PROBLEMATIZING LOW-LEVEL POLICING'S RELATIONSHIP WITH RACIALIZED GENTRIFICATION

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In recent years, researchers have attempted to reveal the links between the gentrification of formerly majority Black or Latinx neighborhoods and the frequency and character of policing within such areas from a quantitative perspective. However, with the exception of occasional mentions in the legal literature, the qualitative relationship between policing and gentrification, and their attendant implications for racial injustice, has been neglected. This paper makes a novel contribution to legal scholarship by weaving together empirical data, critical race theory, and social movement policy demands to argue that low-level policing tactics, such as order maintenance policing, must be understood as essential to the urban economic transformations that spur gentrification. I explore how the racialized impacts of order maintenance policing and neighborhood gentrification are not coincidentally co-occurring, but how they are inextricably linked by policing tactics, newcomers' preferences, and governmental and real estate industry interests in particular forms of urban redevelopment. By illuminating these connections, this paper delves into the legal, material and dignitary harms people of color, particularly Black and Latinx neighborhood residents, suffer at the hands of these dual pressures. Finally, I close the paper by proposing multiple policy solutions designed to disrupt the connection between racially discriminatory policing and racialized gentrification.

INTRODUCTION

The term "gentrification" has been used in scholarly literature to describe complex processes of change in urban neighborhoods since the 1960s.[1] In the U.S. context, gentrification has been closely tied to questions of racial inequality and residential exclusion, as many of the neighborhoods being gentrified in U.S. cities have been historically populated by low-income and working-class racial minorities, often Black and Latinx people. [2] The racial and class-composition of newcomers to an area particularly but not always white, and, eventually, middle or upper class—

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[1] Jason Richardson et al., *Shifting Neighborhoods: Gentrification and Cultural Displacement in American* Cities, NAT'L CMTY. REINVESTMENT COAL. (Mar. 19, 2019), https://ncrc.org/gentrification/.

[2] Miriam Zuk et al., *Gentrification, Displacement, and the Role of Public Investment*, 33 J. PLAN. LITERATURE 31, 31–32 (2017).

has a distinct effect on how gentrification proceeds on the ground and is felt by longtime members of the pre-existing community.[3]

Until recently, studies of gentrification have not adequately appreciated the method by which the police impact dynamics of neighborhood change. Researchers have begun revealing the possible links between the gentrification of formerly majority Black or Latinx neighborhoods, and the frequency and character of policing within these areas. Scholars in academia, activists, and journalists, have approached this question differently. Some focus on the interpersonal dimensions of gentrification, looking at measures such as individual complaints to 311 and 911 calls over a period of time.[4] Other studies account for this metric but place more emphasis on changes driven by structural factors like increased property values and elite developer and political interests.[5] This paper will examine selected studies on both types, with an eye to the presence of racialized[6] policing in the data. I refer to the former as neighbor-driven policing and the latter as "development-directed policing."[7] In the interest of building

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[3] *Id.*

[4] *See, e.g.*, Brandon Harris et al., *"To Them, We're Just Kids from the Hood": Citizen-Based Policing of Youth of Color, "White Space," and Environmental Gentrification*, 107 CITIES 1 (2020) (examining 311 calls and calls to police in the context of "environmental gentrification" in Chicago); Clara Hendrickson, *Gentrifying Areas Embrace D.C.'s Free Home Security Camera Program. Other Neighborhoods Barely Participate.*, WAMU (Mar. 10, 2020), https://wamu.org/story/20/03/10/gentrifying-areas-embrace-d-c-s-free-home-security-camera-program-other-neighborhoods-dont-participate/ (discussing Washington D.C.'s private security camera rebate program, use of footage by the Metropolitan Police Department, and camera prevalence in gentrifying areas); Tanvi Misra, *Yes, 311 Nuisance Calls Are Climbing in Gentrifying Neighborhoods*, BLOOMBERG CITYLAB (Oct. 18, 2018), https://www.bloomberg.com/news/articles/2018-10-18/in-new-york-city-gentrification-brings-more-311-calls.

[5] *See e.g.*, Kasey Zapatka & Brenden Beck, *Does Demand Lead Supply? Gentrifiers and Developers in the Sequence of Gentrification, New York City 2009–2016*, 58 URB. STUD. 2348, 2349–52 (discussing major themes among scholars studying structural factors impacting gentrification processes).

[6] At certain points in this essay, I use the term "racialized" or "racialization" intentionally, taking this cue from the work of Michael Omi and Howard Winant. I use this term at those junctures to point to the processes by which certain phenomena, like policing or gentrification, become imbued with racial meanings due to the ways these processes impose and perpetuate social hierarchy upon marginalized racial groups. *See, e.g.*, Howard Winant, *Racism Today: Continuity and Change in the Post-Civil Rights Era*, 21 ETHNIC & RACIAL STUD. 755 (1998); Bianca Gonzalez-Sobrino & Devon R. Goss, *Exploring the Mechanisms of Racialization Beyond the Black-White Binary*, 42 ETHNIC & RACIAL STUD. 505 (2019).

[7] I borrow this term from Brenden Beck, *Policing Gentrification: Stops and Low-Level Arrests During Demographic Change and Real Estate Reinvestment*, 19 CITY & CMTY. 245 (2020).

a consistent picture, the focus of this paper is on New York City neighborhoods as a case study, but the arguments I make can also apply to other locales.

After establishing the empirical landscape, I explore the impacts policing and gentrification have upon one another from a racial justice perspective. I am concerned with both the material and dignitary harms these practices visit upon Black and Latinx people and their communities, as well as the attendant implications this has for interracial solidarity. While some existing literature highlights the linkages between gentrification and policing[8], overall, this topic remains undertheorized in legal scholarship. As a result, there is little discussion surrounding how to address the specific forms of racial injustice that policing in gentrifying areas perpetuates. In the final sections of this paper, I address this gap by proposing policy solutions that are aimed at vastly minimizing the scale and intensity of order maintenance policing[9] in gentrifying neighborhoods as a way of stemming the tide of racial displacement in urban centers.

I. A PRIMER ON GENTRIFICATION AND DISPLACEMENT

Gentrification cannot be understood as merely a process of people passively moving into a neighborhood and bringing their cultural tastes with them. Japonica Brown-Saracino explains the landscape of gentrification scholarship as falling into "supply side/production" and "demand side/consumption" camps.[10] Production side theories focus on the role of governments, capital investors, and the market in the trajectory of disinvestment to "urban renewal" policies and, finally, to gentrification.[11] Consumption theories prioritize the role of the middle and upper-class city dwellers whose cultural preferences help shape what gentrification looks

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[8] *See e.g.*, Olatunde C.A. Johnson, *Unjust Cities: Gentrification, Integration, and the Fair Housing Act*, 53 U. RICH. L. REV. 835, 845–46 (2019); Abdallah Fayyad, *The Criminalization of Gentrifying Neighborhoods*, ATLANTIC (Dec. 20, 2017), https://www.theatlantic.com/politics/archive/2017/12/the-criminalization-of-gentrifying-neighborhoods/548837/.

[9] I use the term order maintenance policing in this paper, but terms like "quality of life policing" and "broken windows policing" are other commonly used phrases to describe similar practices. Order maintenance policing targets activities such as loitering, turnstile jumping, panhandling, graffiti, and similar low-level criminal offenses with the underlying theory being that aggressive law enforcement action against these activities will increase societal order and reduce crime overall. *See e.g.*, Dorothy E. Roberts, *Race, Vagueness and the Social Meaning of Order Maintenance Policing*, 89 J. CRIM. L. & CRIMINOLOGY 775, 789–93 (1999).

[10] Japonica Brown-Saracino, *How, Where and When Does Gentrification Occur*, *in* THE GENTRIFICATION DEBATES 63, 64 (Japonica Brown-Saracino, ed., 2010).

[11] *Id.*

like on the ground—think art galleries and boutique coffee shops.[12] Scholar Neil Smith has described the entry of the gentrifier class into disadvantaged neighborhoods as the enactment of a "frontier myth," in which so-called urban pioneers "'settle' the 'dangerous' central city," and as a result serve the interests of governments and market elites who want to redevelop these areas into chic cultural centers for their economic gain.[13]

The neighborhoods in question, however, are hardly pristine frontiers ready to be made anew in the elites' image; they are populated by longstanding and long-neglected working-class communities, primarily communities of color. When gentrification overtakes a neighborhood, it may become more racially integrated in the moment with a potential increase in amenities like groceries, entertainment, and public transit.[14] That is not to say, though, that it is the longtime residents who actually benefit from these shifts in the community landscape. Indeed, one of the greatest risks gentrification poses to longtime residents is the possibility they will be pushed out entirely, as the neighborhood becomes too unaffordable. Displacement has several tangible impacts; for example, former community members may be forced to commute longer distances to jobs and settle for substandard housing as other options are financially out of reach.[15]

Cultural displacement is also a significant effect of gentrification. A whirlwind of neighborhood change can lead to a "disruption of the support structures provided by [their] old neighbors and family"[16] for residents as increasing number of them are forced to move out of the community to survive. In U.S. cities, it is impossible to extricate cultural displacement from racial erasure because neighborhood gentrification necessarily means, in many cases, the upheaval of Black and Latinx communities that were subject to governmental disinvestment for decades, until the land they lived on became an attractive investment. When redevelopment sweeps into these heretofore segregated communities, it may read as a "a 'one-two' knockout" of neglect and white flight . . . followed by the forces of gentrifying revitalization."[17] Gentrification racks up casualties that have an outsized cultural meaning as a result. As the National Low Income Housing Coalition explains, "[t]he closing of long-time neighborhood landmarks like historically black churches or local restaurants can erase the history of a neighborhood and with it a sense of belonging."[18] Importantly, feelings of cultural displacement can affect those residents who

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[12] Brown-Saracino, *supra* note 10, at 65.

[13] *Id.* at 66.

[14] *Gentrification and Neighborhood Revitalization: What's The Difference?*, NAT'L LOW-INCOME HOUS. COAL. (Apr. 5, 2019), https://nlihc.org/resource/gentrification-and-neighborhood-revitalization-whats-difference.

[15] Richardson et al., *supra* note 1, at 7.

[16] *Id.*

[17] Zuk et al., *supra* note 2, at 32.

[18] *Gentrification and Neighborhood Revitalization*, *supra* note 14.

are nevertheless still able to maintain their place in the community for the time being. This is because witnessing the loss of these institutions has both a negative psychological impact and the effect of fostering an apprehension that they will be the next to go.[19]

It is necessary to understand this broader context in order to properly situate the role of policing in the world of gentrification. Both gentrification and policing are inherently racialized in their everyday impacts. Each of them, standing alone, work particular harms upon Black and Latinx communities: in the case of gentrification, for instance, through the displacement described above and attendant economic precarity, and in the case of policing, through racial harassment, physical violence, mass criminalization, and generational entrapment in the criminal legal system. It is crucial, then, to explore what may happen when these forces combine, namely what happens when policing becomes a support structure for gentrification. Gentrification, at least to some degree, relies upon the removal of longtime residents to create further opportunities for capital's expansion into previously untapped areas, and the forces of policing and incarceration have been nothing if not historically effective at removing people of color from their communities.[20] The next section will build upon this conceptual linkage by illustrating the empirical studies many have embarked upon in an effort to expose the symbiotic relationship between gentrification and low-level policing.

II. The Empirical Links Between Order Maintenance Policing and Gentrification

A. Development-Directed Policing

Studies focused on the structure of policing under gentrification often use Elaine Sharp's "postindustrial policing" hypothesis as a reference

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[19] Zuk et al., *supra* note 2, at 35; *see also* Amie Thurber et al., *Resisting Gentrification: The Theoretical and Practice Contributions of Social Work*, 21 J. Soc. Work 26, 31 (2021) ("Gentrifying communities may experience 'root shock', which is the traumatic stress related to the long-term effects of the removal and/or destruction of large parts of one's neighborhood and environment (Fullilove, 2004) … the physical destruction of neighborhoods produces a constellation of losses, including the loss of generational knowledge, social networks, place attachments, and civic engagement).

[20] *See e.g.*, Peter Wagner & Daniel Kopf, *The Racial Geography of Mass Incarceration*, Prison Pol'y Initiative (July 2015), https://www.prisonpolicy.org/racialgeography/report.html (for an example of just one way that the criminal legal system separates Black and Latinx individuals from their home communities).

point.[21] Sharp is concerned with how shifting city economies drive polic-
ing strategy. She begins with the archetype of the "new economy"[22] city,
i.e. cities that prioritize attracting highly educated professionals and "cre-
ative class" workers by facilitating the growth of the tourism and enter-
tainment industries, catering to the living and lifestyle choices of upper-
class residents, and encouraging investments in upscale real estate devel-
opment.[23] These investments come at the expense of poor and working
class residents who are subject to the gentrification pressures that this type
of urban development creates. New York City would be a prototypical ex-
ample of a "new economy/postindustrial" city. Sharp, however, uses data
from many large and mid-size cities across the country. She hypothesizes
that "postindustrial cities have a distinctively different and potentially
very controversial style of policing compared with other cities," namely a
high use of order maintenance policing as a form of "social control" used
to lay the groundwork for postindustrial urban development.[24] She con-
trasts this with a potential alternative explanation—that the use of order
maintenance policing is a "functional response" to what can be called
quality of life issues in a wide array of neighborhoods and cities.[25]

In her analysis, Sharp uses the following offenses to measure order
maintenance arrests: drunkenness, driving under the influence, liquor law
violations, disorderly conduct, vagrancy, "suspicion," curfew and loiter-
ing law violations, and runaways.[26] She applies her analysis of these ar-
rests to all US cities with a population over 100,000 for which such data
exists for the year 2003.[27] Ultimately, Sharp finds the data strongly sug-
gests "order maintenance policing is a function of the extent to which a
city's economy is postindustrial, new economy, creative class-oriented."[28]
Interestingly, she did not find evidence to show police engaged in more

[21] For instance, Laniyonu, *infra* note 31, and Beck, *supra* note 7, both cite
Sharp. Other studies not focused on New York City that cite Sharp include
Charles R. Collins et al., *Policing Gentrification or Policing Displacement?
Testing the Relationship between Order Maintenance Policing and Neighbour-
hood Change in Los Angeles*, 59 URB. STUD. 414 (2021); Lallen T. Johnson &
Evelyn J. Patterson, *The Policing of Subway Fare Evasion in Postindustrial Los
Angeles*, PUNISHMENT & SOC'Y 1 (2021); Harris et al., *supra* note 4; Chris Her-
ring, *Complaint Oriented Policing: Regulating Homelessness in Public Space*,
84 AM. SOCIO. REV. 769 (2019).
[22] Elaine B. Sharp, *Politics, Economics, and Urban Policing: The
Postindustrial City Thesis and Rival Explanations of Heightened Order Mainte-
nance Policing*, 50 URB. AFFS. REV. 340, 342 (2014).
[23] *Id.* at 341–42.
[24] *Id.*
[25] Sharp, *supra* note 22, at 348.
[26] *Id.* at 350 (describing also a second analysis that excludes DUIs from the
list of offenses counted).
[27] *Id.* at 349.
[28] *Id.* at 355.

aggressive order maintenance policing when the racial minority share of the population reached a range that would suggest a threat to a city's white majority status—what she calls the "racial threat hypothesis."[29] However, Sharp points out that this does not mean that race is irrelevant or that order maintenance policing does not have racially skewed impacts, but rather that her city-level data may not be finely tuned enough to draw out different neighborhood racial dynamics.[30]

Nevertheless, Sharp's work is useful for illustrating the broader systemic forces at the city planning level that, in turn, yield the market and demographic changes at the neighborhood level that result in gentrification. Two different studies of New York City neighborhoods that focus on neighborhood-level shifts detect how the racial demographic breakdown of residents is tied to higher levels of order maintenance policing.[31] Both studies are discussed in detail below.

Ayobami Laniyonu tests the postindustrial policing hypothesis in New York City. He defines this type of policing as "styles of policing that emphasize addressing fear of crime, perceptions of social disorder, and behaviors that ostensibly inhibit the enjoyment or consumption of public space for 'regular residents.'"[32] Laniyonu considers order maintenance policing as one tool in the postindustrial toolbox, which also includes criminalization tactics like outlawing homeless encampments and panhandling to stop and frisk.[33] Order maintenance policing, like these other strategies, are geared toward punishing behaviors in order to enforce social norms associated with "conceptions of public order consistent with those held by populations and industries thought to promote urban growth."[34] However, Laniyonu still acknowledges other potentially dominant forces underlying the rise of order maintenance. He notes that "racial

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[29] *Id.* at 357.

[30] *Id.* at 360 ("For one thing, it is important to note that the results here are at the city level, not the neighborhood level. They tell us (1) that *cities* with the racial composition that has elsewhere been found to yield reactionary responses to racial threat do not emphasize order maintenance policing more than cities with other different racial compositions and (2) that *cities* where blacks are disproportionately the target of order maintenance arrests are not especially aggressive in the extent of their order maintenance policing. By contrast other research, at the neighborhood level, has shown that at least in New York order maintenance that was supposedly targeted at 'disorderly' neighborhoods ended up targeting minority neighborhoods that had social and economic disadvantages [citation omitted]").

[31] Ayobami Laniyonu, *Coffee Shops and Street Stops: Policing Practices in Gentrifying Neighborhoods*, 54 Urb. Affs. Rev. 898 (2017); Beck, *supra* note 7.

[32] Laniyonu, *supra* note 31, at 899.

[33] *Id.* at 902.

[34] *Id.* at 902–03.

and economic hypotheses suggest that the distribution and behavior of po-lice officers reflect the impetus of White Americans or economic elites to subordinate racial minorities or the economically marginalized," and that studies have consistently found the percentage of Black people in a city to be correlated with the city's level of police presence.[35]

Laniyonu analyzed New York City neighborhoods over the 2000s and 2010s, specifically utilizing census tracts that underwent gentrification during this time period. He subjects the data on police stops under Stop and Frisk in these tracts to different forms of statistical analysis, yielding outcomes that speak to both the direct effects on gentrifying tracts and indirect effects on adjacent tracts. In terms of direct effects, he finds, "[t]he plots suggest that tracts that experienced gentrification over the period have the highest rates of police stops," even though these areas also expe-rience increases in the growth rates of educational attainment and rents.[36] He argues that this result "tentatively suggests" that gentrification sparks more policing. [37] Importantly, he also notes that these gentrifying tracts had higher proportions of Black and Latinx residents than tracts that did not change and that racial factors, at least in part, motivated stops.[38] Inter-estingly, Laniyonu's second statistical analysis yields slightly conflicting results. Instead of finding that stops increased in gentrifying tracts, his second model showed that the greater impact on police stops happened in adjacent tracts.[39] Laniyonu concludes there is truth to the postindustrial policing hypothesis as applied to New York City—even if his two models yielded somewhat different data on just where the effects are strongest—because overall he finds a significant, positive association between gen-trification and Stop and Frisk.[40]

One of the most recent studies of policing and gentrification in New York City, by Brenden Beck, also takes the postindustrial policing hypoth-esis as a reference point. He, however, tests a slightly different hypothesis, one that relies more directly on the profit-seeking actions of elites in the real estate sector and city government during ongoing gentrification waves. He calls this theory "development-directed" policing:

> This theory expects that an "urban growth machine" pop-ulated by a coalition of landlords, elected officials, and real estate elites will use police as another mechanism to

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[35] *Id.* at 906–07.

[36] *Id.* at 912.

[37] *Id.*

[38] *Id.* at 914, 917 (finding in his first model that every 10% increase in the Black proportion of the population was associated with a 6% to 8% increase in stops per capita, while a 10% increase in the Latinx proportion was associated with 5% to 7% more stops per capita).

[39] *Id.* at 916–17, 920.

[40] *Id.* at 920.

> increase the economic productivity of previously dis-in-vested neighborhoods. As real estate developers buy properties, refurbish old housing, and build new units, they encourage policing activity with the hope police will remove homeless people, displace poorer tenants, and encourage wealthy in-movers. Order-maintenance policing, a strategy already geared toward removing "disorder," will accelerate as that disorder becomes a threat not just to public safety, but also to economic development and its attendant tax revenue.[41]

Beck uses familiar measures to define whether or not a census tract is eligible to gentrify at the start of the study period—median household income and the percentage of housing stock built since 1990 that rented below the city median.[42] To assess policing levels, he uses data on street stops, order maintenance arrests, and proactive arrests.[43] Beck does find a correlation between urban reinvestment and policing, giving heft to his development-directed hypothesis; neighborhoods that were eligible for gentrification "saw between 0.2 percent and 0.3 percent more discretionary arrests with every 5% increase in their property values."[44]

The results also displayed some variation by race, introducing complexity into Beck's hypotheses.[45] Beck found that when more whites moved into a gentrifying neighborhood, stops and proactive arrests went down, but order maintenance arrests went up. Upon disaggregating stop data by race, he noted that stops of white people had decreased while stops of Black and Latinx people remained constant.[46] The variance between each subtype of policing data may, Beck suggests, mean that police are "changing their behavior in response to observing more white people" on the streets.[47] Overall, the racial dynamics of police targeting were difficult to parse. Nevertheless, Beck found strong support for the idea that police intensify order maintenance and similar tactics in response to the demands

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[41] Beck, *supra* note 7, at 250.

[42] *Id.* at 252.

[43] *Id.* at 252–53 (explaining that he defines order maintenance arrests to encompass "prostitution, criminal mischief, offenses against the public order and public sensibilities, disorderly conduct, and theft of services"; that proactive arrests is a NYPD term that includes arrests for trespassing, drug possession, weapon possession, intoxicated driving, and possession of stolen property; and that he uses proactive arrest data as a compliment to order maintenance arrests, "not as a replacement").

[44] *Id.* at 267.

[45] *Id.* at 265.

[46] *Id.*

[47] *Id.* at 268.

of wealthy developer interests, although the process by which this communication and response occurs needs further study.

B. Neighbor-Driven Policing

This section analyzes another approach to the relationship between policing and gentrification – neighbor-driven policing. By this term I mean the process by which new residents, often white, upper or middle class, or both, attempt to enforce their own perceptions of public order through complaints to services like 311 or calls to 911. Several studies and journalistic accounts have explored this phenomenon but have reached sometimes conflicting results about the precise role neighbor-driven policing plays in gentrification.

Beck, for example, tests the hypothesis that "white and middle-class in-movers will demand more policing in the form of 311 calls, 911 calls, attendance at police-community meetings, and votes for 'law and order' city officials," yielding a corresponding increase in stops and arrests.[48] His hypothesis is in part predicated on the existence of significant qualitative research finding that low-level policing increases as the white and middle-class influx into a neighborhood increases.[49] His hypothesis is in part predicated on the existence of significant qualitative research finding that low-level policing increases as the white and middle-class influx into a neighborhood increases.[50] However, while his analysis of the data found that 311 calls did increase as middle class people moved in, this did not overlay with white in-movers making increased calls to 311.[51] To Beck, this means "either the class variable is capturing all the variation of the percent white variable because the two co-occur, or both white and non-white gentrifiers make more 311 calls to the police."[52] This inserts a class component into the neighbor-driven policing question. Furthermore, Beck concluded that despite a rise in 311 calls, these calls did not necessarily translate into more police action as a response to neighborhood demand, further complicating the dynamics of neighborhood change and police response.[53]

Similarly, Laniyonu analyzed 311 call data as a "proxy for citizen demand for police services."[54] He noted that there was a positive, yet "weak and inconsistent" relation between the rate of 311 calls and stop rates.[55] Depending on the year examined, a 10% increase in these kinds of 311

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[48] *Id.* at 246–47.
[49] *Id.* at 249.
[50] *Id.*
[51] *Id.* at 264.
[52] *Id.*
[53] *Id.* at 267.
[54] Laniyonu, *supra* note 31, at 900.
[55] *Id.* at 917.

calls could translate into a 1.5 to 2.4% increase in stops per capita—a small but not insignificant result.[56]

Other studies suggest more dramatic effects than this. In 2018, *Buzzfeed News* conducted a study focusing on 311 quality of life complaints in gentrifying areas.[57] At the center of the story was a block on the 136th street stretch of Harlem. They found that 311 calls had dramatically increased on that block from 2015-2017, resulting in police responding to complaints on "623 different days."[58] Examining census tracts around the Harlem block they focused on, the reporters noticed gentrifying tracts received more complaints via 311 per capita than tracts that had not gentrified. Although the police claimed that the majority of the calls on that 136th street block came from one person, the broader data showed that unique 311 complaints were higher per 1,000 people in gentrified census tracts.[59] This result, at the very least, suggests that neighbor-initiated complaints were a more widespread phenomenon.[60] While New York City's 311 data does not contain the race or socioeconomic status of callers, the report notes that the white population of these tracts increased significantly, as did home values. It also notes that "minority populations who experience more aggressive policing. . . are less likely to use 311 to file complaints."[61]

Harold Stolper's research for the Community Service Society of New York makes similar claims about the impact of 311 calls on the lives of Black and Latinx residents.[62] Stolper analyzed more than 108,000 complaints across the city for 2017, noting that 87% of these were noise complaints.[63] He found that police directly responded to these complaints at least 92.5% of the time and that the highest complaint rates existed in rapidly gentrifying neighborhoods.[64] He noted while the relative proportion of police responses that ended up as summons or arrests was overall low, someone in a lower-income neighborhood experiencing a large influx of white residents was served a summons or arrested three times as often as someone in a low-income neighborhood that had already experienced a wave of white in-migration years before.[65] In addition, calling to mind

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[56] *Id.*

[57] Lam Thuy Vo, *They Played Dominoes Outside Their Apartment for Decades. Then the White People Moved in and Police Started Showing Up*, BUZZFEED NEWS (June 29, 2018), https://www.buzzfeednews.com/article/lamvo/gentrification-complaints-311-new-york.

[58] *Id.*

[59] *Id.*

[60] *Id.*

[61] *Id.*

[62] Harold Stolper, *New Neighbors and the Over-Policing of Communities of Color*, CMTY. SERV. SOC'Y OF N.Y. (Jan. 6, 2019), https://www.cssny.org/news/entry/New-Neighbors.

[63] *Id.*

[64] *Id.*

[65] *Id.*

Beck's and Laniyonu's studies, Stolper pointed out that "the largest in-creases in NYPD-referred complaints occurred in communities of color with large influxes of white residents accompanied by new housing devel-opment."[66] Again, this suggests that real estate interests play a pivotal role in driving policing activity.[67]

As illustrated above, scholars still disagree about the precise nexus between neighbor complaints and low-level policing in gentrifying neigh-borhoods. However, it is certainly fair to say that, given the surge in 311 calls contemporaneous with gentrification processes, new neighbors in low-income neighborhoods are attempting to forge a relationship between their demands for "order" and the police's power to enforce them. Fur-thermore, as I will discuss in more detail below, the tensions that rapid gentrification of formerly Black and Latinx neighborhoods create can have significant and damaging effects on these communities in transition.

III. THE RACIALLY UNJUST IMPACTS OF GENTRIFICATION-INDUCED POLICING

In this section, I will explore two ways in which the combination of policing and gentrification imprisons people of color in their own com-munities. I aim to display this via examples that fall within both the de-velopment-driven and neighbor-driven paradigms discretely although in everyday practice these paradigms overlap. While making clearer distinc-tions between the two types of policing-gentrification linkages are crucial to the proposed solutions later in this paper, this section is concerned with the material and psychological impacts the process overall has on Black and Latinx residents living under the dual pressures of gentrification and police presence. An average person on the street who is just trying to es-cape the heat of their apartment or chat with friends on the block likely does not distinguish whether policeman harassing them is there because elite interests conjured his necessity or because a new neighbor, annoyed by their raucous conversation, called 311. In either case, the policeman is still harassing them. In the moment, that interaction itself is what matters. And after the moment, that is what will likely most immediately shape their impression of their place in the neighborhood and the changes it is undergoing.

A. Crime Free Housing Laws

Law enforcement often explicitly rely on private actors, as collabora-tors, to maintain order. Landlords and property managers are one such type of private actor, and they have specific tools at their disposal to use

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[66] *Id.*
[67] *Id.*

in the service of law enforcement objectives, both within and outside gen-
trifying areas. Empirically assessing whether these specific tools have an
outsized impact in gentrifying neighborhoods is beyond the scope of this
paper. Instead, I explore them here to illustrate how fundamentally tied
they are to racial inequality in housing in all cases. I also illustrate how
these same tools can be used in gentrifying contexts by landlords and
property developers interested in taking advantage of the rising market in
ways that disproportionately subject Black and Latinx residents to the car-
ceral arm of the state. As such, these tools could be among the specific
forces that play into the "development-directed" policing trends that
scholars such as Beck, Laniyonu, and Sharp have discussed.

Legal scholars like Michelle Alexander have written about the exclu-
sionary policies in federally subsidized housing that have shut out low-
income Black people in need of housing due to their criminal records.[68]
Of equal and growing importance is the proliferation of similar restrictions
in the private housing market. Deborah Archer, in her discussion of "po-
licing-based housing policies," specifically points to crime-free housing
ordinances. These ordinances are "local laws that either encourage or re-
quire private landlords. . . to exclude or evict tenants who have had some
degree of contact with the criminal legal system;" they can create either
mandatory or voluntary participation programs.[69] These local laws origi-
nate with the advocacy of the International Crime Free Association
(ICFA), which a Mesa, Arizona police officer founded. One central feature
of the crime-free housing regime are lease addendums that enable land-
lords to evict tenants for vaguely defined "criminal activity."[70] Archer em-
phasizes that the expansive language that the ICFA's model lease adden-
dum provides, adopted in similar form by many localities, opens the door
to eviction even where there is no real evidence of a crime: "[t]his lan-
guage creates the possibility that a mere arrest—or even a stop that results
in neither arrest nor conviction—might be sufficient to evict someone
from their home."[71] Landlords are also encouraged to refuse to rent to
applicants with a criminal history, regardless of whether that history sug-
gests they would pose a risk to their neighbors or whether that history
contains an actual conviction.[72] Another standard provision of these
crime-free ordinances are "crime-free databases" or alert systems that give
landlords access to information about the alleged criminal activity of their

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[68] *See, e.g.*, MICHELLE ALEXANDER, THE NEW JIM CROW: MASS
INCARCERATION IN THE AGE OF COLORBLINDNESS 53–57, 144–48 (2012).

[69] Deborah N. Archer, *Exile from Main Street*, 55 HARV. C.R.-C.L. L REV.
789, 804 (2020).

[70] *Id.* at 805–06.

[71] *Id.* at 806.

[72] *Id.* at 805.

tenants, so that they will take action to evict.[73] In many localities, police department employees will regularly share standardized reports on police activity around apartment complexes to landlords and property managers, evidencing a deep cooperation between law enforcement and real estate to expand the consequences of criminalization ever more in tenants' lives.[74] Leora Smith, in her *Atlantic* reporting, notes that police officers in Kansas City admit that the goal of its crime-free housing program is to displace "problematic" individuals from neighborhoods through an eviction process that proceeds faster than the criminal legal system typically does.[75] In such admissions, one sees the crucial, intentional relationship between criminalization and racialized residential exclusion.

Archer argues that these programs are especially harmful because they "import racially discriminatory policing practices into the private housing market."[76] She directly analogizes crime-free housing ordinances to broken windows, zero tolerance policing; in the same way that broken windows/order maintenance policing asserts the solution to serious crime is tamping down disorder, "[t]he ordinances focus on preempting criminal activity by engaging the police and community to exclude people believed to bring criminal activity—no matter how minor."[77] Archer points out that because crime-free ordinances share this logic, in practice they may increase the frequency and potential danger levels of police-civilian interactions.[78] The end result of these ordinances, inevitably tied up as they are with a racist system of policing, is the continued exclusion of Black people from communities they formerly called home.[79]

Obviously, not every city or town that has a crime-free housing ordinance is gentrifying, and not every gentrifying city or town has a crime-free housing ordinance. However, there are high-profile examples of cities that do have these laws, such as Minneapolis, Minnesota[80] and Kansas City, Missouri[81] which have been undergoing gentrification in the past

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[73] Deborah N. Archer, *The New Housing Segregation: The Jim Crow Effects of Crime-Free Housing Ordinances*, 118 MICH. L. REV. 173, 192 (2019).

[74] Leora Smith, *When the Police Call Your Landlord*, ATLANTIC (Mar. 13, 2020), https://www.theatlantic.com/politics/archive/2020/03/crime-free-housing-lets-police-influence-landlords/605728/.

[75] *Id.*

[76] Archer, *supra* note 73, at 203.

[77] *Id.* at 205.

[78] *Id.* at 205–06.

[79] *Id.* at 208.

[80] *Id.* at 191; *see also Crime/Drug-Free, disorderly/nuisance conduct rental ordinances in Minnesota*, HOMELINE (July 20, 2021), https://home-linemn.org/cfo/ (noting that Minneapolis amended its ordinance in 2018 to deemphasize eviction as the preferred response).

[81] Smith, *supra* note 74.

several years.[82] In similarly gentrifying cities, then, actors invested in "development-driven policing" (revealed in the previous section) may deploy crime-free housing ordinances as a tool.

Crime free ordinances may also exist by another name in other cities. While New York City, the focus of this paper, does not have a crime-free housing ordinance, until late 2020 the NYPD did operate a similar initiative called the Trespass Affidavit Program (TAP), also known as Operation Clean Halls in the Bronx.[83] At one point, at least 8,000 buildings consisting of mostly Black and Latinx residents were enrolled in TAP citywide, despite there being no clear standards by which buildings were enrolled.[84] In TAP, with landlords' permission, the NYPD was enabled to patrol the interiors of privately owned apartment buildings, sometimes even conducting vertical sweeps of entire buildings.[85] While the stated purpose of the program was to tamp down on crime inside apartment complexes, civil rights advocates pointed out that in minority neighborhoods such as the South Bronx, almost every apartment building was enrolled in Clean Halls.[86] The unsurprising result of this landlord-law enforcement collaboration was pervasive harassment of tenants on often highly questionable grounds. Operation Clean Halls in the Bronx was subject to a class action lawsuit in 2012, which led to the curtailment and regulation of the program.[87] Residents of buildings enrolled in Clean Halls spoke of the oppressive environment in which they were forced to live, noting that even "taking the garbage out or checking the mail can result in being thrown against the wall and humiliated by police," leading to frequent

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[82] *See. e.g.*, David Frese, *Troost Renaissance: Revitalization or Gentrification? Or Can it Be Both?*, IN KANSAS CITY (Dec. 1, 2018), https://www.inkansascity.com/innovators-influencers/local-news/troost-renaissance-revitalization-or-gentrification-or-can-it-be-both/; EDWARD G. GOETZ ET AL., THE DIVERSITY OF GENTRIFICATION: MULTIPLE FORMS OF GENTRIFICATION IN MINNEAPOLIS AND ST. PAUL (2019), http://gentrification.dl.umn.edu/sites/gentrification.dl.umn.edu/files/media/diversity-of-gentrification-012519-exec-summary.pdf.

[83] Rocco Parascandola, *NYPD Quietly Shuts Down Controversial Trespass Program*, NY DAILY NEWS (Oct. 2, 2020), https://www.nydailynews.com/new-york/nyc-crime/ny-nypd-trespass-tactic-ended-20201002-abh5q5nan-zeu3enk53q2hy7dzy-story.html.

[84] *Id.*; John Del Signore, *NYCLU Sues to Stop NYPD's "Operation Clean Halls"*, GOTHAMIST (Mar. 29, 2012), https://gothamist.com/news/nyclu-sues-to-stop-nypds-operation-clean-halls.

[85] Del Signore, *supra* note 84.

[86] *Ligon v. City of New York*, BRONX DEFENDERS (June 27, 2016), https://www.bronxdefenders.org/ligon-v-city-of-new-york/; *Settlement Will End Unconstitutional NYPD Stops, Frisks and Arrests in Clean Halls Buildings*, NYCLU (Feb. 2, 2017) https://www.nyclu.org/en/press-releases/settlement-will-end-unconstitutional-nypd-stops-frisks-and-arrests-clean-halls.

[87] *Settlement Will End Unconstitutional NYPD Stops*, *supra* note 86.

false arrests for trespassing.[88] Those swept up in this practice of criminalization included people just visiting family and friends in buildings enrolled in Clean Halls.[89] It is important to note that even in the absence of crime-free housing laws, landlords can typically evict tenants for breaches of a lease agreement, which can include engaging in criminal conduct, causing disturbances, or creating safety hazards for other tenants. For a tenant living in or visiting a building enrolled in TAP, then, it was entirely possible for their wrongful criminalization to lead directly to housing-related consequences and subsequent exclusion from their former buildings and communities in largely Black and Latinx neighborhoods.

Landlords who stand to gain from property value appreciation, and developers interested in buying up property for upscale redevelopment plans, can take advantage of these pre-existing mechanisms of cooperation with police. These mechanisms can work to not only increase the general intensity of street-level policing but also the targeting of tenants on blocks ripe for redevelopment. If "criminal activity" justifying an eviction can be proven by merely presenting evidence of an arrest in housing court, then, as Archer eloquently argues, there is a clear through-line from racially discriminatory policing to racial displacement under gentrification. Distressingly, in some cases, especially in gentrifying contexts, unwarranted criminalization may permanently lock tenants out of private housing options in their communities, even more so where their options are already limited by rising rents.

B. Community Degradation Through Neighbor-Driven Policing

Regardless of whether increased neighbor complaints do lead in a statistically significant way to more order maintenance policing, the new (white and/or middle class) neighbor who calls 311 on mundane activities has become a fixture of the popular imagination of what constitutes gentrification. This archetype has a role in racializing the neighborhood in new ways and in creating tension between competing visions of "order" that places Black and Latinx people in an antagonistic relation to white residents who want to turn an "up and coming" neighborhood into a desirable one with the help of the police. Devon Carbado refers to this policing-driven creation as a "logic about race and space" that ultimately results in a new form of racial segregation.[90]

Residents of overly policed neighborhoods already articulate their lived experience of this logic. According to a 2018 New York Civil Liberties Union study, survey respondents in the heavily policed neighborhoods of Brownsville, East Harlem, and the South Bronx reported "astonishingly high rates of police interfering with their everyday activities," including

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[88] Del Signore, *supra* note 84.

[89] *Id.*

[90] Devon W. Carbado, *Blue-on-Black Violence: A Provisional Model of Some of the Causes*, 104 GEO. L.J. 1479, 1494–95 (2016).

in contexts that have no connection to public safety concerns.[91] Residents said they were interrupted by police when doing things as innocuous as playing basketball and walking around the neighborhood.[92] Furthermore, 73% of respondents in heavily policed neighborhoods stated that police had initiated interactions with them, including on the streets, outside or inside their apartment buildings, or in a park.[93] Due in part to these negative experiences, a large proportion of the respondents recalled that they had felt unsafe at least once during the survey year because of the police.[94] These neighborhoods, save for East Harlem, were not necessarily among those known to be gentrifying in New York City at the time of the study.[95] I cite this report, however, to illustrate the quotidian impacts of policing, its negative psychological effects upon residents, and how it tangibly changes the tenor of their lives.

At times, these attempts to dictate order can lead to tragedy. In April 2018, the NYPD killed a thirty-four-year-old man named Saheed Vassell in his home neighborhood of Crown Heights, in Brooklyn. After his death, many Crown Heights residents told the media that Vassell was well-known in the neighborhood; he struggled with bipolar disorder and sometimes acted erratically, but no one interviewed ever felt his behavior to be threatening.[96] I cite this report, however, to illustrate the quotidian impacts

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[91] JOHANNA MILLER & SIMON MCCORMACK, SHATTERED: THE CONTINUING, DAMAGING, AND DISPARATE LEGACY OF BROKEN WINDOWS POLICING IN NEW YORK CITY 12 (2018), https://www.nyclu.org/sites/default/files/field_documents/nyclu_20180919_shattered_web.pdf.

[92] *Id.* at 12–13.

[93] *Id.* at 14.

[94] *Id.* at 10. ("In fact, 71 percent of the respondents living in heavily policed communities told us that there was at least one time when they felt unsafe because of the presence of police during 2016. Even 46 percent of the New Yorkers we spoke to in lightly policed communities said the same thing. Respondents in heavily policed communities were more likely to feel unprotected (35 percent versus 29 percent) and not helped by the police (37 percent versus 12 percent.")).

[95] Shortly following the study year, however, gentrification did begin to hit the South Bronx. *See, e.g.*, Jessica Gould, *Forget 'The Bronx is Burning.' These Days, the Bronx is Gentrifying*, NAT'L PUB. RADIO (Aug. 2, 2017), https://www.npr.org/2017/08/02/540638655/forget-the-bronx-is-burning-these-days-the-bronx-is-gentrifying; Rebecca Bellan, *The Bronx: Don't Call it a Comeback*, BLOOMBERG CITYLAB (Aug. 14, 2018), https://www.bloomberg.com/news/articles/2018-08-14/the-bronx-gentrification-meets-homegrown-change; C.J. Hughes, *In The Bronx, Mott Haven Suddenly Gets a Skyline*, N.Y. TIMES (Oct. 15, 2021), https://www.nytimes.com/2021/10/15/realestate/mott-haven-bronx-new-construction.html.

[96] Natasha Lennard, *Why the NYPD Killing of Saheed Vassell Has Locals Worried about Gentrification in Brooklyn*, INTERCEPT (Apr. 11, 2018), https://theintercept.com/2018/04/11/saheed-vassell-brooklyn-gentrification-nypd/; Benjamin Mueller & Nate Schweber, *Police Fatally Shot a Brooklyn*

of policing, its negative psychological effects upon residents, and how it tangibly changes the tenor of their lives.

At times, these attempts to dictate order can lead to tragedy. In April 2018, the NYPD killed a thirty-four-year-old man named Saheed Vassell in his home neighborhood of Crown Heights, in Brooklyn. He would set up outside local businesses and offer to do odd jobs and would often pick up metal objects that reminded him of his former job as a welder.[97] The day he was shot by the NYPD, Vassell had been on the street corner, pointing one of the metal objects he had found at passerby—several individuals called 911 to report a man pointing a gun at people.[98]

At the time, Vassell's neighborhood of Crown Heights was among the most intensely gentrifying areas of the city, and one of the neighborhoods that had high 311 call volume directed to the NYPD.[99] There is no demographic data on 911 or 311 callers, so it is impossible to know if one of the area's new residents was among those who called the cops on that day. Yet many Black Crown Heights residents still pinned Vassell's death on gentrification.[100] As Candace Simpson, a local minister, told the *New York Times*, "It has been this popular refrain that it's not one of us who called. . . That is people saying, '[w]hat do we do when a community isn't full of neighbors anymore?'"[101] Even the cops were acquainted with Vassell, as Vassell's father recalled, "The police in the neighborhood got along with Saheed because they saw him every day on the street."[102]

Gentrification is most often described as a force of cultural displacement, as longtime minority residents see their friends and neighbors pushed out, local small storefronts replaced with higher-end businesses, and their sense of belonging eroded.[103] Cultural displacement is typically theorized as an outcome of economic changes and rising property values

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Man, Saying They Thought He Had a Gun, N.Y. TIMES (Apr. 4, 2018), https://www.nytimes.com/2018/04/04/nyregion/police-shooting-brooklyn-crown-heights.html.

[97] Akintunde Ahmad, *Saheed Vassell and the Forgotten Victims of Police Brutality*, COLUM. JOURNALISM REV. (July 1, 2020), https://www.cjr.org/watchdog/saheed-vassell-police-brutality-victims.php.

[98] Lennard, *supra* note 96.

[99] *Id.*; *See* Brenden Beck, *Police Killed Saheed Vassell in a Gentrifying Neighborhood. Did That Make a Difference?*, APPEAL (Apr. 11, 2018), https://theappeal.org/police-killed-saheed-vassell-in-a-gentrifying-neighborhood-did-that-make-a-difference-e3a64bb837e7/

[100] Lennard, *supra* note 96; Ginia Bellafante, *A Fear Born of Gentrification*, N.Y. TIMES (Apr. 9, 2018), https://www.nytimes.com/2018/04/09/nyregion/brooklyn-gentrification-fear-police-shooting.html.

[101] Bellafante, *supra* note 100.

[102] Ahmad, *supra* note 97.

[103] *See, e.g.*, Richardson et al., *supra* note 1, at 7–8; *Gentrification and Neighborhood Revitalization*, *supra* note 14.

in the neighborhood.[104] These are powerful factors, but Vassell's story speaks to an underappreciated aspect of displacement. I argue that policing in gentrifying neighborhoods should also be conceptualized as a direct and driving force of cultural displacement and erosion of belonging, even if it does not necessarily always result in a physical exit from the community in the same way that being pushed out of unaffordable housing does.

How does policing accomplish this goal? What may happen to the everyday experiences of Black and Latinx people living under gentrification's regime of increased order maintenance policing and unneighborly neighbors who feel entitled to dispatch the police at a minor inconvenience? It may be that the police go from being felt as an occupying force to becoming a border patrol. The NYCLU study found that many survey respondents described experiences reminiscent of being under occupation: "New Yorkers reported to the NYCLU that living in a heavily policed neighborhood means always feeling like you're under suspicion. When you go outside, when you talk with your friends, when you go to the ATM, attend school, or even when you walk into your own apartment building — you feel like you are always being watched."[105]

I posit that as police begin to see the neighborhood and their role within it differently,[106] and as longtime residents see a whiter, wealthier population move in and be treated with a much lighter touch, the symbolic function of policing evolves into a border-creating one. Residents living in gentrifying areas begin to see new lines drawn in their communities, demarcating where they are no longer welcome and where they will face consequences for transgressing, even before policing enters the equation. In her interviews with longtime residents living in the rapidly gentrifying neighborhood of Bushwick, Chiara Valli noted that her interlocutors also felt surveilled as "others" in the new cafes and bars, and even on the streets.[107] To these interviewees, the new spaces were only meant for the (white) newcomers and were a symbol of their coming exclusion from Bushwick.[108]

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[104] *See, e.g., Gentrification and Neighborhood Revitalization, supra* note 14 ("Cultural displacement is also common. The closing of long-time neighborhood landmarks like historically black churches or local restaurants can erase the history of a neighborhood and with it a sense of belonging. The influx of a new population of upper- and middle-income residents can also change the political landscape, with new leaders ignoring the needs of long-time residents."); *see also* Thurber et al., *supra* note 19 ("A third vulnerability to the political economy approach [in gentrification studies] is a disregard for losses other than housing").

[105] MILLER & MCCORMACK, *supra* note 91, at 14.

[106] *Cf.* Beck, *supra* note 7, at 267.

[107] Chiara Valli, *A Sense of Displacement: Long-time Residents' Feelings of Displacement in Gentrifying Bushwick, New York*, 39 INT'L. J. URB. DEV. & REG'L RSCH. 1191, 1201–02 (2015).

[108] *Id.* at 1206–07.

When the police are deputized by newcomers to enforce these feelings of otherness, they are physically manifesting the feeling of otherness as racialized, internal borders between longtime, minority residents and newcomers. Monica Bell has written about border patrol as "a general project of racial boundary maintenance" in the context of the police's role in keeping Black and brown people out of "White space[s]."[109] She explains, "[i]n 'White space,' people of color seem particularly out of place, and thus police are more likely to intervene."[110]

What about when, in a demographic sense, it is the white people who are the ones "out of place" in a neighborhood? Devon Carbado, in calling gentrification "the new racial segregation," likens it to Jim Crow in that gentrification "enacts borders that are vigorously policed."[111] I suggest, however, that it is not merely that the borders created by gentrification are then policed; rather, policing actively creates the borders gentrification needs to proceed. Just as Bell's police-border patrol agents protect homogenous white spaces, the police in gentrifying neighborhoods are deputized by both neighbors and real estate interests to make new white spaces—defined by order and hence the absence of Blackness or Brownness—where they did not before exist.

IV. MOVING AWAY FROM POLICING AND TOWARDS COMMUNITY

Affordable housing is commonly held up as a solution to the racially unjust impacts of gentrification, but fewer proposals focus on policing and criminal justice strategies. The activist document *8 to Abolition* demands an end to order maintenance policing of Black and Brown neighborhoods, as well as an investment in housing for all, primarily focused on affordability and accessibility.[112] I follow this document's placing of these demands in conversation with each other in proposing strategies to disrupt the destructive relationship between policing and gentrification. The ideas I float in this section focus both on everyday policing practices, as well as the downstream effects of criminalization on access to housing opportunity.

Place-based "crime licenses" are one way to remove order maintenance policing from the gentrification toolbox. Josh Bowers posits the idea of crime licenses for habitual low-level offenders, arguing that for some people, leniency and harm reduction is a better policy than continued punitive enforcement. Sometimes, Bowers argues, "doing nothing"—as

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[109] Monica C. Bell, *Anti-Segregation Policing*, 95 N.Y.U. L. REV. 650, 700 (2020).

[110] *Id.* at 697.

[111] Carbado, *supra* note 90, at 1494.

[112] 8 TO ABOLITION, ABOLITIONIST POLICY CHANGES TO DEMAND FROM YOUR CITY OFFICIALS (2020), https://static1.squarespace.com/static/5edbf321b6026b073fef97d4/t/5ee0817c95 5eaa484011b8fe/1591771519433/8toAbolition_V2.pdf.

in, refraining from punishment—works.[113] A similar logic can be applied here. In the gentrifying block scenario, the habitual offender is the chronic 311 caller, who ends up deputizing the police as a tool of border creation and maintenance. The chronic caller can be given continued license to complain—but, in gentrifying neighborhoods, the police should not be the ones to respond to these minor complaints. There may indeed be, as there are in most places, some residents who repeatedly engage in conduct that is annoying but generally harmless to others. Sometimes it may be conduct that is socially harmful to some degree but not, in any genuine sense, criminal. It is also the case that such conduct becomes more visible, and hence becomes "offensive," when people like new arrivals in the neighborhood view it and find that it contradicts their sense of cultural normalcy or orderliness. While problems that lead to interpersonal conflict among community members need amicable resolution, police should simply have no role in being enforcement officers of cultural taste.

I view this removal of police from the equation, but retention of the means to complain via 311, as a place-based crime license in two ways. Firstly, as a matter of policy, it decides that "doing nothing" about neighbor-driven policing demands is better than doing something. Secondly, it does so without foreclosing a means for the complaining neighbor to vent their frustrations and experience the catharsis that comes with it. If they eventually find, however, that their complaints will not yield punitive action, then they may stop trying to invite a police response. At best, they may be compelled to engage with their community to seek out alternative forums and collaborate with their neighbors to solve conflicts and nuisances in ways that foster harmonious relationships among residents.

That said, the police do not need complaints as an impetus to conduct order maintenance policing on the block, and this raises more fundamental questions about the necessity of such policing strategies. Some scholars, such as David Thacher, strongly critique how order maintenance policing works in practice but still call for its reform, rather than declaring its obsolescence. Thacher supports reformist changes by arguing that a good quality of life in public spaces should not be a privilege reserved only for white, wealthy communities.[114] Indeed, it should not be controversial to say that Black and Latinx people equally deserve to live in safety and comfort in their homes, on the streets, in the parks, on the stoops, and on the subway. Nevertheless, it is also worth asking if the police, after generations of using order maintenance as a tactic to oppress Black and Latinx communities and ensnare people in the criminal legal system—including on the basis of offenses as harmless to other individuals as a turnstile

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[113] Josh Bowers, *What If Nothing Works? On Crime Licenses, Recidivism, and Quality of Life*, 107 Va. L. Rev. 959, 961–62, 1028–31 (2021).

[114] David Thacher, *Don't End Broken Windows Policing, Fix It*, Marshall Project (Sept. 9, 2015), https://www.themarshallproject.org/2015/09/09/don-t-end-broken-windows-policing-fix-it.

jump—[115] are truly the most appropriate actors to bring this kind of safety and comfort to the neighborhood. As the Movement for Black Lives eloquently puts it, "[s]kyrocketing investment in policing, criminalization, and incarceration has also driven growing poverty and homelessness . . . and cuts to community-based mental health and social services, driving more and more Black people into the maw of the criminal punishment system," even while "a substantial body of research confirms that jobs, education, housing, and universal access to comprehensive holistic health care make communities stronger and keep them safer."[116] Is what struggling communities need really the police? Or rather the elimination of the socioeconomic and political conditions that create the "need" for police? While a deeper exploration of this question is beyond the scope of this paper, I would point to the abolitionist demand to "defund the police, invest in our communities" as a useful starting point for a non-reformist conversation about order maintenance policing.[117]

I also propose legislative solutions that obliquely tackle the development-directed aspects of policing gentrifying neighborhoods. As Deborah Archer argues, crime-free housing ordinances are a tool of racial discrimination and segregation. She finds evidence that many were adopted as a direct response to increased racial diversity in localities.[118] Their ultimate impact (along with other exclusionary housing policies) is to create "conditions of exile" and "banishment" for people of color subject to mass criminalization.[119] As discussed above, in gentrifying areas these laws can be taken advantage of by landlords to clear their buildings of undesirable tenants and make way for more attractive, wealthier, and likely white clientele. These tools of gentrification should be taken away.

Instead, cities should adopt fair chance ordinances for housing, alongside their efforts to build more affordable housing to create options for Black and Latinx residents at risk of displacement due to rising rents. Increasing the amount of affordable housing in gentrifying neighborhoods only accomplishes so much if landlords are able to deny housing to any

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[115] Bowers, *supra* note 113, at 965–66, 979.

[116] *End the War on Black Communities*, MOVEMENT FOR BLACK LIVES, https://m4bl.org/policy-platforms/end-the-war-on-black-communities/ (last visited Apr. 28, 2022).

[117] *See* Amna A. Akbar, *Demands for a Democratic Political Economy*, 134 HARV. L. REV. 90, 102–03 (2020) ("The non-reformist reform does not aim to create policy solutions to discrete problems; rather it aims to unleash people power against the prevailing political, economic, and social arrangements and toward new possibilities … Non-reformist reforms are 'conceived not in terms of what is possible within the framework of a given system and administration, but in view of what should be made possible in terms of human needs and demands.'").

[118] Archer, *supra* note 69, at 808.

[119] *Id.* at 812, 817–19, 820, 823–32.

prospective tenant with a criminal record as sparse as an arrest not resulting in any conviction, or a 20-year-old conviction— particularly where longtime residents may have been historically overpoliced on a racially discriminatory basis. As discussed above, Japonica Brown-Saracino highlights how gentrification is in part a supply-side or production driven process, where the priorities of government and real estate elites are frequently prioritized, and this is so even in the creation of affordable housing through processes that often rely on incentivizing developers.[120] Government's primary priority should be the wellbeing of its citizens, especially those who are most vulnerable to the devastating impacts of aggressive development. Fair chance ordinances present an opportunity to intervene in the supply side model and introduce meaningful protections for low-income, long-term residents. Fair chance ordinances help ensure that histories of mass criminalization of Black and Latinx communities do not indirectly facilitate gentrification by locking tenants out of access to new housing options in their communities.[121] Government's primary priority should be the wellbeing of its citizens, especially those who are most vulnerable to the devastating impacts of aggressive development. Fair chance ordinances present an opportunity to intervene in the supply side model and introduce meaningful protections for low-income, long-term residents. Fair chance ordinances help ensure that histories of mass criminalization of Black and Latinx communities do not indirectly facilitate gentrification by locking tenants out of access to new housing options in their communities.

CONCLUSION

In this paper, I have attempted to show how policing and gentrification are inextricably linked on structural, economic, and interpersonal levels. In the United States, many laypeople understand gentrification as a phenomenon that affects communities of color because of the histories of racial segregation in our cities. Still teasing out the particular ways gentrification becomes an actively racialized process, rather than simply a neutral process with racially disproportionate impacts, requires examining how police advance and maintain gentrification. Once policing is placed in a central role, it is possible to explore more in depth how Black and Latinx people experience gentrification not only as cultural and economic displacement, but as a violent remaking of their communities, facilitated by policing and laden with racial discrimination.

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[120] For example, New York City relies on tax incentives to encourage developers to create affordable units in new construction. *See Tax Credits and Incentives: 421-a*, NYC HOUS. PRES. & DEV., https://www1.nyc.gov/site/hpd/services-and-information/tax-incentives-421-a.page (last visited Apr. 28, 2022).

[121] *See* Fair Chance for Housing for an example of New York City-based advocacy for a fair chance housing ordinance. *About*, FAIR CHANCE FOR HOUS., https://www.fairchancehousing.org/about (last visited Dec. 7, 2020).

This paper emphasized the "white influx" into neighborhoods, given how central the role of white newcomers is in how longtime residents conceptualize and problematize gentrification and how many gentrifiers are indeed white in numerical terms. However, I want to note that of course not all gentrifiers are white. Whiteness is not a prerequisite to upholding the structures of racism. Nor is whiteness, or the complicity characterized by experiencing benefits due to others' oppression, an insurmountable barrier to solidarity in community. Particularly now, as increasing numbers of Americans have become more sympathetic to racial justice politics and skeptical of policing in the wake of the 2020 protests against police brutality, it is essential to be critical about the material advantages that accrue to the privileged at the expense of the marginalized. That includes paying attention to how policing is integral to that accrual of advantages even in contexts where it seems less obvious on first glance. The solutions I have proposed in this paper may make gentrification as it is currently understood by the average person, and desired by elite interests, more difficult, and that is the point. If that is seen as forfeiting material advantage for racial justice, then so it must be done.

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