

The background of the cover is a photograph of a multi-story, light-colored building with a classical architectural style, featuring a prominent portico with columns and a balcony. Tall, thin cypress trees are planted in front of the building. In the foreground, a blue bicycle is parked in a red bike rack. A large, semi-transparent purple triangle is overlaid on the left side of the image, extending from the top left towards the bottom right.

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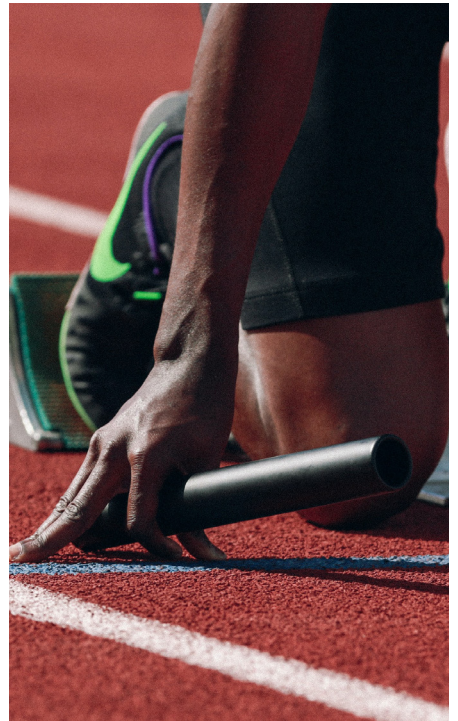
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ABOUT

The Claremont Journal of Law and Public Policy is an undergraduate journal published by students of the Claremont Colleges. Student writers and editorial staff work together to produce substantive legal and policy analysis that is accessible to audiences at the

five colleges and beyond. Together, we intend to build a community of students passionately engaged in learning and debate about the critical issues of our time!



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Gianna Hutton (PO '26) captured the Claremont Colleges Library on a chilly March morning as students across the Claremont Colleges Consortium gather to study for upcoming midterms and assignments.



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LETTER FROM *the editors,*

Dear Reader,

We are excited to present to you Volume 10, Number 1 of the Claremont Journal of Law and Public Policy. This academic year, we have a new group of students leading the journal. Rya Jetha, the Editor-in-Chief, and Celia Parry, the Co-Managing Editor, are both seniors at Pomona. They have worked at the journal since freshman year and are excited to spend their final year building the Journal community. Jon Burkart, the other Co-Managing Editor, is a junior at Pomona who has worked on the digital side of the journal since freshman year.

This edition of the Journal came together during the Fall 2022 semester. As our writers explored complex issues of local inequality and access to resources, environmental policy, and athletics legislation, the Journal community flourished. We hosted events with the Career Development Office and welcomed our Journal alumni back to campus (via zoom) for an alumni panel with Byron Cohen, Greer Levin, Isaac Cui, Sean Volke, April Xu, Katya Pollock, and Ali Kapadia.

We are grateful for the time that contributors, editors, and staff writers put into this edition. Thank you to Jake Ballantine, Bryan Thomas, and Gina Yum for their fascinating contributions to this edition. Thank you to our editors Anna Short, Matt Fisch, Henri Prevost, Michelle Lee, and Sae Furukawa for diligently working with our writers throughout the semester. Thank you to copy editors Anna Theil and Bayarmaa Bat-erdene and design editor Gianna Hutton for making this edition a reality.

Finally, we would like to thank our faculty sponsor, Professor Amanda Hollis-Brusky and our longtime partnering organization, the Salvatori Center at Claremont McKenna College. And of course, we want to thank you — our readers — who make this work worthwhile.

Happy reading!

yours,

Rya Jetha
Editor-in-Chief

Celia Parry
Co-Managing Editor

Jon Burkart
Co-Managing Editor

A PLACE FOR ADOLESCENCE:

CHALLENGING THE DELINQUENT NARRATIVE AND PROMOTING THE PROSOCIAL BENEFITS OF THE LOCAL SKATEPARK

Across the United States, the proliferation of mental health troubles among young adults has reached a level of national crisis.¹ One resource that can help counter this crisis by providing youth with a community and an escape from the pressures of young life is local skateparks.² In this paper, my research explores the experiences of high-school-age boys who frequently attend a local skatepark. Specifically, my study explores the benefits of the skatepark for these adolescents, as they each use it to address their unique problems in coming of age. The site of my research is Spark Skatepark, a public skatepark in a lower-middle-class city in Southern California. By analyzing the results of my observations and interviews with regular adolescent skaters, I challenge the traditional narrative that adolescents who skateboard are delinquents who congregate at the skatepark to break rules. Instead, I reveal the importance of the skatepark to these boys' young lives by highlighting the prominent social benefits of the skatepark and demonstrating the extent to which many boys consider Spark Skatepark to be a second home. Within this analysis, I group the local skaters into three types based on the ways they use the skatepark to benefit their unique lives: esteem skaters, social skaters, and refuge skaters. Each of these types, in conjunction with profiles of individual skaters, helps to challenge the stereotype that adolescents

who skate are delinquents who seek lawlessness at the skatepark. Instead, they demonstrate the profound importance of the skatepark and the community it provides to the boys' young lives, which is relevant to consider at a time when childhoods are increasingly digital, public spaces are increasingly obsolete, and mental health concerns among adolescents are on the rise.

This paper is divided into three parts, each sitting at the intersection of sociology and public policy. The first part examines the framework for understanding the benefits of the skatepark in contrast with movements to restrict skatepark use and a regression of adolescents away from public space and into the home along with the increasing digitalization of social activities. Much of this portion is based on the work of other scholars concerning the prosocial benefits of skateboarding, the skatepark's misrepresentation in the public eye, and the recent pandemic's damaging effects on social interactions and the use of public space. The second part describes the site, the methods I used to conduct my research, and the descriptions of the group of local skaters in which I immersed myself. In the final part, I use my findings and analysis to highlight the benefits of public spaces such as local skateparks and advocate for a return to public spaces in the aftermath of the coronavirus pandemic. To do so, I highlight prominent skater types and profiles to promote more policy that welcomes and

supports adolescents at the skatepark, and I call for more understanding and less stringency from institutions that seek to limit or 'correct' the behavior of adolescents stereotyped as 'skater kids.'

I. REVIEW OF LITERATURE

The first homemade versions of skateboards appeared in California after the turn of the 20th century.³ In the 1960s, the first skateboard manufacturers were established, hoping to capitalize on the rising popularity of surfing by promoting skateboarding, then known as "sidewalk surfing," as an alternative diversion when beaches lacked rideable waves.⁴ In the decades since, skateboarding has spread rapidly throughout the United States and around the world.⁵ The United States now has roughly 3,500 skateparks and slightly over 6.3 million skateboarders—a number that continues to grow.⁶ The majority of frequent skateboarders, commonly known as skaters, are between the ages of 6 and 17.⁷ Of these skaters, an estimated 78 percent are male and an estimated 76 percent are white.⁸

Corwin et al.⁹ found that frequent skaters use skateboarding formally and informally for physical, mental, and sociocultural healing. They also reported an informal mentorship often that occurs in skateparks, normally between older and younger adolescent skaters, which can be

1 See Emily Sohn, *Tackling the mental-health crisis in young people*, 608 NATURE S39 (2022).

2 E.g. SANYA HUNG, *EXPLORING THE ROLE OF SKATEPARKS AS PLACES FOR YOUNG PEOPLE: A CASE STUDY OF SKATEPARKS IN PRINCE GEORGE, B.C.*, 153 (2018).

3 See Tony Hawk, *Skateboarding | History, Culture, Tricks, & Facts* | BRITANNICA, Olympic Sports (2022), <https://www.britannica.com/sports/skateboarding> (last visited Nov 27, 2022).

4 See *Id.* [insert pg cite]

5 E.g. ZOË B. CORWIN ET AL., *BEYOND THE BOARD: FINDINGS FROM THE FIELD*, 33 (2019).

6 See *Id.*

7 See *Id.*

8 See *Id.*

9 *Id.*

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connected to their finding that multiple skaters liken their skate friends to family. Similarly, Goldenberg and Shooter¹⁰ found that camaraderie, social opportunities, skill development, fun, physical fitness, stress relief, and healthy living were among the most salient outcomes identified by respondents and that skateparks provide outlets for experiencing success in a safe and supportive setting. Skateboarding has also been found to provide opportunities for youth to build self-esteem and develop social confidence¹¹ and provide youth with opportunities for freedom and self-determination.¹² Gueorguiev et al.¹³ found a direct relationship between the skatepark and an increased sense of community and countered the traditional misconception that skateboarding promotes antisocial behavior. Wood¹⁴ also found that prosocial behaviors were much more frequently observed than antisocial behaviors at the skatepark, highlighting the role of the skatepark in fostering the development of young people's social skills, self-esteem, cooperation, and respect for self and others.

Many of these reported benefits relate to the advantages of the skatepark as an accessible public space. Lieberg¹⁵ wrote about how teenagers have no obvious right to spaces of their own and nowhere else to go except outdoor public places, and Brussoni et al.¹⁶ wrote that, for adolescents, public space is an important place of transition away from the restrictions of childhood toward the independence of adulthood. Public space also plays an important role in promoting adolescents' physical, mental, emotional, and social development and well-being.¹⁷ At home or school, they are subject to the gaze of teachers, siblings, and relatives who often try to channel them into organized activities that conflict with their individual agendas.¹⁸ As a result, adolescent skaters often find themselves in positions wherein they actively seek to create a new social space within youth society, particularly a space that allows them to operate outside society's conformity norms and social conventions.¹⁹

However, despite the myriad of benefits of public spaces for adolescents, there is a

scarcity of public spaces that can provide them with adequate senses of welcoming and belonging,²⁰ and the positive outcomes associated with skateboarding and skateparks are often overlooked.²¹ As the number of skateboarders has increased around the U.S., many communities have begun to view skateboarding as a problem, and skate youth face negative stereotyping that relates skateboarding to poverty, racism, and sexism.²² Adults tend to view skateboarding in a negative and disapproving way, often equating it with public nuisance,²³ and as a result, adolescents are often excluded from public spaces through design, policy, and society's ambivalence toward them.²⁴

Along with this negative stereotyping, the culture of skateboarding has come under fire in numerous cities across the United States, from Huntington Beach, California to Cape May, New Jersey.²⁵ Municipalities are increasingly adopting public policies such as curfews, skateboarding ordinances, and loitering ordinances to restrict the use of public places by adolescents,²⁶ and

10 Marni Goldenberg & Wynn Shooter, *Skateboard Park Participation: A Means-End Analysis*, 4 RECREATION, Parks and Tourism Administration (2009).

11 E.g. Patsy Owens, *No Teens Allowed: The Exclusion of Adolescents from Public Spaces*, 21 LANDSCAPE J. 156 (2002).

12 See T. Seifert & C. Hedderson, *Intrinsic Motivation and Flow in Skateboarding: An Ethnographic Study*, 11 J. OF HAPPINESS STUDIES 277 (2010).

13 SVETOSLAV D GUEORGUIEV, EDWIN GÓMEZ & EDDIE HILL, *PUBLIC RECREATION AND NEIGHBORHOOD SENSE OF COMMUNITY: AN EXPLORATION OF A HYPOTHESIZED RELATIONSHIP*, 7 (2007).

14 Lisa Wood, *Dispelling Stereotypes... Skate Parks as a Setting for Pro-Social Behavior among Young People*, 2 CURRENT URBAN STUD. 62 (2014) https://www.researchgate.net/publication/261562566_Dispelling_Stereotypes_Skate_Parks_as_a_Setting_for_Pro-Social_Behavior_among_Young_People (last visited Sep 23, 2022).

15 See Mats Lieberg, *Teenagers and Public Space*, 22 COMMUN RESEARCH 720 (1995).

16 MARIANA BRUSSONI ET AL., *TEENS IN PUBLIC SPACES AND NATURAL LANDSCAPES: ISSUES OF ACCESS AND DESIGN* 361 (2018).

17 E.g. MARLUCI MENEZES ET AL., *TEENAGERS' PERCEPTION OF PUBLIC SPACES AND THEIR PRACTICES IN ICTS USES* 109 (Carlos Smaniotto Costa et al. eds., 2019), (last visited Nov 2, 2022).

18 See GILL VALENTINE, *PUBLIC SPACE AND THE CULTURE OF CHILDHOOD* (2004), <http://ebookcentral.proquest.com/lib/claremont/detail.action?docID=4817607> (last visited Nov 4, 2022).

19 See IAIN BORDEN, *SKATEBOARDING, SPACE AND THE CITY: ARCHITECTURE AND THE BODY* (2001).

20 E.g. Brussoni et al., *supra* note 16.

21 E.g. Wood, *supra* note 14.

22 E.g. Corwin et al., *supra* note 5.

23 E.g. Myra F. Taylor & Umneea Khan, *Skate-Park Builds, Teenaphobia and the Adolescent Need for Hang-Out Spaces: The Social Utility and Functionality of Urban Skate Parks*, 16 J. OF URBAN DESIGN 489 (2011).

24 E.g. Brussoni et al., *supra* note 16.

25 See Jeremy Németh, *Conflict, Exclusion, Relocation: Skateboarding and Public Space*, 11 J. OF URBAN DESIGN 297 (2006).

26 E.g. Owens, *supra* note 11.

over one thousand US cities and smaller communities have introduced curfews that require teenagers to be off the streets by 11 p.m.²⁷

In addition to the adverse effects of the negative stereotyping of skateparks and youth who skateboard, recent decades have seen a decline in the use of public space among adolescents, as indoor activities such as watching screens and video games increasingly draw teens inside and away from others.²⁸ The onset of the coronavirus pandemic exacerbated this issue. It replaced face-to-face interactions with online social networking and telephone communication,²⁹ and new lifestyles revolving around the home and the internet have changed young people's access, use, and relationship to the outdoor environment.³⁰ Simultaneously, the prevalence of mental health problems among adolescents has increased on a global scale.³¹ New routines established during the pandemic, such as online teaching and other social distancing measures, have posed further challenges.³² And Szczepańska and Pietrzyka³³ determined that the increase in depressive episodes among adolescents is often linked to the loneliness, social isolation, and lack of physical activity that began during the pandemic lockdown.

While several previous studies have investigated the social benefits of the skatepark, the majority have done so through participant observation and large-scale surveys, which eliminate the holistic aspect of qualitative analysis and fail to understand how skateboarding benefits and fits into each skater's unique life. However, as the skaters I studied discussed with me, everyone goes to the skatepark for their own reasons. Furthermore, very few studies

have performed an in-depth, individual analysis of skateboarding youth and the benefits of the skatepark as it relates to the aftermath of the coronavirus pandemic. Most respondents I interviewed were juniors in high school, meaning they lost the social benefits of an in-person freshman year and later used the community at the skatepark to cope with their various social problems.

II. RESEARCH METHODOLOGY

My research methodology consisted of field notes through non-participant observation and occasional interactions with the group of regular boys at Spark Skatepark, such as joking with them about their group costume on Halloween, discussing music with them when they brought instruments to the skatepark, or telling them about my project and welcoming their advice on which of their friends would be most interesting to interview. Often, at the beginnings and ends of their group skating sessions, the boys would gather in an open space just outside the entrance to the skatepark. They would sit or stand together and joke and laugh. At these times, I made my efforts to get to know them, since I could not skateboard with them while they were inside the skatepark.

I conducted five detailed, hour-long interviews, four of which were with regular skaters at Spark Skatepark and the first of which was with Liv, a fellow student at my college and avid skater. Liv is unique from my other respondents in that she is female, she is white, she is from Florida, she is a college student, and she has only occasionally been to Spark Skatepark. However, she was an excellent first

interview that provided me with insight into the ways of a skatepark and helped me gain experience before interviewing the local boys, who were the focus of my study. I generally conducted my observational field research at Spark Skatepark on Monday afternoons from 3 to 5 p.m., directly after the local high school releases its students at 3 p.m. Generally, though, the group of boys I studied was most available on Friday afternoons, so I performed the majority of my in-depth interviews on Friday afternoons in the grassy area next to the skatepark.

Given Spark Skatepark's location in a small city in Southern California and its proximity to the local high school, a nearby residential area, and other public recreational resources that attract local residents, it seemed like a perfect fit for my study. It is one half-mile down the road from the local high school, adjacent to the local civic center, and across the street from the local post-office. The skatepark is approximately 12,000 square feet in size and consists of bowls, staircases, ramps, and above-ground boxes that can meet the needs of skaters of all levels. It is part of a larger public park that features a playground, basketball court, tennis court, and a large grassy area. Spark Skatepark is located in a Southern California city that has, according to the 2021 U.S. Census population estimates, a population of just under 40,000. The majority of the population is Latino. 74 percent of the adult population in the city holds a high school degree, while only 18 percent of adults have a bachelor's degree. The median annual household income is slightly above \$63,000, which establishes the city as a lower-middle-class community.³⁴ Along with this lower-

27 See Valentine, *supra* note 18.

28 See Lieberg, *supra* note 15.

29 E.g. Agnieszka Szczepańska & Katarzyna Pietrzyka, *The COVID-19 epidemic in Poland and its influence on the quality of life of university students (young adults) in the context of restricted access to public spaces*, 31 J. PUBLIC HEALTH 295 (2021).

30 E.g. Mark Wales et al., *Elevating the Role of the Outdoor Environment for Adolescent Wellbeing in Everyday Life*, 13 Front Psychol. 774592 (2022).

31 See *Id.*

32 E.g. *Id.*

33 Szczepańska & Pietrzyka, *supra* note 29.

34 See US CENSUS BUREAU, U.S. Census Bureau QuickFacts: Montclair City, California, <https://www.census.gov/quickfacts/montclaircitycalifornia> (last visited Nov 20, 2022).

middle-class status, many of the boys I worked with lacked parental support and involvement and their extracurricular and developmental activities. However, the benefit of a public space, such as a local skatepark, allows adolescents to play and explore without need for parental involvement. And with skateboards, the boys have the independence to skate to the park without relying on parents for a car.

The majority of regular skaters at Spark Skatepark are boys of high school age. They are predominantly Latino, but most races are represented. Many of the skaters wear a kind of informal uniform consisting of oversized dark clothes, which are often ripped. The boys laugh and yell to each other as they glide down and up the bowls of the park and attempt, fail, and succeed at various tricks. They often yell suggestions or recommendations to each other and yell excited compliments at one another when one of them succeeds. In addition to the high-school-aged boys on skateboards, younger boys occasionally enter the park on scooters, or occasionally someone rides into the park on a bicycle. Periodically, a girl enters the skatepark, which is a rare event. The girls are either regulars who know and joke with the local boys, or they keep their heads down and skate in silence—often, the latter type of girl uses roller skates instead of a skateboard.

While the group of local skateboarding boys I studied is difficult to quantify exactly, upon familiarizing myself with the boys, I learned that they have a Spark Skatepark text group chat, which is often the best way to quantify and analyze a fluid social group in modern times.³⁵ This group chat consists of 16 boys, all of whom attend the local high school and the majority of whom come to Spark Skatepark up to five days per week. They are Latino, Black, and White, with the majority identifying as Mexican. They represent all high school grades, but the majority of them are high school juniors. Many of the boys struggle with school or have failed classes, but

only four of them have failed enough classes to necessitate their participation in an after-school credit recovery program at a local community college, where they can retake failed classes to earn credits toward graduation. Most of the boys live within fifteen minutes of Spark Skatepark by skateboard. In addition to Liv, a fellow student at my college, the majority of my study focuses on in-depth interviews with four members of this local skateboarding group: Chuck, Liam, Tommy, and Xavier. They are all juniors at the local high school.

III. DATA ANALYSIS

In what follows, I examine three types of adolescent skaters at Spark Skatepark, which I identified based on their common incentives for skating: esteem skaters, social skaters and refuge skaters. These three types of skaters do not identify the entire range of skaters, but they are the most prominent types I observed. While I categorize each of the skaters I interviewed into one specific type, every skater I spoke with demonstrated characteristics of multiple types. Accordingly, I will use data from multiple skaters to support the descriptions of multiple themes and types, even if the skaters do not predominantly represent the specific type. In the following, I present profile examples to provide an exploratory look at adolescent boys who frequently attend Spark Skatepark for its various benefits. Further research can identify the significance of these incentive types through a macro lens in terms of factors such as gender, race, and class with a greater number of respondents.

CHALLENGING THE DELINQUENT NARRATIVE

There is abundant evidence that skatepark culture and adolescents who skate are often stereotyped as delinquents.³⁶ And as a result of this stereotype, policymakers often view adolescents at the skatepark with suspicion and intolerance.³⁷ My interview with Xavier, a regular skater

of Mexican descent who participates in an after-school credit-recovery program after failing several classes, offered a possible explanation of the origin of this stereotype. As Xavier described to me, “I felt oppressed and, you know, just judged and tried to be taught to be some way when that just wasn’t who I was. It’s like now, since I’ve been growing and maturing and all that, I’ve become rebellious to some eyes when I’m just trying to be myself.” Xavier’s explanation brilliantly exposes the common false association between adolescents who seek to be individual by countering common expectations and adolescents who seek to be delinquent by rebelling against common rules. Neither Xavier nor any of the boys I observed at Spark Skatepark ever blatantly violated any laws, and yet, as he explained, they are rendered “rebellious” for pursuing their own passion and subculture when they are merely being individualistic. While rebellious and individualistic are indeed synonyms, they have vastly different connotations, which is likely what contributes to the delinquent ‘skater kid’ stereotype. This misinterpretation may result from the uniqueness of skating as an adolescent pursuit that lacks parental guidance or adult presence at the skatepark. Such parents and adults may discriminate against skating in fear of their lack of control over it.

The group of boys I studied at Spark Skatepark was neither delinquent nor rude, and in many instances they proved themselves to be the polar opposite. For example, when I asked one of the boys, Liam, about how he would describe his group of skatepark friends, he immediately explained that “they’re super nice and we all accept everyone.” Liam proceeded to tell me that he and his friends are one of the only groups of boys at his school that does not drink alcohol or smoke marijuana. Liam’s description is not only a testament to the kindness and decency of his skatepark friends. The way Liam prioritized describing his skatepark friends with such decent traits represents both their pride in

35 See Lauren Mechling, *Everyone Has Left the Chat*, THE N.Y. TIMES, Jan. 29, 2022, <https://www.nytimes.com/2022/01/29/style/group-chat-text-pandemic.html> (last visited Feb 9, 2023).

36 E.g. Taylor & Khan, *supra* note 23.

37 E.g. Brussoni et al., *supra* note 16.

their decency and its importance to the way they represent themselves to others. This case is a stark contrast to the delinquent behavior so often stereotyped and feared by local residents and policymakers.

Many of the local boys attribute their civil behavior to the benefits of the skatepark. Chuck, a local high-school junior of Mexican descent, attributes the boys' civility to the quality of skateboarding as an activity that keeps them occupied and prevents them from involving themselves in harmful or delinquent activities. He explained that "if you're just always skateboarding . . . there's really nothing bad you can do." Activities that keep vulnerable young boys engaged in positive activities to reduce their likelihood of falling into delinquency have been increasingly promoted by policymakers and advocates.³⁸ The boys at Spark Skatepark, who are in an underprivileged area with considerable drug abuse and are struggling to graduate high school, are a certain target demographic for such activities. Appropriately, Chuck's explanation illustrates the importance of skateboarding as one of these positive activities for vulnerable boys.

Liam offered an alternative explanation for the boys' prosocial behavior, which he attributed to the power of the community that forms at the skatepark. When I asked Liam if going to the skatepark makes the boys more inclined to do "good things or bad things," the latter of which is a common stereotype, Liam responded that coming to Spark Skatepark makes them "definitely more inclined to do good things, because we encourage each other not to do any drugs or smoke, and we'd make fun of each other if we did." Liam's explanation speaks to the power of the skatepark as the positive community that many adolescents need during their time of insecurity and experimentation. And in support of Liam's

explanation, when I asked Xavier about levels of respect among the boys at Spark skatepark, he responded that "some of the least respected are just the dickheads that come here to smoke. Cause trouble and stuff." Similarly, many of the boys referenced the older boys at the skatepark as positive role models for them when the boys were younger. They described that the older skaters used to teach the boys skateboard tricks and confer positive moral lessons. Now that the boys I worked with are among the more mature users of Spark Skatepark, they believe they have a duty to serve as the same positive role models. This positive environment, as well as Chuck's identification of skateboarding as a positive engagement to keep boys away from trouble, supports Goldenberg and Shooter's³⁹ conclusions that skateparks provide adolescents with access to a safe, supportive setting and a healthy lifestyle.

In relation to my findings that adolescents visit the local skatepark for positive and constructive reasons rather than negative ones, I determined one of the predominant types of adolescent skaters to be esteem skaters. Esteem skaters go to the skatepark for senses of value and self-worth—both in their own eyes by providing a boost of confidence when they land an exciting new trick and in others' eyes when they gain attention and a positive reputation from others, which provides them with senses of value and affirmation that they often lack otherwise. Esteem skaters typically struggle with typical adolescent activities that are more often recognized and rewarded. As an example, Xavier told me, "I do a lot of the things I do because I don't feel like I'm good at school or, you know, a lot of things I guess the world wants you to be good at." This type is supported by Owens's⁴⁰ finding that skateboarding provides opportunities for youth to build their self-esteem and

develop social confidence.

At home or school, adolescents are subject to the gaze of teachers and relatives who often try to channel them into organized activities that conflict with their individual agendas.⁴¹ This phenomenon can leave adolescents who lack ability or interest in such activities with feelings of hopelessness and low self-esteem, as they are often disregarded by others. However, in a setting that supports autonomy, such as a skatepark with no adults in sight, esteem skaters are free to set their own goals and pursue their own challenges,⁴² which builds their confidence and makes them feel competent away from the demands and expectations of family, school, and associations. Additionally, esteem skaters often draw a sense of self-confidence from participating in the informal mentorship that occurs in skateparks.⁴³

One excellent example of an esteem skater at Spark Skatepark is Tommy, who participates in the same credit-recovery program as Xavier. Tommy is noticeably the most charismatic member of his friend group of local skaters. He is repeatedly the first skater to run out of the park and loudly greet other regular skaters as they arrive. He is also the most frequent skater in his group. Tommy often goes to Spark Skatepark seven days per week, and, if he can, he skates before school, between school and his credit recovery classes, and at night after his credit recovery classes. He is a skinny boy with caramel-colored skin, a dark, wispy mustache, and long dark hair that dangles down to his shoulders.

Tommy was born to a Mexican mother and a father who is half Black and half Native American, but Tommy's parents separated quickly after his birth. Tommy's mother is a drug addict who often spends her time in rehabilitation centers, and his

38 See Irina Jugl, Doris Bender & Friedrich Lösel, *Do Sports Programs Prevent Crime and Reduce Reoffending? A Systematic Review and Meta-Analysis on the Effectiveness of Sports Programs*, J. QUANT CRIM. (2021), <https://doi.org/10.1007/s10940-021-09536-3> (last visited Dec 6, 2022).

39 Goldenberg & Shooter, *supra* note 10.

40 Owens, *supra* note 11.

41 See Valentine, *supra* note 18.

42 E.g. Seifert & Hedderson, *supra* 12.

43 E.g. Corwin et al., *supra* note 5.

father is rarely around to support him. As a result, Tommy was primarily raised by his mother's parents, and he described to me the difficulty of growing up without his parents in his life. Tommy became so desperate for parental figures that he grew up calling his grandparents "mom and dad." This extreme adaptation reveals the extent of the void Tommy felt without his parents in his life, and it reveals the levels of low self-esteem and desperation he felt as a result. But in addition to Tommy's troubles at home, he also experiences troubles at school. Tommy has always seen school as "really pointless," and he compares it to a prison. As a result, Tommy has received zeroes and Fs on school assignments since elementary school, which adds to his troubles and low self-esteem. He admitted to me that he has considered suicide many times.

However, when Tommy was in middle school, his grandparents bought him his first skateboard and he started learning to skate in the street near his house. When Tommy experienced the thrill of landing his first trick, he explained to me the addictive nature of the sense of accomplishment he felt: "It was really cool. Because I felt so accomplished and so fulfilled just doing one thing. And it just kind of stuck with me from there." In high school, Tommy chose to start focusing on skating because he decided that "if I'm not doing good in school, I might as well do something good. And skating is better than doing drugs." When Tommy earned his first skateboarding sponsorship, he received a congratulatory call from his father, which is a rare event. Tommy's reaction to the new paternal attention was quite positive: "I was like, wow, that's crazy. He called me for that. Like no other reason . . . I really enjoyed it because . . . he would never call me for anything else." Tommy's response to the increased attention from his father shows the power that skateboarding gives him to earn and receive recognition from his missing parents, which helps him fill the parental void that has pained him for so long.

Tommy's affinity for skateboarding gives him a level of recognition at his school as well, where he is known as the 'skater kid.' As Tommy explained to me, "people know me, but I don't know them, and it's kind of cool." With this reputation, Tommy achieves a level of status and esteem from his school—an institution that has so long belittled him and made him feel like a failure and outsider. And with this reputation, Tommy has taken the initiative to represent the Spark Skatepark community in recruiting and welcoming new skaters. He is famous among the regular skaters for the time a younger member of their group was kicked out of his house and Tommy let him stay in his bedroom. While discussing Tommy's positive influence at the skatepark, he admitted to me that, "it's always blown my mind . . . I never thought I could do that. Because . . . the way I view myself is really bad."

THE SOCIAL BENEFITS OF THE SKATEPARK

Every regular skater I spoke to throughout my research emphasized the social benefits that the skatepark provides, mainly through helping to build social skills, providing a new group of friends, or providing a network of social support for the adolescents who need it. Bradley⁴⁴ described the prominent role skateparks play in social networking among users, which is another benefit of public space that the increased digitalization of adolescent life is replacing. Similarly, Goldenberg and Shooter⁴⁵ identified that camaraderie and social opportunities are two of the most salient benefits of skateparks. And Valentine⁴⁶ identified public spaces, such as skateparks, as important social arenas for young people.

Reflecting on findings from previous studies, multiple boys I spoke with described Spark Skatepark as a social hub for their group of friends. On several days of my fieldwork, I observed groups of boys arriving at the skatepark without

their skateboards and simply standing and talking outside the skatepark entrance. On one occasion, I counted seven boys sitting and talking on the curb outside the skatepark entrance and only one boy skating inside the park, which lasted for almost 30 minutes. Liv, a fellow student at my college, even referenced the social benefits of the skatepark as the primary reason she returned to her skatepark during the summer before her first year of college. She struggled to connect with fellow students at her high school and returned to the skatepark to learn "how to make friends" before college. Similarly, Xavier described to me how the skatepark encourages adolescents to interact with each other, form relationships, and build their social confidence, which relates to my finding that multiple of the skaters I interviewed credit their experiences at Spark Skatepark with making them "a better person." Tommy even claimed that his interactions at Spark Skatepark have made him "a better person in every way," because the skatepark gave him the opportunity to interact with positive role models, which he lacks at home.

But in addition to providing the opportunity to build valuable social skills, Spark Skatepark serves the regular boys as a source of valuable social support. Tommy admitted to me that the strength of his skatepark friendships is one of the primary reasons he has refrained from suicide. Comparably, several of the regulars I met at Spark Skatepark described the social support of the skatepark community as their primary reason for skating, making up the social skater type. One such social skater I interviewed was a boy named Liam. Liam is a boy of average height who is noticeably more soft-spoken among the regulars, with a wispy brown mustache and signature wool beanie hat. He identifies as Mexican and is one of the newest members of the group of Spark Skatepark regulars, after Tommy recruited him to join the group at a critical time.

Liam has always been an independent

44 Graham L. Bradley, *Skate Parks as a Context for Adolescent Development*, 25 JOURNAL OF ADOLESCENT RESEARCH 288 (2010).

45 Goldenberg & Shooter, *supra* note 10.

46 Valentine, *supra* note 18.

child, and he rarely interacts with his family. Rather, they trust him to explore the world by himself and stay out of trouble. However, during the lockdown of the coronavirus pandemic, Liam struggled greatly throughout his online freshman year of high school and failed several classes. When Liam started high school in person at the beginning of his sophomore year, he struggled with social anxiety and a reintegration into in-person social life in addition to the difficult adjustment to his first in-person high school classes.

During the fall of his sophomore year, Liam mistakenly affiliated himself with a delinquent group of students, who took advantage of him and encouraged him to experiment with substances and skip and fail more classes. However, since Liam started skating during the spring of his sophomore year, after Tommy recruited him, he was able to escape the delinquent group and find a community that welcomes and reinforces his values. Liam has since started performing much better in his classes and avoided credit-recovery programs altogether. Now, Liam and his skatepark friends walk to high school classes together and sit together at lunch. When I asked Liam whether he would have been better equipped to handle his earlier problems if he had started skating earlier, he responded, “Yeah, because I’d have more people to talk to.”

But in addition to the social support that Spark Skatepark provides, Liam also described the power of the skatepark to help adolescents build social skills. He explained to me, “if I had started earlier, skating, I feel like I would be a lot more outgoing, maybe just more comfortable going outside and just doing more stuff . . . I feel like skating has a lot to do with confidence.” Liam also added that “skating alone doesn’t really feel like skating. It’s more of, like, just moving.” Liam’s separation of the concepts of skating and moving brilliantly represents the power of the social benefits of skateboarding. While ‘moving’ is, empirically, what the act of skateboarding entails, it involves much more for Liam and other social skaters in

terms of the sense of community and social support that it provides. Furthermore, while Liam identifies the “just moving” element as distinct from skating, he speaks to the importance of the community for so many social skaters who understand skating for its social benefits.

THE SKATEPARK AS A SECOND HOME

In relation to the social support that Spark Skatepark provides for this group of boys, I continually identified that it serves as a second home for many of them, either by providing family-like senses of community and care or by providing home-like senses of safety and belonging. For example, when I asked Liam about Corwin et al.’s⁴⁷ finding that multiple skaters likened their skate friends to family, Liam admitted that he considers his Spark Skatepark friends to be more of a family than his biological family, even though he has only known them for six months.

In terms of the skatepark serving as a safe, homelike space for the boys, multiple of them described the homelike levels of safety and comfort they feel at Spark Skatepark and contrasted them with their experiences at home. For example, Chuck is a boy in the foster system who spent his earliest years navigating Los Angeles while homeless with his single mother and two siblings. In years since, Chuck has moved between multiple foster homes in the greater Los Angeles area, so the idea of home is an important and complex concept for him. But throughout my conversation with Chuck, he consistently referred to Spark Skatepark as his “home” and defended it accordingly. When I asked Chuck about the prevalence of vandalism at Spark Skatepark—a common stereotype of skatepark culture, Chuck responded, “I get mad when people do things like that. Like, come on, dude . . . This is like my home; you’re trashing my home.” By accepting and defending Spark Skatepark as his home, which is a concept Chuck has never truly known, Chuck speaks to the power of the local skatepark as a reliable, safe, and welcoming place—three traits that are critical for adolescents but that

they can often lack at home or in the places where they spend the majority of their time. Comparably, Lieberg⁴⁸ found that youth can find freedom from the demands and expectations of family, school, and other associations in public spaces, such as the local skatepark.

As a result of the important senses of freedom and comfort that skateparks provide, several of the boys I spoke with described to me the disappointment they often feel while skating home from the park, often comparing it to coming down from the high of a drug. Tommy explained the comparison to me: “It’s like a drug that’s not a drug . . . It’s a drug that’s not really killing you. It’s more of helping you in a way to be better.” But in addition to the high of skating that was described to me, these boys also use skating like a drug in the sense that it helps them escape from their problems. The boys who use the skatepark as an escape from their problems make up the refuge skater type. Refuge skaters are quite common, and Chuck explained to me that the majority of boys he has met at Spark Skatepark are refuge skaters who come to the skatepark to escape from their unique problems.

One such refuge skater who directly uses Spark Skatepark as an escape drug is Xavier. Xavier is unique from the other skaters I met with in how he considers skating alone to be equally valuable as skating with others. When I asked him for his reasoning, Xavier explained to me that “skating alone can be really peaceful and, you know, necessary sometimes when things get to be too much.” This description demonstrates the mental and individual benefits of the skatepark in addition to the social benefits that were so salient during my interviews with the other regular skaters.

Xavier is a boy of average stature with dark, greasy hair down to his shoulders and a dark, wispy mustache like Tommy and Liam. He identifies as Mexican and is enrolled in the same credit-recovery program as Tommy. He grew up poor and lives with his family of four in a one-

47 Corwin et al., *supra* note 5.

48 Lieberg, *supra* note 15.

room apartment, so he tries to stay away from home when he can. Growing up in such conditions, Xavier suffered several traumatic experiences at home throughout his childhood, and through his unstable home situation he was able to access and experiment with harmful substances from a young age.

In middle school, Xavier felt bullied and betrayed by fellow students. And whereas most adolescents may be able to rely on family during such distressing times, Xavier struggled to rely on his family. Instead, he resorted to harmful practices such as truancy and substance abuse. Throughout middle school, Xavier experimented with substances such as MDMA, psychedelic mushrooms, marijuana, and alcohol. In hindsight, he admitted to me, “it’s a lot, especially for how young I was . . . It was terrible, but um, I just tried to escape using that.” Xavier knowingly failed school to prioritize his mental health and escape from his problems.

However, in 2020, which Xavier considers the worst year of his life, he started going to Spark Skatepark more often. He sought a second home as he struggled to rely on his familial home. Xavier involved himself in the group of Spark Skatepark regulars, and he claimed to me that the skatepark experience “changed my life.” Xavier now describes Spark Skatepark as “a second home. It’s like it feels safe, like a safe escape, I guess. It’s the escape you need. It’s somewhere I can be myself.” He also considers his skatepark friends

to be a “second family.” While Xavier acknowledges that Spark Skatepark is filled with refuge skaters seeking an escape from their problems, he proudly explained to me that “it’s still a community, you know. We all try to help each other.” Xavier has recently gotten sober and improved his attendance and grades at school. He now finds the same senses of freedom and relief from his problems in skating that he previously found in substance abuse.

IV. CONCLUSIONS

Throughout this paper, I explored the importance of Spark Skatepark to the local boys who frequently use it. I categorized the boys into three predominant types based on their incentives for skating: esteem skaters, social skaters, and refuge skaters. The stories of boys I met at Spark Skatepark that represent these types help to support my findings that the skatepark provides adolescents with numerous social benefits and plays the role of a second home for those who need it, both of which help to challenge the traditional stereotype of ‘skater kids’ as inconsiderate delinquents. Furthermore, while skateparks are often stereotyped as places that encourage adolescents to skip school and fail classes, the majority of boys I met with who had failed classes did so before they started skating regularly. If anything, the skatepark experience helped improve their academic performance and well-being.

Most importantly, my research displays the myriad of benefits that public skateparks

and other public spaces have for adolescent children and, in particular, disadvantaged adolescent children. Yet underprivileged urban areas notoriously lack such accessible public spaces where adolescents can escape, explore, and interact.⁴⁹ Furthermore, in an increasingly digital world that increasingly draws developing children away from public interaction and into their homes and screens, my findings establish the importance of promoting public spaces for adolescents such as skateparks. Such public spaces are especially important amid the multitude of psychological challenges plaguing youth today. To do so, communities and their youth need more policy that welcomes and supports the use of public spaces and skateparks as well as more parents who allow and encourage the use of skateparks. But before these changes can occur, a first step involves seeking to understand the stories and incentives behind the young men at skateparks. Doing so, as I have done, can expose the great value of the public space and community interactions that local skateparks provide.

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Guest Contributor

49 E.g. Dan Gordon, Access to parks, open spaces in your community can be a health factor, UCLA (2017), <https://newsroom.ucla.edu/stories/public-health-experts-find-poor-neighborhoods-lack-access-to-parks-open-space> (last visited Jan 11, 2023).

ANALYSIS OF THE ENVIRONMENTAL JUSTICE

SPECIFIC INITIATIVES IN THE AMERICAN RESCUE PLAN ACT

INTRODUCTION

H.R. 1319, better known as “The American Rescue Act Plan Act of 2021” or ARP, was passed by Congress in response to the COVID-19 pandemic. This \$1.9 trillion economic stimulus bill was proposed to steer the country’s recovery from the COVID-19 pandemic and the ongoing recession.¹ At the time of the plan’s proposal, almost 10 million workers had lost their jobs “with 4 million out of work for half a year or longer.”² On March 11, 2021, the legislation went into effect to provide direct relief solutions to all areas in the U.S. This relief was brought through the expansion of welfare systems for households, growth capital provisions for small businesses, and direct stimulus checks for individuals. ARP aimed to better “the health and economic well-being”³ of low-income and middle-income individuals.

H.R. 1319 addressed existing environmental justice (EJ) issues that became exasperated during the pandemic by allocating additional federal funds to the Environmental Protection Agency (EPA).⁴ Environmental justice is a social movement that works to manage the disproportionate vulnerability marginalized people face in terms of resource extraction, environmental

hazards, and other negative environmental exposures. The movement bridges the gap between the existing environmental movement and the social justice movement. Environmental exposures, which are more likely to be faced by marginalized communities, directly influence individual susceptibility to COVID-19.⁵ International studies have determined a strong positive relationship between air pollution and COVID-19-related deaths.⁶ Many of the pre-existing conditions that increase the risk of death in those with COVID-19 are the same conditions that are worsened by long-term exposure to air pollution. Long-term average exposure to fine particulate matter is associated with an increased risk of COVID-19 death in the United States. The uneven morbidity and mortality rates of COVID-19 have made it clear that exposure to pollution has been unevenly distributed amongst the national population.⁷ Communities exposed to higher levels of air and toxic pollution, such as dirty soot from diesel engines, are also more likely to have higher COVID-19 morbidity and mortality rates.⁸ Around the world, individuals from marginalized communities face increased environmental exposure and worsened negative consequences of COVID-19, which demonstrates the importance of environmental justice advocacy.

Ultimately, this paper seeks to demonstrate why the American Rescue Plan Act of 2021 is a fundamental piece of legislation for the growing environmental justice movement. Section I of this paper contextualizes ARP within the Biden-Harris Administration’s environmental justice initiatives. Section II explains how the Environmental Protection Agency allocated ARP funding to address environmental justice concerns. Section III highlights the issues surrounding ARP that critics have highlighted.

RECENT ENVIRONMENTAL JUSTICE

Corporations have increasingly taken over the government’s role in policymaking. Transnational corporations have decentered the state in movement struggles. For decades, the environmental movement has implemented organizing strategies, like good neighbor agreements, that take global interests into consideration to adapt to increasing corporate power and its subsequent influence on the political process.⁹

In contrast, the environmental justice arm of the larger environmentalist movement has centered its efforts around domestic issues through local community power.¹⁰ The EPA has ARP funding for

1 See Am. Rescue Plan Act of 2021, Pub. L. 117–2, 117th Cong. (2021)

2 The Am. Rescue Plan, (2021), www.whitehouse.gov/wp-content/uploads/2021/03/American-Rescue-Plan-Fact-Sheet.pdf (last visited Jan. 5, 2023).

3 *Id.*

4 See Am. Rescue Plan Act, Nat’l League of Cities (2022), <https://www.nlc.org/covid-19-pandemic-response/american-rescue-plan-act/> (last visited Jan 5, 2023).

5 See Tanya Khemet Taiwo, Pamela Lein & Bianca Yaghoobi, Going viral: COVID-19, environmental injustice & institutionalized racism, *Entvl. Health Sciences Ctr.* (Mar. 4, 2021), <https://environmentalhealth.ucdavis.edu/news/covid-19-environmental-injustice-racism> (last visited Jan. 5, 2023).

6 See *id.*

7 See Xiao Wu et al., Exposure to air pollution and covid-19 mortality in the United States: A nationwide cross-sectional study, *8 Sci. Advances* (Nov. 2, 2020), <https://www.science.org/doi/epdf/10.1126/sciadv.abd4049> (last visited Jan. 5, 2023).

8 See *id.*

9 See Sanford Lewis & Diane Henkels, *Good Neighbor Agreements: A Tool For Environmental and Social Justice*, 23 *Soc. JUSTICE* 134 (1996).

10 But see U.S. Env’tl. Prot. Agency, *Equitable Dev. and Env’tl. Justice*, (Nov. 14, 2022), <https://www.epa.gov/environmental-justice/equitable-development-and-environmental-justice> (last visited Jan 5, 2023)

EJ issues. The EPA has stipulated that they will provide environmental justice grants and technical assistance directly to “community-based organizations, federally recognized tribes, state governments, local governments, and U.S. territories” to pursue or maintain environmental and public health-related projects for underserved communities.¹¹ In addition to focusing on local issues, EJ groups have responded to the changing sociopolitical landscape by transitioning from participatory structures to formally structured 501(c)(3) status non-profit structures. Adopting formal legal status has allowed EJ groups to “diversify channels of financial support.”¹² Most community-based organizations that have received ARP funds are 501c3 structured groups. EJ groups have grappled to gain political legitimacy in the current sociopolitical world by creating larger, horizontal networks. These horizontal networks consist of groups with varying charity and nonprofit statuses, increasing the political legitimacy of the EJ movement as a whole. “Prominent environmental justice activists, scholars, and community leaders” identified that gaining political legitimacy helped them more easily advocate for policy changes.¹³ Focusing on environmental justice rather than just environmentalist ideals has enabled ARP funds to be used for intersectional social justice initiatives. EJ activists push for equal access to environmental goods, like public green space, and meaningful participation of all residents in decision-making processes. They also advocate for “intersectionality” with fields like public health, geography, and medicine to “confront challenges ranging from

disability, energy poverty, [and] unfair land use and zoning.”¹⁴ ARP funding has enabled the Biden-Harris Administration to advocate for intersectional environmental justice.

The Biden-Harris Administration has established environmental justice as a serious policy priority. Biden announced the Justice40 Initiative through Executive Order 14008: Tackling the Climate Crisis at Home and Abroad to address underinvestment in marginalized communities.¹⁵ It ensures that 40 percent of the overall benefits of certain federal investments, like clean energy, workforce development, and affordable and sustainable housing, are directed towards disadvantaged communities overburdened by pollution.¹⁶ The Biden-Harris Administration announced that a “national commitment to environmental justice of this magnitude has never been made before.”¹⁷ To attain this “historic” commitment, the administration established the White House Environmental Justice Advisory Council and launched the Climate and Economics Justice Screening Tool. These instruments were created to provide additional administrative and technical support for policies the administration has recently passed, like ARP, the Inflation Reduction Act, and the Bipartisan Infrastructure Law. Both the Inflation Reduction Act of 2022 and the Bipartisan Infrastructure Law were established after ARP and built off of the environmental justice foundation that ARP created.

FUNDING ALLOCATION

ARP provided the EPA with \$100 million dollars in funding to update the

national air quality monitoring system and reduce the air and toxic pollution linked with contributing to COVID-19 deaths.¹⁸ ARP funding is allowed to be allocated to activities that are authorized by the Clean Air Act and the Safe Drinking Water Act.¹⁹

The EPA split each of the two overarching goals into two \$50 million line items. One half was allocated for air quality monitoring, and the other half was allocated “to support environmental justice (EJ) priorities.”²⁰ The populations targeted by EJ priorities are low-income communities and communities of color, which are significantly more likely to suffer from poor air quality and higher rates of COVID-19. The \$50 million for EJ priorities are designated for “grants, contracts, and other agency activities” that address disproportionate environmental or public health issues in underserved communities through local initiatives.²¹

Highlights of the various allocated expenses are described below:

The State Environmental Justice Cooperative Agreement Program has provided \$4.1 million to support 21 projects that lead to measurable environmental or public health results in communities adversely and disproportionately burdened by environmental harms and risks relating to air pollution and unsafe drinking water.

Another \$16.7 million was allocated to EJ grants and technical assistance. \$5.25 million of the \$16.7 million was distributed to the Environmental Justice Small Grants (EJSG) Program to support 99 projects that assist communities

11 Am. Rescue Plan Act Performance Report, U.S. Env'tl. Prot. Agency (2022) https://www.epa.gov/system/files/documents/2022-07/AmericanRescuePlanPerformanceReport_through033122.pdf (last visited Jan. 5, 2023).

12 Alejandro Colsa Perez *et al.*, *Evolution of the Environmental Justice Movement: Activism, Formalization and Differentiation*, 10 ENVTL. RESEARCH LETTERS 105002 (2015).

13 *Id.* at 9.

14 *Id.*

15 Exec. Order No. 14008, 3 C.F.R. 477 (2022).

16 See Justice40 Initiative, U.S. Dep't of Transp., <https://www.transportation.gov/equity-Justice40>, (last visited Jan. 5, 2023).

17 Justice40 A Whole-Of-Government Initiative, The White House, <https://www.whitehouse.gov/environmentaljustice/justice40/>, (last visited Jan 5, 2023).

18 See Senate Democrats, Title-By-Title Summary of the American Rescue Plan 9 (2021).

19 See U.S. Env'tl. Prot. Agency, Office of Env'tl. Justice, *Environmental Justice Small Grants (EJSG) Program*, April 19, 2021, Justice40 Initiative | Environmental Justice | The White House https://www.whitehouse.gov/documents/2021-12/ejsg_2021_rfa_amendment_4.21_0.pdf

20 See AM. RESCUE PLAN PERFORMANCE REPORT, *supra* note 11.

21 *Id.* at 3.

in solving and understanding local environmental and public health issues. The EJSG Program grantees, belonging to 37 states, Washington D.C., and Puerto Rico, address various environmental justice issues from the impacts of the COVID-19 pandemic to emergency preparedness and planning.²² \$4.3 million of the EJ grant budget was allocated to the Environmental Justice Collaborative Problem-Solving Cooperative Agreement Program to fund 34 projects that address local environmental and public health issues from air pollution and unsafe drinking water and build collaborative partnerships.

\$8.6 million is reserved for direct funding programs. \$7 million is budgeted for the Diesel Emissions Reduction Act rebate program to reduce diesel pollution. This rebate program will fund electric school buses for underserved communities. The other \$1.6 million will support the EJ Small Program grants to encourage tribe governments to engage their community members through community programs. Tribe participation is important for addressing environmental justice, water, and air quality issues because indigenous people have been historically left out and disregarded by environmental legislation.

\$10.6 million will be used to address brownfield sites: properties that have been previously developed but are not currently in use because they are viewed as potentially dangerous and contaminated. \$5.1 million will be used to ensure compliance with environmental requirements. To support civil and criminal enforcement, the EPA will increase monitoring of sources for pollution, monitoring of oil and gas production facilities, and outreach efforts for environmental crime victims. Environmental crimes are illegal activities that harm the environment and public health. There have also been efforts to share new data with the affected communities. \$5 million will help fund the existing Technical Assistance to Brownfields (TAB

Program. The ARP funding will fund TAB provider organizations that work to assess, clean, and reuse brownfield sites. \$500,000 is being given to a TAB organization in each of the 10 EPA regions to continue revitalizing brownfield sites.

Specific public health initiatives are allocated \$11.8 million in funding. \$4.7 million will be used for drinking water monitoring in rural, urban, and tribal areas. The funds will be distributed amongst 13 technical assistance programs that range from technical support in West Virginia to lead pipe inventory and public engagement in New England. \$4.9 million of the \$50 million budget will be reserved for children's health issues. The funding will be split amongst four children's health programs that address children's environmental health issues relating to pollution sources and conduct public health risk assessments. \$2.2 million of the EJ budget will support the agency's efforts to support community-driven investment and technology solutions for air and water issues in underserved communities.

About \$2 million is reserved for tool and technology development. \$720,000 will be used to enhance the development of environmental justice tools through literature reviews, training and workshops, Environmental Justice Multisite tool, and the sector reports. \$700,000 is allocated to support EJ analytical projects that incorporate EJ and socio-economic considerations into regulatory policy modeling and identify communities with large socio-economic and environmental burdens with expanded geospatial detail. These projects will help the EPA identify populations facing multiple cumulative burdens. Another \$500,000 of the total EJ budget is reserved for EJ tool development will support oil and gas regulatory activities: oil and gas regulatory development in documentation and data analysis, increased outreach to communities close to oil and gas development sites, and enhancement of

internal analytical tools.

IMPORTANCE OF ARP

After analyzing the allocated funds, it is clear that the EPA funding decisions closely align with environmental justice ideals. The American Rescue Plan Act centers on marginalized communities, which is more important than ever after the disproportionate effects of COVID-19. For example, the EJ funding is being directly sent to organizations like the YH2O mentoring program in Baltimore, Maryland, that prepares young adults to be employed in full-time jobs within the water industry.²³ The funding assists water quality improvement efforts in urban areas and job attainment opportunities for marginalized communities. ARP funds many similar programs that target under-resourced communities throughout urban and rural areas of America, like an after school internship program in San Pablo, CA, that mitigates COVID-19 impacts and the Massachusetts Department of Health Asthma Prevention and Control Program that improves asthma outcomes in underserved communities.²⁴ ARP uses the broad definition of environmental justice to cover public health issues. The American Rescue Plan Act has successfully allocated funds to EJ funding needs by centering issues that affect both the environment and marginalized communities.

Outside of the \$100 million allocated funds to the Environmental Protection Agency, ARP provides additional funds from its total \$1.7 trillion budget to invest in the health of marginalized communities. ARP allocated \$350 billion in emergency funding to tribal governments, states, metropolitan cities, counties, territories, other local governments, and the District of Columbia. In addition to addressing the negative economic impacts of COVID-19, ARP emergency fund recipients are also allowed to use the money to make necessary investments to improve access to clean drinking water, support wastewater

22 See U.S. Evtl. Prot. Agency, EPA Announces \$14.1 Million to Fund 133 Environmental Justice Grants (June 25, 2021), <https://www.epa.gov/newsreleases/epa-announces-50-million-fund-environmental-justice-initiatives-under-american-rescue> (last visited Jan. 5, 2023).

23 E.g., U.S. Evtl. Prot. Agency, EPA Announces \$50 Million to Fund Environmental Justice Initiatives Under the American Rescue Plan (June 25, 2021) <https://www.epa.gov/newsreleases/epa-announces-50-million-fund-environmental-justice-initiatives-under-american-rescue> (last visited Jan. 5, 2023).

24 See *Id.*

and stormwater infrastructure, and develop and preserve affordable housing.²⁵ With this agency, recipients can pursue programs necessary for the health of their vulnerable constituents and community members. \$4.5 million from ARP has been distributed to the Low Income Home Energy Assistance Program, which assists low-income households in meeting their energy needs and preventing unsafe indoor temperatures. 100% of the LIHEAP funding available under ARP has been provided to grant recipients.²⁶ Even ARP funds outside of those distributed to the EPA are being used to progress EJ needs, which demonstrates that environmental justice issues are being widely recognized.

Although \$100 million dollars of funding is not enough to change the environmental justice infrastructure of America, it does create a foundation for EJ at a time when environmental justice issues are only worsening. The Bipartisan Infrastructure Law and Inflation Reduction Act passed by the Biden-Harris Administration built off the ARP funding allocations. The Inflation Reduction Act mandates \$3 billion to community-led projects to address climate change and pollution through block grants to complement the \$16.7 million allocated to EJ grants and technical assistance from the American Rescue Plan. The passage of the American Rescue Plan Act is a reminder that environmental justice initiatives are becoming a greater policy priority.

SURFACED ISSUES

Although ARP created one of the largest funding boosts for the EPA in recent history, a much larger amount of funding is required to meet all the EJ needs of the nation. The environmental justice movement has only recently received the attention it deserves. Environmental concerns have not traditionally received adequate recognition. For context, the 2021 fiscal year budget for the EPA was \$17 million, which is a fraction of the \$100 million budget allotted to the agency through ARP.²⁷

The passage of environmental justice initiatives is volatile due to our political system. The \$100 million dollar funding for the EPA was difficult to pass in Congress. While ARP was still in the hearing process, Republican leaders proposed a roughly \$600 billion dollar counterproposal plan in response to ARP, which did not include a large, allocated budget for environmental justice initiatives.²⁸ The difficulty in passing this bill even under a unified government demonstrates that although the urgency of EJ issues has been recognized, continuing to push for EJ legislation in this contemporary political climate will be volatile. Luckily, with working efforts from many climate organizations, activists, and policymakers, the Biden-Harris Administration was still able to sign the Bipartisan Infrastructure Law and Inflation Reduction Act into law off of the EJ foundation laid down by the

ARP.²⁹ The Inflation Reduction Act spurs solar project development through credit, expands access to affordable, clean energy in Native American land, and provides other grants to further advance environmental justice. Through these investments, the bill is expected to reduce greenhouse gas emissions by around 40 percent by the end of the decade.³⁰ The Bipartisan Infrastructure Law invests billions into pollution cleanup at Superfund and brownfield sites, invests in clean public transportation, and reduces emissions around ports and airports. Both of these laws include budgets for establishing several, much-needed environmental justice grant programs and other developments. However, as noted before, our current political system makes it difficult for successful environmental justice legislation to be implemented without drawbacks. Environmental justice legislation must always face negotiations and concessions that many EJ activists disagree with. For example, climate director of the Michigan Environmental Justice Coalition, Juan Jhong-Chung, stated that “while [the Inflation Reduction Act] does designate some funding for disadvantaged communities, it’s also subsidizing fossil fuels.”³¹ The positive public reception of ARP has paved the way for the Biden-Harris Administration to approve other environmental justice policies that builds off ARP. However, the concessions that fail to fully protect communities from fossil fuel exposure cannot be ignored.

25 See FACT SHEET: The Coronavirus State and Local Fiscal Recovery Funds Will Deliver \$350 Billion for State, Local, Territorial, and Tribal Governments to Respond to the COVID-19 Emergency and Bring Back Jobs U.S. Dept. of Treasury, <https://home.treasury.gov/system/files/136/SLFRP-Fact-Sheet-FINAL1-508A.pdf> (last visited Jan. 5, 2023).

26 See LIHEAP IM2022-07 Funds Appropriated in the American Rescue Plan (ARP) Act of 2021, Office of Cmty. Services of the U.S. Dept. of Health & Human Services, <https://www.acf.hhs.gov/ocs/policy-guidance/liheap-im2022-07-funds-appropriated-american-rescue-plan-arp-act-2021>, (last visited Jan. 5, 2023).

27 See Dean Scott, Environmental Justice Funds Seen as Just a Start for Advocates, Bloomberg L. (Mar. 11, 2022, 12:07 PM), <https://news.bloomberglaw.com/environment-and-energy/environmental-justice-funds-seen-as-just-a-start-for-advocates/>.

28 See Stephen Collinson, Biden faces presidency-defining dilemma over Republican offer on Covid-19 rescue plan, CNN (Feb. 1, 2021, 9:33 AM), <https://www.cnn.com/2021/02/01/politics/joe-biden-coronavirus-congress-republicans-trump/index.html>.

29 See More Than 100 Associations, Trade Groups & Unions Endorse Bipartisan Infrastructure Bill Negotiated by Senator Collins, Susan Collins (Aug. 8, 2021), <https://www.collins.senate.gov/newsroom/more-100-associations-trade-groups-unions-endorse-bipartisan-infrastructure-bill-negotiated>; see also Todd Shryock, Internists, AAFP endorse health provisions in the Inflation Reduction Act of 2022, Medical Econ. (Aug. 1, 2022), <https://www.medicaleconomics.com/view/internists-endorse-inflation-reduction-act-of-2022>).

30 See SENATE DEMOCRATS, SUMMARY: THE INFLATION REDUCTION ACT OF 2022, at 1 (2022).

31 Rebecca Hersher, The spending bill will cut emissions, but marginalized groups feel they were sold out, NPR (Aug. 17, 2022, 7:00 AM), <https://www.npr.org/2022/08/17/1117725655/the-spending-bill-will-cut-emissions-but-marginalized-groups-feel-they-were-sold>.

Additionally, ARP funds are generally only procured when EJ groups have legal protection, which can be procured through possession of 501(c)(3) status. The EJ grants distributed by the EPA are given out to “community-based organizations, federally recognized tribes, state governments, local governments, and U.S. territories,” as stated before.³² Non-governmental and non-tribal groups who attempt to receive funding are more successful in having their funding requests met if they have legal protection. Non-profit status assures legal legitimacy for EJ groups, which makes it easier for them to obtain ARP funding than those groups who do not have established legal statuses. All of the organizations that have received funding from the EJSG Program in 2021 have been either non-profits or tribal governments. This need for legal legitimacy has created concern within the environmental justice community. Some EJ organizers believe that 501(c)(3) non-profit organizations do not properly represent environmental justice issues. For example, non-profits have to “balance between effectively serving as the voice of the community and dealing with new administrative burdens.”³³ These non-profits are often required to build broader

membership bases than originally intended to maintain their legal status. This leads the organizations to increase the number of their organizational stakeholders, many of whom may seek to orient the organizations away from their original grassroots missions.

CONCLUSION

The American Rescue Plan Act is an instrumental piece of environmental justice legislation. It helped create a foundation for the Biden-Harris Administration to produce broader environmental policies. For far too long, the demands for environmental justice funding have outpaced supply. By reserving a large amount of funds to direct funding initiatives, ARP promotes the intersectional scope of the environmental justice movement. Advocating for EJ within our current political system, a system marked by regular legislative concessions, has made it difficult for EJ initiatives of the Biden-Harris Administration to fully remove the influence from fossil fuel firms and other corporate interests that contribute to pollution exposure. However, the environmental justice benefits that the American Rescue Plan has introduced to municipal regions are undeniably valuable.

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32 AM. RESCUE PLAN ACT PERFORMANCE REPORT, *supra* note 11.

33 Perez *et al.*, *supra* note 12.

NAME, IMAGE, AND LIKENESS:

A NEW CHAPTER FOR COLLEGE ATHLETES

In June of 2021, the Supreme Court of the United States ruled that practices by the National Collegiate Athletic Association (NCAA) violated antitrust rules by preventing college athletes from profiting off their name, image, and likeness (NIL). This decision was a historic ruling for many college athletes, and it garnered significant attention from legal scholars who have sought to analyze the legality of this ruling and its significance. In this paper, I first give a brief description on the history and premises behind this ruling to provide background on NIL rules. While significant work has been done to analyze the legal implications of this ruling, this piece aims to answer the question: what are the major political and economic implications of NIL deals? In my analysis, I include prior research conducted in this field, as well as case studies on individual athletes in order to draw my own, unique conclusions. In this section, I do not limit my scope of analysis to top earning athletes but extend my review to include all college athletes. I conclude this paper by discussing how NIL not only provides a resource for student-athletes but transforms the role of college athletes that mirrors larger societal trends. This paper will serve as a starting ground for future explorations into the new experiences that college athletes face under this new system.

HISTORICAL BACKGROUND

The modern use of NIL rights was first contested in the courts. The first major legal case regarding NIL in the NCAA was *O'Bannon v. NCAA*.¹ In 2009, a UCLA basketball player named Ed O'Bannon filed a lawsuit along with several other players against the NCAA using his image and likeness by depicting him as a player in a video game produced by Electronic EA.² O'Bannon was upset because he had never consented to this type of use and was not able to profit from it due to NIL this part doesn't make sense to me, indicate that he couldn't profit off it because of *regulations* regarding NIL, so he claimed that this violated the Sherman Antitrust Act.³ In 2010, the lawsuit was combined with Sam Keller, former Arizona State and Nebraska football player, who argued that "QB#9" in the video game was him as it had his same height, weight, and hometown.⁴ O'Bannon and Keller argued that this entity should not be able to monetize their images while simultaneously preventing them from taking any of the profits. The plaintiffs sought an injunction to stop the NCAA preventing athletes from gaining access to this revenue, while the NCAA's primary arguments were that they were trying to maintain the *amateur* status of student-athletes in all three divisions and using their "First Amendment right to negotiate television contracts of live sporting events."⁵ The NCAA also argued

that they were preserving consumer interest in the NCAA's products, and facilitating the integration of athletes into their academic environments.⁶ In other words, the NCAA attempted to persuade the public that these barriers were in the interest of students and the educational mission of academic institutions, while shielding their self-interests. Ultimately, the court decided that barring compensation from athletes for using their NIL violated antitrust laws, which was affirmed by the Ninth Circuit Court of Appeals.⁷ This marked the first major step in the legalization of NIL for student-athletes.

The next major event in the legalization of college athletes' use of NIL occurred in the state legislatures. In 2019, California State Senator Nancy Skinner authored the first bill that would ultimately grant NCAA athletes rights to profit from their own likenesses, which was called the *Fair Pay to Play Act*.⁸ This act was passed unanimously by the California Assembly and signed into law by Governor Gavin Newsom and received support from O'Bannon, LeBron James, and many other high-profile athletes.⁹ This bill was followed by similar legislation in other states, like Colorado and Florida and the "Fairness in Collegiate Athletics Act" introduced to the Senate by Senator Marco Rubio.¹⁰ These actions put further pressure on the NCAA to defend their rules through litigation, especially in light of Florida's "Intercollegiate Athletic

1 *O'Bannon v. NCAA*, 802 F.3d 1049 (2021).

2 *Id.*

3 *Id.*

4 Kevin Trahan, *Explaining the NCAA v. O'Bannon case*, Vox (June 2, 2014), <https://www.vox.com/2014/6/2/5772266/explaining-the-ncaa-v-obannon-college-athletics-case> (last visited Nov 30, 2022).

5 *Id.*

6 *O'Bannon v. National Collegiate Athletic Association*, No. C 09-3329 CW, at 2-5 (N.D. Cal. Mar. 31, 2016).

7 *See O'Bannon v. NCAA*, 802 F.3d 1049 (9th Cir. 2021).

8 Collegiate athletics: student athlete compensation and representation, Sen. Bill 206, 2019, Ch. 383, Sec. 67456 https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB206

9 *E.g.*, Jack Kelly, *Newly Passed California Fair Pay To Play Act Will Allow Student Athletes To Receive Compensation*, FORBES (Oct. 1, 2019), <https://www.forbes.com/sites/jackkelly/2019/10/01/in-a-revolutionary-change-newly-passed-california-fair-pay-to-play-act-will-allow-student-athletes-to-receive-compensation/> (last visited Dec 12, 2022).

10 Fairness in Collegiate Athletics Act, S. 4004, 116th Congress 2020. <https://www.congress.gov> (last visited Feb 25, 2023).

Compensation and Rights Act” that was set to go into effect in 2021, because they drew attention from the media and the greater public to the NCAA’s practices.¹¹

The culmination of this rising pressure led to the major decision in *NCAA v. Alston*, where the Supreme Court granted *certiorari* to the NCAA’s petition to hear a combined group of cases on NIL that had been appealed. Justice Neil Gorsuch wrote the Supreme Court’s unanimous decision upheld the opinion of the lower courts that the NCAA had violated federal antitrust standards.¹² Justice Brett Kavanaugh issued a strong concurring opinion stating that the “NCAA was not above the law” and “there are serious questions about whether the NCAA’s remaining compensation rules can pass muster under ordinary rule of reason scrutiny.”¹³ This decision effectively prevented the NCAA from prohibiting athletes from licensing or monetizing their NIL and left regulation up to individual schools. The next section of this paper will explore the implications of this sweeping reform for college athletes.

ANALYSIS OF NIL IMPLICATIONS

The first major question that arose after the legalization of NIL was the true valuation that NCAA athletes provide. One study before *NCAA v. Alston* analyzed whether NCAA Division 1 basketball players provided more value to schools than they were paid in scholarship money.¹⁴ In this paper, Lane estimated the average marginal revenue product (MRP) by using total revenue from ticket sales, television rights, and other direct forms that didn’t

include indirect effects such as attracting new recruits.¹⁵ They used player statistics to estimate the effect of the individuals and concluded that about 60 percent of Division I men’s basketball players provide MRP in excess of the value of their scholarship to their school with an average MRP of approximately \$90,000.¹⁶ This demonstrated that over half of Division I basketball players were actively generating more money than their scholarship entailed, meaning that colleges were taking 100 percent of these excess profits. Another study before the legalization of NIL was an analysis on football players, the other major NCAA revenue-generating sport. Researchers found that the market value of an average starting football player in a football Bowl Championship Series (BCS) conference typically ranges from \$120,000 to \$1.7 million per year, but standout superstars are often worth \$4 million in revenue.¹⁷ These papers demonstrated that many NCAA athletes are paid much less than they generate, but the distribution is highly skewed to where superstars are worth much more than the average athlete.

After the legalization of NIL, the focus turned from the revenue that athletes generate through ticket sales and TV time to how much revenue athletes could potentially earn through brand deals. A study by Thilo Kunkel used data by looking at athletes’ Twitter and Instagram followings to find out how many impressions athletes could make in order to evaluate the worth of NCAA athletes.¹⁸ This study took a quantitative approach by applying influencer marketing industry

standard rates to definitively claim that many student-athletes possess substantial NIL value.¹⁹ The results indicated that a football player at a college ranking in the top 50 teams in the nation who has an average number of followers is worth between \$800 and \$1,800 through the CPM (cost per mile—impressions per 1,000 views) metric, and a basketball player between \$1,000-6,000 CPM annually with the top athletes being worth in the hundreds of thousands of dollars.²⁰ Thilo’s quantitative analysis displayed that the top 5,000 football athletes (consisting of the top 50 teams having a full roster of 105) and the top 750 basketball players (consisting of the top 50 teams having full rosters of 15) have the potential to generate substantial revenue just through advertising deals with the legalization of NIL. However, these numbers were much lower for average mid-tier athletes for all sports at average Division 1 schools. The researchers found that the average student athlete at Jacksonville and Temple University ranged from \$6-13 for a post and \$45-120 for a year of sponsorship based on CPM.²¹ To summarize, less than 1 percent of social media accounts of college athletes have a value of over \$5,000 based on CPM with engagement factored in. In addition to this inequity, over 85 percent of NIL money goes to men’s football or basketball, which also means that there is a 6:1 ratio to what men make from NIL deals relative to comparably skilled women.²² Since NIL deals are not included in regulations regarding the amount of Title IX funding, there is still a long way to go until NIL deals are equitable among both men’s and women’s sports.²³ In summary,

11 See Fla. Stat. § 1006.74

12 *NCAA v. Alston*, 141 S. Ct. 2141 (2021).

13 *Id.* at 2157, 2169 (Kavanaugh, J., concurring).

14 See Erin Lane, Juan Nagel & Janet S. Netz, *Alternative Approaches to Measuring MRP: Are All Men’s College Basketball Players Exploited?*, 15 JOURNAL OF SPORTS ECON. 237 (2014); accord Brian L. Goff, H. Youn Kim & Dennis P. Wilson, *Estimating the market value of collegiate football players from professional factor shares*, 24 APPLIED ECON. LETTERS 233 (2017).

15 Lane, *et al.*, *supra* note 14, at 236-239.

16 *Id.* at 253-254.

17 Goff, *et al.*, *supra* note 14.

18 Thilo Kunkel, *et al.*, *There is no nil in NIL: examining the social media value of student-athletes’ names, images, and likeness*, 24 SPORT MGMT. REV. 839 (2021).

19 *Id.* at 839-841.

20 *Id.* at 847.

21 *Id.* at 852.

22 Tanyon Boston, *The NIL Glass Ceiling* (Sept. 16, 2022), UNIV. OF RICHMOND L. REV., <https://papers.ssrn.com/abstract=4218277> (last visited Nov 30, 2022).

23 *Id.* at 23-33.

preliminary research over the past year seems to indicate that the NIL deals tend to reinforce the existing power structures where top athletes see the large bulk of benefits.

One example of a top athlete is Bryce Young, who is the quarterback from the University of Alabama's football team. Young was reported to have over \$800,000 in NIL deals with Cash App, Onyx Authenticated, and multiple trading card companies before he even stepped foot on the football field, with an estimated value of over \$3.2 million.²⁴ He has shown no sign of stopping his involvement with these types of deals, as he is also scheduled to be featured in upcoming Dr. Pepper ads.²⁵ However, Young and many others have stated that these deals have little impact on their day-to-day life and do not substantially take away from sport or academics, demonstrating that these deals have little negative impact on student-athletes regardless of claims that the NCAA may make.²⁶ Another top star is Nicholaus Jamaleava, top quarterback out of Downey, CA, who signed a deal that could bring him almost \$8 million for spending 3 years at the University of Tennessee.²⁷ The structure would pay Jamaleava \$350,000 immediately with escalating monthly payouts to the point where he would eventually make over \$2 million per year.²⁸ These two examples demonstrate NIL deals can bring stability to top stars before they start their professional

career by providing substantial guaranteed income at the college level.

The appeal of generating this level of income has brought many other non-economic implications with it. The first is that NIL deals heavily incentivize athletes to stay longer in college, as they are forgoing less income than they were before 2021, rather than virtually all professional athletes leaving for the NFL after 3 years, the NBA after 1 year, or getting through other minimum requirements.²⁹ Additionally, this will allow athletes who are interested in getting an education or receiving a degree a larger chance to do so, which goes against the claims of the NCAA and others who opposed the legalization of NIL deals by claiming that allowing athletes to monetize their *amateur* status would be detrimental to an academic setting. This is especially true for non-revenue generating sports where athletes have less opportunity to make substantial income through professional contracts. One example is Katelyn Tuohy, a top cross country and track and field athlete who signed the first major NIL deal of its kind through Adidas, which sponsors North Carolina State, the university that she currently attends.³⁰ As of December 2022, Tuohy has around 95,000 Instagram followers that she can promote Adidas products to. The decision for Tuohy to remain in college for the duration of her eligibility will not only allow her to earn a degree but have access to a team of

other high-level runners as well as all the facilities and infrastructure that are not easy to access as a professional runner. This demonstrates how having avenues for college athletes to generate revenue creates a more stable environment where they do not have to sacrifice other aspects of their lives in order to receive a contract.

Another implication for top athletes is that many colleges are attempting to market themselves as a place where athletes can garner these deals since colleges have jurisdiction over NIL rules for their athletes. Two schools that have already done so are Brigham Young University, which is partnering with Built Brands, and Ohio State University's new "Edge Team" which provides internal NIL consultants by a company called Opendorse to help students from all sports with deals.³¹ Companies such as Opendorse are similar to agents at the professional level as they help promote athletes and assist with transactions such as autographs on their website. This is a legal gray area as colleges are not allowed to provide signing bonuses or any other forms of payment that could be seen as coercion and "schools cannot be involved in sourcing, negotiating or facilitating NIL deals directly."³² However, these are two schools that have garnered prominence as institutions from their reputation, which is sure to make an impact on the decisions that high school recruits make when choosing a college. This is a completely new

24 Oliver Hodgkinson, *Top 10 NIL Deals in 2022: Ohio State and Alabama Players at the Forefront of CFB's Financial Revolution*, PRO FOOTBALL NETWORK, <https://www.profootballnetwork.com/top-10-nil-deals-in-2022/> (last visited Dec 13, 2022).

25 Prince J. Grimes, *How many NIL deals does Bryce Young have? Alabama quarterback answers the Fansville question*, FOR THE WIN (Sept. 1, 2022), <https://ftw.usatoday.com/2022/09/how-many-nil-deals-bryce-young-alabama-heisman-fansville> (last visited Jan 15, 2023).

26 *Id.*

27 Andrew Olsen, *5-star 2023 CFB recruit reportedly lands \$8 million NIL deal: Media, fans react*, SATURDAY DOWN SOUTH (Mar. 12, 2022), <https://www.saturdaydownsouth.com/college-football/5-star-2023-cfb-recruit-reportedly-lands-8-million-nil-deal-media-fans-react/> (last visited Dec 13, 2022).

28 *Id.*

29 *E.g.*, John Holden, *Do star athletes who want to play for the NBA really need college? What LaMelo Ball got right – and wrong – about why they don't*, THE CONVERSATION (Aug. 26, 2021), <http://theconversation.com/do-star-athletes-who-want-to-play-for-the-nba-really-need-college-what-lamelo-ball-got-right-and-wrong-about-why-they-dont-166636> (last visited Dec 17, 2022).

30 Marley Dickinson, *NCAA champion Katelyn Tuohy signs sponsorship deal with Adidas*, CANADIAN RUNNING MAG. (Nov. 22, 2022), <https://runningmagazine.ca/the-scene/ncaa-champion-katelyn-tuohy-signs-nil-deal-with-adidas/> (last visited Dec 17, 2022).

31 *E.g.*, Tanyon Boston, *NIL Data Transparency* (Oct. 23, 2022), 83 LA. L. REV. No. 3, (forthcoming 2023), <https://papers.ssrn.com/abstract=4271838>, (last visited Dec 13, 2022).

32 *NCAA provides updated NIL rules guidance to member schools*, ESPN (Oct. 26, 2022), https://www.espn.com/college-sports/story/_/id/34883738/ncaa-provides-updated-nil-rules-guidance-member-schools (last visited Jan 17, 2023).

phenomenon where we have yet to see the full results and how much this incentivizes students to attend a university.

Creating a personal brand is another avenue for the average college athlete in a non-revenue generating sport, who would make less than \$100 based on standard NIL deals they could bring in with their current followers. Research demonstrates that athletes use social media for a number of different purposes and posts that garnered the most attention involved talking about their personal lives and engaging with fans, which is possible for many players who are not superstars to do.³³ Even at the professional level, athletes such as Olympic hurdle runner Lolo Jones realize that it is not purely the top athletes who earn the most income, but those who have a large brand and can monetize their persona. Jones profited off her brand by appearing on “Dancing on the Stars” and other television shows after her career on the track.³⁴ The potential to earn money through becoming a social media personality or creating original content has become a larger avenue where regular NCAA athletes can stand out. In track, Spencer Brown and Adam Fogg were both athletes with YouTube channels that used their brand as leverage to obtain a professional contract out of college. Even less successful athletes can monetize their videos and make money selling shirts or advertising products on their own. When looking at lower levels of collegiate athletes, such as Division 3, it is evident that athletes must find alternative methods to market themselves. Personally, myself and several others of my Division 3 cross country and track runners in my grade have created our own Instagram pages and sold merchandise to friends and family. We never intended to make a substantial profit, but this model could be built upon and expanded just as any other athlete or team who is sharing their story through

social media. Overall, the legalization of NIL provides the potential for a college athlete to grow their own brand when they would have been banned from competition for doing this before the Supreme Court ruling in 2021.

One last potential avenue for college athletes to explore is the large market in many youth athletic sports.³⁵ This leaves potential for athletes to start their own coaching services, similar to how many college students tutor younger students. Currently, many children join club sports at a very young age and are charged exorbitant prices to participate in programs and develop as athletes before they are eligible to compete at the high school level.³⁶ Many student-athletes could rival, or even better, the quality of coaching that many clubs provide, as they have experienced similar programs more recently than older coaches. Additionally, college athletes would have the ability to compete in a competitive market for coaching services by offering lower prices compared to other programs.³⁷ Many club youth sports, such as basketball, soccer, and volleyball have high financial barriers to entry with membership fees costing hundreds, if not thousands, of dollars a year. This would be a great avenue for student-athletes to exploit and future researchers to look more closely at.

CONCLUSION

In sum, the ruling of the Supreme Court in *NCAA v. Alston* was a landmark transition for the lives of many college student-athletes. As my analysis demonstrated, the legalization of NIL tends to reinforce existing power structures in terms of top athletes from revenue generating sports, like football and basketball, receiving the vast majority of NIL opportunities. However, it offers many other athletes who would not make substantial revenue

through typical NIL deals to build their own unique brand and profit through more entrepreneurial methods. While the NCAA and others who opposed the legalization of monetizing NIL argued that deals would conflict with academics, even top stars have explained that these deals have little impact on their day-to-day life, while they have brought new opportunities to hundreds of thousands of athletes. Justice Kavanaugh’s concurring opinion indicated that legal rights for NCAA athletes will continue to grow as he questioned whether athletes may have access to TV rights or other forms of monetization in the future.³⁸ This ruling also mirrors many larger trends as it arrives at the time of Web 3.0, which gives creators the ability to monetize their own content as opposed to them being tied to the institution or platform they utilize.³⁹ In sum, the legalization of the monetization of NIL has had many substantial positive impacts on NCAA athletes, but we have yet to see the full extent of its impact.

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33 E.g., Ann Pegoraro, *Look Who’s Talking—Athletes on Twitter: A Case Study*, 3 INT’L JOURNAL OF SPORT COMM’N 501 (2010).

34 E.g., Kwame J. A. Agyemang, *Case 7 “Celebrityization”: A Case Study of Lolo Jones*, in INTERNATIONAL CASES IN THE BUSINESS OF SPORT (2d ed. 2017), <https://www.taylorfrancis.com/chapters/edit/10.4324/9781315754239-16/case-7-celebrityization-case-study-lolo-jones-kwame-agyemang> (last visited Jan 15, 2023).

35 Donna L Merkel, *Youth sport: positive and negative impact on young athletes*, 4 OPEN ACCESS J SPORTS MED 151 (2013).

36 E.g., Paying to Play: How much do club sports cost?, USA TODAY High School Sports (Aug. 1, 2017), <https://usatodayhss.com/2017/paying-to-play-how-much-do-club-sports-cost> (last visited Feb 25, 2023).

37 *Id.*

38 *NCAA v. Alston*, 141 S. Ct. 2141, 2166 (2021) (Kavanaugh, J., concurring).

39 E.g., Giovanni Punzo, Council Post: Why Web 3.0 Is Relevant For Content Creators Forbes, (Oct. 21, 2022), <https://www.forbes.com/sites/forbestechcouncil/2022/10/21/why-web-30-is-relevant-for-content-creators/> (last visited Dec 17, 2022).

