SAFETY AND SCHOOL RESOURCE OFFICERS: FRAMING A LEGISLATIVE AGENDA

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KENNETH ALONZO ANDERSON, PH.D.
MEREDITH B.L. ANDERSON, PH.D.

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EXECUTIVE SUMMARY

The United States of America is at a crossroads. Excessive use of force and acts of violence against Black Americans by uniformed police officers has led to national and international protests and civil unrest. Citizens across the globe are rallying in support of efforts to provoke comprehensive police reform and humanize the Black experience in the United States. An undercurrent of the protests related to police reform involves reimagining the role of school resource officers (SROs).

Comprehensive police reform will undoubtedly affect how schools operate and approach school safety. Currently, the roles of school resource officers are undergoing fierce debate and some school districts are debating decisions to cut ties with or significantly alter the usage of SROs. Given this historic and much needed opportunity to rethink school safety, we provide voice to some of the issues to plot a path for meaningful school-based safety and policing reform.

We contextualize the issue by first describing some of the disparities in restraints used in school settings on Black students and other underrepresented groups. Throughout the document, we describe complexities associated with school safety, noting that SROs are one, albeit important, component to consider regarding school safety reform.

Notably, we underscore the need for a legislative agenda, not a one-time "kitchen-sink" bill, to address the multiple layers of school safety reform that is needed to achieve meaningful change. As such, we frame a legislative agenda on school safety and policing by describing loopholes and recommending tangible legislative actions that can occur at the federal, state, and local levels.

Although our framework does not address every issue related to school safety, our hope is that our legislative framework provides a balanced perspective that offers pathways for common ground and meaningful reform. To that end, we recommend organizing around seven major school safety themes:

FEDERAL REFORM

1. Increase transparency by closing loopholes

2. Expand the Department of Education's initiative on restraints to include a focus on racial disparities

3. Demand greater accountability for school resource officers (SROs) and the Community Oriented Policing Services (COPS) program

STATE AND LOCAL

4. Employ a discrepancy framework

5. Require states to collect and clearly report their own discipline and safety data

6. Employ local pattern or practice investigations for police, districts, and schools

7. Establish transparent pictures of school-based policing across state and local levels

Americans and citizens around the world have reached a breaking point. The actions of protestors in America following the senseless killing of yet another unarmed Black man, Mr. George Floyd, by a uniformed police officer, represents a moment in history that can be described as nothing short of an "awakening." After years of calls for police reform, the United States may be on the cusp of achieving some meaningful reform. These actions will undoubtedly have implications for schools.

As discussed in a previous research summary[1] on school resource officers, significant events, such as the killing of Mr. George Floyd, often lead to policy windows[2]. After traumatic events occur, an appetite for change occurs, creating a short period where legislation may get done. In the case of school safety and police reform, a legislative agenda, not a short policy window, is necessary. Thus, we write this brief to contextualize some of the issues related to school safety and policing and offer a framework for setting a federal, state, and local legislative agenda to mitigate some of these issues.

CONTEXT

Schools are often touted as beacons of hope or institutions that changes lives, for the better. Unfortunately, **most schools in the United States are a microcosm of society.** For example, many citizens are currently protesting and demanding change regarding the excessive use of force and restraint of Black citizens by police in the United States. Notably, similar patterns of excessive use of restraining methods on Black students exist in schools.

Through the Civil Rights Data Collection program, the U.S. Department of Education periodically collects data on the use of restraints on students in the United States. The Civil Rights Data Collection program defines restraint[3] in two key ways: mechanical and physical. Mechanical restraint refers "to the use of any device or equipment to restrict a student's freedom of movement." Personal restraint refers "to a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely." It is important to note that it is unclear who is administering the restraints in this definition. For example, it is difficult to determine what portions of restraint can be attributed to SROs versus private security or other personnel.

Using data from the Civil Rights Data Collection (2015-2016[4]), the graphs below show that Black students are disproportionately restrained at much higher rates, relative to their percentage of total enrollment. When reading this, one might ask, "Why did you all share old data from 2015-2016?" **Keep reading!**

The overrepresentation of Black and Hispanic/Latino students who are restrained, using mechanical restraints, perhaps with devices such as handcuffs, is very pronounced. In fact, Black students are mechanically restrained with devices at a rate nearly two times their population size. Moreover, the consequences associated with mechanical constraint could be far greater than other approaches because it could lead to engagement with the judicial process.

> ## "Black students are mechanically restrained with devices at a rate nearly two times their population size."

One way to interpret these graphs would be to think, in a perfect world, there would be no need to ever restrain a student. In an equitable world, the blue and orange bars would have a similar length, meaning that the amount of restraint used for a particular subgroup would be proportional to the size of the enrollment for that subgroup.

A closer look at the physical restraint graph shows that, although not as pronounced as Black students, American Indian or Alaska Native, Two or More Race, and White students are also slightly overrepresented when it comes to the use of physical restraints. Reforms will certainly offer much needed reprieve to Black students, but should serve all students well, if done thoughtfully, carefully, and with priority.

INEQUITY IN THE USE OF MECHANICAL RESTRAINT IN THE UNITED STATES
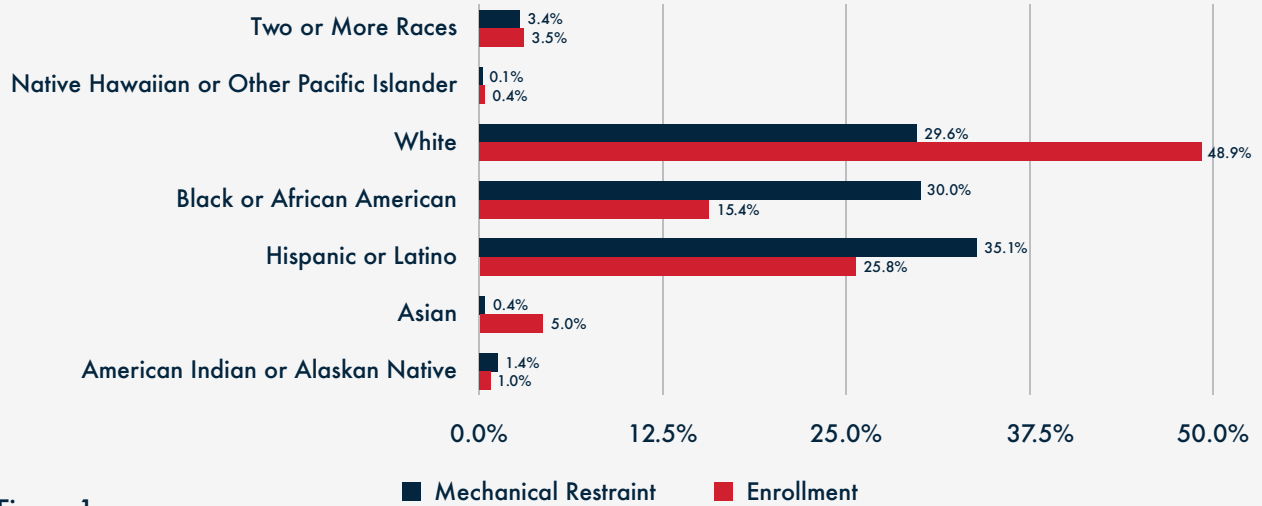### (Percentage of Cases where Mechanical Restraint is Used vs. Percentage of Student Population)

Figure 1

Source: Civil Rights Data Collection (2015-2016)

INEQUITY IN THE USE OF PHYSICAL RESTRAINT IN THE UNITED STATES
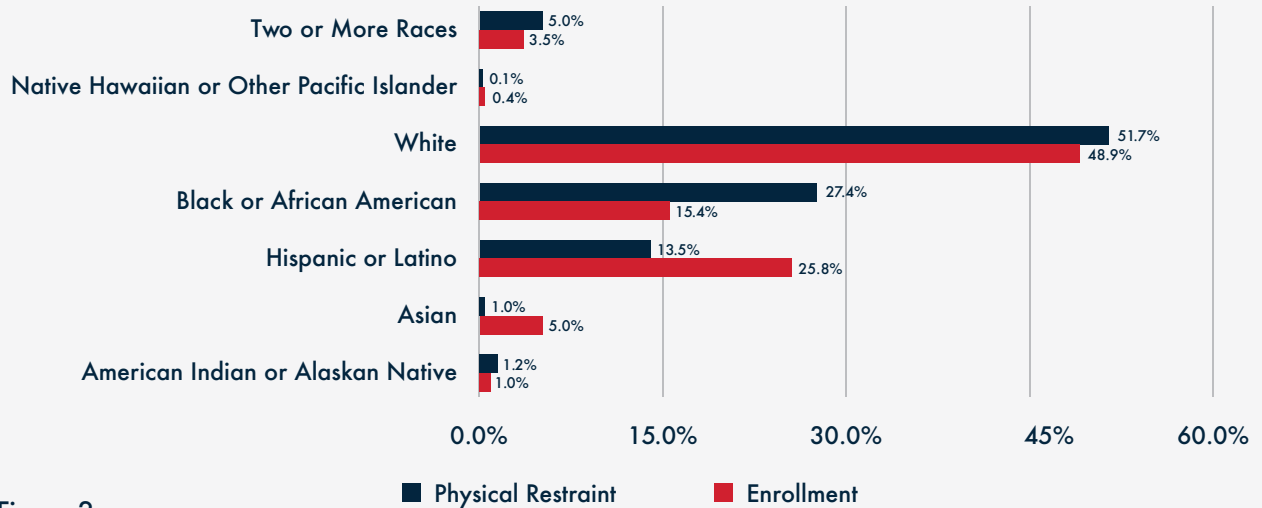### (Percentage of Cases where Physical Restraint is Used vs. Percentage of Student Population)

Figure 2

Source: Civil Rights Data Collection (2015-2016)

RECOMMENDATIONS FOR A LEGISLATIVE AGENDA ON SCHOOL SAFETY AND POLICING

School safety reform is complex and challenging. Given the complexity of the issues, excessive force in policing and restraining practices should be a top priority in the first wave of legislative action. We also understand that due to the complexity of school safety and policing issues, no single bill can address every issue. Thus, we are calling for a legislative agenda. We hope to provide advice for groups to retreat from their respective corners and come together to **organize around a legislative agenda that is focused on three specific domains: federal, state, and local reform.**

FEDERAL REFORM

1 Increase transparency by closing loopholes

Given the layers of federal reform, progress can seem overwhelming. We believe that good starting points on school safety reform should include a mix of new policy and leveraging existing policy. To do this, it is important to understand key limitations of federal policies and programs.

United States Code (U.S.C) § 3413[5], under Title 20 – Education, describes the function of the Office for Civil Rights. As shown in Section (b)(1) of U.S.C. § 3413, it is clear that Assistant Secretary for Civil Rights was, at some point in time, required to make an annual report to the Secretary of Education, the President, and Congress. However, a further read of the Termination of Reporting Requirements section of U.S.C. § 3413 shows, that as of 2000, the Civil Rights report is no longer required to be sent to Congress. This termination of reporting requirement is not inconsequential. Here is why.

Loophole #1. Title I of Every Student Succeeds Act[6] (ESSA) initially required every state and district to publish a report card that included discipline data. The Department of Education initially issued guidance for reporting discipline data. However, in 2017, using the Congressional Review Act, Congress passed a resolution[7] to invalidate the accountability and state plan regulations. This means that discipline data requirements are no longer enforceable. The general sentiment seemed to be that some advocates felt that the accountability requirements were an overreach of government. Any Congress has the authority to review and change policies, but in the case of discipline, it seems that no meaningful guidance has been put forth to replace the portions that were repealed.

We assert that flexibility of ESSA and lack of guidance has led to poor and uneven data and transparency. For example, Data Quality Campaign[8] shows that state report cards lack important student performance and staff data finding that 41 states do not include disaggregated achievement data for at least one federally required subgroup, 40 states do not include key teacher demographics, and 26 states do not include discipline data.

Loophole #2. Earlier in the brief, we mentioned that the data shown in the graphs were from 2015-2016. The data are not updated regularly because the loose language in federal policy allows this. Going back to U.S.C. § 3413, Office for Civil Rights, Section (c)(1) states that the Assistant Secretary for the Office for Civil Rights is authorized "to collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights." The language seems weak in that it does not require annual data collection. Currently, data[9] are collected roughly every two years, but the time intervals for reporting and collecting data have been inconsistent over the last twenty years. Thus, the public is largely uninformed of current discipline and restraint practices as well as other safety issues across the country.

Loophole #3. There are other concerns, such as the when the Cost Reduction[10] provision of ESSA, that aims to minimize duplication of effort, is combined with the ESSA state plan guidance on discipline (if fully or partially restored). Coupling these two policies allow states to report old discipline data over consecutive years. We will not discuss these in detail here, but, in short, these loopholes try to save states money by allowing them to use the federally generated discipline data. However, if the federal data are outdated, then some states may simply opt to post the same outdated data over multiple years (more on this in the state recommendations).

These loopholes should be an embarrassment to our country and must be closed. Innovations have allowed society to report economic data, such as stocks, across multiple continents in almost real time. Yet, in the United States, years pass before we learn about the safety of children. Congress mandates achievement assessments through NAEP[11] and these mandates are often achieved through the use of partners. Discipline reporting should be no different. Congress should mandate systematic and annual discipline reports that are generated separately and apart from the states. This is a critical checks and balance function of the Office for Civil Rights.

Overall, it seems that states are no longer required to report disciplinary data on their report cards. Some states systematically report their own discipline data whereas some are opting to use to federally generated data. As noted, the Office for Civil Rights publishes data on discipline at inconsistent time intervals, making it difficult to understand current discipline problems or disparities in restraint use. Moreover, the reports from the Office for Civil Rights are no longer required to be sent to Congress. Tying these loopholes together leads to major gaps in transparency and action. As such, parents and stakeholders are uninformed. Likewise, congressional representatives who care about these issues could conceivably be unaware of key disciplinary disparities, such as disparities in restraint use, and thus, are not compelled to act. Closing transparency loopholes offer a clear path that can be solved in bipartisan fashion.

2 Expand the Department of Education's initiative on restraints to include a focus on racial disparities

As shown by a press release[12] in 2019, inappropriate use of restraint in schools has already been on the radar of the U.S. Department of Education. **The initiative** announced in the press release was framed to address students with disabilities (which is needed), but **should be strengthened by including disparities by race.**

3 Demand Greater Accountability for School Resource Officers and the Community Oriented Policing Services (COPS) program

It is critical to remember that school resource officers, if they are used, are only one component of a larger school safety program. There is not universal agreement on the exact start date that SROs were introduced, but general consensus is that SROs were introduced as components of school safety in the 1950s. According to the National Association of School Resource Officers[13] "Nobody knows how many SROs there are in the U.S., because SROs are not required to register with any national database, nor are police departments required to report how many of their officers work as SROs, nor are school systems required to report how many SROs they use." Accordingly, a national (or state) registry of SROs should be created to establish accountability and aid in preventing officers who engage in misconduct from moving from school to school.

SRO models require varying degrees of training, and range from part-time to full-time staff, as well as some districts with entire police departments dedicated to schools.[14] We believe that the varying models of SRO programs are like the "Wild West", making it hard to discern which programs have solid outcomes and which ones need drastic reform. This lack of accountability may be fueling some of the sentiment that produces blanket negative statements about police officers. There have been some attempts to document the successes of SROs, but a perusal of the reports will show a keen emphasis on averted school shootings and mass violence (which is certainly vital).

> "the varying models of SRO programs are like the "Wild West", making it hard to discern which programs have solid outcomes and which ones need drastic reform."

On the contrary, the increased use of SROs introduces different dynamics for different subgroups, especially Black students. Given the fragmented history between police and Black communities in the United States, increased policing in schools induces additional societal baggage regarding racism, discrimination, and mistrust. In fact, there have been reports and video footage of SROs using excessive force on young girls of color in schools. Simultaneously, policing addresses some important safety concerns. We believe that the tension between these two issues describe **a fundamental problem in that there is no common agreement on the roles of SROs.** Moreover, there is not common understanding of what success is or is not related to SROs. Given that there is a lack of common agreement, measuring and agreeing on the outcomes become much more difficult.

SRO programs were popularized in the 1990s in response to school shootings.[16] The Violent Crime Control and Law Enforcement Act of 1994,[17] known as the crime bill, authorized grants to increase community-oriented policing. This led to the creation of the Community Oriented Policing Services[18] (COPS) program by the U.S. Department of Justice. Within the COPS program, grants were established to fund the increased use of SROs. Additional amendments to the crime bill fueled the growth of SRO programs.[19]

Research[20] has shown that implementation of the COPS program has led to reductions in violent crimes in communities. Contrarily, research has shown that implementation of the COPS program has also led to negative outcomes in schools. For example, recent research[21] found that implementation of the COPS program led to higher discipline rates, lower graduation rates, and lower college enrollment, especially for Black students.

A focus on accountability within the COPS program is good start for a legislative agenda because the COPS program provides funding to states to support SRO programs. States that receive grants from the COPS program are required to submit a memorandum of understanding (MOU) to "ensure collaboration between the law enforcement agency and the educational community".[22] Closely examining the content and revising the process used to draft the MOUs from the COPS program has the potential to clarify the roles and responsibilities of SROs. Accordingly, the COPS program and the MOU process is an important policy lever that can be used to achieve systemic reform.

STATE AND LOCAL REFORM

4 Employ a discrepancy framework

Policy solutions must be grounded in the lived experiences of the community, yet the voices of those that are most associated with various social policies are often not included, namely students and communities of color. UNCF research[23] shows that Black parents often felt as if education reform was being done to them, not with them. And, as mentioned in a previous UNCF study,[24] student voice is often devalued in critical policy decisions. This research demonstrates that school safety is of significant concern for Black parents and youth. While some districts employ climate surveys that may assess issues of school discipline, safety, and racial inequalities, a discrepancy or 360-degree framework is not often implemented.

> *"Policy solutions must be grounded in the lived experiences of the community..."*

We define a discrepancy framework as a set of tools that allow comparison of issues from multiple perspectives. Discrepancy frameworks can be in the form of surveys, focus groups, or other formats that collect data and compare responses across groups. Employing discrepancy frameworks create opportunities to hear from various stakeholders such as students, parents, staff, teachers, and SROs to create a more holistic picture of school safety, climate, and operations. These discrepancy frameworks can identify the areas of difference and agreement and provide a legislative path forward. Results must be disaggregated by race and sufficiently robust to understand both the challenges and positive contributions of SROs in schools. Discrepancy frameworks, if shared transparently, can provide tools to hold districts and states accountable and allow communities to better understand school safety.

5 Require states to collect and clearly report their own discipline and safety data

Obtaining an accurate assessment of school safety, climate, and discipline is essential. Stakeholders should press states to collect and report their own data, instead of relying on the Civil Rights Data Collection. The Civil Rights Data Collection should be used to provide a second and external perspective on school safety and discipline, but should not supplant state efforts. Some states have made efforts to be more transparent and share their discipline data, however, reporting varies across the country.

Reviewing school support staff ratios is another way that communities and policymakers can understand the need for critical supports for students but also learn how states are investing in policing compared to support services. Likewise, it is critical to gather the perspectives of the communities to get input on what types of data are collected and reported.

ESSA requires states to collect their own achievement data, but is very lax when it comes to requirements for collecting disciplinary data. Thus, **states generally decide how transparent they want to be.** Notably, little information is usually shared regarding the adults in the buildings and the systems and structures that may lead to inequities. For example, estimates suggest that there are 1.7 million students in schools that have law enforcement officers but no counselors and 10 million students in schools with law enforcement officers but no social workers.[25] Nationally, the student-to-counselor[26] ratio is a dismal 430-to-1 and the student-to-psychologist ratio is 1,526-to-1. These data, including SRO-to-student ratios, should also be included on the state report cards.

6 Employ local pattern or practice investigations for police, districts, and schools

Pattern or practice investigations,[27] or investigations into misconduct or clusters of troubling trends, are generally associated with the U.S. Department of Justice. However, investigating questionable practices before they escalate to the federal level can be applied locally. For example, some states require mandatory reporting of specific discipline infractions, such as drug possession and use of weapons. However, many of the discipline infractions, such as disruptive behavior, that are not required to be reported to the state, are quite subjective and may require additional scrutiny. Thus, if clusters of arrests or excessive restraint is occurring in a given district, standards should be put in place to investigate these clusters.

It is also important to note that **SROs do not always invite themselves to classrooms, they are often called.** In many cases, SROs are called for ordinary disciplinary infractions. Thus, schools and districts that have high SRO engagement rates should undergo local pattern or practices investigations to make determinations when additional training or removal of SROs and school personnel is warranted.

For example, there may be some teachers and leaders who have notorious reputations for removing students from classrooms and schools or getting SROs involved. These patterns should be investigated because when SROs get involved, de-escalation techniques are altered. In fact, two juvenile judges[28] assert that the primary roles of SROs are to make arrests when there is probable cause. We believe that when SROs get involved, they can diffuse (or escalate) situations, sometimes forcefully.

We also believe that teacher-student relationship[29] quality and school culture can play a major role in reducing referrals to law enforcement. Thus, in addition to pattern and practice investigations, school districts and teacher/school leadership programs, offered by universities and alternative programs, should be required to include training that helps current and aspiring educators understand their roles in reducing referrals to law enforcement. This critical step could minimize the need for potential pattern or practice investigations.

7 Establish transparent pictures of school-based policing across state and local levels

Given the fragmentation of school policing and the disproportionate use of restraint, it is important to understand the activities, outcomes, and investments of school law enforcement (and private security). Many state-level disciplinary reports show the frequencies of incidents or infractions committed by students. We believe that this approach is one-sided. Report cards should also provide a more accurate picture of what is done to students, such as frequency of restraints and arrests. These data should be aggregated and disaggregated by subgroups, where appropriate, to identify patterns of overuse of restraint, force, and misconduct. Moreover, if SROs are used, each district should be required to develop and implement co-constructed MOUs with communities, using a public process, to serve as guiding frameworks between law enforcement and schools. Some states have already begun this work,[30] so states and districts should capitalize on opportunities to share lessons learned.

Financial reporting is also a major concern because prior research[31] has shown that adding additional SRO dollars does not necessarily improve disciplinary outcomes. Given that funds from SROs are generated from local, state, and federal sources, they are very difficult to follow. **Districts should be required to clearly report, using separate funding codes, the sources and dollars used for SROs.** This is especially important because some states or districts may spread SRO funds across multiple categories and group SRO funds into pooled categories like "at-risk student services".[32] Likewise, dollars for event security, such as football games, should also be distinguished from dollars used to support day-to-day school operations.

SUMMARY

This brief summarizes some policy gaps and opportunities to improve school safety. We believe that this legislative framework for school safety and policing is a balanced framework that can yield fruitful outcomes. Although there are certainly other issues that should be addressed regarding safety and school-based police reform, we believe that this framework identifies some clear pathways forward.

KENNETH ALONZO ANDERSON

Kenneth Alonzo Anderson, Ph.D., is Professor and Associate Dean in the School of Education at Howard University, where he leads the Research and Sponsored Programs Division for the School of Education. Informed by his experiences as a middle school teacher, Anderson's primary research interests include using large-scale statistical techniques to examine school improvement policies and practices that lead to equitable outcomes for Black and underrepresented students. Anderson has examined school safety, climate, and discipline issues for almost 15 years. Working through the U.S. Department of Education's Regional Education Laboratory program, Anderson served as Principal Investigator on a longitudinal, statewide disciplinary technical assistance project with the Virginia Department of Education to inform strategies for minimizing suspensions and referrals to law enforcement. Anderson earned his doctorate in curriculum and instruction, with a minor in educational research and policy analysis from NC State University.

MEREDITH B.L. ANDERSON

Meredith B. L. Anderson, Ph.D., is a Senior Research Associate in the K-12 Advocacy Department and Frederick D. Patterson Research Institute at UNCF, where she leads and designs empirical research related to K-12 education for Black students. Anderson has examined issues of race and educational inequities for over 10 years. Prior to her current work at UNCF, Anderson was a program evaluator for Baltimore City Public Schools, where she contributed to the development and management of the teacher and principal evaluation system, conducted statistical analyses to inform decision-making, and led the evaluation survey for principals. Anderson also contributed to the development of the Maryland Longitudinal Data System at the Maryland State Department of Education and has taught courses on race and public policy at the collegiate level. Anderson is a current board member for the Center for Postsecondary Readiness and Success and the Journal of College Access. Anderson earned her doctorate in political science from Texas A&M University.

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ACKNOWLEDGMENTS

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