



Broken Windows, Broken Trust: The NYPD's Racially Discriminatory Quality-of-Life Policing

March 29, 2022

Introduction

On March 23, 2022, NYPD Commissioner Keechant Sewell announced that the NYPD would be launching a “quality of life enforcement initiative,” in which officers are directed to focus on low-level offenses that the NYPD calls “precursors to violence,” such as open container, marijuana sales, public urination, driving without a license, and dice games.¹ The NYPD’s announcement signals that the Department is doubling down on the theory of broken windows policing, the strategy of focusing on low-level disorder in the hopes of reducing more serious crime.

Decades of research have shown that this style of policing produces little to no public safety benefit² while further alienating intensively policed communities,³ criminalizing poverty,⁴ and exacerbating racial disparities in the criminal legal system.⁵

The following briefly summarizes the scientific research on broken windows policing theory before contributing a new analysis showing that **91% of arrests in 2021 for common broken windows offenses were of Black, Latinx, and other non-white New Yorkers.**⁶ The NYPD’s racially disparate broken windows enforcement raises serious concerns about whether the Department can carry out this new Quality of Life Initiative in

¹ Keechant Sewell, NYPD Press Release, *NYPD Announces Citywide Crime and Quality-of-Life Enforcement Initiative*, Mar. 23, 2022, <https://www1.nyc.gov/site/nypd/news/p00040/nypd-citywide-crime-quality-of-life-enforcement-initiative>.

² NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, *PROACTIVE POLICING: EFFECTS ON CRIME AND COMMUNITY RELATIONS* 167 (2018).

³ K. Babe Howell, *The Costs of “Broken Windows” Policing: Twenty Years and Counting*, 37 *Cardoza L. Rev.* 1059 (2016).

⁴ Jeffrey Fagan & Garth Davies, *Street Stops and Broken Windows: Terry, Race and Disorder in New York City*, 28 *Fordham Urb. L.J.* 457 (2000).

⁵ See Howell, *supra* note 3 at 1065 n.36-38.

⁶ We refer to people who the NYPD classifies in their data as “White Hispanic” and “Black Hispanic” as Latinx.

a lawful manner and without further alienating the residents of predominantly Black and Latinx neighborhoods being targeted for the most aggressive enforcement.⁷

Broken Theory

Forty years ago, The Atlantic published an article called *Broken Windows* in their March 1982 edition.⁸ In the article, the authors argued that social disorder, such as broken windows left unrepaired in a neighborhood, would cause the law-abiding residents to withdraw and allow crime to flourish in the area. The theory argues that by cracking down on low-level disorder through intensive enforcement of violations and low-level misdemeanors, police might prevent more serious crime.⁹

In the four decades since *Broken Windows* was published, police departments across the country, including the NYPD, adopted “broken windows” style policing. The theory and its results have been extensively studied.

The research is clear: despite decades of broken windows policing experiments and studies, there is insufficient evidence to demonstrate that low-level enforcement drives down more serious crime.¹⁰ In 2018, the National Academies of Sciences released a meta-study analyzing the extensive body of research on broken windows policing.¹¹ Their review revealed that aggressive police tactics that focus on misdemeanor arrests “generate *small to null* impacts on crime.”¹² Additionally, the report recognized that there is, at best, mixed evidence for the hypothesis that disorder leads to crime,¹³ and many study designs do not allow for the effects of any specific tactic to be singled out as the causal reason for a decline or increase in crime rates.¹⁴ **Put another way, the National Academies of the Sciences reviewed almost four decades of research and could not find sufficient evidence to support the claim that broken windows policing makes cities safer.**

Initial empirical support for broken windows policing has been directly refuted by subsequent analysis. For their article in the University of Chicago Law Review, professors Bernard Harcourt and Jens Ludwig reexamined the New York City crime and arrest data

⁷ The NYPD’s Press Release notes that the Quality-of-Life Initiative will be launched first in the Bronx and the East New York, Cypress Hills, and Brownsville neighborhoods of Brooklyn., which are all majority Black and/or Latinx neighborhoods.

⁸ George L. Kelling and James Q. Wilson, *Broken Windows*, Atlantic (Mar 1982), <https://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/>.

⁹ *Id.*

¹⁰ NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, PROACTIVE POLICING: EFFECTS ON CRIME AND COMMUNITY RELATIONS 167 (2018).

¹¹ *Id.* at 19 and 163.

¹² *Id.* at 168. (emphasis added)

¹³ *Id.* at 163.

¹⁴ *Id.* at 168.

that had previously been used as evidence to support aggressive misdemeanor arrest tactics.¹⁵ Their analysis of crime trends in New York City during the 1990s “provides no empirical evidence to support the view that shifting police towards minor disorder offenses . . . improve[s] the efficiency of police spending and reduce[s] violent crime.”¹⁶ Reductions in crime attributed by some studies to the broken windows strategy is better explained, Harcourt and Ludwig argue, by mean reversion -- a phenomenon in which crime rates tend to return to normal on their own after a spike.¹⁷

Scholars have continued to reject claims that there is a causal connection between increased misdemeanor enforcement and major crime rates. One study, for example, focused on the seven week ‘slowdown’ in aggressive enforcement of low-level offenses conducted by the NYPD during the winter of 2014-15 (this slowdown in proactive policing was acknowledged by then-Commissioner Bratton).¹⁸ The slowdown provided an opportunity to study the causal effects of police tactics because the change in tactics was unrelated to the underlying crime rate.¹⁹ During and immediately following the slowdown there was a decrease in civilian complaints of major crimes.²⁰ The authors estimate that the seven-week slowdown led to a reduction of roughly 2,100 major crime complaints.²¹

Beyond the lack of evidence to support the conclusion that broken windows policing reduces serious crime, aggressive enforcement of low-level violations and misdemeanors impose numerous negative impacts on individuals and over-policed communities. Broken windows policing can negatively impact the employment, schooling, and housing of those arrested – creating conditions of social and economic instability that contribute to crime.²² Aggressive policing can also negatively impact the mental health of individuals targeted by these types of police interactions. One recent study of young men living in New York City found that those who reported police contact “displayed higher levels of anxiety and trauma associated with their experiences.”²³ These effects were not limited to young men who were arrested but were also present in those who experienced low levels of police contact.²⁴

¹⁵ Bernard E. Harcourt & Jens Ludwig, *Broken Windows: New Evidence from New York City and a Five-City Social Experiment*, 73 U. CHI. L. REV. 271, 275-76 (2006).

¹⁶ *Id.* at 315.

¹⁷ *Id.* at 276.

¹⁸ Christopher M. Sullivan & Zachary P. O’Keeffe, *Evidence that curtailing proactive policing can reduce major crime*, 1 NATURE HUM. BEHAV. 730 (2017).

¹⁹ *Id.* at 731.

²⁰ *Id.* at 730.

²¹ *Id.* at 735.

²² Howell, *supra* note 3 at 1059, 1065.

²³ Amanda Geller, Jeffrey Fagan, Tom Tyler, and Bruce G. Link, *Aggressive Policing and the Mental Health of Young Urban Men*, 104 AM. J. PUB. HEALTH 2321, 2324 (2014).

²⁴ *Id.* at 2326.

Broken Trust

To better understand the likely disproportionate impacts of the NYPD's Quality of Life Enforcement Initiative, the Legal Aid Society analyzed NYPD arrest data on six categories of low-level "quality of life" offenses in 2021.²⁵ These broken windows offense categories include driving without a valid license,²⁶ loitering,²⁷ MTA fare evasion,²⁸ open container,²⁹ public urination,³⁰ and other assorted 'quality of life' level offenses.³¹

The following presents a new analysis of NYPD arrest data, which reveals stark racial disparities in "quality of life" offense arrests in NYC in 2021. In each of the six types of broken windows offenses analyzed, Black and Latinx people were arrested at highly disproportionate rates.

Methodology:

We reviewed the offenses of driving without a license, open container, and loitering for purposes of gambling specifically because those offenses were named in the NYPD's recent press release.³² The NYPD's Release also includes "the open-air selling of narcotics, including marijuana," which we could not include in this analysis because NYPD arrest data does not distinguish between arrests made for indoor versus outdoor drug distribution. In addition, we reviewed a category of arrests for what we call "Assorted Quality of Life Offenses" because many arrests for violations, which are non-criminal quality of life level offenses, were listed by the NYPD as "unclassified violations" or had other descriptors that were not mapped to other categories of broken windows issues (i.e., disorderly conduct, which includes a range of conduct from loud noise to aggressive panhandling). We chose to review arrest data and not summons data because the NYPD does not release comprehensive data on the race of individuals who have received summonses/tickets by type of offense.

²⁵ NYPD Arrest Data (YTD), from <https://data.cityofnewyork.us/Public-Safety/NYPD-Arrest-Data-Year-to-Date-/uip8-fykc>. (last accessed Mar. 28, 2022).

²⁶ The category of offenses that we call 'driving without a valid license' includes what the NYPD's data describes as "UNLICENSED OPERATOR" under what the NYPD lists as legal codes VTL0509004, VTL0509001, VTL0509002.

²⁷ The category of offenses that we call 'loitering' includes what the NYPD's data describes as "LOITERING,GAMBLING,OTHER" under what the NYPD lists as legal code PL 2403502.

²⁸ The category of offenses that we call 'MTA fare evasion' includes what the NYPD's data describes as "THEFT OF SERVICES, UNCLASSIFIE" under what the NYPD lists as legal code PL 1651503.

²⁹ The category of offenses that we call 'open container' includes what the NYPD's data describes as "ALCOHOLIC BEVERAGES,PUBLIC CON" under what the NYPD lists as legal code AC 010125B.

³⁰ The category of offenses that we call 'public urination' includes what the NYPD's data describes as "ADM.CODE,UNCLASSIFIED VIOLATIO" under what the NYPD lists as legal code AC 0161186.

³¹ The category of offenses that we call 'other assorted 'quality of life' level offenses" includes arrests for violations that are not crimes, and therefore low-level arrests. For a complete list of NYPD descriptions and legal codes for this category, see Appendix A.

³² See Sewell, *supra* note 1.

Total Broken Windows Arrests Reviewed:

Table 1.

Total Broken Windows arrests reviewed by Legal Aid, 2021		
Race	People Arrested	Percentage
Black, Latinx, and/or other Non-white	1387	91%
Unknown	8	1%
White	129	8%
Total	1524	

Chart 1.

Race of People Arrested by the NYPD for Common Broken Windows Offenses in 2021

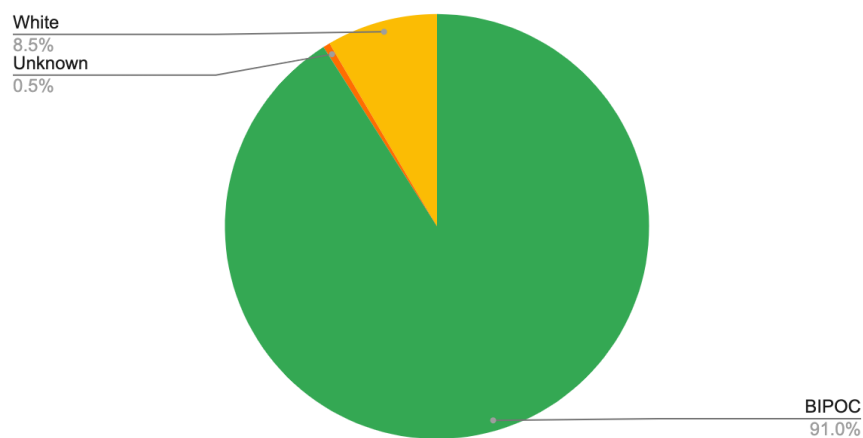
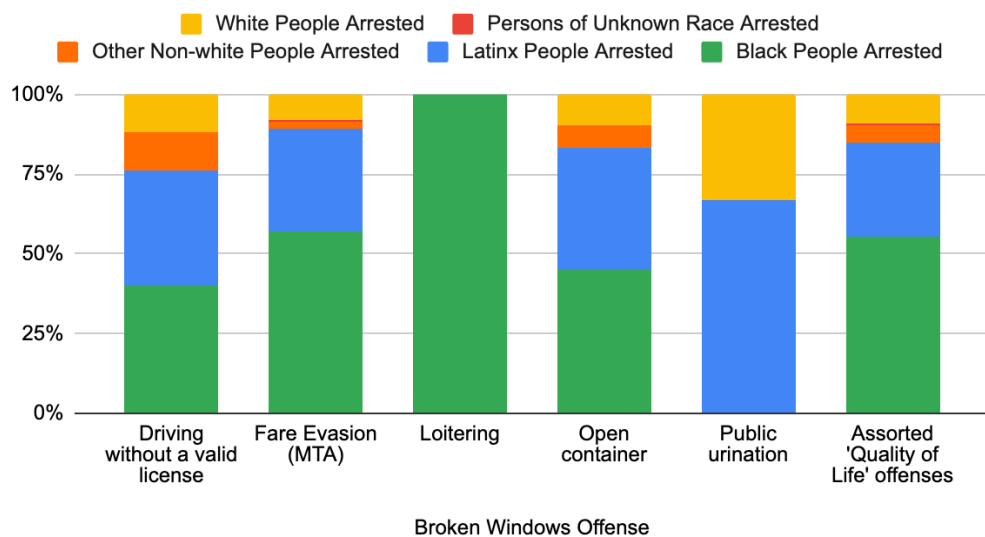


Chart 2.

NYPD Broken Windows Arrests by Race, 2021



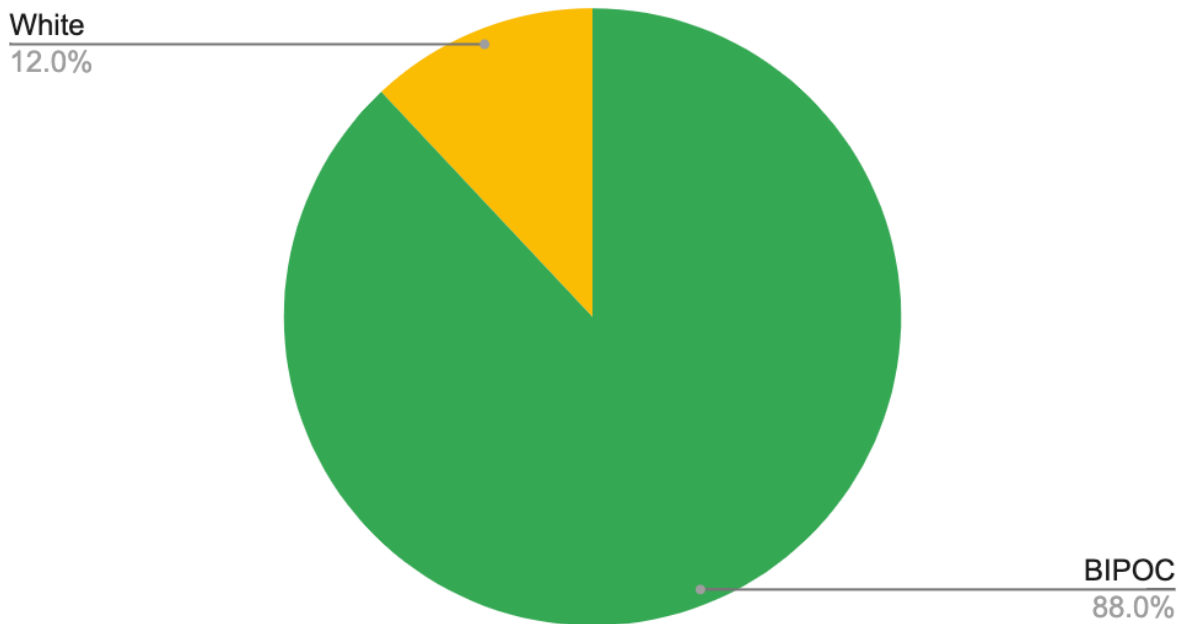
Arrests for Driving Without a Valid License:

Table 2.

Driving without a valid license arrests, 2021		
Race	Number of People Arrested	Percentage
Black	10	40%
Latinx	9	36%
Other Non-white	3	12%
Unknown	0	0%
White	3	12%
Total	25	

Chart 3.

Driving without a valid license arrests, 2021



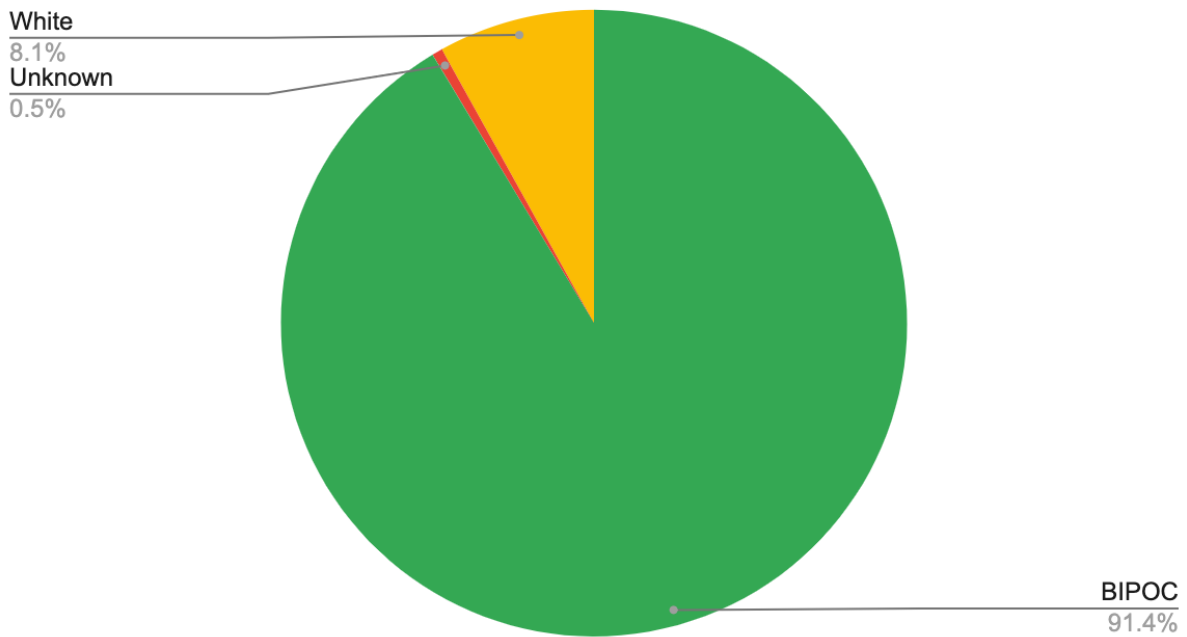
Arrests for Fare Evasion (MTA):

Table 3.

MTA fare evasion arrests, 2021		
Race	Number of People Arrested	Percentage
Black	635	57%
Latinx	359	32%
Other Non-white	24	2%
Unknown	6	1%
White	90	8%
Total	1114	

Chart 4.

MTA fare evasion arrests, 2021



Arrests for Loitering:

Table 4.

Loitering arrests, 2021		
Race	Number of People Arrested	Percentage
Black	5	100%
Latinx	0	0%
Other Non-white	0	0%
Unknown	0	0%
White	0	0%
Total	5	

Arrests for Open Container:

Table 5.

Open container arrests, 2021		
Race	Number of People Arrested	Percentage
Black	19	45%
Latinx	16	38%
Other Non-white	3	7%
Unknown	0	0%
White	4	10%
Total	42	

Arrests for Public Urination:

Table 6.

Public urination arrests, 2021		
Race	Number of People Arrested	Percentage
Black	0	0%
Latinx	2	67%
Other Non-white	0	0%
Unknown	0	0%
White	1	33%
Total	3	

Arrests for Assorted 'Quality of Life' offenses:

Table 7.

Assorted 'Quality of Life' arrests, 2021		
Race	Number of People Arrested	Percentage
Black	185	55%
Latinx	99	30%
Other Non-white	18	5%
Unknown	2	1%
White	31	9%
Total	335	

Conclusion

The stark racial disparities in broken windows arrests in New York City in 2021 raise important questions concerning the NYPD's ability to carry out a Quality of Life Enforcement Initiative in a fair and impartial manner. The intensity of policing in predominantly Black and Latinx neighborhoods, as called for in the NYPD's new initiative, is likely to produce similarly disparate results in the months to come.

The NYPD's move to double down on broken windows policing at this time is a grave mistake. Decades of research make it clear that broken windows policing does not decrease serious crime and that it can inflict serious harm on the communities most intensively policed. The most recent data on broken windows arrests warns us that Black and Latinx New Yorkers will, once again, bear the burdens of the aggressive low-level policing initiative and the collateral consequences that come with disproportionate arrest numbers and criminal legal system involvement.

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Appendix A: *NYPD Descriptions and Legal Codes for “Assorted Quality of Life Offenses”*

NYPD Description	Legal Code	Category
NY STATE LAWS,UNCLASSIFIED VIO	LOC00000V0	Violation
NY STATE LAWS,UNCLASSIFIED VIO	LOC000000V	Violation
TRESPASS 4,CRIMINAL SUB 2	PL 1400500	Violation
NY STATE LAWS,UNCLASSIFIED VIO	RR 00000V0	Violation
NY STATE LAWS,UNCLASSIFIED VIO	ACA00000V0	Violation
HARASSMENT,SUBD 3,4,5	PL 2402603	Violation
DISORDERLY CONDUCT	PL 2402001	Violation
DISORDERLY CONDUCT	PL 2402003	Violation
THEFT OF SERVICES- CABLE TV SE	PL 16515V9	Violation
DISORDERLY CONDUCT	PL 2402005	Violation
HARASSMENT,SUBD 1,CIVILIAN	PL 2402601	Violation
ADM.CODE,UNCLASSIFIED VIOLATIO	AC 019176B	Violation
A.B.C.,FALSE PROOF OF AGE	ABC00000V0	Violation
NOISE,UNECESSARY	AC 024218A	Violation
DISORDERLY CONDUCT	PL 2402007	Violation
HEALTH CODE,VIOLATION	HTH0015309	Violation
HARASSMENT,SUBD 3,4,5	PL 2402602	Violation
PARKR&R,UNCLASSIFIED VIOLATION	PAR000103C	Violation
DISORDERLY CONDUCT	PL 2402002	Violation
FIREWORKS, POSSESS/USE	PL 27000A3	Violation
NY STATE LAWS,UNCLASSIFIED VIO	CPL00000V0	Violation
PEDDLING,UNLAWFUL	AC 0020453	Violation
NY STATE LAWS,UNCLASSIFIED VIO	PL 26537V0	Violation
ADM.CODE,UNCLASSIFIED VIOLATIO	AC 019190C	Violation
MARIJUANA, POSSESSION	PL 2210500	Violation
MARIJUANA, POSSESSION	PL 2211000	Violation