

# Broken Windows, Broken Lives: The Danger of the NYPD's Quota-Driven System

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Police Reform Organizing Project  
168 West 86<sup>th</sup> Street, 4B  
New York, NY 10024  
(917) 327- 7648  
rpagangi@gmail.com  
[www.policereformorganizingproject.org](http://www.policereformorganizingproject.org)



Walter Leitner International Human Rights Clinic  
Leitner Center for International Law and Justice  
Fordham University School of Law  
150 West 62<sup>nd</sup> Street, Seventh Floor  
New York, NY 10023  
(212) 636-6862  
LeitnerCenter@law.fordham.edu  
[www.leitnercenter.org](http://www.leitnercenter.org)



**Leitner Center**  
for International Law and Justice  
AT FORDHAM LAW SCHOOL, NEW YORK CITY

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The Trump administration’s deportation plan and executive orders, which promote raids of courts, homes, and workplaces by Immigration and Customs Enforcement, have prompted some officials to identify cities across the United States as “sanctuary cities” in solidarity with vulnerable immigrant communities.<sup>1</sup> New York City Mayor Bill de Blasio has condemned the administration’s immigration executive orders and has expressed support for New York’s immigrant community. In one tweet, Mayor de Blasio stated that the Mayor’s office will “continue to stand with 40 percent of New Yorkers who are foreign born—documented or undocumented.”<sup>2</sup> Mayor de Blasio has also assured New Yorkers that “City officials, including the NYPD, will never ask about [their] immigration status.”<sup>3</sup> The Mayor’s expression of solidarity with immigrant New Yorkers contradicts his support of New York City Police Department’s broken windows policy.

While de Blasio has taken a political stance in opposition to Trump’s executive orders targeting immigrants, NYPD’s practice of broken windows policing is incompatible with the mayor’s vision of New York as a sanctuary city. Broken windows policing entraps individuals in the criminal justice system through unnecessary arrests, which can be especially detrimental to immigrants who face deportation for minor offenses and misdemeanors. The identification of New York as a sanctuary city is a meaningless, empty categorization so long as broken windows policing continues to target low-income communities of color, including immigrant communities, for minor offenses.

Given the heightened vulnerability of immigrant New Yorkers to deportation, broken windows policing must be challenged for its role in directly threatening and criminalizing immigrants, both documented and undocumented, for innocuous acts. For New York City to credibly claim itself a sanctuary city, city officials must abandon quota-driven broken windows policing, which poses serious threats to immigrants and low-income communities of color.

## I. Introduction

The Police Reform Organizing Project and the Walter Leitner International Human Rights Clinic join a national outcry in response to the tragic and unnecessary deaths of African Americans resulting from police violence in New York City (the “City”) and nationwide. Many of these recent high-profile instances of excessive force directly emanate from police enforcement of minor offenses: Eric Garner died from a banned chokehold during a stop for allegedly selling loose cigarettes;<sup>4</sup> Michael Brown was shot following a stop related to shoplifting and for walking in the middle of the street;<sup>5</sup> Freddie Gray died from injuries sustained during transportation after he was chased and stopped for making eye contact with a police

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<sup>1</sup>Jasmine Lee et al, *What Are Sanctuary Cities?* N.Y. TIMES, Feb. 6, 2017, <https://www.nytimes.com/interactive/2016/09/02/us/sanctuary-cities.html>

<sup>2</sup>Bill De Blasio, Twitter, February 12, 2017, <https://twitter.com/NYCMayor/status/830777496824082436>

<sup>3</sup>Bill De Blasio, Twitter, February 12, 2017, <https://twitter.com/NYCMayor/status/830778623795798016>

<sup>4</sup> Joseph Goldstein & Nate Schweber, *Man’s Death After Chokehold Raises Old Issues for the Police*, N.Y. TIMES, July 18, 2014, <http://www.nytimes.com/2014/07/19/nyregion/staten-island-man-dies-after-he-is-put-in-chokehold-during-arrest.html?smid=pl-share>.

<sup>5</sup> Larry Buchanan et al., *Q&A: What Happened in Ferguson?*, N.Y. TIMES, Aug. 10, 2015, <http://www.nytimes.com/interactive/2014/08/13/us/ferguson-missouri-town-under-siege-after-police-shooting.html>.

officer and then running away.<sup>6</sup> While excessive force has rightfully inspired indignation, these cases also powerfully illustrate the routine structural violence of broken windows policing.<sup>7</sup> The NYPD repeatedly stopped and arrested Eric Garner, often for minor offenses, prior to his fatal confrontation with the police.<sup>8</sup> Garner’s interactions with the NYPD were not extraordinary; as this paper will demonstrate, they reflect the experiences of many New Yorkers of color living in low-income communities targeted by broken windows policing.

Broken windows policing is the aggressive enforcement of low-level offenses. Based on a theory first articulated in a 1982 *Atlantic Monthly* article authored by George Kelling and James Wilson, broken windows policing assumes that policing “disorder” will reduce the occurrence of more serious crimes.<sup>9</sup> One of the first attempts to implement the policy was initiated in New York’s subway system under the leadership of William J. Bratton and in consultation with the authors of the original article.<sup>10</sup> Broken windows policing became one of the core policies of the NYPD when Bratton was named Police Commissioner in 1994 and with then Mayor Rudy Giuliani’s approval.<sup>11</sup> It remains the focus of NYPD activity in low-income communities of color today and criminalizes ordinary behavior in those communities.<sup>12</sup>

In addition to implementing broken windows policing in New York City, Bratton and the NYPD aggressively exported the policy to other jurisdictions, including Baltimore, Maryland, where a “zero tolerance” approach to enforcement was modeled after NYPD tactics and

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<sup>6</sup> Justin George, *Looking for Answers: Police Begin Investigation into Freddie Gray’s Death*, BALTIMORE SUN, Oct. 9, 2015, <http://www.baltimoresun.com/news/maryland/freddie-gray/bal-police-embed-chapter1-20151008-story.html>.

<sup>7</sup> “Broken windows” policing is also sometimes termed “zero tolerance” or “quality-of-life” policing. These terms are used interchangeably in this Petition.

<sup>8</sup> Garner had been arrested more than 30 times in his life, beginning as a teenager, including for such offenses as driving without a license. He was also frequently stopped on the street; in 2007, he alleged in a complaint in federal court that NYPD officers conducted a search of his rectum “in the middle of the street” during one of these stops. The film of his final, fatal encounter with the NYPD records him describing his relationship with the Department: “Every time you see me, you want to harass me, you want to stop me.” See Goldstein & Schweber, *supra* note 1; Complaint, Garner v. Owens, No. 08-cv-0222-CBA-LB (S.D.N.Y. Jan. 11, 2008), Dkt. 15.

<sup>9</sup> George L. Kelling & James Q. Wilson, *Broken Windows: The Police and Neighborhood Safety*, ATLANTIC MONTHLY, Mar. 1982, <http://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/> (arguing that policing minor offenses addresses the conditions giving rise to more serious crime and protects citizens from “the fear of being bothered by disorderly people.”).

<sup>10</sup> George L. Kelling & William J. Bratton, *Declining Crime Rates: Insiders’ Views of the New York City Story*, 88 J. Crim. L. & Criminology 1217, 1220 (1998).

<sup>11</sup> See NYPD, *Police Strategy No. 5: Reclaiming the Public Spaces of New York*, 3 (1994), <https://www.ncjrs.gov/pdffiles1/Photocopy/167807NCJRS.pdf> (applying Wilson and Kelling’s theory to New York City, where “[a]ggressive panhandling, squeegee cleaners, street prostitution, ‘boombox cars,’ public drunkenness, reckless bicyclists, and graffiti have added to the sense that the entire public environment is a threatening place.”).

<sup>12</sup> See Sarah Ryley et al., *Exclusive: Daily News Analysis Finds Racial Disparities in Summonses for Minor Violations in ‘Broken Windows’ Policing*, N.Y. DAILY NEWS, Aug. 4, 2014, <http://www.nydailynews.com/new-york/summons-broken-windows-racial-disparity-garner-article-1.1890567> (noting that the number of summons issued has fallen in recent years, but “writing out violations still remains the most frequent activity of the New York City Police Department” and “[r]oughly 81% of the 7.3 million people hit with violations between 2001 and 2013 were black and Hispanic.”). This policy is expected to continue under the leadership of NYPD Commissioner James O’Neill. See Editorial, *Moving Past ‘Broken Windows’ Policing*, N.Y. TIMES, Aug. 10, 2016, <http://www.nytimes.com/2016/08/10/opinion/moving-past-broken-windows-policing.html> (“Chief O’Neill accepted the new job promising continuity.”); see also Ken Auletta, *Fixing Broken Windows*, NEW YORKER, Sept. 7, 2015, <http://www.newyorker.com/magazine/2015/09/07/fixing-broken-windows> (reporting Mayor Bill De Blasio’s April 2015 statement: “I want to emphasize, my vision of quality-of-life policing and my vision related to broken-windows strategy is the same as Commissioner Bratton’s.”).

implemented with the assistance of NYPD consultants.<sup>13</sup> In Baltimore, these policies were tied to a pattern of enforcement that discriminated against African Americans.<sup>14</sup> The same pattern exists in New York City, where these policing practices were first developed and instituted.<sup>15</sup>

Broken windows policing rose to prominence during a period of steeply declining crime rates nationwide.<sup>16</sup> No study has established causality between broken windows policing and declining crime rates.<sup>17</sup> However, the policy has been linked to extraordinary harm to the communities that it targets, including:

- The subjection of hundreds of thousands of New Yorkers to arrest and criminal summonses each year for minor offenses.<sup>18</sup> The NYPD issued 1,839,414 criminal summonses for broken windows offenses such as carrying an open alcohol container, public urination, disorderly conduct, and possession of small amounts of marijuana between 2010 and 2015.<sup>19</sup> Misdemeanor arrests have soared since the adoption of broken windows policing, increasing by more than 100,000 annual arrests between 1994 and 2010 and now remaining well above 1990s levels.<sup>20</sup>
- The criminalization of ordinary conduct in targeted communities.<sup>21</sup> Under its broken windows policy, the NYPD has arrested people for such acts as falling asleep on a near-empty train, picking flowers, or sitting alone on a park bench.<sup>22</sup>

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<sup>13</sup> See CIVIL RIGHTS DIVISION, U.S. DEP'T OF JUSTICE, INVESTIGATION OF THE BALTIMORE POLICE DEPARTMENT 40 (2016), <https://www.justice.gov/opa/file/883366/download> [hereinafter BALTIMORE REPORT].

<sup>14</sup> See *id.* at 47.

<sup>15</sup> See Section V.

<sup>16</sup> See OLIVER ROEDER ET AL., BRENNAN CENTER FOR JUSTICE, WHAT CAUSED THE CRIME DECLINE? 3 (2015), [https://www.brennancenter.org/sites/default/files/publications/What\\_Caused\\_The\\_Crime\\_Decline.pdf](https://www.brennancenter.org/sites/default/files/publications/What_Caused_The_Crime_Decline.pdf) (“Crime across the United States has steadily declined over the last two decades. Today, the crime rate is about half of what it was at its height in 1991. Violent crime has fallen by 51 percent since 1991, and property crime by 43 percent.”).

<sup>17</sup> See Alex S. Vitale, *Paying in Blood for Over-Policing*, N.Y. DAILY NEWS, July 19, 2014, <http://www.nydailynews.com/opinion/paying-blood-over-policing-article-1.1872536> (“Academic researchers have never found a credible link between low-level disorder and serious crime.”); BROKEN WINDOWS POLICING, CTR. FOR EVIDENCE-BASED POLICING IN THE DEP'T OF CRIMINOLOGY, LAW, AND SOC'Y, GEORGE MASON UNIV., <http://cebcp.org/evidence-based-policing/what-works-in-policing/research-evidence-review/broken-windows-policing/> (last visited Nov. 13, 2016).

<sup>18</sup> See Section V.b.

<sup>19</sup> See N.Y.C. DEP'T OF INVESTIGATION, OFFICE OF THE INSPECTOR GEN. FOR THE NYPD, AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015 2 (2016), <http://www1.nyc.gov/assets/oignypd/downloads/pdf/Quality-of-Life-Report-2010-2015.pdf> [hereinafter OIG-NYPD REPORT].

<sup>20</sup> WILLIAM J. BRATTON, NYPD, BROKEN WINDOWS AND QUALITY-OF-LIFE POLICING IN NEW YORK CITY 12, 19 (2015), [http://www.nyc.gov/html/nypd/downloads/pdf/analysis\\_and\\_planning/qol.pdf](http://www.nyc.gov/html/nypd/downloads/pdf/analysis_and_planning/qol.pdf).

<sup>21</sup> See Section IV.b.

<sup>22</sup> See POLICE REFORM ORGANIZING PROJECT, NO EQUAL AND EXACT JUSTICE: A PROP COURT MONITORING REPORT 13 (2016), [http://www.policereformorganizingproject.org/wp-content/uploads/2016/03/No\\_Equal\\_and\\_Exact\\_Justice\\_A\\_Prop\\_Court\\_Monitoring\\_Report.pdf](http://www.policereformorganizingproject.org/wp-content/uploads/2016/03/No_Equal_and_Exact_Justice_A_Prop_Court_Monitoring_Report.pdf) [hereinafter PROP, NO EQUAL AND EXACT JUSTICE]; POLICE REFORM ORGANIZING PROJECT, THAT'S HOW THEY GET YOU: NEW YORKERS' ENCOUNTERS WITH 'BROKEN WINDOWS' POLICING 10 (2012), [http://www.policereformorganizingproject.org/wp-content/uploads/2012/09/Thats\\_How\\_They\\_You\\_NYPD\\_stories.pdf](http://www.policereformorganizingproject.org/wp-content/uploads/2012/09/Thats_How_They_You_NYPD_stories.pdf) [hereinafter PROP, THAT'S HOW THEY GET YOU]; POLICE REFORM ORGANIZING PROJECT, WE HARM PEOPLE EVERYDAY: A PROP COURT MONITORING PROJECT 16 (2016),

- The enforcement of an informal quota system for tickets, summonses, and arrests.<sup>23</sup> Such quotas are illegal in New York State<sup>24</sup> and encourage low-quality tickets, summonses, and arrests.<sup>25</sup> Even the perception of the existence of a quota system may damage police-community relationships.<sup>26</sup>
- The illegal targeting of low-income communities of color for disparate enforcement without a legitimate policing purpose.<sup>27</sup> The Office of the Inspector General for the NYPD (“OIG-NYPD”) issued a 2016 report (“OIG-NYPD Report”) finding that precincts with predominantly black and Latino populations have higher rates of quality-of-life enforcement that cannot be explained by differences in more serious crime.<sup>28</sup> The enforcement rate for misdemeanor offenses among black and Latino New Yorkers far outpaces the enforcement rate for white residents.<sup>29</sup> Research conducted by the Police Reform Organizing Project (“PROP”) Court Monitoring Project finds that more than 90% of defendants arraigned in New York’s criminal courts are people of color.<sup>30</sup>
- The subjection of communities of color to far-reaching consequences.<sup>31</sup> Broken windows policing concentrates fines, summonses requiring in-court appearances, and arrests in low-income communities of color. Its collateral consequences include negative impacts in such areas as, among other things, employment, education, immigration, and housing.<sup>32</sup>
- The creation of a widespread perception that low-income New Yorkers of color are mistreated by the NYPD, damaging relationships with the police, and, accordingly, undermining the efficacy of the NYPD in these communities.<sup>33</sup> For years, New Yorkers of color have regularly shared experiences of being disrespected, harassed, and

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[https://gallery.mailchimp.com/f6b63e2555a5fd40610a66a67/files/Court\\_Monitoring\\_Spring\\_2016.01.pdf](https://gallery.mailchimp.com/f6b63e2555a5fd40610a66a67/files/Court_Monitoring_Spring_2016.01.pdf) [hereinafter PROP, WE HARM PEOPLE EVERYDAY].

<sup>23</sup> See Section IV.c.

<sup>24</sup> See 10. N.Y. LAB. LAW § 215-a (McKinney 2009 & Supp. 2015) (prohibiting “transfer[ing] or in any other manner penaliz[ing] or threaten[ing]” a police officer, including by “a reassignment, a scheduling change, an adverse evaluation, a constructive dismissal, the denial of a promotion, or the denial of overtime based in whole or in part on such employee’s failure to meet a quota.”)

<sup>25</sup> For example, in 2013, more than 37% of all summonses issued by the NYPD were either dismissed or found to be legally insufficient. See MISDEMEANOR JUSTICE PROJECT AT JOHN JAY COLLEGE OF CRIMINAL JUSTICE, THE SUMMONS REPORT: TRENDS IN THE ISSUANCE AND DISPOSITION OF SUMMONSES IN NEW YORK CITY, 2003-2013 63 (2015), [http://www.jjay.cuny.edu/sites/default/files/news/Summons\\_Report\\_DRAFT\\_4\\_24\\_2015\\_v8.pdf](http://www.jjay.cuny.edu/sites/default/files/news/Summons_Report_DRAFT_4_24_2015_v8.pdf).

<sup>26</sup> See CIVIL RIGHTS DIVISION, U.S. DEP’T OF JUSTICE, INVESTIGATION OF THE NEWARK POLICE DEPARTMENT 21 (2014), [https://www.justice.gov/sites/default/files/crt/legacy/2014/07/22/newark\\_findings\\_7-22-14.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2014/07/22/newark_findings_7-22-14.pdf).

<sup>27</sup> See Section VI.

<sup>28</sup> See OIG-NYPD REPORT, supra note 16, at 38.

<sup>29</sup> See MISDEMEANOR JUSTICE PROJECT AT JOHN JAY COLLEGE OF CRIMINAL JUSTICE, TRACKING ENFORCEMENT RATES IN NEW YORK CITY, 2003-2014 51-57 (2015), [http://www.jjay.cuny.edu/sites/default/files/News/Enforcement\\_Rate\\_Report.pdf](http://www.jjay.cuny.edu/sites/default/files/News/Enforcement_Rate_Report.pdf).

<sup>30</sup> See PROP, NO EQUAL AND EXACT JUSTICE, supra note 19, at 5.

<sup>31</sup> See Section VII.

<sup>32</sup> See K. Babe Howell, *Broken Lives from Broken Windows: The Hidden Costs of Aggressive Order-Maintenance Policing*, 33 N.Y.U. Rev. L. & Soc. Change 271, 300-306 (2009).

<sup>33</sup> See Section VIII.

humiliated by the police with the PROP Court Monitoring Project,<sup>34</sup> and survey data shows that New Yorkers of color are far more likely than white New Yorkers to have a negative view of the police.<sup>35</sup> Distrust of police “undermines the legitimacy of law enforcement, and without legitimacy police lose their ability and authority to function effectively.”<sup>36</sup>

The City and the NYPD have demonstrated their inability to address these harms without external assistance by: explicitly rejecting the findings of the OIG-NYPD and PROP reports documenting the discriminatory effects of broken windows policing; effectively resisting proposed legislative reforms that would limit the impact of the policy; and consistently reaffirming the City and Department’s commitment to broken windows policing.<sup>37</sup>

## II. Authors

The Police Reform Organizing Project (“PROP”) uses research and analysis, public education, policy advocacy, and coalition-building to address ineffective, abusive, unjust, discriminatory, and racially biased policing practices in New York City. PROP’s programming includes monthly meetings in communities affected by NYPD practices, workshops for young people, art projects, media advocacy, and other efforts to amplify the voices of New Yorkers directly affected by police misconduct and abuse. PROP’s Court Monitoring Project sends staff, interns, and volunteers to New York City’s arraignment proceedings to document racial disparities in enforcement of minor offenses by the NYPD.<sup>38</sup>

The Walter Leitner International Human Rights Clinic (“Clinic”) at Fordham University School of Law in New York City trains students to be strategic, reflective, and creative social justice advocates through real-world human rights lawyering experiences. The Clinic works in partnership and solidarity with grassroots justice organizations on human rights projects. The Clinic employs a range of advocacy methods including legal and policy analysis, human rights trainings, public interest litigation, submissions before human rights bodies, and direct legal assistance. In recent years, the Clinic has drafted a series of policy reports in partnership with PROP on NYPD abuse of black and Latino communities.<sup>39</sup>

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<sup>34</sup> See PROP, NO EQUAL AND EXACT JUSTICE, supra note 19, at 14-16; PROP, THAT’S HOW THEY GET YOU, supra note 19.

<sup>35</sup> A survey conducted for the NYPD in May and June of 2104 found 41% of black residents and 31% of Hispanic residents held a “somewhat” or “very” negative view of the police; by contrast, only 17% of white New Yorkers viewed the police negatively. See Auletta, supra note 9.

<sup>36</sup> *Race, Trust and Police Legitimacy*, NAT’L INST. OF JUSTICE, OFFICE OF JUSTICE PROGRAMS (July 14, 2016), <http://www.nij.gov/topics/law-enforcement/legitimacy/pages/welcome.aspx>.

<sup>37</sup> See Section IX.

<sup>38</sup> See *The Court Monitoring Project*, POLICE REFORM ORGANIZING PROJECT, <http://www.policereformorganizingproject.org/court-monitoring-project/> (last visited Nov. 7, 2016). The Court Monitoring Project captures data that is not otherwise reported. See MISDEMEANOR JUSTICE PROJECT AT JOHN JAY COLLEGE OF CRIMINAL JUSTICE, supra note 26, at 17.

<sup>39</sup> POLICE REFORM ORGANIZING PROJECT & WALTER LEITNER INTERNATIONAL HUMAN RIGHTS CLINIC, CHANGING THE NYPD: A PROGRESSIVE BLUEPRINT FOR SWEEPING REFORM (2014), <http://www.policereformorganizingproject.org/wp-content/uploads/2014/07/A-Blueprint-for-NYPD-Reform.pdf>; POLICE REFORM ORGANIZING PROJECT, URBAN JUSTICE CENTER & WALTER LEITNER INTERNATIONAL HUMAN RIGHTS CLINIC, CRIMINALIZING COMMUNITIES: NYPD ABUSE OF VULNERABLE POPULATIONS (2013), <http://www.policereformorganizingproject.org/wp-content/uploads/2014/12/Criminalizing-Communities.pdf>.

Teri Meyer, Rachel Yood, Giselle Sedano, and Mehar Najeeb, legal researchers at the Walter Leitner Human Rights Clinic at Fordham Law School, were the report’s principal authors. Chi Mgbako, Director of the Walter Leitner Human Rights Clinic, Robert Gangi, Director of the Police Reform Organizing Project (PROP), Christine ElDabh, Program Officer at the Leitner Center, and Peyton Berry, PROP Intern, edited the report.

### III. Legal Framework

Unjustified racial disparities in enforcement constitute a pattern or practice of policing in violation of federal law. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (“Title VI”), prohibits discrimination in programs receiving federal funding, including the NYPD, on the basis of race, color, sex, or national origin. Specific discriminatory acts prohibited under Title VI include the use of “criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race.”<sup>40</sup> Similarly, the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d (“Safe Streets Act”), prohibits law enforcement practices with a disparate impact based on race where that impact is not necessary to achieve nondiscriminatory objectives.<sup>41</sup>

Furthermore, the NYPD’s broken windows policy is applied in an intentionally discriminatory manner in violation of the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. The Equal Protection Clause “prohibits selective enforcement of the law based on considerations such as race.”<sup>42</sup> As this paper will demonstrate, the NYPD engages in substantially more enforcement of minor offenses in communities of color, even when other relevant variables, such as crime rate, are held constant, establishing a discriminatory effect.<sup>43</sup> This effect results from intentional discrimination. Like the NYPD’s unconstitutional stop-and-frisk policy, which sought to deter crime by instilling a fear of being stopped in the targeted population,<sup>44</sup> broken windows policing operates according to the premise that frequent punitive contacts with the police discourage criminal conduct in the targeted community.<sup>45</sup> In the stop-and-frisk context, the District Court for the Southern District of New York found discriminatory intent where the NYPD instructed officers to target communities of color on the basis of crime statistics, holding “it is impermissible for a police department to target its general enforcement practices against racially defined groups based on crime suspect data” under the Equal Protection Clause.<sup>46</sup> The NYPD’s use of the same crime data to justify over-enforcement of minor offenses in low-income communities of color likewise violates the rights of New Yorkers in these communities.<sup>47</sup>

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<sup>40</sup> 28 C.F.R. § 42.104(b)(2) (2014).

<sup>41</sup> See 28 C.F.R. § 42.203 (2014).

<sup>42</sup> *Whren v. United States*, 517 U.S. 806, 813 (1996).

<sup>43</sup> See Section VI.

<sup>44</sup> In a private meeting with lawmakers, NYPD Ray Kelly reportedly “stated that he targeted and focused on [blacks and Latinos] because he wanted to instill fear in them that every time that they left their homes they could be targeted by police.” Robert Gearty & Ginger Adams Otis, *NYPD Commish Ray Kelly Said ‘Stop and Frisk’ Intended to ‘Instill Fear’ in Blacks and Latinos: State Sen. Eric Adams*, N.Y. DAILY NEWS, Apr. 2, 2013, <http://www.nydailynews.com/new-york/senator-kelly-stop-frisk-instill-fear-blacks-latinos-article-1.1304763>.

<sup>45</sup> See BRATTON, *supra* note 17, at 3 (“A primary means of [preventing crime] was stopping low-level disorder and petty crime before they flourished and invited more serious crime.”).

<sup>46</sup> *Floyd v. City of New York*, 959 F. Supp. 2d 540, 662 (S.D.N.Y. 2013).

<sup>47</sup> Proponents of broken windows argue that the policy properly targets communities with higher rates of serious crime and is responsive to quality-of-life complaints. See BRATTON, *supra* note 17, at 6 (“[W]ith regard to Broken



## IV. Background

In their 1982 *Atlantic Monthly* article, “Broken Windows,” George L. Kelling and James Q. Wilson argued that policing and enforcing “disorder” effectively reduces more serious crime and protects citizens from “the fear of being bothered by” non-criminals, including “disreputable or obstreperous or unpredictable people: panhandlers, drunks, addicts, rowdy teenagers, prostitutes, loiterers, the mentally disturbed.”<sup>48</sup>

### a. Beginning of Broken Windows Policing in New York City

Under Bratton’s leadership, New York City adopted a policy based on the Kelling and Wilson article in the City’s subway system in the late 1980s.<sup>49</sup> When Bratton became NYPD Commissioner in 1994, he implemented the broken windows policy city-wide, directing officers to focus on sources of disorder including “[a]ggressive panhandling, squeegee cleaners, street prostitution, ‘boombox cars,’ public drunkenness, reckless bicyclists, and graffiti.”<sup>50</sup>

Between 1993 and 2010, misdemeanor arrests in New York City soared, increasing from 129,458 annual arrests to 251,288; criminal summonses, issued for misdemeanors and violations like drinking in public or disorderly conduct, spiked even more dramatically, from 160,000 in 1993 to 577,664 in 2010.<sup>51</sup> During the same period, crime declined dramatically across the United States.<sup>52</sup> Although Bratton and the NYPD attribute the decrease in crime in New York City to broken windows policing,<sup>53</sup> this interpretation is not supported by empirical evidence.<sup>54</sup> To the contrary, cities that did not adopt broken windows policing also experienced comparable declines in violent crime.<sup>55</sup> A number of reports demonstrate troubling racial disparities in

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Windows, we go where we are called and where disorder and crime occur.”). Although Bratton told reporters, “We go where the calls come from . . . The vast majority of quality-of-life calls – 311, 911 – come from some of the poorer neighborhoods of our city,” *Commissioner Bratton Defends ‘Broken Windows’ Policing, Says Critical Report Has ‘No Value’*, CBS NEW YORK, Sept. 7, 2016, <http://newyork.cbslocal.com/2016/09/07/bratton-broken-windows-policy/>, these calls do not explain the rates of enforcement. For example, in 2014, the NYPD received 686 complaints regarding drinking in public through the 311 system, *see* NYC OPENDATA, 2014 DRINKING IN PUBLIC, <https://nycopendata.socrata.com/Social-Services/2014-Drinking-in-Public/gisg-c8fk>, but issued more than 116,000 criminal summonses for consumption of alcohol on the streets, *see* BRATTON, *supra* note 17, at 27.

<sup>48</sup> Kelling & Wilson, *supra* note 6.

<sup>49</sup> Kelling & Bratton, *supra* note 7, at 1220.

<sup>50</sup> NYPD, *supra* note 8; *see also* Kelling & Bratton, *supra* note 7, at 1227.

<sup>51</sup> *See* Ryley et al., *supra* note 9.

<sup>52</sup> *See* ROEDER ET AL., *supra* note 13, at 3.

<sup>53</sup> *See* BRATTON, *supra* note 17, at 1 (“More than any other factor, what caused this amazing change [in New York City crime rates] was Broken Windows, or quality-of-life policing.”).

<sup>54</sup> *See* Vitale, *supra* note 14 (“Academic researchers have never found a credible link between low-level disorder and serious crime.”). As Bratton conceded to one reporter, the evidence for the policy’s efficacy lies largely with the intuitions of its proponents. *See* Auletta, *supra* note 9 (“You’re not going to find the scientific study that can support broken-windows one way or the other . . . The evidence I rely on is what my eyes show me.”).

<sup>55</sup> *See* Ginia Bellafante, *The Dark Side of ‘Broken Windows’ Policing*, N.Y. TIMES, Jan. 15, 2016, [http://www.nytimes.com/2015/01/18/nyregion/the-dark-side-of-broken-windows-policing.html?\\_r=1](http://www.nytimes.com/2015/01/18/nyregion/the-dark-side-of-broken-windows-policing.html?_r=1) (comparing the violent crime decline between 1991 and 2012 in New York City and San Diego, which did not implement a broken windows program).

broken windows enforcement and challenge the premise that broken windows enforcement reduces crime.<sup>56</sup>

However, Bratton and the NYPD actively sought to export the broken windows policy to other cities, including Boston and Los Angeles.<sup>57</sup> Baltimore’s “zero tolerance” approach to enforcement, which was modeled after NYPD tactics and implemented with the assistance of NYPD consultants, resulted in a pattern of enforcement that discriminated against African Americans.<sup>58</sup>

In 2013, Bratton was reappointed as NYPD Commissioner by Mayor Bill de Blasio.<sup>59</sup> Although Bratton criticized the overuse of “stop, question, and frisk” tactics under his predecessor, Commissioner Raymond W. Kelly, he retained his core belief in deterring criminal conduct through frequent police contact unrelated to serious crime.<sup>60</sup> Accordingly, during Bratton’s tenure, the NYPD continued to emphasize enforcement of quality-of-life offenses in low-income communities of color, maintaining a pattern of aggressive enforcement in these communities.<sup>61</sup>

Bratton stepped down as Commissioner in September 2016.<sup>62</sup> His replacement, Commissioner James O’Neill, has continued implementing Bratton’s policies during his tenure, and Mayor Bill de Blasio has consistently expressed support for broken windows policing.<sup>63</sup>

## **b. Current Broken Windows Enforcement**

The NYPD has implemented broken windows policy in New York City largely through misdemeanor arrests and criminal summonses, often for innocuous conduct. Misdemeanor arrest rates have declined from their peaks in 2010, but remain well above 1990s levels.<sup>64</sup> The NYPD

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<sup>56</sup> See OIG-NYPD REPORT, supra note 16, at 3 (finding “no evidence to suggest that crime control [in New York City] can be directly attributed to quality-of-life summonses and misdemeanor arrests”). The NYPD similarly argued that its “stop, question, and frisk” program was necessary to prevent violent crime. See Erin Durkin & Adam Edelman, *New York City Police Department Commissioner Ray Kelly Blasts Stop-and-Frisk Ruling, Says Violent Crime Will Spike Under Proposed Reforms*, N.Y. DAILY NEWS, Aug. 18, 2013, <http://www.nydailynews.com/news/politics/new-york-city-police-department-commissioner-ray-kelly-blasts-stop-and-frisk-ruling-violent-crime-spike-proposed-reforms-article-1.1430144> (quoting then-NYPD Commissioner Kelly saying there is “no question” that “[v]iolent crime will go up” following the decision in *Floyd* limiting the stop-and-first program). However, the dramatic reduction in stops since 2013 has not resulted in a significant crime increase. See J. David Goodman and Al Baker, *Anxiety Aside, New York Sees Drop in Crime*, N.Y. TIMES, Dec. 27, 2015, [http://www.nytimes.com/2015/12/27/nyregion/anxiety-aside-new-york-sees-drop-in-crime.html?\\_r=0](http://www.nytimes.com/2015/12/27/nyregion/anxiety-aside-new-york-sees-drop-in-crime.html?_r=0).

<sup>57</sup> Auletta, supra note 9.

<sup>58</sup> BALTIMORE REPORT, supra note 10, at 40, 47.

<sup>59</sup> J. David Goodman & Al Baker, *William Bratton, New York’s Influential Police Commissioner, Is Stepping Down*, N.Y. TIMES, Aug. 2, 2016, <http://www.nytimes.com/2016/08/03/nyregion/bill-bratton-nypd-commissioner.html>.

<sup>60</sup> See N. R. Kleinfield & J. David Goodman, *For Bratton and Kelly, Linked Legacies and Locked Horns*, N.Y. TIMES, Jan. 1, 2016, <http://www.nytimes.com/2016/01/02/nyregion/for-bratton-and-kelly-linked-legacies-and-longstanding-tension.html>.

<sup>61</sup> See Ryley et al., supra note 9.

<sup>62</sup> See Goodman & Baker, supra note 61.

<sup>63</sup> See Editorial, supra note 9 (“Chief O’Neill accepted the new job promising continuity.”); Auletta, supra note 9; Dean Meminger, *Bratton Rejects DOI Report that Criticizes His Approach to Policing – and the Mayor Backs Him Up*, NY1, June 23, 2016, <http://www.ny1.com/nyc/all-boroughs/criminal-justice/2016/06/23/bratton-rejects-doi-report-that-said-his-longtime-police-policy-was-not-doing-the-job.html> (quoting the Mayor joining the NYPD in rejecting the OIG-NYPD Report’s “core findings” that quality-of-life enforcement does not reduce serious crime).

<sup>64</sup> See BRATTON, supra note 17, at 12, 19.

made 259,926 misdemeanor arrests for low-level offenses in 2014.<sup>65</sup> Of these, 29,433 arrests were for theft of services, commonly subway fare-beating; the NYPD made more than 25,000 arrests for marijuana possession.<sup>66</sup> In 2016, NYPD officers made 26,463 arrests for fare-beating, 91.5% of which involved New Yorkers of color. Further, the NYPD has increased its enforcement of certain broken windows offenses. For example, arrests for possession or sale of small amounts of marijuana increased by 30 percent in the first three months of 2016 over the same period in the previous year.<sup>67</sup>

Rates of criminal summonses issued have followed a similar trajectory. The NYPD issued 160,000 summonses in 1993, and this number rose steadily, peaking at 648,638 summonses in 2005.<sup>68</sup> The number of summonses has fallen in recent years, with the NYPD issuing 267,763 summonses in 2016, many more than the number issued in 1993.<sup>69</sup> The NYPD issued 1,839,414 criminal summonses between 2010 and 2015.<sup>70</sup> These arrests have been primarily for broken windows offenses. Between 2001 and 2013, the most common summonses charges were public consumption of alcohol, disorderly conduct, public urination, and bicycling on the sidewalk.<sup>71</sup> Similarly, in 2015, of the nine most common arraignment charges, eight were misdemeanors and one was a violation.<sup>72</sup> Also in 2015, more than 80% of summonses were for broken windows offenses, including open container violations, disorderly conduct, possession of marijuana, public urination, and riding a bicycle on a sidewalk.<sup>73</sup>

PROP's Court Monitoring Project has collected stories that capture how broken windows enforcement ensnares New Yorkers in the criminal justice system for innocuous behavior. The Court Monitoring Project has documented arrests for putting feet or a backpack on a subway seat, sleeping on the subway or a park bench, filming police activity, jaywalking, and selling loose or untaxed cigarettes.<sup>74</sup> One woman spent four days in a Bronx holding cell after being arrested on a warrant for failure to appear in court based on a summons for putting down her dog's leash while cleaning up its waste.<sup>75</sup> A refugee who spoke limited English spent two days in jail awaiting an interpreter after being arrested for sitting on a Brooklyn playground bench unaccompanied by a child, in violation of park rules.<sup>76</sup> A Latino man was arrested in Manhattan

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<sup>65</sup> *See id.*

<sup>66</sup> *See id.* at 20.

<sup>67</sup> *See* Anita Abedian, *If Marijuana is Decriminalized in NYC, Then Why Are Possession Arrests on the Rise?*, VILLAGE VOICE, June 1, 2016, <http://www.villagevoice.com/news/if-marijuana-is-decriminalized-in-nyc-then-why-are-possession-arrests-on-the-rise-8683515>.

<sup>68</sup> *See* Ryley et al., *supra* note 9.

<sup>69</sup>

*See* NEW YORK CITY POLICE DEPARTMENT REPORT, CRIMINAL COURT SUMMONSES 2007-2016 [http://www.nyc.gov/html/nypd/html/analysis\\_and\\_planning/reports.shtml](http://www.nyc.gov/html/nypd/html/analysis_and_planning/reports.shtml)

<sup>70</sup> *See* OIG-NYPD REPORT, *supra* note 16, at 2.

<sup>71</sup> *See* Ryley et al., *supra* note 9.

<sup>72</sup> *See* CRIMINAL COURT OF NEW YORK, ANNUAL REPORT 2015 29 (2016), [https://www.nycourts.gov/COURTS/nyc/criminal/2015\\_crim\\_crt\\_ann\\_rpt\\_%20062316\\_fnl2.pdf](https://www.nycourts.gov/COURTS/nyc/criminal/2015_crim_crt_ann_rpt_%20062316_fnl2.pdf). Public consumption of alcohol, a violation, moved from the tenth-most common arraignment charge to the seventh between 2010 and 2015. *See id.*

<sup>73</sup> *See* OIG-NYPD REPORT, *supra* note 16, at 19.

<sup>74</sup> *See* POLICE REFORM ORGANIZING PROJECT, BROKEN WINDOWS POLICING: A TRUE TALE OF TWO CITIES 23-24 (2014), <http://www.policereformorganizingproject.org/wp-content/uploads/2012/09/Broken-Windows-Policing-A-True-Tale-of-Two-Cities.pdf> [hereinafter PROP, BROKEN WINDOWS POLICING].

<sup>75</sup> *See* PROP, THAT'S HOW THEY GET YOU, *supra* note 19, at 3.

<sup>76</sup> *See id.* at 10.

and detained overnight on a charge of petit larceny after officers observed him picking a flower from a public garden and dangling it in his shirt pocket.<sup>77</sup>

### **c. Broken Windows Policing and Quotas**

The NYPD's aggressive enforcement of broken windows offenses is driven in part by an informal quota system. In its investigation of the Newark Police Department ("NPD"), the Department of Justice found that even the perception of an unofficial quota system resulted in ineffective policing and facilitated abuse.<sup>78</sup>

Although police quotas are illegal in New York, evidence indicates the existence of quotas for stops, tickets, and arrests by NYPD officers.<sup>79</sup> NYPD officers have spoken to the press about pressure from supervisors to meet certain numbers and about the retribution faced by police officers who fail to do so.<sup>80</sup> When issuing summonses, officers sometimes inform the recipient that the officer is motivated by a quota.<sup>81</sup> In 2015, a group of twelve NYPD officers of color filed a lawsuit against the Department, claiming that supervisors enforced an unofficial quota system by pressuring officers to "be more proactive" or "get more activity."<sup>82</sup> The suit alleges that NYPD officers who do not meet quotas can lose opportunities for promotion or be transferred to undesirable assignments.<sup>83</sup>

## **V. Racially Discriminatory Enforcement**

The NYPD implements broken windows policing in a racially discriminatory manner by disproportionately criminalizing communities of color. Data indicates that the NYPD arrests and issues summonses to people of color in numbers that far outpace their proportion in New York City's population. Much of this enforcement is legally deficient, particularly as defendants are rarely kept in custody, and entangles in the criminal justice system people of color living in majority black or Latino neighborhoods. Even when the NYPD enforces broken windows policing in majority white neighborhoods, people of color are targeted. The offenses for which the NYPD criminalizes low-income people of color are decriminalized in more affluent communities with higher proportions of white residents. Despite the existence of some data revealing the discriminatory implementation and impact of broken windows policing, the NYPD does not collect sufficient race and ethnicity data on the practice to determine the full scope of its discriminatory effects.

Data on arrests for low-level offenses demonstrate that the NYPD targets broken windows policing, enforced through misdemeanor arrests, against people of color. In 2015, 87%

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<sup>77</sup> See PROP, WE HARM PEOPLE EVERYDAY, *supra* note 19, at 16.

<sup>78</sup> See Graham Rayman, *NYPD Internal Memo Offers Mixed Message on the New Law Prohibiting Quotas*, VILLAGE VOICE, Dec. 6, 2010, <http://www.villagevoice.com/news/nypd-internal-memo-offers-mixed-message-on-the-new-law-prohibiting-quotas-6706254>.

<sup>79</sup> See 10 N.Y. LAB. LAW § 215-a (McKinney 2009 & Supp. 2015).

<sup>80</sup> See Rayman, *supra* note 80.

<sup>81</sup> See PROP, THAT'S HOW THEY GET YOU, *supra* note 19, at 3, 13, 18.

<sup>82</sup> Saki Knafo, *A Black Police Officer's Fight Against the N.Y.P.D.*, N.Y. TIMES, Feb. 18, 2016, <http://www.nytimes.com/2016/02/21/magazine/a-black-police-officers-fight-against-the-nypd.html>.

<sup>83</sup> See *id.*

of NYPD misdemeanor arrests involved people of color,<sup>84</sup> although black people constitute only 25.5% and Latinos 28.6% of the city's population according to the 2010 census.<sup>85</sup> Also in 2015, over 90% of people arrested for theft of services, marijuana possession and sale, and trespass were people of color.<sup>86</sup> Advocacy groups like PROP that visit the city's criminal courts' arraignment parts report that on each of their visits, at least 85%, and sometimes 100%, of the arrestees are people of color.<sup>87</sup> This discrepancy is particularly acute in the number of arrests for drug possession in Manhattan.<sup>88</sup> Between 2010 and 2015, there were 3,309 arrests per 100,000 black people, compared to 306 per 100,000 white people; black people were nearly 11 times more likely than white people to be arrested for drug possession,<sup>89</sup> even though data on drug use demonstrates that black and white Americans use illicit drugs at the same rates and use marijuana at similar rates.<sup>90</sup>

PROP has consistently found high rates of people of color in New York's arraignment proceedings. In total, PROP has released six reports covering over a two year period from June of 2014 to November of 2016. PROP's first Court Monitoring report, released in July 2014, reported that 92.8% involved people of color.<sup>91</sup> PROP's second report, released in October 2014, revealed 90.6% of the cases involved people of color.<sup>92</sup> PROP's third document, released in December 2015, reported that 90% of the observed cases involved people of color.<sup>93</sup> The six reports combined find that of the total 2,914 cases monitored, 2,642, or 91%, of defendants were people of color.<sup>94</sup>

Data show the same racial disparity in the NYPD's issuance of summonses. Between 2001 and 2013, approximately 81% of the 7.3 million summons issued were to black or Latino people.<sup>95</sup> Further, the rate of summonses in New York City precincts that are majority black or Latino far outpaces rates in other precincts. In some precincts that are majority black or Latino, the rate of summonses is more than 10 per 100 residents.<sup>96</sup> The 25th precinct (East Harlem North), 90% black and Latino, had 18 summonses per 100 residents; the 40th precinct (Mott Haven, Bronx), which is 98% black and Latino and the 41st precinct (Hunts Point, Bronx), also 98% black and Latino, both had 16 summonses per 100 residents.<sup>97</sup>

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<sup>84</sup> See Press Release, Police Reform Organizing Project, Data Shows NYPD Bias Continues (Nov. 4, 2015), <http://www.policereformorganizingproject.org/data-shows-nypd-bias-continues/>.

<sup>85</sup> See U.S. CENSUS BUREAU, *supra* note 29.

<sup>86</sup> See Press Release, *supra* note 86.

<sup>87</sup> See POLICE REFORM ORGANIZING PROJECT, *THE CASE AGAINST THE NYPD'S QUOTA-DRIVEN 'BROKEN WINDOWS' POLICING I* (2012), [http://www.policereformorganizingproject.org/wp-content/uploads/2012/09/Case\\_Against\\_Broken\\_Windows.pdf](http://www.policereformorganizingproject.org/wp-content/uploads/2012/09/Case_Against_Broken_Windows.pdf) [hereinafter PROP, *THE CASE AGAINST THE NYPD'S QUOTA-DRIVEN 'BROKEN WINDOWS' POLICING*].

<sup>88</sup> See HUMAN RIGHTS WATCH & AMERICAN CIVIL LIBERTIES UNION, *EVERY 25 SECONDS: THE HUMAN TOLL OF CRIMINALIZING DRUG USE IN THE UNITED STATES 47* (2016), [https://www.hrw.org/sites/default/files/report\\_pdf/usdrug1016\\_web\\_0.pdf](https://www.hrw.org/sites/default/files/report_pdf/usdrug1016_web_0.pdf).

<sup>89</sup> See *id.*

<sup>90</sup> See *id.* at 5.

<sup>91</sup> See PROP, *NO EQUAL AND EXACT JUSTICE*, *supra* note 19, at 18.

<sup>92</sup> See *id.*

<sup>93</sup> See *id.*

<sup>94</sup> See *id.*

<sup>95</sup> See Ryley et al., *supra* note 9.

<sup>96</sup> See *id.*

<sup>97</sup> See *id.*

Much of this quality-of-life enforcement is legally unjustifiable and defendants are rarely kept in custody.<sup>98</sup> Between 2003 and 2013, 65% of all summonses issued by the NYPD were either dismissed (41%) or found to be defective or legally insufficient (24%).<sup>99</sup> In June and July of 2014, PROP's Court Monitoring Project observed cases where 89% of defendants were people of color and 93% of all defendants were released after arraignment.<sup>100</sup> From October 26, 2015 through March 18, 2016, PROP observed 529 cases in Manhattan and Brooklyn arraignment parts.<sup>101</sup> People of color constituted 87.5% of the defendants in these cases and 96.2% of the defendants were not kept in custody after arraignment.<sup>102</sup>

As a result of the racially targeted implementation of broken windows policing, low-income communities of color are disproportionately criminalized. In 2015, broken windows enforcement across the city correlated with higher proportions of black and Latino residents, New York City Housing Authority (NYCHA) residents, and males aged 15-20.<sup>103</sup> Precincts with higher rates of black and Latino residents continued encountering higher rates of quality-of-life enforcement even when controlled by total felony crimes rates in those precincts.<sup>104</sup> Thus, these areas experience higher rates of quality-of-life enforcement than would be expected based on their rates of combined felony crimes.<sup>105</sup> In contrast, areas with higher rates of white residents receive less quality-of-life enforcement than would be expected based on their rates of combined felony crimes.<sup>106</sup> The lower rates of felony crime in white neighborhoods does not explain why the quality-of-life enforcement in these neighborhoods is low.<sup>107</sup>

Further, when broken windows policing is enforced in predominantly white neighborhoods, police target black or Latino people in those neighborhoods. In the 24th Precinct (Upper West Side-North), which has the highest disparity in summons activity, black and Latino residents made up 34% of the population, but received approximately 84% of the summonses issued.<sup>108</sup> Similarly, in the 84th Precinct (Brooklyn Heights, DUMBO), black and Latino residents constituted 28% of the population, but received 78% of the summonses.<sup>109</sup>

The activities for which police officers stop, arrest, or ticket people in low-income communities of color, including biking on a sidewalk and open alcohol containers, are effectively decriminalized in wealthier white communities.<sup>110</sup> For instance, between 2008 and 2011, the NYPD issued an average per year of 856 summonses per 100,000 residents for bicycles on the sidewalk in the 79th Precinct (Bedford-Stuyvesant), which is 93% black and Latino.<sup>111</sup> In contrast, the NYPD issued an average of only eight summonses per year, at a rate of

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<sup>98</sup> See Emma Whitford, *NYC's Broken Windows Reform Is Too Weak, Critics Say*, GOTHAMIST (Jan. 26, 2016), [http://gothamist.com/2016/01/26/broken\\_windows\\_reform.php](http://gothamist.com/2016/01/26/broken_windows_reform.php).

<sup>99</sup> See *id.*

<sup>100</sup> See PROP, BROKEN WINDOWS POLICING, *supra* note 76, at 3.

<sup>101</sup> See PROP, NO EQUAL AND EXACT JUSTICE, *supra* note 19, at 5.

<sup>102</sup> See *id.*

<sup>103</sup> See OIG-NYPD REPORT, *supra* note 16, at 5.

<sup>104</sup> See *id.* at 38.

<sup>105</sup> See *id.*

<sup>106</sup> See *id.*

<sup>107</sup> See *id.*

<sup>108</sup> See Sarah Ryley, *Minorities Face Disproportionate 'Broken Windows' Enforcement Everywhere – Especially in Predominantly White Neighborhoods*, N.Y. DAILY NEWS, Sep. 8, 2014, <http://www.nydailynews.com/new-york/nyc-crime/broken-windows-disproportionately-enforced-white-neighborhoods-article-1.1931171>.

<sup>109</sup> See *id.*

<sup>110</sup> See PROP, THE CASE AGAINST THE NYPD'S QUOTA-DRIVEN 'BROKEN WINDOWS' POLICING, *supra* note 89, at 2.

<sup>111</sup> See HARRY LEVINE & LOREN SIEGEL, MARIJUANA ARREST RESEARCH PROJECT, CRIMINAL COURT SUMMONSES IN NEW YORK CITY 9 (2014),

thirteen per 100,000 residents, in the 78th Precinct (Park Slope), which is only 24% black and Latino.<sup>112</sup> Twelve of the fifteen precincts with the highest number of summonses for this offense were majority black and Latino.<sup>113</sup>

Despite evidence indicating the discriminatory impact of NYPD's broken windows policing on communities of color, the NYPD does not collect sufficient race and ethnicity data on the practice. From 2001 to 2012, the NYPD collected race data on approximately 30% of summonses and in 2013, this number dropped to 4%.<sup>114</sup> The 2016 OIG-NYPD investigation adjusted for this statistical weakness by associating enforcement data with precinct-level demographic information.<sup>115</sup> PROP remedied the gap in racial and ethnic statistical data through its Court Monitoring Project, through which PROP volunteers observe and record defendants' race and offense in arraignment proceedings across New York City.<sup>116</sup> The data produced by both the OIG-NYPD and PROP show substantial disparities by race, where a vast majority of the defendants are from communities of color, suggesting that low-level offenses are policed in a discriminatory manner.<sup>117</sup> While the statistics consolidated by other sources reveal the racially discriminatory nature of broken windows enforcement, this lack of data and analyses from the NYPD prevents an evaluation of the full scope of broken windows policing's effect on communities of color in New York City.

## VI. Disproportionate Harm to Communities of Color

Arrests and summonses issued under broken windows policing have far-reaching adverse effects on communities of color. The experience of a stop or an arrest is time-consuming, frightening, and humiliating.<sup>118</sup> In extreme cases, these interactions become violent<sup>119</sup> or even lethal.<sup>120</sup> People arrested for petty infractions often lose time at work, are denied access to scholarships or public housing, lose custody of their children, or face deportation.<sup>121</sup> Defendants

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<http://marijuana-arrests.com/docs/Criminal-Court-Summonses-in-NYC--CUNY-Law-School-April-24-2014.pdf>.

<sup>112</sup> See *id.*

<sup>113</sup> See Irene Chidinma Nwoye, *Cycling on the Sidewalk: The New Stop-and-Frisk*, VILLAGE VOICE, Oct. 30, 2014, <http://www.villagevoice.com/news/cycling-on-the-sidewalk-the-new-stop-and-frisk-6703521>.

<sup>114</sup> See Donna Lieberman, Opinion, *Bratton's Hiding Broken-Windows Data*, N.Y. DAILY NEWS, Aug. 8, 2014, <http://www.nydailynews.com/opinion/bratton-hiding-broken-windows-data-article-1.1895928>.

<sup>115</sup> See OIG-NYPD REPORT, *supra* note 16, at 12-13.

<sup>116</sup> See PROP, BROKEN WINDOWS POLICING, *supra* note 76, at 1.

<sup>117</sup> See OIG-NYPD REPORT, *supra* note 16, at 38; PROP, BROKEN WINDOWS POLICING, *supra* note 76.

<sup>118</sup> See Howell, *supra* note 31, at 293-94 (describing the arraignment process, which typically takes 24 hours; people charged with lesser offenses may be strip-searched and are held with alleged felons; holding cells lack beds and have toilets without doors and are "overcrowded and squalid"); Donna Lieberman & Kara Dansky, *The Degradation of Civil Society and Hyper-Aggressive Policing in Communities of Color in New York City*, 37 *Cardozo L. Rev.* 955, 969 (2016) ("Being stopped is traumatizing and frightening. Being frisked, more so. Being arrested is not only a terrible experience, but it also has measurable implications for a person's ability to obtain or keep a job, and can negatively impact family relationships.")

<sup>119</sup> See Vitale, *supra* note 14 (describing videos of violent arrests by the NYPD for such offenses as "having a foot on a subway seat at 2 a.m.")

<sup>120</sup> See Al Baker et al., *Beyond the Chokehold: The Path to Eric Garner's Death*, N.Y. TIMES, June 13, 2015, [http://www.nytimes.com/2015/06/14/nyregion/eric-garner-police-chokehold-staten-island.html?\\_r=0](http://www.nytimes.com/2015/06/14/nyregion/eric-garner-police-chokehold-staten-island.html?_r=0) (reporting the interaction leading to Garner's death was "a product of a police strategy to crack down on the disorder that, to the police, Mr. Garner represented").

<sup>121</sup> See PROP, THE CASE AGAINST THE NYPD'S QUOTA-DRIVEN 'BROKEN WINDOWS' POLICING, *supra* note 89, at 2.

do not usually plead innocent and demand a trial, bringing a large number of low-income people of color into the criminal justice system and leaving them with records that impair their future professional, educational, housing, and immigration prospects.<sup>122</sup>

Fines charged for minor offenses impose a significant financial burden on low-income people of color. The City collected over \$9.5 million in fines and surcharges related to summonses in 2015,<sup>123</sup> an increase from \$9 million in 2010<sup>124</sup> and from less than \$8.5 million in 2005.<sup>125</sup> A summons for riding a bicycle on the sidewalk, for example, carries a \$100 fine and an additional \$125 in court fees.<sup>126</sup> Due to the high number of criminal summonses, New York City's summons courts have long lines and significant wait times, thereby worsening<sup>127</sup> the burden imposed by the requirement of many criminal summonses for the defendant to appear in-person, taking time away from work or childcare.<sup>128</sup>

Failure to appear in court for a criminal summons leads to the issuance of an arrest warrant.<sup>129</sup> Between 2003 and 2013, 36% of all summonses issued resulted in arrest warrants for failure to appear in court.<sup>130</sup> One black college student was issued summonses on three separate occasions - for swiping her school MetroCard on Memorial Day, placing her foot on a subway seat, and entering a public park after dark – and was handcuffed and arrested for failure to appear in court.<sup>131</sup>

Convictions for minor offenses can render a person ineligible for a number of professions, including those requiring a license from state authorities and the military.<sup>132</sup> Even where a conviction is not an official bar to employment, misdemeanor or violation convictions have negative impacts.<sup>133</sup> One transit worker standing in the lobby of a Brooklyn building was arrested when another man in the area was found with contraband; although the charges against him were dismissed, he was suspended by the Transit Authority and lost five months' pay and benefits.<sup>134</sup> A black woman who was charged with possession of marijuana while having no drugs on her took her public defenders' advice to accept a plea deal for a lesser charge and was denied a job as a result of her criminal record.<sup>135</sup>

Prior records also impact immigration status.<sup>136</sup> For immigrants, including legal permanent residents, even a single misdemeanor conviction or minor offense can result in

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<sup>122</sup> Ryley et al., supra note 9.

<sup>123</sup> See CRIMINAL COURT OF NEW YORK, supra note 74, at 31.

<sup>124</sup> See CRIMINAL COURT OF NEW YORK, ANNUAL REPORT 2010 31 (2011), <https://www.nycourts.gov/courts/nyc/criminal/AnnualReport2010.pdf>.

<sup>125</sup> See CRIMINAL COURT OF NEW YORK, ANNUAL REPORT 2005 40 (2006), <https://www.nycourts.gov/courts/nyc/criminal/annual-report05.pdf>.

<sup>126</sup> See *Testimony Before City Council Public Safety & Courts and Legal Services Committees on Summons Court Operations and Impact*, N.Y. CIVIL LIBERTIES UNION (Dec. 15, 2014), <http://www.nyclu.org/content/testimony-city-council-public-safety-courts-and-legal-services-committees-summons-court-oper>.

<sup>127</sup> See *id.*

<sup>128</sup> See *id.*

<sup>129</sup> See MISDEMEANOR JUSTICE PROJECT AND JOHN JAY COLLEGE OF CRIMINAL JUSTICE, supra note 22, at 17.

<sup>130</sup> See *id.* at 22.

<sup>131</sup> See PROP, THAT'S HOW THEY GET YOU, supra note 19, at 16.

<sup>132</sup> See Howell, supra note 31, at 304-05.

<sup>133</sup> See *id.* at 306.

<sup>134</sup> See PROP, THAT'S HOW THEY GET YOU, supra note 19, at 17.

<sup>135</sup> See *id.* at 16.

<sup>136</sup> See Ryley et al., supra note 9.



deportation.<sup>137</sup> Legal permanent residents and undocumented immigrants can be deported for crimes categorized as “Crimes of Moral Turpitude” in the Immigration and Nationality Act, which include subway fare-beating, possession of counterfeit goods, and possession of marijuana.<sup>138</sup> An undocumented Mexican immigrant was deported because he was arrested on an open alcohol container charge and there was a warrant for his arrest for failure to appear for a prior summons for an open alcohol container.<sup>139</sup> President Trump’s executive orders directing heightened surveillance of immigrants emboldens immigration officials to monitor and remove immigrants who have been charged or convicted for even minor criminal offenses, thus increasing the vulnerability of immigrants brought into the criminal justice system for broken windows offenses.<sup>140</sup> Included in the new immigration policies is the provision that even a traffic violation can lead to deportation<sup>141</sup>, and it is important to note that in 2016, the Department more aggressively enforced moving traffic violations and issued 1,042,703 summonses.<sup>142</sup>

Broken windows policing can result in time away from school and erect barriers to education by limiting access to student aid. A student convicted of drug possession will lose eligibility for federal aid for one year for a first offense, two years for a second, and indefinitely for a third.<sup>143</sup>

Low-income New Yorkers also face obstacles in securing housing as a result of broken windows policing. Families with members convicted of Class B or unclassified misdemeanors, which include smoking marijuana in a public place,<sup>144</sup> are ineligible for NYCHA housing for three years following completion of a sentence.<sup>145</sup> The court sentenced a middle-aged black man who was arrested for theft of services or farebeating to 12 days on Rikers Island due to a history of low-level offenses and misdemeanor convictions.<sup>146</sup> Before his arrest, the man was close to obtaining an apartment, but as a consequence of his sentence, he lost access to affordable housing.<sup>147</sup>

Aggressive broken windows enforcement, concentrated in low-income communities of color, subjects these communities to a disproportionate number of fines, summonses, and arrests

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<sup>137</sup> See Howell, supra note 31, at 300 (“[I]t is not uncommon for misdemeanors to result in deportation of defendants who remember no other home but the United States and have always maintained a legal immigration status. For those on the road to legal status, even noncriminal convictions . . . can lead to adverse immigration consequences . . .”)

<sup>138</sup> See Max Rivlin-Nadler, *Don’t Believe Broken Windows Policing Deports New Yorkers? Read Their Stories*, VILLAGE VOICE, <http://www.villagevoice.com/news/dont-believe-broken-windows-policing-deports-new-yorkers-read-their-stories-9745924>

<sup>139</sup> See PROP, THAT’S HOW THEY GET YOU, supra note 19, at 17.

<sup>140</sup> See Nicholas Kulish et al., *Trump’s Immigration Policies Explained*, N.Y. TIMES, Feb. 21, 2017, <https://www.nytimes.com/2017/02/21/us/trump-immigration-policies-deportation.html>

<sup>141</sup> See Alicia Caldwell, *Under Trump, illegal immigrants with traffic tickets to be targeted for deportation*. LOS ANGELES DAILY NEWS. Feb. 21, 2017.

<sup>142</sup> See PROP, MAYOR DIBLASIO: YOU CANNOT, AS YOU HAVE TRIED, TO CREDIBLY CHAMPION “BROKEN WINDOWS” POLICING AND IMMIGRANTS’ RIGHTS. THAT’S HOW THEY GET YOU

<sup>143</sup> Betsy Mayotte, *Drug Convictions Can Send Financial Aid Up in Smoke*, U.S. NEWS & WORLD REP. (Apr. 15, 2015), <http://www.usnews.com/education/blogs/student-loan-ranger/2015/04/15/drug-convictions-can-send-financial-aid-up-in-smoke>.

<sup>144</sup> See N.Y. PENAL LAW § 221.10 (McKinney 2009).

<sup>145</sup> See *Tenant Selection and Assignment Plan*, N.Y.C. Hous. Auth. (Jan. 22, 2016), <https://www1.nyc.gov/assets/nycha/downloads/pdf/TSAPlan.pdf>.

<sup>146</sup> See PROP, NO EQUAL AND EXACT JUSTICE, supra note 19, at 14.

<sup>147</sup> See *id.*

and erects unjustifiable barriers to economic opportunity for conduct that has been effectively decriminalized in well to do white communities.

## VII. Harm to Police-Community Relationships and Efforts to Police Serious Crime

In New York City, tension and distrust between the NYPD and the community is escalating, especially within communities of color, where residents suffer from aggressive policing practices.<sup>148</sup> The over-policing of black and Latino communities for low-level offenses under the broken windows policy threatens police-community relationships that are fundamental to effective policing.<sup>149</sup> A strained relationship between the police department and the communities it serves impairs the police's efforts to fight serious crime and therefore poses irreparable harm to public safety.<sup>150</sup> In a 2016 report, the National Institute for Justice found that perceptions of communities of color that the police lack lawfulness and legitimacy, drawn largely from their own interactions with the police, could lead to the overall distrust of the police.<sup>151</sup> Distrust of police seriously undermines the legitimacy of law enforcement, and if the police lose their legitimacy, they also lose their ability and authority to function effectively.<sup>152</sup>

A public survey of 17,000 New York City residents, ordered by Bratton and conducted in May and June of 2014, found that 17% of white residents viewed the police negatively, but that figure nearly doubled for members of communities of color, as 41% of black residents and 31% of Latino residents held "somewhat negative" or "very negative" views of the police.<sup>153</sup> New York City residents of color regularly report experiences of being disrespected, harassed, and humiliated by the NYPD.<sup>154</sup> A longtime activist and member of the Coalition to End Broken Windows told the *New Yorker* that some communities "live in a place where police are constantly in our lives, acting as if they expect crime."<sup>155</sup> Communities of color attribute their negative perception of the NYPD to the discriminatory effects of broken windows policing.<sup>156</sup>

As part of its 2016 report, the OIG-NYPD interviewed 140 participants working or residing in communities that are likely to be significantly impacted by quality-of-life policing.<sup>157</sup> These interviews reveal participants' deep skepticism about the efficacy of quality-of-life summonses in decreasing serious crime in their communities.<sup>158</sup> Interviewees expressed concerns that the aggressive and racially discriminatory tactics of quality-of-life enforcement harm their communities by inhibiting positive police-community relations.<sup>159</sup> If there is community distrust regarding the NYPD's motives, even law-abiding community members will feel unsafe and will

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<sup>148</sup> See "*Quality-of-Life*" Policing, INCITE!, <http://www.incite-national.org/page/quality-life-policing> (last visited Nov. 27, 2016); *see also* Brent Staples, *The Human Cost of 'Zero Tolerance,'* N.Y. TIMES, Apr. 28, 2012, [http://www.nytimes.com/2012/04/29/opinion/sunday/the-cost-of-zero-tolerance.html?\\_r=0](http://www.nytimes.com/2012/04/29/opinion/sunday/the-cost-of-zero-tolerance.html?_r=0).

<sup>149</sup> See Lieberman & Dansky, *supra* note 121, at 969.

<sup>150</sup> See PROP, THE CASE AGAINST THE NYPD'S QUOTA-DRIVEN 'BROKEN WINDOWS' POLICING, *supra* note 89.

<sup>151</sup> See NATIONAL INSTITUTE OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, *supra* note 35.

<sup>152</sup> *See id.*

<sup>153</sup> See Auletta, *supra* note 9.

<sup>154</sup> See PROP, NO EQUAL AND EXACT JUSTICE, *supra* note 19, at 14-16; PROP, THAT'S HOW THEY GET YOU, *supra* note 19, at 3.

<sup>155</sup> Auletta, *supra* note 9.

<sup>156</sup> *See id.*

<sup>157</sup> See OIG-NYPD REPORT, *supra* note 16, at 9.

<sup>158</sup> *See id.*

<sup>159</sup> *See id.*

limit their interactions with the NYPD.<sup>160</sup>

Generally, young people who have often been stopped by police are less willing to report crimes, even when they themselves are the victims.<sup>161</sup> A 2013 survey of residents of highly patrolled, high-crime areas of New York City between the ages of 18 and 25 revealed that trust in law enforcement and willingness to cooperate with the police is alarmingly low: 88% of those surveyed believed that residents of their neighborhood do not trust the NYPD, only four in ten respondents said they would be comfortable seeking help from the NYPD if in trouble, and only one in four respondents would report someone whom they believed had committed a crime to the NYPD.<sup>162</sup> PROP has found that teenagers are wary of talking about their police encounters with a white adult dressed “proper” until they can confirm that he is not a government official or law enforcement officer.<sup>163</sup> The New York Civil Liberties Union has noted that broken windows has allowed a generation of young people, especially young men of color, to grow up believing their legal rights, dignity, and freedom are not valued.<sup>164</sup>

Past Department of Justice investigations demonstrate the negative consequences of racially discriminatory practices. For example, the Department of Justice’s investigation of the Baltimore Police Department (“BPD”) found the BPD’s long history of racially discriminatory policing generated a deep distrust of the BPD within the Baltimore community.<sup>165</sup> This distrust and belief that the BPD treats black people unfairly resulted in the community’s reluctance to cooperate with the police to prevent or solve serious crimes.<sup>166</sup> Similarly, the Department of Justice’s investigation of the Ferguson Police Department (“FPD”) found that the FPD’s discriminatory practices have damaged the trust and relationship between black residents and the FPD.<sup>167</sup> The divide and lack of trust between the FPD and Ferguson community have made policing in Ferguson less effective because residents see law enforcement as illegitimate, and so partnerships for public safety are, in some areas, entirely absent.<sup>168</sup>

In the name of deterrence, broken windows policing in New York City focuses NYPD resources on excessive punitive interactions in communities of color for low-level offenses and diverts the NYPD from fighting serious crime. The racial disparities in broken windows enforcement are well-known to the communities of color targeted and thus undermine the legitimacy of the NYPD, thereby harming the relationship between the NYPD and the community, which is central to effective policing of serious crime.

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<sup>160</sup> *See id.*

<sup>161</sup> *See* JENNIFER FRATELLO ET AL., VERA INSTITUTE OF JUSTICE, COMING OF AGE WITH STOP AND FRISK: EXPERIENCES, SELF-PERCEPTIONS, AND PUBLIC SAFETY IMPLICATIONS 2 (2013), [https://storage.googleapis.com/vera-web-assets/downloads/Publications/coming-of-age-with-stop-and-frisk-experiences-self-perceptions-and-public-safety-implications/legacy\\_downloads/stop-and-frisk-summary-report-v2.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/coming-of-age-with-stop-and-frisk-experiences-self-perceptions-and-public-safety-implications/legacy_downloads/stop-and-frisk-summary-report-v2.pdf).

<sup>162</sup> *See id.*

<sup>163</sup> *See* POLICE REFORM ORGANIZATION PROJECT, WORKING TOWARDS A MORE SAFE AND FAIR CITY: ABOLISHING QUOTAS AND INVOLVING COMMUNITIES 6 (2014), [http://www.policereformorganizingproject.org/wp-content/uploads/2012/09/Working\\_Towards\\_a\\_More\\_Safe\\_and\\_Fair\\_City.pdf](http://www.policereformorganizingproject.org/wp-content/uploads/2012/09/Working_Towards_a_More_Safe_and_Fair_City.pdf).

<sup>164</sup> *See* Auletta, *supra* note 9.

<sup>165</sup> *See* BALTIMORE REPORT, *supra* note 10, at 17, 19.

<sup>166</sup> *See id.*

<sup>167</sup> *See* CIVIL RIGHTS DIV., U.S. DEP’T OF JUSTICE, INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 79 (2016), [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf).

<sup>168</sup> *See id.*

## VIII. Necessity of Outside Intervention

The role of the police needs reform. Current practices harm community relationships and erode trust in the police. Under broken windows policing, people of color are most often subject to summonses or arrests for such minor things as being in a park after dark, aggressive begging, riding a bike on the sidewalk, jaywalking, taking up an extra seat on the subway, walking between subway cars, or asking for a swipe onto the subway.<sup>169</sup> Government should not engage in punishing the normal, everyday conduct represented by these activities.

The NYPD has consistently ignored or rejected evidence of discrimination. The OIG-NYPD Report showed significant racial disparities in broken windows enforcement. The NYPD's response was that the Department "must categorically refute any insinuation that Broken Windows policing is racially discriminatory."<sup>170</sup> In public statements, Bratton dismissed the OIG-NYPD Report as of "no value to the NYPD" and confirmed the results would "impact not at all on the practices of the NYPD."<sup>171</sup> Similarly, Bratton rejected the results of the Court Monitoring Project as the efforts of a "radical fringe" of anti-police protesters.<sup>172</sup>

As a result of these decisions, the Department has failed to investigate its own discriminatory practices or enact meaningful reforms internally. Instead, Bratton continued to attribute the decrease in crime in New York City to broken windows policing "[m]ore than any other factor."<sup>173</sup> Despite strong evidence of discriminatory enforcement, Bratton remained committed to the policy, promising that the NYPD would "continue [its] focus on crime and disorder," and made "no apologies for doing that."<sup>174</sup> The City's current leadership has also indicated a commitment to continuing broken windows policing. Mayor Bill de Blasio has expressed ongoing support for the policy,<sup>175</sup> and the current NYPD Commissioner, James O'Neill, assumed leadership of the Department with Bratton's blessing and has continued current policies.<sup>176</sup>

The Department has hampered efforts at legislative reform. In June of 2016, the City Council passed the Criminal Justice Reform Act of 2016 ("CJRA"),<sup>177</sup> which, as proposed, would have limited the practice of issuing criminal summonses for a number of broken windows

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<sup>169</sup> See POLICE REFORM ORGANIZING PROJECT, NEARLY 2,000,000 PER YEAR PUNITIVE INTERACTIONS BETWEEN THE NYPD AND NEW YORKERS, 7-10 (2015), <http://www.policereformorganizingproject.org/wp-content/uploads/2012/09/Punitive-Interactions-Report1.pdf>.

<sup>170</sup> See *NYPD Responds to Deeply Flawed Inspector General's Quality-of-Life Report*, NYPD (Sept. 7, 2016), <http://nypdnews.com/2016/09/nypd-responds-to-deeply-flawed-inspector-generals-quality-of-life-report/>.

<sup>171</sup> See Meminger, *supra* note 65.

<sup>172</sup> See John Annese, *Bill Bratton Slams 'Radical Fringe' Anti-Police Protestors*, N.Y. DAILY NEWS, Aug. 5, 2016, <http://www.nydailynews.com/new-york/bill-bratton-slams-radical-fringe-anti-police-protestors-article-1.2739541>.

<sup>173</sup> See BRATTON, *supra* note 17, at 1.

<sup>174</sup> See Lauren Gambino, *NYPD Chief Bratton Says Hiring Black Officers Is Difficult: 'So Many Have Spent Time in Jail'*, GUARDIAN, June 9, 2015, <https://www.theguardian.com/us-news/2015/jun/09/bratton-hiring-black-nypd-officers-criminal-records>.

<sup>175</sup> See Meminger, *supra* note 65; see also Auletta, *supra* note 9 (quoting the Mayor saying, "I want to emphasize, my vision of quality-of-life policing and my vision related to broken-windows strategy is the same as Commissioner Bratton's.")

<sup>176</sup> See Editorial, *supra* note 9.

<sup>177</sup> NYC Administrative Code §10-125(b), §16-118(1), §16-118(6), §24-218(a), §18-146, §18-146, §18-147; New York City Charter § 533(a)(9).

offenses.<sup>178</sup> The NYPD was closely involved in negotiating the bill to preserve NYPD discretion and authority to stop, identify, and even arrest residents for low-level offenses.<sup>179</sup> The resulting law grants NYPD officers the discretion to issue civil or criminal summonses for these offenses and requires the NYPD to establish written guidance on their enforcement.<sup>180</sup> Even if, as hoped, the CJRA does replace criminal penalties with less burdensome civil penalties for many New Yorkers, the CJRA effectively continues the NYPD's punitive enforcement of broken windows offenses that rarely carry consequences in affluent and predominantly white communities.<sup>181</sup>

The NYPD has maintained its broken windows policy despite the many organizations and community members who have called for its end. Among these are the member organizations of Communities United for Police Reform<sup>182</sup> and more than 21,000 signatories to PROP's Petition to End Broken Windows Policing.<sup>183</sup> Further, six members of Congress have requested an investigation into the death of Eric Garner together with the constitutional and civil rights violations resulting from broken windows policing.<sup>184</sup> As the Representatives noted, "[t]o the extent the NYPD is engaging in a racially selective law enforcement campaign pursuant to its broken windows approach, the constitutional and federal civil rights of black and Latino residents may be in jeopardy."<sup>185</sup>

Broken windows policing has become entrenched policy in New York City and around the country. It has led to discriminatory practices, distrust, violence, and less, rather than more, security in our communities. Given the current political moment, it is imperative to challenge broken windows policing and advocate for immigrant New Yorkers and communities of color who are especially vulnerable to deportation after being arrested or ticketed for broken windows offenses. For the City to demonstrate genuine solidarity with its immigrant community, city officials should recognize the dire consequences of, and direct the NYPD to abandon, its quota-driven broken windows practices.

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<sup>178</sup> See Gloria Pazmino, *With Little Debate, Mark-Viverito Finalizes Criminal Justice Reform Act*, POLITICO, May 25, 2016, <http://www.politico.com/states/new-york/city-hall/story/2016/05/with-little-debate-mark-viverito-finalizes-criminal-justice-reform-act-102188>.

<sup>179</sup> See Whitford, *supra* note 101.

<sup>180</sup> See OIG-NYPD REPORT, *supra* note 16, at 7; *see also* Mayor de Blasio Signs the Criminal Justice Reform Act, THE OFFICIAL WEBSITE OF THE CITY OF NEW YORK (June 13, 2016), <http://www1.nyc.gov/office-of-the-mayor/news/530-16/mayor-de-blasio-signs-criminal-justice-reform-act>.

<sup>181</sup> Casey Tolan, *How New York City is Slowly Rethinking Broken Windows Policing*, FUSION, Feb. 3, 2016, <http://fusion.net/story/263432/new-york-broken-windows-policing/>.

<sup>182</sup> CAMPAIGN MEMBERS, COMMUNITIES UNITED FOR POLICE REFORM, <http://changethenypd.org/campaign/intro-members> (last visited Nov. 7, 2016).

<sup>183</sup> PETITION TO END BROKEN WINDOWS POLICING, POLICE REFORM ORGANIZING PROJECT, <http://www.policereformorganizingproject.org/petition-drive/> (last visited Nov. 7, 2016).

<sup>184</sup> See Letter from Rep. Hakeem Jeffries to Dep't of Justice, (Aug. 12, 2014), <https://www.scribd.com/document/237113380/Letter-to-the-Justice-Department-Requesting-an-Investigation-into-the-Death-of-Eric-Garner> (last visited Nov. 7, 2016).

<sup>185</sup> See Letter from Rep. Hakeem Jeffries to Dep't of Justice (Aug. 12, 2014), <https://www.scribd.com/document/237113380/Letter-to-the-Justice-Department-Requesting-an-Investigation-into-the-Death-of-Eric-Garner>.