A Critical Analysis of the 'Broken Windows' Policing in New York City and Its Impact: Implications for the Criminal Justice System and the African American Community

By
Ngozi C. Kamalu
Fayetteville State University
and
Emmanuel C. Onyeozili
University of Maryland Eastern Shore

Abstract

The broken windows approach is an aggressive crime fighting strategy instituted in New York City in the 1990s, emphasizing mass arrest of perpetrators of major as well as minor offenses. The impact resulted in disproportionate arrest of Black and Hispanic youths in comparison with Caucasians. Critics of broken windows strategy maintain that its success is exaggerated and oversold. They argue that the decline in crime in the city was not a consequence of the strategy, but due to improved economy, declining numbers of teenage males, and the decline in crack cocaine use. The broken windows strategy in fact yielded unintended consequences and other collateral effects because of its negative impact on the racial minorities. Furthermore, it created enormous financial burden on the criminal justice system by diverting limited resources for social programs to punishment and incarceration, thus undermining the traditional police-community emphasis of effective policing. The perceived unfair treatment, harassment, and subjection of African Americans to "stop, frisk, search and arrest" has eroded public trust, compromised citizens' due process rights, and delegitimized the law enforcement in the eyes of vulnerable groups, thus creating an enduring negative perception of the criminal justice system.

Keywords

Broken windows, Community-Oriented Policing, Problem-Oriented Policing, Stop and frisk, Racial profiling, Hot-spots, Order-maintaining policing, Quality of Life policing.

Introduction

The Broken Window theory of policing was popularized by the work of Wilson and Kelling (1982), which argued that when community disorder reaches a critical mass, it creates a more serious problem of crime and urban decay. Using the broken window analogy, the authors hypothesize that broken windows in a community depict signs of instability, decay, high crime rate and lack of order and social control. The consequence of this, they claim, is that the neighborhood attracts unlawful and criminal elements from other communities thereby creating a culture of lawlessness. The main notion of this policing strategy is that minor offenses can make way to more serious crimes if allowed to fester. That is, if minor offenders go unchecked, they may up the ante and indulge in more serious crimes. For example, leaving the front lawn unattended suggests to a potential burglar that the home owners are not home. The same logic will be said of not collecting mail

from the mail-box or newspapers from the front-door. Under this situation, fear is elevated as perception of disorder increases, creating a social pattern that tears the social fabric of the neighborhood and thus leaves the residents with a feeling of hopelessness, disconnectedness and helplessness in what Emile Durkheim once called a state of "anomie". Hence, the need to "nip it in the bud" using aggressive policing tactics.

The challenge for law enforcement is to establish a more aggressive approach in crime fighting, such as the "broken windows" which brings about full control of communities by instituting prevention measures which are proactive, rather than simply responding in the traditional ways of reacting to calls. According to Kelling and Coles (1996), the "broken window approach is built on four pillars:

1. Putting police in close contact with those who are predisposed to commit crime
2. Projecting high police presence and visibility which has strong deterrence effect on potential criminal elements and perpetrators of crime
3. Enhancing the ability of citizens to take control of their neighborhoods thereby preventing crime
4. Promoting the cooperation of the police and community in fighting crime through an integrated approach.

The broken window policy was first instituted in New York City in 1990 by then Police Commissioner William J. Bratton, under the name "zero-tolerance" policing. In 1993, Mayor Rudy Giuliani chose William Bratton as Police Commissioner and implemented similar policy under a new name - Quality of life and Zero tolerance policing. The main focus of the police was petit crimes such as fare evasion on the subway, littering, graffiti, prostitution, public drinking, nudity in public, as opposed to more serious crimes. Many scholars such as Greene and Pranis (2007); Katz and Webb (2006) and Klein and Maxson (2006) believe that the catalysts for the aggressive policing were a combination of factors including the Reagan domestic policy agenda of the 1980s that deemphasized public assistance programs, and the hostility toward the failed war on poverty by the Lyndon B. Johnson Administration in the 1960s.

Over the years, many cities in the United States copied the New York "broken windows" model but under different names and acronyms, such as "rapid response", "get tough", "stop-and-frisk", "zero tolerance", quality of life", "order maintenance" policing etc. For example, in the late 1990s, Albuquerque, New Mexico introduced the "safe streets" program while Lowell, Massachusetts adopted the "hot spots" technique – all "get tough" policing strategies which strictly mimic the "broken windows" techniques.

Further, the broken windows strategy of policing echoed overseas with the publication of a famous study by Keizer, Lindenberg, and Steg (2008). The authors conducted series of controlled experiments to determine whether the effects of existing visible disorder as characterized by the broken window situations – graffiti, and litter behaviors increased other crimes such as theft. In the research

design, they picked selected urban locations that were changed from time to time. In one condition, the control place was kept orderly free from broken windows and, graffiti. In the experimental place, the environment was arranged to look as if nobody cared for it and was marked by broken and graffiti laden walls. The investigators then secretly monitored the locations to ascertain whether anybody altered their behaviors following the disorder of the neighborhood.

However, the overrated effectiveness claims of the broken windows theory by Keizer et al. (2008) were refuted by Lincoln (2004) who enumerated their weaknesses:

> First, the decline in New York crime in the 1990s was due to trends in the aging population. Having fewer young people in the New York City population at the time suggests a corresponding decline in criminal activity. Several criminal justice research note that most crimes are committed by young people aged 15 – 24 years old.

> Second, displacement studies conducted in New York where the location or type of crimes can change pursuant to aggressive policing measures, such as crackdown were not accounted for, since there are indications of displacement process, that is, crime may have shifted to nearby neighborhoods by virtue of the fact that the perpetrators moved away from the "hot spots" of aggressive policing or even stopped or halted their criminal activities temporarily believing that things would settle down.

> Third, in the 1990s, much of the violence and property crimes were already falling and violent crimes dropped 12% between 1989 and 1993 (Lincoln, 2004). These drops were attributed to improving economy and were in downward spiral even before the implementation of the "zero tolerance policing" program.

> Fourth, the decline in crime rates in New York City may be explained by the impacts of changing police tactics already at work right from the 1980s, including community-oriented and problem-oriented policing. Harsher sentencing that resulted in massive increase in incarceration meant that serious offenders were incapacitated (locked up) for longer prison terms rendering them incapable to commit more crimes. Hence, innovative and changing police crime fighting strategies in conjunction with mandatory sentencing guideline embraced by the courts were responsible for the steady fall in crime in the 1980s predating the implementation of the zero-tolerance policing in New York City in the 1990s.

Good discretionary policing, which respects the rule of law, accountability, and personal and constitutional rights of citizens, particularly racial and ethnic minorities must be embraced to make the law enforcement agencies effective and legitimate in exercise of their charge to fight crime. In addition, major reforms are

needed in institutional and process procedures that give impetus to aggressive "get tough" policing. They include reforms affecting Asset Forfeiture policy, DOJ Equity-Sharing program, broken windows policing, government immunity laws, court processing practices, court record sealing and court surcharge provisions. The objectives of this study are to:

- Discuss the history and evolution of the zero-tolerance policing in New York City.
- Analyze the impacts of zero tolerance policing on racial and ethnic groups as well as its impacts on the personal freedoms of citizens in New York City.
- Discuss and analyze the implications and consequences of the broken windows policing policy.
- Identify some police crime reduction programs related to broken windows policing.
- Identify and evaluate the strengths and weaknesses of the broken window policing based on the summary of findings from recent research studies.
- Examine the "broken window" theory and its strategies.
- Compare the "broken window" theory with other crime –fighting models – Community Oriented Policing (COP) and Problem Oriented policing (POP).
- Analyze empirical data obtained from New York Law enforcement between 2002 and 2015 and assess their impacts or effects in crime reduction.
- Identify and explain the negative community impacts and concerns about the application of this policing approach and measure.
- Make appropriate recommendations regarding the more effective ways and strategies of fighting crime by law enforcement.
- Assess the aggressive order-maintenance policing costs in the context of procedural costs and collateral consequences.
- Identify how unintended and undesirable costs of aggressive order-maintaining policing can be mitigated or even eliminated without necessarily doing away with commitment to order maintenance, justice and the rule of law.
- Analyze how civil collateral consequences can outweigh and outlast criminal convictions.

This study will rely on New York City as a case study. Although the broken windows perspective, zero tolerance, increase in police numbers, rapid response, and hot spot policing are somewhat separate, they are related policing strategies. They collectively constitute the "get tough" policing strategies that characterized the New York Police approach to crime fighting (Maguire et al., 2002; Sherman and Eck, 2002). Zero tolerance and hot spot approaches to law enforcement are closely related to the broken window policing tactic. Hence, broken windows, hot spot policing and, zero tolerance law enforcement strategies would be used interchangeably.

CRITIQUE OF THE BROKEN WINDOWS HYPOTHESIS

Despite these praises of the broken window hypothesis, this aggressive model has not been able to withstand scientific scrutiny. One criticism came from Kelling, and Sousa (2001). They evaluated explanations advanced for the sharp decline in crime in New York City during the 1990s and, supported the arguments that crime drops have been the result of socioeconomic factors, such as an improving economy, falling numbers of teenaged males, and declining use of crack cocaine. They also considered the argument that police interventions - particularly the enforcement of laws against minor offenses - played a major role and made the following observations:

- The "Broken windows" policing is significantly and consistently linked to declines in violent crime.
- Over 60,000 violent crimes were prevented from 1989 to 1998 because of "broken windows" policing.
- Changes in the number of young men of high-school age were not associated with a decline in violent crime.
- Decreasing use of crack cocaine was not associated with a decline in violence.
- Other changes in police tactics and strategy may also be responsible for some of the drop in the City's crime rate.
- Case studies conducted in six city police precincts in 2000 show that precinct commanders often use "Compstat" technology to identify when specific types of crime, such as robberies or burglaries, become unusually serious problems.

The authors concluded that incidences of such crimes often fell after the commanders employed specifically devised tactics to combat the identified problem.

Thus, as implemented by the New York Police Department, "broken windows" policing is not the rote and mindless "zero tolerance" approach that critics often contend it is. Instead, it is based on the fact that police vary their approach to quality-of-life crimes, from citation and arrest on one extreme to warnings and reminders on the other, depending upon the circumstances of the offense. Thus, the shift in police tactics undermined the claim that zero tolerance technique was the sole determinant of the decline of crime in New York City.

In the backdrop of the study of crime trends in New York City study by Kelling and Sousa (2001), supporting the effectiveness of the broken window approach in policing, Harcourt, Bernard, and Ludwig (2006) set to replicate the Kelling and Sousa study and retest its hypothesis. They re-examined the Kelling and Sousa study and independently analyzed the crime data from New York City for the period 1989-98.

The researchers also presented results from an important social experiment known as Moving to Opportunity (MTO) conducted in five cities, including New York, Chicago, Los Angeles, Baltimore and Boston. These test cases provided what would turn out to be rigorous test of the broken windows hypothesis. In the experiment, roughly 4,800 low-income families living in high-crime public housing

communities characterized by high rates of social disorder were randomly assigned housing vouchers to move to less disadvantaged and disorderly communities. The sole intent was to test the MTO program in order to either support or refute the broken windows theory. According to the authors, the evidence from New York City and from the five-city social experiment provided no support for a simple first-order disorder-crime relationship as predicted by Wilson and Kelling.

Next, the broken windows model as applied to policing has been difficult to evaluate because, first, some law enforcement agencies have applied broken windows policing in a variety of ways, in terms of rigidity and intensity in following the Wilson and Kelling (1982) approach than other police departments. The researchers argued that the closest adoption of a broken windows strategy to crime and disorder appeared to have occurred in New York City more than in some other jurisdictions, and police agencies where broken windows policing have been synonymous with zero tolerance policing, in which disorder is aggressively policed and all violators are ticketed or arrested. Thus, they argued, the broken windows approach is not applied uniformly; and by far goes beyond the rules and conducts expected of law-enforcement agencies. For example, the authors noted that since some police departments enforce the broken window policing far more "nuanced" than zero tolerance allows, at least according to Kelling and Coles (1996), it would seem therefore unfair to gauge its worthiness or utility based on the effectiveness of aggressive arrest-based approaches that eliminate officer discretion. Thus, they claimed it may as well be that police departments are not really using broken windows policing when they claim to be doing so which suggests that broken window strategy means different thing to different police departments or agencies.

Similarly, Sampson and Raudenbush (1999) tested the premise that the broken window theory operates on the assumption that social disorder and crime are associated. They argued that the premise on which the study was based was faulty because one of the main variables, "collective efficacy," has been known to cause variations in crime rate which were the focus of the research in altered neighborhood environments. They concluded that the assertion that broken windows approach to policing was a fallacy because collective efficacy (the cohesion among neighborhood residents combined with the shared expectation for the control of public space) was the actual cause of the changes in crime rate and not necessarily aggressive policing.

Aggressive "Get Tough" Policing Strategies and Crime Reduction

1.   **Broken Windows Policing**: The broken windows explanation argues that signs of neighborhood disorder as exemplified by such factors as abandoned buildings, broken windows, and trash litters could eventually lead to more serious crimes if not controlled. According to Maguire, Morgan and Reiner (2002); Skogan (1990) and Sherman and Eck, 2002), the argument in the theory is that signs of neighborhood deterioration and decline undermine the way inhabitants exert social control, thus attracting other social disorders and ills such as jay walking,

prostitution, gang activities, and loitering, and later attracts more serious organized criminal activities including drug dealing, rape and homicides.

One of the indictments of the studies that support the broken windows hypothesis came from Sherman and Eck, (2002). The authors questioned the said studies on the ground that they relied on arrests as a measure in assessing police aggressiveness in traffic stops when in reality, major crimes such as robbery and murder are most likely to occur in pedestrian-heavy areas.

2.   **Zero Tolerance Policing**: The zero-tolerance policing hypothesis, according to Goff (2004) is associated with the "get tough" policing strategy of New York City under Mayor Giuliani and Police Chief William Bratton in the 1990s. The strategy focused extensively on crackdown of minor crimes citing the broken windows chain of events. The aggressive crackdowns concentrated on such petit criminal activities and "quality of life" police practices- including loitering, jumping toll, street vending and unauthorized youth gathering, sleeping in the park, drinking in public places, graffiti, public urination, panhandling, unlicensed street vending, and littering. Hence, "quality of life" focus entails a practice of heavy and aggressive policing of such non-criminal activities which, if unchecked, would lead to an explosion of serious crimes.

Zero-tolerance policing has met with a barrage of criticisms. Bowling (1999) questioned the claim by reports that the fall in New York City murder rate between 1991 and 1997 could be attributable to the zero-tolerance approach of law enforcement. The author refutes such claims by arguing that crack cocaine drug market expanded before the intensification of the policy; and thus, claimed that the decline in homicide might be a result of downward decline in drug activity which had nothing to do the zero-tolerance policing.

Also, in another study, Boydstun (1975) tested the effectiveness of zero tolerance policing in San Diego, a hypothesis put forward by Sherman and Eck (2002). In replicating the study to test the Sherman and Eck hypothesis, Boydstun (1975) discovered that the study area in which all field interrogations were suspended experienced an increase in robbery, burglary, grand theft, petty theft, assault, auto theft and sex crimes (grouped as suppressible crimes) by the authors of the study and classified as "outdoor crimes" by Sherman and Eck (2002). But, Boydstun (1975) also found that the area that received an increase in interrogations (element of zero tolerance policing) did not experience a significant decrease in the serious (suppressible) crimes.

Finally, Novak et. al (1999) assessed a one-month program of aggressive policing on disorder crimes such as loitering, public intoxication, and littering in a Midwestern City in the United States, and found no reduction in serious crimes, including robbery and burglary pursuant to aggressive proactive disorder enforcement.

3.   **Hot Spot Policing (Directed Patrol):** The "hot spot" policing strategy argues that the more precise police patrol presence is concentrated at the "hot spot" and "hot times" of criminal activity, the less crime will occur in those places and times. The frequency of crime is known to occur in more places (dark street corners and alleys) and times (nights and public holidays, and during weekday afternoons when most of the least successful responses to 'burglary in progress" were reported). According to Sherman and Eck (2002), crime mapping technology has become the most attractive innovative crime reduction strategies and technologies being adopted by police departments across the nation to identify and map out "hot spots." "Hot spot" policing has also been applied in direct patrols, traffic enforcement and disorder enforcement, and it is assumed in police crackdowns which are conducted in an ongoing basis with frequent follow-ups as opposed to only one-shot police crackdown, argued Braga (2005).

Hot spot policing has been under great scrutiny. Sherman and Eck (2002) had criticized this strategy of law enforcement by arguing that in the first instance, some studies that tend to promote its effectiveness failed to account for displacement of crime to other areas throughout the duration of the intervention. Next, the evidence for hot spot policing has had mixed and inconclusive results. For example, a study of hot spot policing in New Jersey by Weisburd and Green (1995) in which police cracked down on hot spots showed significant impact on disorder offenses. In contrast, crackdowns involving intensive policing of particular street corners, consistent crackdowns with frequent daily follow-ups strictly for the purpose of shutting down drug transactions spring up at the location did not influence violent or property crimes, concluded Weisburd and Green (1995).

Using a controlled experiment in a similar study to test whether sustained drug crackdowns have any effect on levels of violence, Sherman and Rogan (1995) found that crackdowns and raids on crack houses in Kansas City, MO, reduced crime in the hot spots for only 2 weeks. The authors concluded that crackdowns involving crack house raids appeared to be cost ineffective.

4.   **Guns and Gangs (Specialized Police Gang Units):** These are gang interventions that involve aggressive policing of guns and gangs. According to Klein and Maxson (2006), the earliest strategies of anti-gun and gang policing focused on intelligence which was used to interrogate street workers and determine their relationships with gang members before arrest. However, the political movements of the 1980s ushered in a more aggressive and deterrence emphasis on crime fighting, where police emphasized more on deterrence-based suppression measures. However, in more recent times, due to the ineffectiveness of the "get tough" approaches, argued Klein and Maxson (2006), most gang related programs relied more on conventional notions about gangs as opposed to empirical research and knowledge of gangs. Hence, police strategies in gang fighting have shifted from mass arrest of suspected gang members to strategies focusing more on prevention and intervention.

Many studies have frowned at the "guns and gangs" model of policing, including Klein and Maxson (2006) who analyzed data of Los Angeles Police Department arrests in Operation Hammer in 1987, involving more than 1,000 police officers. The author discovered that out of 1,453 juvenile arrests, 1,350 were released without formal charges. The researchers concluded that the operation was a failure, given the fact that it resulted in very few arrests and increased community resentment. Moreover, regarding an anti-gang initiative in Dallas, Texas in the 1990s, Fritsch et al. (1999) studied aggressive policing of truancy and curfew crackdowns by police, and concluded that saturation patrols, including intensive stops and frisks of suspected gang members did not have any effect on gang criminal activities.

Similarly, Katz and Webb (2006) analyzed the results of their study of four police gang units in Southwestern United States and observed that the gang units and police officers studied lacked accountability to their community, department, as well as to their supervisors. Further, the investigators observed that police gang units had no control, few expectations, and virtually no training and policy guides. In addition, the units were operated in secrecy; lacked community policing elements and values and, developed their own distinct subculture that was not only outside that of their department structure, but at odds with the missions and goals of the parent department and the law.

5.   **Rapid Response**: The "rapid response" theory believes that the faster the response of police to calls, the greater the chance of reducing crime. This premise is consistent with the popular notion that more police combined with 911 emergency call services will result in rapid police responses. Proponents of the "rapid response" hypothesis, such as Sherman and Eck (2002), have argued that crime will fall because rapid response will serve as a deterrence to would-be burglars and criminals, will reduce harm to crime victims, will result in arrests, and eventually increase incarceration.

The rapid response hypothesis gained popularity from studies by Coupe and Griffiths (1996, 2000) of residential burglaries in West Midlands, UK. The authors identified catching the criminal in an act as the most important factor in fighting crimes of burglary, arguing that quick response was lacking in most of the cases they studied. Thus, they argued that quicker responses to crime calls increased crime detection rates as well as victim satisfaction. The researchers then concluded that catching criminals in the act by responding more quickly and in greater numbers to alerts, particularly during weekday afternoons when most of the least successful responses to 'burglary in progress" were reported offered the best opportunity for boosting detections and arrests.

The rapid response hypothesis has been contradicted by numerous studies including Bayley (1998); Bieck and Kessler (1977); Percy (1980) and Spelman and Brown (1981) who concluded that the speed of police response to 911 service calls had no effect on arrest rates; and rarely prevented further injury or damage.

6.   **Increase Police Numbers**: this theory claims that larger numbers and size of police lead to lower incidence of crime because more police will be assigned to respond to 911 police calls; reduction in police response time; increases in police arrests; improved chance of catching burglars red handed; better deterrence; reduction of harm to victims and better citizen satisfaction (Sherman and Eck, 2002 and Bayley, 1994). However, it is well known that such increases in the strength and size of law enforcement agencies serve critical symbolic values. First, increases in police hiring point to evidence the government takes crime fighting seriously, and is getting tough at it.

However, the study by Bayley (1994) shows that the number of police on the streets has little or no impact on crime rate. In other words, there is no correlation between crime rates and size of the police force. Bayley then argues that the only way police activities can positively affect crime is by addressing the root causes of crime – addressing the social conditions that give rise to crime such as unemployment, lack of skills and, education.

The study by Bayley supports Kelling (1974) study which found few differences and no consistent pattern of variations in the rates of reporting to the police across experimental conditions. Kelling conducted his research in Kansas City in which his study design consisted of three areas that were given disparate treatments, In the 1st area (control area), no change in patrol was experienced. In the 2nd area, extra patrols were assigned and in the 3rd, all routine preventive patrols were suspended, but officers were only allowed to respond to 911 calls.

Sherman and Eck (2002), inferred from Moody and Marvell (1996) who studied data from 49 states and 56 U.S. cities and found significant negative effects of police statistics on crime in the big cities but not at the state level. They concluded that the evidence for the marginal effectiveness of adding police officers willy-nilly to police agencies was both weak and inconsistent particularly absent of clear indicators of what to do and where to do it.

Other Competing Policing Strategies
1. Community-Oriented Policing:
In the words of Skolnick and Bayley (1988), Community-Oriented Policing (COP) is the amalgam of several programs and strategies of crime fighting. It assumes that policing must involve the community. According to the authors, COP embraces the following elements:

- Empowerment of the community by mirroring and reflecting the demographic composition of the community
- A belief in broad function of the policy and not only arrest and punishment
- The reliance of police on community to restore authority, collect information and collaborate
- The application of general knowledge and skills

- Specific tactics targeted at particular problems such as problem-solving instead of general tactics such as patrol and rapid response
- Decentralizing authority to better respond to neighborhood needs such as officers living in and patrolling the neighborhoods in which they live, work and play

Other researchers, Zhao, He and Lovrich (2003) discussed typical strategies that have become part and parcel of COP including foot patrol, school resource officers, neighborhood crime prevention activities and watch, police on horse-backs, and on bikes etc.

2. Problem-Oriented Policing (POP)

The POP approach to law enforcement emphasizes solving persistent and pathological community problems by focusing or zeroing in on trying to achieve crime reduction results as opposed to focusing exclusively on means of policing. According to Eck and Spelman (1987), the rationale behind POP is that officers use information gathered in their responses to incidents in the community including those gathered from other sources to construct a clearer picture and profile of the problem in order to solve it. Thus, POP borrows from traditional problem-solving methods coined as SARA:

S-Scan – Identifying the problems and prioritizing them with community involvement and input
A-Analyze- Entails studying information and profiles of offenders, victims and crime locations
R-Respond – Implies operating "outside the box" with respect to traditional police tactics; and using innovative ways to employ community resources to support problem-solving efforts and initiatives.
 A-Assess – This method involves the evaluation of the effectiveness of police strategies through self-assessment instruments to determine the effectiveness of the planning process and the results of the executed solution plans.

POP therefore is a new way of looking at crime fighting that stresses the importance of the end result rather than the means; and according to Greene (2000), the commonality between SARA and COP is that the community is always involved in defining community problems and identifying interventions which may include but not limited to:

- Target hardening (reducing opportunities)
- Changes in city ordinances or zoning
- Adjustment in government services
- Increasing regulation
- Providing reliable information to citizens and residents
- Deployment of community resources
- Providing specialized training for law enforcement officials

Table 1: Stop and Frisk Arrest Data in New York City (2002-2015)

Year	Stop Times By Police	Total Innocent Stops	Percentage of Innocent Stops	Total No. & % of Black Innocent	Total No. & % of Latino Innocent	Total No. & %White Innocent	Total No. & % Aged 14-24 of All Innocent
2002	97,296	80,176	82%	Na	Na	Na	Na
2003	160,851	140,442	87%	77,704 (54%)	44,581 (31%)	17,623 (12%)	83,499 (55%)
2004	313,523	278,933	89%	155,033 (55%)	89,937 (32%)	28913 (10%)	152,196 (52%)
2005	398,191	352,348	89%	196,570 (54%)	115,088 (32%)	40,713 (11%)	189,854 (51%)
2006	506,491	457,163	90%	267,468 (53%)	147, 862 (29%)	53,500 (11%)	247,691 (50%)
2007	472,096	410,936	87%	243,766 (54%)	141,868 (31%)	52,887 (12%)	223,783 (48%)
2008	540,302	474,387	88%	275,588 (53%)	168,475 (32%)	57,650 (11%)	263,408 (49%)
2009	581,168	510,742	88%	310,611 (55%)	180,055 (32%)	53,601 (10%)	289,602 (50%)
2010	601,285	518,849	86%	315,083 (54%)	189,326 (33%)	54,810 (9%)	295,902 (49%)
2011	685,724	605,328	88%	350,743 (53%)	223,740 (34%)	61,805 (9%)	341,581 (51%)
2012	532,911	473,644	89%	284,299 (55%)	165,140 (32%)	50,366 (10%)	NA
2013	191,558	169,252	88%	104,958 (56%)	55,191 (29%)	20,877 (11%)	NA
2014	45,235	38,051	82%	24,777 (55%)	12,662 (29%)	5,536 (12%)	NA
2015	13,604	11,124	81%	7,158 (54%)	3,944 (29%)	1,541 (12%)	NA

Data adapted from - Stop and Frisk Data 2002 – 2015 by NYCLU: www.nyclu.org/content/stop-and-frisk-data

Data Analysis

Analysis of the above data adopted from the New York Civil liberties Union (NYCLU) showing the stop-and –frisk incidents between the citizens and New York Police between 2002 and 2015 clearly show that roughly 9 out of 10 (90%) stops-and –frisk incidents have been innocent stops. Also, Black, Latino citizens and youth aged 14 -24 years in New York City have become the main targets and victims of aggressive law enforcement in New York City. In fact, the data show that the number of total innocents has been highest among blacks (about 1 in 2 /50%);

followed by Latino (about 1 in 3/ 30%) and then Whites (about 1 in 10 / 10%). For Youth in the age range of 14 to 24, the total number of innocent stop- and-frisk incidents regardless of race, have been about the same rate as black New York citizens (1 in 2/ 50%).

Impacts on Racial Minorities –African Americans and Hispanics
According to Howell, Babe K. (2009), the new major law enforcement developments in recent times have been around:

(a) **Increased policing of minor social disorder** based on broken windows theory: the strategy of policing that assumes that stopping minor social disorders at their tracks will eventually lead to the arrest of major serious crimes. The negative consequences of this policing strategy are that masses of people will be hauled into the criminal justice system for just minor offenses. This get-tough policing was given impetus by war of drugs, rigid and inflexible federal sentencing guidelines and three strikes laws. It was only when states failed to bear the costs of imprisonment that significant movements for sentencing reforms and alternatives to incarceration particularly for nonviolent felons in the states gained popularity (Barkow, 2005). Still, the cost of get-tough crime policies and the effects and strategies of aggressive order maintenance in most urban centers and cities in which tens of thousands of people are convicted for minor crimes and misdemeanor than for more serious crimes never gained traction. Moreover, policing of minor offenses creates hidden economic costs and burdens such as barriers to employment; education due to failure to gain admission, student loans and grants; economic costs such as denial of employment as background checks have become routine requirements and; denial of bank loans and contracts due to criminal records.

(b) The question of **Procedural Justice** and the expansion of civil collateral consequences of mass convictions will change the perceptions and judgment of the populace regarding "procedural justice" – that is, the fundamental fairness of how they got into trouble in the first place. Negative perception of fairness always produces a boomerang effect when they perceive the law and the criminal justice system to be unfair (resulting in unwillingness to comply with authority) and; when they have favorable outcomes such as having their charges dismissed or have light and lenient punishment over what they perceive as nothing. Thus, aggressive policing of misdemeanor offenses and lesser crimes is likely to undermine compliance with the law. As Sunshine and Tyler (2003) argued, perception of being treated fairly is more important than a favorable outcome in predicting if a person views authority as legitimate or not – legitimacy being the willingness to abide by law. Hence, millions of people especially ethnic minorities – blacks and Hispanics who have been subjected to unwarranted arrests and humiliations for minor offenses would not view the criminal justice system kindly.

(c) **Racial Impact Disparities** - According to Howell, Babe K, (2009), the mass arrests in New York City display lack of proportionality and disparate impacts based on race. That is, the mass arrests made during the years aggressive misdemeanor policing strategy was in effect in New York City had disproportionate impact on communities of color, particularly Blacks and Latinos. The long-term impacts associated with arrests compounded race problems. The perception of unfairness on the part of the racial minorities as a result of the racial discrepancies in crime enforcement by the criminal justice system might lead to procedural justice costs and the unwillingness by Latina and Black citizens to comply with the law. As pointed earlier, real economic losses in terms of lost earnings, related surcharges associated with mass arrests, decreased employment opportunities, obstacles to public housing and violations of arrest and convictions are collateral negative effects of aggressive "get tough" policing.

Statistics Broken Windows policing between 1989 and 1998 (see table) following non-felony arrests reported in New York City shows:

* Approximately 90,000 arrests of people with non-prior criminal record
* More than 22,000 teenagers aged 16 – 20 without prior convictions were arrested
* Fewer proportion of whites were arrested – from 18.9% in 1989 to 12.9% in 1998
* More proportion of Hispanics were arrested- from 27% in 1989 to 32% in 1998
* No change in proportion of blacks arrested -50% in 1989 and 50% in 1998
Furthermore, Zero Tolerance Policing in New York between 2000 and 2005 showed similar trends:

- 86% of arrestees were nonwhite
- 48 – 50% of arrestees were black (27.09%) of New York City population
- 32 – 34% of arrestees were Latino – (27.80%) of New York City population

Other collateral costs of mass arrests are express in Arraignment experiences where minorities are humiliated due to strip searches, inhuman treatments such as dirty bathrooms in temporary holding cells pending arraignment. Other charges are incurred for dispositions that may require short community service. Others may come from Mandatory surcharge and Crime Victims' Assistance fees which are imposed for misdemeanors. Next, Court Appearance costs come at a cost in terms of considerable cost for the accused. They are reflected in lost job hours etc. For immigrants, misdemeanor convictions can derail their legal citizenship or permanent residence status applications and, may lead to deportation.

Additional costs for being victims of aggressive policing arrests are denial of public housing privileges. People and their entire families and dependents may be evicted from public housing units and apartments. Incarceration can result in jail and prison as a result of violations of parole or probation according to Steen and Opsal (2007). There may be denial of driving privileges such as drivers' license suspension for arrests due to public intoxication, and possession of controlled substance, leading to insurance premium hike. This may restrict access to school

and jobs as well as costs for taxi cabs and bus fees and commuting expenses. Prior arrest records and conviction emanating from mass arrest from aggressive policing may have negative employment consequences. Teachers, nurses, doctors, social workers, daycare workers, police officers, military personnel may lose their employment and licenses to practice in their professions due to stop and frisk arrests, argued Muldoon and Gary (1998) and Pager (2003).

IMPACT ON THE AFRICAN AMERICAN COMMUNITY

Costs of thousands of arrests in the name of "get tough" policing is not limited to arrestees, claimed, Meares, Tracy L. (1977); Schartz, Richard D. et al. (1962) and Finn & Fontaine (1985). First, they adversely impact black applicants in light of the fact that blacks with no felony record are less likely to get a job than white applicants with a record. Loss of income or employment arising from minor offense records further affects the arrestee and his or her entire family; and can lead to eviction from public housing; constitute barriers to education, work, military service etc. Further, they distort the crime statistic of the community as well as criminalize the community thus affecting relocations, business establishment, home buying, business location, school attendance choices and tourism. The poor image and reputation of black or Latino neighborhoods infested with crime also soil its reputation and tarnishes its image in such a stereotypical way that its stigmatization effect to make young black men less likely to be interviewed for an entry-level job as opposed to Caucasian male in similar situation who has an arrest record or warrant.

Such a community reputation of criminality unfairly makes a black motorist subject of unfair profiling for illegal searches; exposing them to excessive searches at the airports particularly with hints of misdemeanor arrest records. In the end, it robs the community of both talents and expertise among its members who strive in their chosen professions to live, invest, work and raise families. This gives rise to "skill and capital emigration" and "brain drain", thereby triggering shortage of qualified teachers, nurses, lawyers, architects, engineers, accountants and other technocrats who ordinarily would serve as role models for community youth. As Kamalu et al. (2010) acknowledged, the relentless contact of African American males with the criminal justice system not only reduces the pool of compatible college-educated role models and marriage mates for African American females, the latter who often are heads of households, are often forced to earn meager living or even become dependent on public assistance. This dilemma results in less productive taxpaying citizens in the community who would support the neighborhood institutions, businesses and schools in terms of smart growth and revitalization.

IMPACTS ON THE CRIMINAL JUSTICE SYSTEM

Mass arrests and incarceration overburdens the law enforcement in terms of processing and booking arrestees. This takes toll on the government in terms of paying for police overtime or hiring private firms to do police work. Also, the police may suffer from loss of legitimacy particularly from minorities who have been

disproportionately arrested, victimized and heavily overrepresented in the penal system than their white counterparts as it relates to profiling and arrests. This is consistent with the findings of Huo and Tyler (2002) who posits that when individuals are wrongfully targeted or subjected to arrest in a system where people of color are heavily overrepresented, the experience creates or strengthens perceptions of race and class biases on the part of police. Additionally, police members involved in aggressive policing of quality of life offenses will be unpopular, despised and, hated in the community they think they are helping to keep safe.

Under the prevailing condition, procedural justice would be sacrificed because victims of mass arrest will evaluate the justice system more on the perceived "unfairness" of the process than the favorability of the "outcome", Fagan et al. (2004) and Sherman (1993). Procedural justice is the idea of fairness in the process that resolves disputes. It also concerns itself with the fairness and transparency of the process by which decisions are made.

The researchers had argued that fairness judgments reflect the calculation and assessment of victims that the process is fair, which results in seeing the system as legitimate. Hence, perception of legitimacy leads to willingness to comply with societal norms – the laws. On the contrary, perceptions by people that the process is "unfair" and "biased" eventually results in a sense of betrayal and defiance; and tendency to reoffend thereby causing more headache for police. Substantive justice is designed to offer an interpretation of the specific delivery of corrective actions in response to a violation of the rights of another. Consistent with Fagan et al. (2004), the fairness question will be based on how fair the "outcome" of controversial misdemeanor arrests by police are in view of the fact that:

- Police arrests are sometimes made with discretion and bias
- Police arrests are made without reasonable search and seizure
- Obtaining justice and public vindication is driven primarily by race and socio-economic status
- In the context of the above propositions, victims of mass police arrest are mostly Hispanic and African American
- Justice is always compromised through plea-bargaining, denial of speedy trial and cost of trying misdemeanor offenses

Although many defendants may want a disposition of their case, others would want their cases dismissed on the grounds of speedy trial or plea-bargain. Their total evaluation of whether the system is legitimate, and fair is whether they received the most favorable "outcome".

Next, the legal professionals – judges, prosecutors, defense and trial attorneys and prosecutors should not compromise the image, integrity and reputation of the judicial system by unnecessarily recommending defendants to plead guilty based on financial considerations or sacrificing their ethics in upholding justice and rendering services to the most vulnerable groups in the society for political

expediency. For example, overcharging defendants or refusing to defend murderers to give the appearance of being tough on crime and, enhancing the reelection of state judges or prosecutors to electoral offices. Put succinctly, agents of the court should avoid any systematic violation of the basic rules and requirements of professional ethics and responsibility – the exercise of sound discretion and a vigorous pursuit of justice.

MITIGATING THE NEGATIVE IMPACTS OF AGGRESIVE POLICING
It is suggested that the best way to mitigate the impacts of aggressive policing include:

1. Passing laws that Decriminalize Minor Offenses - Stemming the march toward "military industrial complex" by passing laws decriminalizing for minor offenses such as marijuana possession, jay walking, public intoxication and public urination, anti-noise ordinances etc.

2. Make changes to Processing Provisions: The more mass arrests, the more overtime pays for Police Officers. This type of financial incentive of booking more people should be removed.

3. Amend Record Sealing Provisions: Misdemeanor offenses and conviction records should be expunged from the government record after a few years unlike today where it is a permanent record. Once cases are settled and the accused pay their debt to society by serving their term, their records should be wiped clean.

4. Change Surcharge Provisions: Mandatory surcharges and Crime Victims' Assistance fees that serve a restorative purpose should be waived particularly for indigent defendants who have lost their ability to pay.

5. Pass laws that will discourage the police from violating fundamental human and civil rights of citizens with impunity: This will involve removal of total immunity (absolute immunity) in lieu of "qualified immunity" clause from police protection" that will be incorporated into police guidelines, procedures and rules. Absolute immunity is a form of legal immunity for government officials, which confers total immunity from criminal prosecution and lawsuits so long as they are acting within the scope of their duties. Qualified immunity is designed to shield government officials from actions "insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." This protection will take away the legal cover for police officers who violate the constitutional and civil rights of arrestees. It may also expose them to liability law suits as well, thus serving their intended purpose.

6. Relax "get tough" policing requirements such as "broken windows" by instituting community-based policing with citizen review boards that will probe

and investigate citizen complaints and accusations about police brutality and recommend appropriate punishment

7. Modify Asset Forfeiture Policy that allows the government to keep, sell or seize property involved in crime. This serves as incentive to search and seizure without good discretion by police. The most vulnerable populations are the most victimized.

8. Reform Justice Department Equity Sharing Program which allows local police departments to keep up to 80% of all cash assets seized during raids and other investigations. This creates incentives that target poor and vulnerable minority communities.

9. Abolish 1033 Program (1998) which authorized the Department of Defense (DOD) to transfer excess property – supplies and equipment to local law enforcement. This has the effect of militarizing the police and steering them away from traditional police work – directing traffic, helping stranded motorists, manning intersections and patrolling neighborhood to "get tough" policing.

10.   Amend Currency Reporting requirements that mandate international travelers to officially declare money in in their possession in excess of 10,000 (ten thousand U.S. Dollars). Carriers may lose up to 10% if caught in violation. This kind of law exposes racial minorities to unnecessary stop, search and arrest by police, particularly religious minorities (Moslems) who embark on annual Haj pilgrimage to Mecca.

Implications and Conclusion

One of the implications of the broken windows theory of policing is that it is a radical departure by many police departments in the United States from traditional policing strategies which rely on intelligence, directing traffic, patrolling neighborhoods; keeping order in public gatherings and helping stranded motorists) to a more sweeping nondiscretionary policing (targeting minor offenses as a crime reduction strategy – events that increase public and community satisfaction and police legitimacy) rather focusing on serious crimes. In other words, aggressive policing may have negative impacts on community perception of the justice system and as such, may temper or offset whatever benefit any reductions made in reducing local crime rates. This has both racial and class impacts. The effect is that it would disproportionately target the poor and minority – primarily Hispanic, Native Americans and African Americans and thus help to swell our prisons.

Too much focus on increased police numbers and budget, according to Newburn and Jones (2007) has the effect of diverting huge sums of monies and resources from other social programs (such as drug treatment and education) to harsher punishment and incarceration. Hence, the aggressive policing strategy is turning out to be a less cost –effective policing strategy. This is because the substantial

increases in the criminal justice budgets might as well be better used elsewhere, including on development projects – building roads, fixing drainage systems, rails, airports, schools etc.

Further, as observed by Shernan and Eck (2002), zero tolerance or aggressive policing has long term societal impacts. There is no doubt that its aggressive posture has given rise to increased public concern, dissatisfaction and complaints against the police, particularly in minority communities. As Skogan (2007) reminded us, the unwanted side effects of aggressive policing is enormous and long lasting because a bad experience is four to fourteen times as great as that of having a positive experience and as such the impact of negative encounters of the public with police resulting from "get tough" policies whether effective for crime reduction or not can have deleterious and irreversible effects on policing legitimacy and ultimately impair their main functions. As he further argued, "process" is more important for the victims of crime and those who come into contact with the police than "outcome". In effect, the police create a risk factor for crime simply by using bad manners because the less respectful the police are to suspects and citizens, the less people will comply with the law. Therefore, changing police "style" and "strategy" may be as important as focusing on police "substance". Hence, the Police-Community Relations (Community Policing) is both the way to go and the wave of the future.

Zero tolerance or aggressive policing has compromised "due process" rights of the people and tarnished the image and legitimacy of the police and the entire criminal justice system. In fact, it has resulted in increase in citizen complaints against the police. As a result of people losing faith in the justice system, they will not cooperate with the police to solve crime as it relates to furnishing credible information (intelligence gathering) about crime, serving on juries and in some cases turn to sweeping "jury nullification" as a way of rewriting justice for the accused.

Citizen grudges may lead to hostility toward police. They may see the police as the enemy rather than partners in crime fighting. Hence, incidents of police shooting may increase especially during traffic stops. Thus, it will be safe to say that zero tolerance policing has the effect and capacity to increase crime as well as foster increased distrust between the community and law enforcement. To have an effective policing require a community-based policing strategy that increases cooperation and trust between police and community and assures policing that promotes genuine justice practices and good police discretion.

Therefore, although aggressive policing may bring dangerous criminals to justice, reduce the fear of crime in specific communities, and deter crime, but, based on empirical evidence, these aggressive "get tough" policing programs may also be expensive and not reduce crime on the long run and, could have enduring negative impact on community perceptions of the justice system. What we know is that zero tolerance policing is not only a hype, but a "quick fix" designed to generate political

and public appeal. Nevertheless, crime as a social phenomenon is likely to remain a major social menace regardless of jurisdiction.

Institutional reforms are needed to mitigate or ameliorate the negative impacts of broken windows policing and its collateral impacts. These will include changes and amendments dealing with government policing policies and programs, including Asset Forfeiture policy, DOJ Equity-Sharing program, get tough policing strategies, police immunity laws, and Court processing, Court records sealing, and Court surcharge provisions.

There is no single approach that will completely eliminate crime in society including New York City. It will require the amalgamation of mix of multiple crime fighting approaches to put a dent on crime. Continuous and intensive research would still be needed to clearly determine the long-term benefits and consequences of "get tough" policing strategies.

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