EDUC. 121 (1998).

⁴⁰ According to the 2007 study by social workers, “In recent history, racism in North America has undergone a transformation, especially after the post–civil rights era when the conscious democratic belief in equality for groups of color directly clashed with the long history of racism in the society.” They explain further that, “They are not limited to human encounters alone but may also be environmental in nature.” Wing Sue, *supra* note 38, at 273.

⁴¹ JOE R. FEAGIN & MELVIN P. SIKES, *LIVING WITH RACISM: THE BLACK MIDDLE-CLASS EXPERIENCE* (1994). Derald Wing Sue, Jennifer Bucceri, Annie I. Lin, Kevin L. Nadal & Gina C. Torino, *Racial Microaggressions and the Asian American Experience*, 1 ASIAN AM. J. PSYCHOL. 88-101 (2009). David R. Williams, Harold W. Neighbors & James S. Jackson, *Racial/Ethnic Discrimination and Health: Findings from Community Studies*, 93 AM. J. PUB. HEALTH, 200–08 (2003).

racist/sexist comments about their assumed inferiority, must deal with a whole complex of microaggressive behavior, which amounts to bullying tactics and harassment. Postracial racist language is also coded such that while the victims are never permitted the possibility of not knowing how to break the code, the code protects the oppressors from accountability. My encounter with campus police offers the perfect example. In the first fifteen minutes of the encounter, campus police called me a crack head, accused me of smoking pot, of driving someone else's car; of being "up to something"; of "having something to hide"; of "having something wrong with my driver's license"; and of "acting guilty." At no point did they call me a spic or a nigg**, or a redskin. Yet their behavior was indeed racist.

Online Commentary- Student Newspaper

Chantelle Sept. 1, 2010 at 3:06 pm

A name is not simply a name. Some labels carry power and shame. . . . So They could have called her coon, savage, picanniny, or jigaboo. They could have called her nigger. Instead, they called her 'crack head'. 'Crack head' is more than a name: it is a derogatory slur that has explicit racial connotations in the context of American culture beginning in the 1980s⁴²

A. True Dialogue

During my grievance meeting held to discuss my complaint against the university the following conversation took place:

INTERROGATOR (WHITE WOMAN): What makes you think the officers treated you that way because of race?

ME: uhhhh... Why else would they treat me that way?

INTERROGATOR: But how is it racist?

⁴² Kevin Wolkenfeld, *UCF Police Officers under Investigation after Professor Claims Racial Profiling*, KNIGHTNEWS (Aug. 30, 2010, 12:37 PM), <http://knightnews.com/2010/08/ucf-police-officers-under-investigation-after-professor-claims-racial-profiling/>.

ME: [B]ecause there was no rational basis upon which to treat me that way. I had committed no crime, had broken no laws, had no weapons.

INTERROGATOR: (persistent) Did the officers use any racial slurs while they were detaining you?

ME: The whole event was a racial slur

INTERROGATOR: Well, can you explain what you mean?

ME: No. [turn to colleague, a Black male professor from another department who came to the meeting to offer support, and ask him, Dr. X can you please tell some stories from your own life about police harassment to give the administrator some context. I am too upset...]

DR. X: The first time I was stopped by the police I was 11 years old and carrying a violin, which they assumed I had stolen. I play the violin . . . n.....[tells several stories covering his 40+ lifespan]

INTERROGATOR: I don't see how any of those incidents can be shown to be racist. Or how they relate to Dr. Vest. Please explain, Dr. Vest, how what the cops did to you was racist.

ME: I don't think I can explain racism to you, a person who has never experienced it and who does not believe it exists.

MY UNION REP: Did you see the national report by the ACLU on racial profiling by the police clearly showing a historical pattern for this type of behavior that we submitted with the grievance?

INTERROGATOR: I need Dr. Vest to answer my question.

ME: [silence]

INTERROGATOR: [Red now with anger and glaring at me] Well, we have no reason to think this was racially motivated.

As one of my white female colleagues pointed out when she first heard my story, "That would never happen to me, or to any white woman professor." Similarly, when a disabled gay white-male administrator heard my story he also said, that would never happen to him or to any white-male

professor or administrator on campus. “They violated your rights under ADA [The Americans with Disabilities Act],” he insisted. “They can’t do that!”

Bad existential luck can neither be mitigated nor eliminated without an understanding of structural *Postracial racism*. Because institutional discrimination exists, and individuals insist they are postracial, initiatives like cultural competency, diversity hiring, or equal opportunity occur in a hostile context. “Workplace discrimination,” explains ethicist Michael Brannigan, “is woven into the fabric of organizational culture where perspective, attitudes, and practices are tainted by stereotyping, favoritism, biased performance evaluations, sexual harassment, hidden agendas, micromanagement, and inequitable distributions of authority and power.”⁴³ Postracial racism allows racial oppression to continue unfettered by any acknowledgments of privilege, power, or oppression.

Online Dialogue- Student Newspaper

CLAUDIA (PHILOSOPHY PROFESSOR): Do you find it so unbelievable that a person of color might get stopped and harassed by police?

MATH (STUDENT): No, but there [sic] much more likely to act unruly. Especially a black, lesbian, uppity, professor.⁴⁴

In the lexicon of southern racial dynamics, there is no such thing as an “uppity white person” The term “uppity” is reserved for African-Americans and Mullatoes/Mixedrace Blacks who do not “know their place.” It is code that everyone in the South understands. One Southern Black lawyer explained it to me, “If they are violating your rights, you cannot stop and ask questions. You just have to let them do what they are going to do. If you end up paralyzed or dead, you might have a legal case. Most of the time

⁴³ Michael Brannigan, *Connecting the Dots in Cultural Competency: Institutional Strategies and Conceptual Caveats*, 17 CAMBRIDGE Q. HEALTHCARE ETHICS 178 (2008).

⁴⁴ Wolkenfeld, *supra* note 42.

though there is nothing you can do. If they want to violate your rights they can. That's just how it is here." In the midst of the madness I had dared to ask the cops: "What is going on?" "Why are you doing this?"

VII. SEVEN SUBTLE FORMS OF MICROAGGRESSIVE EXCLUSION (FME) FACED BY WOMEN OF COLOR IN THE ACADEMY

In its subtle microaggressive forms, the gendered racism that Women of Color face in the Academy has the effect of making us doubt ourselves, using up energy that could better be devoted to teaching and scholarship, and it sabotages our success. I have identified seven categories of microaggressive exclusion, although there may be more.⁴⁵ The particular forms of microaggressive racism women of color academics experience are related to, and work in conjunction with, the *microaggressive* insults and *macroaggressive* assaults they face off campus.

A. Frequent Insulting Assumptions and Obnoxious Challenges

On a regular basis, a woman of color faculty member will have to deal with insulting assumptions that she must disprove with reams of evidence. She must be prepared to respond to obnoxious challenges to her ability, her character, her work, and her intelligence. These insults and challenges range from students and staff refusing to address her respectfully or refusing to

⁴⁵ Other scholars have also made lists of problems faculty of color face. For example, Sherree Wilson cites the findings of a study of African American women faculty which noted "some of the typical problems" to be "1. Constant challenges or being viewed as 'other' and therefore believed to be inferior; 2. Lack of professional support systems; 3. excessive scrutiny by peers, superiors, and students...5. Assumption that positions were acquired through Affirmative Action and that therefore the faculty members lacked the necessary qualifications." Sherree Wilson, *They Forgot Mammy Had a Brain*, in *PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA* (Gabriella Gutierrez Y Muhs, Yolanda Flores Niemann, Carmen G. Gonzalez & Angela P. Harris eds., 2012) 65. See also YOLANDA T. MOSES, *ASSOCIATION OF AMERICAN COLLEGES AND UNIVERSITIES, BLACK WOMEN IN ACADEME: ISSUES AND STRATEGIES* (1989).

apply the appropriate campus policies as needed to questions about her credentials, her access to certain resources, and her right to be on campus.⁴⁶

1. Testimony

White and Asian students repeatedly refused to use my title, and some angry white students went so far as to tell me I was not qualified to grade them or to tell them about their writing deficiencies. One German student, after being corrected for calling me Mrs., told me that he could not get used to calling me Professor because in Germany, where he came from, that was a title that people had to EARN. As Presumed Incompetent author Professor Yolanda Flores Niemann explains, “Women of color can be very vulnerable to student’s verbal violence towards them, including constant and unwarranted criticism of their teaching.”⁴⁷

White female colleagues at my first university often questioned me on my credentials and reacted with incredulity and sometimes hostility when they found out I was trained at UC Berkeley and had been a Post-Doctoral Fellow at UCLA. They questioned me about my course loads, research monies, and salary and frequently implied I was getting special treatment. White male colleagues were less subtle in their insults. For example, at the start of the first semester at the Florida school, I was looking at a laminated study guide called “Intro to Philosophy” in the university bookstore when I asked a white male colleague who was nearby if he thought this was a useful study-aid for “Intro to Philosophy” students. He replied that perhaps I was the one who needed to study the guide to learn philosophy.

⁴⁶ Serna Easton, *On Being Special*, in PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA (Gabriella Gutierrez Y Muhs, Yolanda Flores Niemann, Carmen G. Gonzalez & Angela P. Harris eds., 2012). Valerie Moore, *Inappropriate Challenges to Professional Authority*, 24 TEACHING SOC. 202 (1996).

⁴⁷ Yolanda Flores Niemann, *Lessons From the Experiences of Women of Color Working in Academia*, in PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA (Gabriella Gutierrez Y Muhs, Yolanda Flores Niemann, Carmen G. Gonzalez & Angela P. Harris eds., 2012) 466.

Going to the library or the bookstore was time-consuming and stressful as each time my status as a professor, and thus my right to check out certain books or videos for class or to buy or order materials at a faculty rate, was questioned. My right to park in faculty lots, use faculty facilities, or request classroom services was so often challenged that the routine tasks of my job were fraught with landmines of insult and humiliation. The southern white clerical staff in a number of departments at the Florida school refused to assist me in any of the ways they assisted other faculty, and some even went so far as to purposely lose or fail to submit my paperwork. After my first couple of years as a professor, I began to employ teaching assistants (paying them with my own money) in order to have them interact with white female staff and run errands to university offices so as to avoid the insulting and obstructive behavior I often encountered.

My health steadily declined over the first few years I was employed as a professor. I had my first heart attack in Seattle during the summer after my first year of teaching. I had not been diagnosed with a cardiac condition at that time. The doctor in the hospital sent me home with no diagnosis or medicine, and a piece of paper telling me that my symptoms were likely caused by drugs. The paramedics had repeatedly asked me if I had ingested drugs, as had the ambulance person and the nurse in the ER. They even asked my friend. Of course, subsequent blood tests showed no sign of drugs but they didn't need evidence. It took years for me to get a diagnosis and proper care. During that time, I went to a therapist to help me cope with my hearing loss, my chronic chest pain, and my declining mobility. She asked me what had happened to me in 2003 to precipitate the decline in my health. I was, after all, a health food-eating vegetarian runner who had never been overweight. It took me awhile to answer that question, but the answer was really quite obvious. The incredible shock and disappointment I felt at discovering that the Academy was toxic, profoundly racist, sexist, and homophobic literally broke my heart. I began to lose faith in humanity and

to feel that all my hard work had been in vain. My body bore the brunt of my disillusionment.

B. Failure to Support

A second subtle FME comes in the form of faculty, departments, and colleges failing to support faculty when they are women of color. In order to ensure that professors can deliver the best courses, publish the best papers, and provide the best service to their universities, a variety of support structures are in place to facilitate success. From clerical and technical staff to documentation that explains policies, procedures, and guidelines, to mentorship programs, training programs, and supervisory structures, there are many ways that a university supports its faculty. While some of this support is explicit and clearly spelled out, other forms of support are implicit and a part of academic culture.

For example, it is a well-known expectation in the Academy that senior faculty support junior faculty in their progress toward tenure. This support comes in many forms from providing basic information about expectations to more formal mentoring programs and activities. Many of the publishing and speaking opportunities that white junior faculty receive are the direct result of the assistance of senior white faculty. Unfortunately, junior women of color faculty are often excluded from informal mentoring and support networks. For example, many white professors in senior positions approach new white Assistant Professors and offer to help them get published or invite them to be on conference panels. They may take new faculty under their wing and help them in various ways: editing their journal submissions, advising them on tenure, alerting them to the politics of the department, using their own reputations and influence to win the support of other colleagues for the “new guy.” In a discipline where the numbers of senior faculty of color are so small, and where white faculty often claim they do not “understand” colleagues of color, many women of color are not mentored. Because there are no rules about how and when support of

faculty should occur, faculty who do not receive support are not in a good position to complain when they do not receive it.⁴⁸

In an academic department, the chair is expected to support his or her faculty. Women of color often fail to receive the support of their chairs or of other senior faculty. They are expected to figure out everything on their own, and if they ask for help, they are accused of being incompetent or of expecting special treatment.

1. Testimony

During the first year of my first tenure-track position, the chair “forgot” to tell me I had to submit a binder of documents for an annual review. When asked about his oversight, the chair’s response was cavalier. “Oh, I forgot that you were new and did not know the procedures,” he replied, chuckling lightly. When I asked him if the policies for annual review were documented somewhere, he told me they were not. Advocating for myself, I requested that the chair assign me a mentor who could keep me informed of guidelines and procedures related to tenure advancement. He assigned me one then made a comment in a department meeting the following week about how when he was starting out as a professor, he never needed a mentor, but unfortunately, he was going to have to assign a mentor because some people could not manage without one. Since I was the only new junior faculty member in the department, it was clear to everyone present exactly who that “someone” who “could not manage” was. His failure to support

⁴⁸ For more on the challenges Women of Color professors face in getting mentoring, see, Harriet Curtis-Boles, Diane M. Adams, Valanta Jenkins-Monroe (eds) *Making out Voices Heard: Women of Color in Academia*. Alliant International University, San Francisco, California Nova Science Pub; Gaetane Jean Marie, Brend Lloyd-Jones. *Women of Color in Higher Education: Changing Directions and New Perspectives*; Tillman, L.C. (2001) “Mentoring African American Faculty in Predominantly White Institutions,” *Research in Higher Education*, 42 (3) 295-325; Dovidio, J. F., Gaertner, S. H., Kawakami, K., & Hodson, G. (2002). Why can’t we all just get along? Interpersonal biases and interracial distrust. *Cultural Diversity and Ethnic Minority Psychology*, 8, 88–102.

was his failure, but he portrayed the situation as one in which I had failed to be competent.⁴⁹

Both faculty and staff participated in the failure to support, which came in many forms: I was frequently not given information about the location of department meetings or the dates and times of meetings and deadlines; my courses were missing from the course catalogue; the computer I was given as part of my contract did not work, I was told I could not exchange it, and I was unable to get technical assistance from a university IT office no matter how many times I sought assistance from the department chair, faculty, or staff; my ADA request for accommodation was “misplaced,” my internship paperwork was “lost,” and my “grade change forms “accidentally” never got forwarded from my department to the appropriate offices.

When attacked by students, it is important for junior faculty to receive support from senior faculty but during my first year of teaching, when students who had never had a non-white professor before, behaved badly, I received no support. For example, when students yelled at me in class or during office hours, or sent me e-mails and midterms full of cuss words and threats, I forwarded them to chairs and deans seeking assistance, but I never got any. Later, when I was teaching at my second university, I was able to keep students from acting out in loud and disruptive ways in the classroom, but there were many other ways they found to express their discomfort at having a brown female professor. In the large Introduction to Philosophy class I taught every semester, I grew accustomed to tolerating approximately one third of the white students sitting in class with arms folded, glaring at me, refusing to open their books, take notes, or participate. This lasted for the first few weeks until they got over the shock of a professor who looked like me telling them what to do.⁵⁰ While many

⁴⁹ See Niemann, *supra* note 47, at 336-55.

⁵⁰ Professor Flores Niemann also found that “the very fact that a woman of color is standing in front of the class and exercising authority may cause some students discomfort and resentment.” *Id.* at 466.

students never said anything explicitly, they made it clear through their posture, their tone of voice, their complaints, and their resistance that they did not respect me initially. Some students found more direct ways of letting me know they were racist sexists in their papers or in their online chat room discussions where they openly discussed beliefs they had, in, for example, the inherent criminality of Black people. Later, some students admitted to me that they had held racist and sexist views about me until they got to know me and enjoyed my teaching. I grew accustomed to the fact that every semester I had to “win them over.”⁵¹

While at the Seattle school, a white male student sexually harassed two of my female students of color and heckled me repeatedly in class; I documented the whole thing and got testimonies from the harassed students. The students wrote that they were afraid to come to class. The white male had made vulgar sexual gestures at them in the back of the class and had referred to them as “stupid bitches” on a regular basis. The women under attack were among the smartest and best prepared students in the class. They were articulate, good-looking, and brown-skinned. My chair simply gave the boy a slap on the wrist and sent him back to class. When he continued with his bad behavior, he was sent to the Dean who had a father-son chat with him and sent him back to my class. When the disruptive behavior continued, I was told that there was nothing I could do. The dean and chair, both white males, had what Delia Douglas calls, “racial loyalty,” to the white male student, which allowed them to support him even in the face of egregious and dangerous behavior.⁵² They also had patriarchal

⁵¹ See Delia D. Douglas, *The White Face of Multiculturalism and the Violence of the Canadian Academic Imperial Project*, in *PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA* (Gabiella Gutierrez Y Muhs, Yolanda Flores Niemann, Carmen G. Gonzalez & Angela P. Harris eds., 2012) 50-64 (stating that “[t]he white students never wavered in their sense of superiority and entitlement, and they frequently sought to silence and intimidate me through their behavior.”).

⁵² *Id.* at 57

loyalty to him as a male. They supported and “bonded with the white student in a way that maintained the racist status quo.”⁵³

My chair continued to do nothing to support me when this aggressive six foot five inch male student later began stalking me to the point that I had to request campus police escorts to my car each night and file a police report. When this same student later disputed the poor grade he earned in my class, my chair allowed him to dispute the grade and even demanded that I give him all of the student’s papers and assignments so that he could grade them instead. In the face of a counter-claim by a white student, my word would never be considered valid. The fact that I was subsequently nominated “teacher of the year” at the end of that first year of teaching did not, in any way, mitigate my chair’s refusal to support me in disagreements with students.

According to Sherree Wilson, my experience was part of a widespread pattern. “Subtle messages of inferiority and incompetence from university administrators and faculty may reinforce student’s negative perceptions of women of color. As a result, women faculty of color may encounter deans and department chairs who fail to support them when faculty/student conflicts arise.”⁵⁴

I had my third heart attack in 2007, in the hallway of my department in front of my students. To say that my work was stressful would be an understatement. Whenever cardiologists asked me if my job was stressful, I would just laugh. Words could not describe.

C. Intimate Sabotage: Allies Who Are Not Allies

A third FME occurs in the context of ally relationships. Because the new racism requires on the part of racists, not only a denial of racist beliefs, but

⁵³ *Id.*

⁵⁴ Sherree Wilson, *They Forgot mammy Had a Brain*, in *PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA* (Gabiella Gutierrez Y Muhs, Yolanda Flores Niemann, Carmen G. Gonzalez & Angela P. Harris eds., 2012) 66.

also the production of counter-evidence, white faculty are often eager to portray themselves as allies of people of color. Such people will rush to publically enact ally relationships with women of color faculty members only to use the trust they have temporarily gained to create *Intimate Relationships of Sabotage*. Intimate sabotage occurs when someone who has gained your trust, uses your trust to engage in acts of career sabotage against you. In the same way that intimate sexual and physical abuse tends to leave longer lasting scars than abuse by strangers, intimate relationships of sabotage feel more hurtful than the sabotage of disinterested racists and sexists. The betrayal of allies leads to self-doubt and second-guessing. This is especially the case when we assume that allies who share axes of oppression (gender, sexuality, class, race, etc.) with us can be trusted because they too know what oppression is.

1. Testimony

At one of the universities I taught at, three different white feminist department chairs publically claimed to support my hire and made dramatic overtures to befriend me. After public claims of support, each of these senior faculty members engaged in various forms of sabotage related to my courses, my students, and my relationships with senior administrators, in an effort to engineer my failure. For example, when I was given information about tenure, I was given inaccurate and contradictory information from colleagues who claimed to be my supporters.

Several powerful white female administrators used public feminist, or pro-diversity, personas and their power and privilege to gain my trust, and then used that trust to engage in intimate sabotaging behaviors. At one point, the female chair of one department who had pretended to be an ally lied about me to both the Dean and the Associate Provost, two people I had cultivated good working relationships with since my arrival. I was shocked both by her behavior and by the fact that these other allies decided to trust her, a white woman, rather than ask me my side of the story. Despite the

relationship I had built with them over a period of two years, their unconscious assumptions about who had epistemic credibility worked against me in the end.

D. Epistemic Credibility: Invalid Testimonies

Women of Color Faculty find themselves in the bizarre position of having no epistemic credibility. What they say they know is always open to doubt and questioning. What they claim is real is undermined by their lack of epistemic authority to know. They are not deemed “knowers.” Their access to knowledge is marred somehow by their race and gender as if these aspects of themselves create blindfolds, separating them from the true nature of things. This phenomenon is similar to what is described as microinvalidations, defined as “characterized by communications that exclude, negate, or nullify the psychological thoughts, feelings, or experiential reality of a person of color.”⁵⁵

I had little epistemic credibility, especially in the face of counterclaims by whites and males. A Chinese-American male student once stood over my desk shouting at me in my office after I accused him of plagiarism. “It’s your word against mine,” he angrily shouted. “Why should anyone believe you?” And of course he was right. Those who have privilege, whether they admit it or not, are often well aware of the privilege they have. He already knew my chair was unlikely to give my account of his plagiarism any more credibility than his denial of the same. Fortunately, I had proof. Similarly, a white female student once yelled at me in front of the class, and asked me who I thought I was to be telling her that she needed to work on her writing. I “thought” I was her professor and told her so. What she knew was that as a Black/Native woman, I lacked epistemic credibility. It did not matter that I had a PhD from a prestigious university, or that I was a tenure-track philosophy professor; in her eyes, I was not capable of knowing anything

⁵⁵ Wing Sue et al, *supra* note 38, at 44.

with true validity. In the aftermath of my abuse by the campus police in Florida, I was repeatedly asked what I had been wearing that night, the state of my car, what I had said to the cops to make them so mad, and if I was sure that they had really done what I said they had done. In the grievance hearing that followed my complaint against the police, I was asked to describe in detail how a policewoman had touched me inappropriately. In her final report, the white female administrator concluded that my account of what happened, and how it felt, did not matter because according to the police report, the body search had taken between 5 and 10 minutes and, according to the administrator, that was not enough time for me to have been violated. Again, I lacked epistemic credibility.

At the same Florida campus, on two separate occasions, white female students came to me in distress complaining of a fellow professor who had made sexist and racist statements during his lectures. One of them cried in my office. They both told me he had a tendency to make jokes about the need for women to be subservient to men and a habit of using the n-word. I urged both students to talk directly to the chair but they were both too intimidated. They were philosophy majors and were afraid the chair would retaliate against them if they complained about a tenured professor, so the odious task was left to me. Eventually, I spoke to my chair on their behalf. I told him how upset they were and made a point of telling him the students were both white in hopes this fact would render the testimony valid in his eyes. His reaction was to literally laugh in my face. Needless to say, he did nothing about it. If I had had any illusions about having even the smallest amount of epistemic credibility, such illusions were dashed on that day.

The story about the police misconduct and the resultant protests ran on the nightly news for weeks. One night, a retired police officer/police trainer, who calls himself the CopDoc, was interviewed. He suggested that my social justice activism made any account I gave about what was done to me suspect. Speaking to my credibility, he said: "It's like the boy that cried wolf, or the woman that cries rape a whole bunch of times, maybe it's the

one time that the wolf was there, maybe it's the one time that the rapist really was there, maybe it's the one time there was a racial situation. Maybe this time there really was a wolf," he concluded, "but . . . why would anyone believe her?"⁵⁶

Interrelated structures of white supremacy and patriarchy require that victims' voices be silenced, rendered inauthentic, unreliable, and even crazy. Thus, the misogyny inherent in his assumption that rape victims tend to lie about being raped, and his denial regarding the ubiquity of racism are not surprising. What is of particular significance about the "CopDoc"'s dramatic questioning of my credibility is the way in which his statements served to validate the assumptions of so many others who had denied my epistemic credibility—from the refusal of the cops to believe me when I said I had a heart condition; to the decision of the police chief to open a retaliatory investigation against me after I requested an investigation of his department; to the decision of the investigators of the incident to conclude their report without any input from me or the paramedics who treated me on scene; to the refusal of my chair to honor my medical release. My case is a perfect example of the way in which multiple instances of epistemic doubt performed by people in positions of power can contribute to an edifice of racist patriarchal violence that endlessly disinvests women of color of epistemic authority. Whereas a white male professor who had demonstrated in his writings and lectures extensive knowledge about a particular topic would likely be seen as an expert on the topic, and thus be attributed with greater epistemic authority to speak about such matters, a woman of color who had degrees, fellowships, and published writings on social justice issues was deemed a less reliable source of knowledge on such issues.

In the wake of the protests, the news coverage, and my request for an independent review, the university publically promised to allow an independent citizen review board to investigate my complaint against the

⁵⁶ See generally <http://thecopdoc.com/ExpertWitness.html>.

police. As soon as the cameras were gone, however, they opted to have the police investigate the police. They interviewed none of the paramedics who treated me, and they refused to allow me to be questioned by a neutral third party. At the conclusion of the (cover-up) investigation—which concluded that the cops, who denied everything, were not at fault—the president of the university held a press conference in which he told the press that I probably did not remember what had happened the night of my police stop because I was stressed and obviously mistaken about what happened. The university's report confirmed what they already knew: as a woman of color, I lacked reliable access to knowledge. To take seriously the epistemic claims of women of color is to call into question multiple structures of authority. They simply cannot be believed.

E. Punishment for Excellence

When the Dean at the Florida university first interviewed me, she could not hide how impressed she was with my credentials. She was sure I could get a job anywhere given my background. She said I should have been teaching at a tier-one university at the very least. She frankly did not understand why I was applying for a job at her university, whose rating did not compare to that of the universities where I had been trained. I had to convince her that I would seriously consider taking the job if offered.

When the Provost at the Washington university had interviewed me, she was similarly impressed. In the interview, we got into a deep religious debate about women's rights, gay rights, and the Catholic Church. I was honest about the fact that I was a feminist and a gay woman and would not support Catholic positions on abortion or gay rights in my teaching or research. She appreciated my honesty and enjoyed the intellectual sparring. When I left her office, I was later told by the Dean that instead of writing up

the usual evaluation of me as a candidate, she had simply handed a piece of paper to the dean with two words on it: “Hire her!”⁵⁷

When white advocates for diversity are serious about diversity, they often make a point of hiring the best and the brightest of the nonwhite scholars on the market. Although hiring superior candidates would seem to be efficacious as a strategy to counter racial stereotypes of nonwhite intellectual inferiority, it can pose a problem for those policing the boundaries. Since, in these cases, they cannot rely on stereotypes of inferiority, discipline and punishment must occur on the basis of pathologizing excellence. This strategy for eliminating Others in the academy is particularly demoralizing, for it exposes the “myth of meritocracy” as the “white-males-only” policy it is. The successful woman of color professor is left not knowing how to overcome in a system that punishes her rather than rewards her for striving to do her best.⁵⁸

In Florida, this form of punishment is an ancient custom with a name of its own. Blacks who dare to be articulate, well educated, or otherwise gifted are called “Uppity Negros.” They have clearly forgotten their place. The term has its origin in slavery when enslaved African Americans were cautioned to “remember their place.” Historically, being an Uppity Negro was sufficient grounds for being lynched and as a result there remains today a fear on the part of many southern Blacks that if they are too articulate or confident, they will be punished with violence. As the experience of so many educated Blacks and Mixedbloods like myself has demonstrated, the

⁵⁷ “When persons do not fit a group stereotype, they often arouse anxiety and anger in the perceiver (Fiske and Taylor 1984). This response is true especially when the person is exceptionally competent, which arouses conscious and unconscious biases and resentments regarding who deserves to have power over whom (Dovidio and Gaertner 2010).” Niemann, *supra* note 47, at 460.

⁵⁸ *Id.* at 460.

only acceptable type of Negro in the South is the *Grateful Negro*, and the only acceptable Native American is the Silent and Simple one.⁵⁹

1. Testimony

When students regularly lined up down the hall in large numbers to come to my office hours, colleagues were suspicious of my teaching methods rather than lauding me for my success in inspiring students. When I repeatedly got invited to give lectures at prestigious conferences and universities, I was told by a tenure committee that such invitations were looked upon with suspicion and I was encouraged to stop accepting the invitations. I was discouraged from working on my book and told that even if I completed it, it would not count towards my tenure. The idea that a book would not count towards tenure was, as any professor, tenured or not knows, quite ludicrous. It may not be necessary but it would always count.⁶⁰ When my students took classes with other professors and demonstrated the scholarly rigor I had taught them by quoting their sources and always providing page numbers during oral presentations, my colleagues made fun of them and told them to stop documenting every argument they made. When my department colloquial lecture ended up being packed, resulting in a story being written about it in the University newspaper, my colleagues made disparaging comments about the success of my talk, and falsely accused me of inviting my classes to the talk and asking the newspaper to

⁵⁹ Michelle Jacob, *Native Women Maintaining Their Culture in the White Academy*, in *PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA* (Gabriella Gutierrez Y Muhs, Yolanda Flores Niemann, Carmen G. Gonzalez & Angela P. Harris eds., 2012) 242-49 (discussing “friendly squaws” and “hostile injuns”); For a discussion of the origin of the phrase “Uppity Negro”, see PETER R. LINBURG, *STORIES BEHIND WORDS: THE ORIGINS AND HISTORIES OF 285 ENGLISH WORDS*. BERKELEY (Manuel Pena ed. 2009).

⁶⁰ The completion of a book is the only way to get tenure at a top-tier university. At lower-ranked schools like this one, a book was not required for tenure, and in fact many tenured at this university had never published books. The expectations were lower. But even at a university with lower standards for tenure, it is not normal to penalize those who exceed those standards.

write a story about me. Through relentless hard work, I was able to overcome many obstacles and win over many students, but my excellence continued to be just as relentlessly disparaged.

F. Rhetoric of Special Treatment/Difference = Deficiency

As discussed above, Postracial Diversity Programs are used to perpetuate notions of white superiority and to discipline and punish those who are different. There is a widespread belief that difference is deficiency and that those hired are bringing down the quality of the institution. The *difference as deficiency* model also impacts how disability is handled. Disabled women of color are portrayed as deficient and as requesting special treatment when they ask to be accorded the same rights and privileges as their able-bodied colleagues.⁶¹

1. Testimony

When I complained about not being told about deadlines or tenure policies and asked for documentation and a mentor, I was portrayed as asking for special treatment. When I complained to my chair about a racist senior colleague who yelled at me and called me “over privileged” and “undeserving of my position,” I was told I would have to put up with it like everyone else, even though nobody else was experiencing that. When I requested for leadership by the department chair, it was read as a request for special treatment. When I asked for a teaching assistant after being diagnosed with a Stage Four cardiac disability, colleagues and staff complained that I was getting special treatment.⁶²

Special treatment is a code—the understanding is that people who belong to deficient i.e. *suspect classes* require special treatment to compete with

⁶¹ The absence of disability services for faculty in medical and law schools has been written about: Bonnie Poitras, *Accommodating Law Faculty with Disabilities*, 46 J. LEGAL EDUC. 157 (1996).

⁶² For a definition of Stage Four Heart Failure, see the classification on the Heart failure Society of America website. http://www.abouthf.org/questions_stages.htm.

members of more competent classes.⁶³ White, male, nondisabled, straight men are not accused of requiring special treatment. The assumption is that they do not need to stoop to such strategies to close the gap.

When my students began protesting about what had happened to me at the hands of the campus police, their protests gained the attention of the media. More than 200 philosophers from all over the country expressed their outrage in the form of letters, petitions, and phone calls to the administration. The press, initially sympathetic, asked how a professor so accomplished and well-respected could have been targeted in this way. The police, in their defense, fabricated a tale that resonated with the traditional rhetoric of racial propriety. They portrayed me as the “Uppity Negro” The Uppity Negro expects to be treated according to the laws of the land. In a racist postracial society, to ask to be treated as if one does not belong to a *suspect class* is to ask for special treatment.

Online Commentary—Student Newspaper

Dec. 10, 2010 at 12:23 pm

So the police department investigated the police department and found out that the police department didn't do anything wrong. Oh, ok. That settles it.⁶⁴

⁶³ Findlaw Legal Dictionary defines a suspect class as “: a class of individuals marked by immutable characteristics (as of race or national origin) and entitled to equal protection of the law by means of judicial scrutiny of a classification that discriminates against or otherwise burdens or affects them [a classification that does not impact a *suspect class* or impinge upon a fundamental constitutional right will be upheld if it is rationally related to a legitimate government interest “*Doe v. Poritz* , 622 A.2d 367 (1995)”]—See more at: <http://dictionary.findlaw.com/definition/suspect-class.html#sthash.thElqJOj.dpuf>.

⁶⁴ *UCF Police Broke No Laws In Dr. Vest Traffic Stop, OPD Say*, UCF KNIGHTNEWS.COM (Dec. 9, 2010, 8:33 AM), <http://knightnews.com/2010/12/ucf-police-broke-no-laws-in-dr-vest-traffic-stop-opd-say>.

2. Disability Services Requires Service

At most universities, no disability services are provided for faculty. I found this out the hard way. During my second year of teaching, I began to suffer from progressive, fluctuating hearing loss, and my ear doctor suggested I try using a frequency modulation system in my classes on days when my hearing was poor. I went to the Disability Services office to borrow the expensive device and was shocked to be informed that no disability services exist for faculty; only student could borrow the device. The DS Office staff seemed equally shocked to meet a faculty member with a disability. As a result of this experience, I decided to learn how to read lips and to keep my disability a secret from my colleagues for fear that it would be used against me. The obvious implication of their being no Disability Services for faculty was that faculty were not supposed to be disabled.

After several heart attacks, when I could no longer hide my disability, I discovered that my fears had been well founded. My requests for accommodations were consistently recast as requests for special treatment. After I had my last heart attack, I was barely able to walk half a block, so I asked my chair if my classes could be scheduled in closer proximity. Despite repeated requests and a letter from my cardiologist, I struggled to obtain ADA- required accommodations.⁶⁵ I was denied access to a disabled

⁶⁵ According to a report published by the US Department of Justice:

Title I of the Americans with Disabilities Act (ADA) requires employers with 15 or more employees to provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others. For example, it prohibits discrimination in recruitment, hiring, promotions, training, pay, social activities, and other privileges of employment. It restricts questions that can be asked about an applicant's disability before a job offer is made, and it requires that employers make reasonable accommodation to the known physical or mental limitations of otherwise qualified individuals with disabilities, unless it results in undue hardship.

A GUIDE TO DISABILITY RIGHTS LAW (2009), *available at* www.ada.gov.

spot in front of my building, as required by my (State of Florida-issued) disabled parking permit, and given parking tickets, despite the presence of my state-issued placard. I repeatedly asked if my classes could be scheduled in building close to each other given my mobility limitations. On each occasion that I requested assistance, I was treated as if I was seeking special treatment and as if I was making unnecessary work for people. At one point, in frustration, one administrator asked, “Why don’t you just get a wheelchair? Then you won’t need to have parking and we won’t have to bother with this.” In his letter, my cardiologist had asked that my employer seek to minimize my exposure to stress in the work environment, given its documented aggravation of heart disease. He did not know how laughable such a request was in the context. To be a woman of color in academia is inherently stressful. Being disabled in an ableist environment only adds to that stress.⁶⁶

My students were the only ones who understood. They walked me to class, carried my books, and would sit down with me on the grass halfway between my first and second classes. I didn’t talk about my chest pain, and they pretended not to notice I was short of breath. We sat in silence. I asked them to look at the clouds, and then we walked the rest of the way to class.

G. Out of Place/ Usual Suspects

Another FME comes in the way women of color are always portrayed as suspicious. Women of color professors can count on being treated as inherently suspicious and out of place. Students find our presence in the front of the class suspicious. Clerical staff finds our requests for services suspicious. Faculty members are discomfited by our presence on committees, especially if we are outspoken, critical, and not obsequious. Woman of color represent an existential deviance from the norm. Our

⁶⁶ According to the EEOC, “An employer should respond expeditiously to a request for reasonable accommodation . . . Unnecessary delays can result in a violation of the ADA.” http://www.eeoc.gov/policy/docs/accommodation.html#N_38_.

presence in faculty spaces signals our failure to stay in our socially-ascribed place. It arouses suspicion. How did we get here? Who let us in? What are we up to?

In their reports, the cops who stopped me repeatedly described me as suspicious without ever providing examples of anything I did or said that was suspicious. When the white female cop who searched my body was asked why she performed the search, she replied that they had already searched my car, my backpack, and my trunk thoroughly and had found nothing. She did not elaborate further. She felt those facts spoke for themselves. While in most cases, the lack of evidence of criminality would seem to suggest a lack of criminal activity, in the case of my brown body (whether raced Black, Puerto Rican, Indian, or Other), the lack of evidence could only signal the need for more in-depth searching. It was impossible that I could be innocent.⁶⁷ What the police did to me on the night of August 10, 2010, was merely a more violent and more exaggerated form of what I had already been experiencing for eight years. To be a woman of color professor is to already be suspect.

1. Who I Am

I was a unique and unsettling professor in every measure: I wore a 3-piece suit and ties to class every day; I was relentlessly formal in my relations with students and demanded a level of professionalism in the classroom that is typically found in the boardroom; I spoke openly about the fact that I never drank or smoked any substances, did not believe in cursing

⁶⁷ Subjecting a disabled person to excessive scrutiny because they possess prescription medication necessary for their disability is a violation of the ADA. TITLE 42 U.S.C.A 12101 PUBLIC HEALTH AND WELFARE: “The ADA protects employees who are erroneously regarded as being current illegal drug users.” *Nielson v. Moroni Feed Co.* C.A. 10 (Utah) 1998, 162 F.3d 604. Civil Rights 1226, Note 12, Notes of Decisions 42: 12114; Note 7: employers drug-free workplace policy did not improperly prohibit employees use of prescription drugs in violation of ADA, where policy by its terms prohibited only “abuse of prescription drugs.” *Meye V. Qualex, Inc.* E.D. N. C. 2005, 388 F. Supp. 2d 630. Civil Rights 1226.

in public, and frowned upon the use of either profanity or slang in the classroom; I taught all my classes cross-culturally, despite the fact that my colleagues did not; and I never allowed my students the comfort of a monoracial or monocultural learning experience. I required my students to learn and consistently apply the “APA Guidelines on the Use of Non-Sexist Language” and publically corrected them when they failed to do so. I called all my students by their last name prefaced by the title “Scholar,” and I treated them like the scholars I wanted them to become. I taught them that personal attacks on their colleagues, whether on the basis of gender, race, religion, sexuality, class, personality, appearance, or disability were what Philosophers called Ad Hominem Fallacies. Such attacks were signs, I told them, of a scholar’s inability to formulate a successful argument. I made them read an outrageously large number of books and deliver a fair number of oral arguments in class. I took their arguments seriously, challenged them, and required their classmates to do the same. I was a brown-skinned, feminist, lesbian, gender queer, disabled professor who was challenging and passionate about her students’ intellectual success. In short, I was not like any of their other professors, and my classes were nothing like the rest of their college experience...or so they told me.

I loved my students, and for the most part they loved me back. Some of them hated me as soon as they saw me, but I was able to win over a fair number. My student evaluations were high, and my classes were usually enrolled to full capacity. I loved teaching. I loved my students. I loved the change we were making in the world.

My story is important not because of what happened to me, but because of what happens to so many qualified and valuable women of color professors. If my story could be explained simply by the bad choices and rogue behaviors of a few poorly trained police officers, or a few racist and/or sexist colleagues, my story would not matter. Nor would it be worth telling. My story only matters because it is similar to so many other stories; It is emblematic of a larger structural defect. It matters because it provides a

textbook example of why and how so many women of color are stereotyped, suspected, and harassed into states of physical disability, and pushed out of the Academy or out of powerful positions within it. It is a good example of existential luck, the power of postracial racism, and the many subtle and not so subtle ways the University keeps women of color and various Others out.