

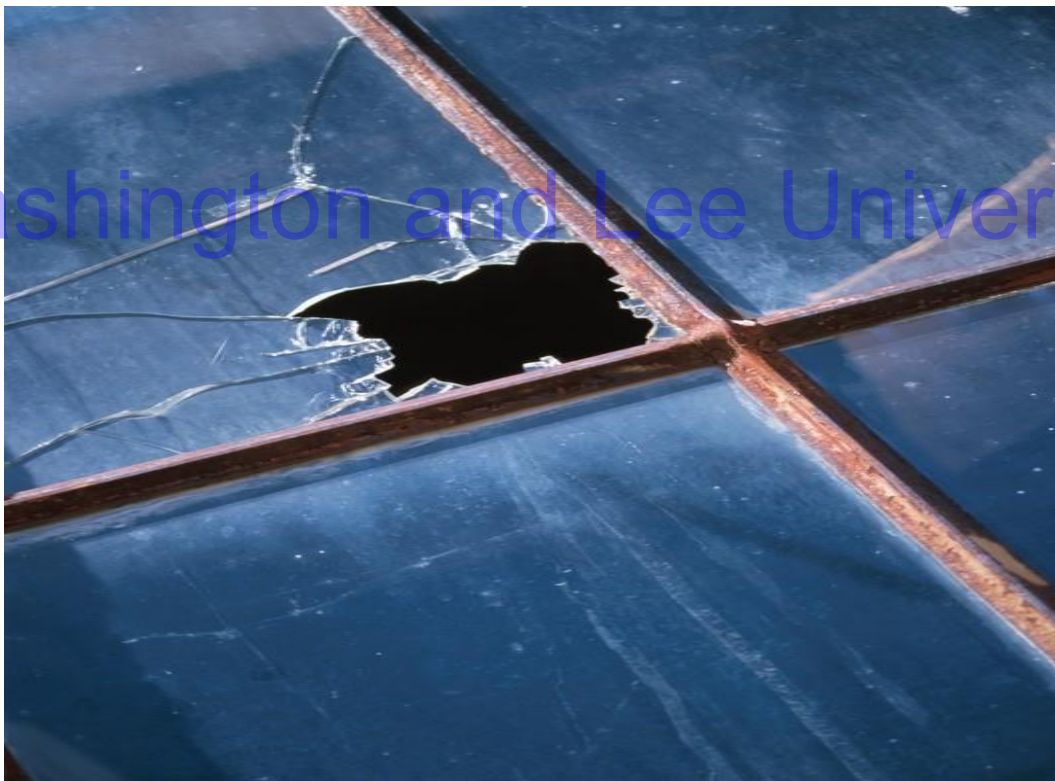
**Misdemeanors, Crime, and Police: Broken Windows and America's
Poor**

Poverty Capstone—POV 423

Professor Harlan Beckley

Henri M. Hammond-Paul

April 2012



On my honor I have neither given nor received any unacknowledged aid on this project

Henri M. Hammond-Paul

Abstract

This paper studies broken windows policing theory and its impact on the poor. Broken windows policing, through the collateral consequences of its arrests and convictions, further marginalizes an already marginalized poor population. This paper evaluates the collateral damage of a common policing practice in the United States that relies on high volume arrests, charging, and sentencing of misdemeanor crimes. It considers the connection between this policy and the cyclical nature of crime and poverty. It studies the birth and widespread adoption of the aggressive broken windows policing theory. It considers the impacts of these seemingly harmless punishments for minor crimes, and discovers that the long term effects of a misdemeanor charge and conviction can be devastating for individuals, especially those who fall into lower socioeconomic brackets. Last, it considers policy and institutional reforms that will positively affect the status of crime, poverty, and community in the U.S.

I. Crime and Poverty

There is a long established relationship between poverty and crime. A disproportionate percentage of people in the American criminal justice system are poor. This capstone studies the impacts of policing on poor people and poor communities. The types of crimes that this paper is interested in, minor and misdemeanor, are interestingly the least studied yet most frequent. The majority of people facing the U.S. criminal justice system experience it for misdemeanor charges. Strangely, neither the FBI nor the Bureau of Justice Statistics, two of the federal agencies dealing with crime, publishes statistics on misdemeanor convictions. Instead, misdemeanor laws and punishments are defined and decided by the state, city, or local governments. Despite the high volume of these crimes and convictions (hundreds of thousands of arrests per state per

year—millions nationally), there is no uniform structure to their punishments nor is there an organized database of statistics. Even with the overwhelming amount of citizens with misdemeanors on their records, few scholars try to understand the meaning of these convictions; even fewer are concerned with their impact on the poor. It is just an accepted status quo in our society that few think to challenge.

Most scholars agree that inequality and poverty is correlated with rates of crime and criminal behavior. As Steve Bogira observes in *Courtroom 302: A Year Behind the Scenes in an American Criminal Courthouse*, most defendants are indeed poor:

From city to city, from courtroom to courtroom, one thing about most defendants varies little: their poverty. It has ever been thus.

As historian Samuel Walker wrote in 1998 in his book *Popular Justice*: “at every point in the history of criminal justice, the people arrested, prosecuted, and punished have been mainly the poor and the powerless.” One hundred fifty years ago most defendants were European immigrants, Walker observed; today they are blacks and Hispanics. (Bogira 21-22)

This sentiment has been confirmed in multiple empirical and economic studies. The “unequivocal” outcome of one study evaluating the relationship between income inequality, poverty, and crime reveals that “income inequality in a metropolis substantially raises its rate of criminal violence” (Blau 121). Furthermore, violence and criminal cultures are perpetuated in poor, urban neighborhoods (Blau 116). Socioeconomic inequality and poverty correlate bilaterally with crime and criminal violence. Crime causes poverty, and poverty causes crime

and this relationship is produced in a cycle. For instance, poor people do not have access to adequate education, jobs, or other empowering opportunities and therefore are relegated to the margins of society. In order to maintain a basic quality of life, marginalized populations, out of necessity, must resort to certain criminal activities: selling drugs, prostitution, theft. Without the adequate infrastructures necessary for development and success in poor neighborhoods, serious crime and minor crime become the norm.

The continuous cycle of crime and poverty generally follows the form that crime and poverty exaggerate urban decay and crime-ridden neighborhoods, which in turn reinforce a culture of poverty in areas; this “lower-class” culture or culture of poverty in turn causes more crime and poverty. And so the cycle repeats itself, as diagramed in Bernard E. Harcourt’s diagram of the “Feedback Loop of Class, Crime, Poverty, and Urban Decay” (Figure 1).

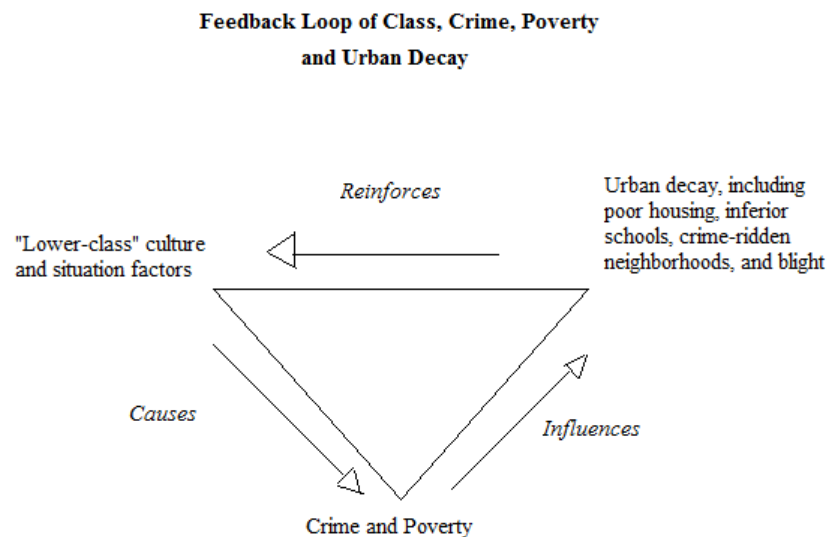


Figure 1. Diagram of Crime, Class, Poverty, and Urban Decay (Harcourt 31)

Few would argue that crime is good for a community, state, individual, or nation. The financial costs of crime are great; the average cost of a criminal to society is \$5,700 a year in lost productivity and \$25,000 a year to keep someone in prison (Zhao 226). On top of these costs, “there are the criminal justice costs which include keeping in prison, courts, police, then there are medical costs for violent crime, but then there is something called the willingness to pay – that includes what citizens are willing to pay to get rid of crime in taxes – these are actually the biggest numbers” (Hammond-Paul “Interview”). On top of loss of productivity and prison costs, there are further externalities of how crime negatively affects a neighborhood, community and nation. Cultures of crime make it drastically harder for individuals to break out of poverty (Stewart 6). The poor, whom overwhelmingly constitute the basis of criminals, also have the highest victimization rate in the nation (Stewart 6). Poverty and crime perpetuate poverty and crime; the concept of a poverty and crime cycle thus becomes extremely important when one starts to evaluate the methods by which a nation starts to address crime. We have to ask, “Does an anti-crime initiative end up producing more crime and poverty?”

Clearly crime is a problem that must be confronted, but, unfortunately this is not a simple task. The costs and impacts on society and the individual—damages, fear, community decay, violence—make a truly urgent issue. However, the means by which a nation or a city chooses to address crime have serious implications that are often left unstudied and unacknowledged in their effects on poor communities. Broken windows policing, rapidly integrated by American police departments as the untested approach to urban crime since the 1980s, needs to be critically evaluated for its impact on crime and poverty. This largely untested theory is widely accepted in most metropolitan areas as the method of choice for dealing with urban crime (Harcourt 57).

II. The Broken Windows Theory and the Rise of Broken Windows Policing

Clearly, crime is a problem. No community can function well with crime, disorder, and social problems. How a community decides to address crime is also an incredibly important consideration. Policing is the accepted method to address crime in most neighborhoods, but within policing strategies there is a considerable variance in practices and techniques. Presently, the three most populous cities in the US—Chicago, New York, and Los Angeles (as well as many other smaller cities)—use a policing method based in a theory developed in the early 1980s by two conservative social scientists, James Wilson and George Kelling (Harcourt and Ludwig 272).

In the March 1982 edition of the *Atlantic Monthly*, George L. Kelling and James Q.

Wilson published their wildly influential essay on neighborhood crime, “Broken Windows: The Police and Neighborhood Safety.” Wilson and Kelling’s article developed the theory known as “broken windows theory.” Very basically, this theory claims that in a neighborhood that has one broken window, more are likely to be broken if that window is left unfixed. They claim that crime is a product of “disorderly behavior” and that acts of serious crime—violence, rape, murder—are enabled by non-violent crimes and minor offenses such as “disorder,” loitering, vandalism, prostitution, homelessness, drunks, and other misdemeanor-type offenses (Wilson and Kelling 3). Wilson and Kelling argue, “Window breaking does not necessarily occur on a large scale because some areas are inhabited by determined window-breakers whereas others are populated by window-lovers; rather, one unrepaired broken windows is a signal that no one cares, and so breaking more windows costs nothing” (Wilson and Kelling 3). People are not inherently criminals, but rather their environments turn them into criminals and enable criminal

behavior. Their article calls for police to change the way they police neighborhoods: get out of their patrol cars and to start “walking beats,” giving them more interaction with the citizens of a neighborhood and generally enabling better relationships with the residents (Wilson and Kelling 2). These officers are expected to address minor-criminal activity—to change their jobs back to “maintaining order” from the current status of “fighting crimes” (Wilson and Kelling 2). Wilson and Kelling argue that “at the community level, disorder and crime are usually inextricably linked, in a kind of developmental sequence” (Wilson and Kelling 5). Their solution is the implementation of a police force that targets minor crimes: “Persons who broke the informal rules, especially those who bothered people waiting at bus stops, were arrested for vagrancy. Noisy teenagers were told to keep quiet” (Wilson and Kelling 3). This idea is founded on the notion that small crimes cause violent serious crimes—a panhandler left free on the streets will give signal to a drug kingpin that the community does not care. This theory has been adopted by many cities in the form of “aggressive enforcement of minor misdemeanor laws, also known as ‘order maintenance’ policing” (Harcourt and Ludwig 272).

Wilson and Kelling do not explicitly call for mass arrests for misdemeanors in their article, but rather they see the role of a policeman to be simply one of maintaining order—ejecting a man breaking a rule on a bus, breaking up a group of loitering teens, removing a drunk man from the streets (Wilson and Kelling 10). They rationalize this idea with the representative assumption, “failing to do anything about a score of drunks or a hundred vagrants may destroy an entire community” (Wilson and Kelling 7). Unfortunately, and to the especial misfortune of the poor, the widespread adoption of this theory into official policing policy across the nation has implemented “order maintenance” policing as characterized by mass arrests for misdemeanor crimes.

This paper does not aim to attack Kelling and Wilson's article and theory, but rather the implementation of their theory. However, Wilson and Kelling's article does bring up some questionable and untested ideas that have led caused harm to the poor. Primarily, Wilson and Kelling have a fundamentally wrong perspective of poverty and affluence and the barriers between the respective statuses. Regarding the disorderly and dangerous standards on inner city busses and other transportation, they propose: "The enforcement need involve nothing more than ejecting the offender...Perhaps the random but relentless maintenance of standards on busses would lead to conditions on busses that approximate the level of civility we now take for granted on airplanes" (Wilson and Kelling 10). The problem with this idea, which is in turn carried into the implementation of policing policy, is a bold disregard for barriers that surround poverty and the factors that keep it in disorder. Furthermore, the "levels of civility" on an airplane cannot be compared to busses because the poor are barred from entry due to financial costs. Wilson and Kelling fail to acknowledge that because poor people are priced out of transportation options, the institutions that maintain and run public busses have no incentive to keep these folks happy or safe. This is not a solution to disorder and crime, but rather a way to avoid it: promote communities as ideal, like airplanes, where people can ignore poverty and crime by being free of it.

Critics must wonder if Kelling or Wilson ever considered that "the level of civility [they] now take for granted on airplanes" is a function of the fact that there are considerable class barriers for using airplanes. Busses, on the other hand, are a transportation system almost wholly relegated to the poor and lower-middle class while airplanes are utilized predominantly upper-middle class and the wealthy. This conceptual flaw in their argument seems to capture their misunderstanding of why crime affects certain areas; it appears that they do not understand that

poverty and crime are caught in a self-perpetuating cycle. The difference between airplanes and busses is the same as the differences between gated communities and ghettos. The solution, at once, is not “ejecting the offender” or slapping misdemeanor charges on all people committing minor crimes but instead it should be finding new ways to impact crime rates and help poor neighborhoods which are highly susceptible to crime and disenfranchisement. Kelling and Wilson do, however, pose questions in their original essay from the *Atlantic Monthly* regarding poverty and race. They ask, “how do we ensure that age or skin color or national origin or harmless mannerisms will not also become the basis for distinguishing the undesirable from the desirable? How do we ensure, in short, that the police do not become the agents of neighborhood bigotry?” (Wilson and Kelling 7). Disappointingly they do not have a solution to this important question. Their response, or lack thereof, is a self-admittedly “no[t] wholly satisfying answer to this important question” (Wilson and Kelling 7).

Broken windows policing has become widely accepted—despite it being statistically unproven to be effective at reducing crime—and it has been adopted in many US cities and is furthermore being adopted by foreign countries and regions such as Australia, Europe, South America, Asia, and Africa (Harcourt 57). New York City, during the 1990s, was the epicenter for the implementation of broken windows policing, under Mayor Giuliani and Police Commissioner Bratton, and many cities have since based their own policing procedure on the New York City model (Harcourt 57). The basis for a defense of the theory—that small crime promotes bigger crimes—comes from two scholarly studies: Wesley Skogan’s “Disorder and Decline” (1990) and Robert Sampson and Jacqueline Cohen’s “Deterrent Effect of the Police on Crime” (1998) (Harcourt 59). Strangely, there is little scholarly study on the connection between policing and poverty; likewise there is little scholarly or policy attention paid to the impacts of misdemeanor

charges on the poor. Given that is the most widespread form of interaction with the America's criminal justice system demands that more acute study be paid to understand the fullest scope of what these punishments mean and what their implications are for individuals and communities.

It is beyond the scope of this paper to fully engage the nuances of an empirical critique of broken windows policing; in substitution, this paper offers a summary of the findings of a few critiques of the success of broken windows policing.¹ Steven Levitt finds that decreasing crime rate attributed to broken windows policing had a lot to do with increased police force, the legalization of abortion, and the receding crack epidemic (Levitt "Understanding," 176-179;181). Levitt finds that the crime rate drop in New York City, heralded as the exemplar case of success during the 1990s when Commissioner Bratton and Mayor Giuliani were implementing broken windows policing, coincided with the significant drop in crime experienced by the entire country (Levitt "Understanding," 168). In *Illusions of Order: the False Promise of Broken windows Policing*, Bernard E. Harcourt disproves broken windows policing as being an ineffective means of lowering the crime rate. He notes that it was a result of many factors: size of the police force, "shifting drug use patterns, new computerized tracking systems, demographics" (Harcourt 103). Harcourt finds, "it is fair to conclude from the existing social-scientific data that neighborhood disorder is not significantly related to homicide, burglary, physical assault, rape, or purse-snatching/pocket-picking victimization when antecedent neighborhood characteristics (such as poverty, stability, race, and collective efficacy) are held constant" (Harcourt 88). He looks at the

¹ For a full evaluation of broken windows policing see, chapters 3 and 4 of Harcourt, Bernard E. *Illusion of Order: The False Promise of Broken Windows Policing*; Corman, Hope, and Naci Mocan. "Carrots, Sticks, and Broken Windows*"; Howell, K. Babe. "BROKEN LIVES FROM BROKEN WINDOWS: THE HIDDEN COSTS OF AGGRESSIVE ORDER-MAINTENANCE POLICING"; Harcourt, Bernard E., and Jens Ludwig. "Broken Windows: New Evidence from New York City and a Five-City Social Experiment"

claim that quality-of-life policing led to an extraordinary drop in the crime rate in New York City during the 1990s. The crime rate went down over 40%, the robbery rate more than 30%, and the murder rate by 63% during the 1990s (Harcourt 91). Harcourt analyzes New York because it is the model for all other subsequent cities. He first notices that many other US cities experienced similar drops in crime during the 1990s (Harcourt 91). Harcourt attributes the decline of crime rates to the swelling of the NYPD employees (during the 1990s it grew to the largest police force in the country, consuming astounding amounts of financial resources); he also finds that the changing drug consumption patterns—as crack-cocaine dealing and usage shifted to heroin use and sales—played a significant role in the drop of the crime rate (Harcourt 94-95; 99). The crack-cocaine economy during the late 1980s and early 1990s fostered an environment of crime through the sale, transportation, and use of the drug (Harcourt 99-100).

Aggressive law enforcement targeting minor disorder was implemented in New York City, Chicago, and Los Angeles as a result of Wilson and Kelling's theory during the 1990s (Harcourt and Ludwig 271). This theory led to a new method of policing and law-enforcement that focused on aggressive punishment of minor crimes and misdemeanor offenses (Harcourt and Ludwig 271). In "Broken Windows: New Evidence from New York City and a Five-City Social Experiment," Harcourt and Ludwig review all of the studies on the effects of broken windows policing and they find that all the results are "at best, mixed" (Harcourt and Ludwig 272). They too find that there is little evidence to support the relationships between the policing methods in NYC and other cities and the crime rate drops (Harcourt and Ludwig 273).

Many critics have argued that broken windows policing is ineffective and bad from different angles. Harcourt re-analyzed Wesley Skogan's *Disorder and decline: Crime and the*

spiral of decay in American neighborhoods, originally presented in 1990, and found (as above noted) that there is no link between disorder (minor crimes--misdemeanors) and major crimes (Bratton and Kelling "No Cracks"). Sociologists Robert Sampson and Stephen Raudenbush studied individual communities for levels of disorder and similarly found no evidence supporting broken windows policing (Bratton and Kelling "No Cracks"). Scores of other social scientist, sociologists, economists, and anthropologists have studied the theory, its implementation, and its results to support critiques of the inefficacy or false promises of the policing method. Most notably scholars have questioned the validity and cause of the crime rate drop in New York City during the 1990s, and wondered if it is attributable to broken windows policing—Steven Levitt did this in his book *Freakonomics* (2005) and Harcourt and Ludwig did this in their article "Broken windows: New Evidence from New York City and a Five-City Social Experiment." Critics have found falsehoods in many different dimensions of the theory, its implementation, and its outcomes. However, few have studied its impact on the affected individual, specifically on the poor individual. Regardless of the comprehensive studies on crime rates, theory, or economic contributors, this program needs to be evaluated for its outcomes for poverty and poor neighborhoods.

In theory, this concept of policing and controlling neighborhood order has certain attractive principles. High visibility of police officers theoretically inspires confidence and care in a community, deterring minor instances of disorder, instilling a neighborhood with safety, removing fear, and inspiring ownership. Broken windows policing, often known as order-maintenance policing, or "quality-of-life" policing in New York City, is vastly different in practice than it is in theory. What once started with broken windows theory as a way of police walking the beat, discouraging vagrancy, loitering, vandalism, and other "undesirable behavior"

has been transformed into a method of policing focused on targeting minor crimes, arresting, and giving out misdemeanor charges. The theory was not initially meant to endorse prosecution of minor crimes, but instead it was aimed at keeping order and deterring crime (King 19). The implications of this widespread adoption as policing method have determined the landscape of criminal justice system over the past 30 years. This paper now turns to an examination of the unfettered practice of broken windows policing in the U.S., and how it hurts the urban poor.

III. Collateral Consequences of Low-Level Convictions and Misdemeanor Crimes: Fixing the Cycle of Poverty

America tops all charts when it comes to crime, prison, and criminal justice systems. Of the 9.8 million people in prison in the world, the United States, at the top of the list, houses an astounding 2.3 million (King 20). Prisons rightfully receive a significant amount of national study and critique and often are discussed as *the* justice issue in the country.² That said, perhaps the more staggering figures relate to those who interact with the criminal justice system, but are *not* in prison. While 2.3 million Americans are behind bars, a staggering 71 million Americans have criminal records (King 20). This means that most people experiencing the justice system do so in the misdemeanor courts. The implications of a misdemeanor arrests are vast, for the poor, middle class, and wealthy alike. Nearly, 30% of all Americans have been arrested for criminal offense by age of 23 (King 20). In 1972 there were 5 million misdemeanor cases, by 2006 that figure had more than doubled to 10.5 million, nearly 3.5% of the American population (Boruchowitz et al. 11). In 2006 in New York City alone, there were 231,120 misdemeanor arrests (Howell 283). The overwhelming majority of American citizens who interact with the

² See, *The New Jim Crow*, for an acute study of Mass Incarceration and Race in the United States.

criminal justice system do not go to prison. Rather, the misdemeanor courtroom *is* the American criminal justice system, and, as J.D. King of Washington & Lee School of Law acknowledges, there is little scholarly attention paid to misdemeanor policing and its impact on the individual, specifically the poor individual (King 20). Furthermore, there is little study of how these accepted forms of policing that promote high-arrest and charging rates have impacted poor communities. With so many Americans interacting with the criminal justice system, but in a minor capacity, it is necessary to understand the implications of these widespread practices.

Generally, a misdemeanor crime is a crime punishable up to 12 months in prison. The offenses can range from “petty theft, disorderly conduct, public drunkenness, curfew violations, loitering, prostitution-related offenses, driving under the influence, driving with a suspending license, resisting arrest, minor assault, under-age possession of alcohol, and possession of minor controlled substance and paraphernalia [marijuana possession],” however, because each city and state is able to make its own laws, many misdemeanor offenses are specific to city and state (Boruchowitz et al. 11). For instance, in New York sleeping in a cardboard box is illegal; in Orlando feeding the homeless is criminalized (Boruchowitz et al. 25). Misdemeanors can include j-walking, loitering, and other seemingly harmless offenses depending on what state laws mandate.

With so many Americans experiencing the criminal justice system in misdemeanor courts, the implications of these charges, convictions, and general interactions become incredibly important. The central intent of broken windows policing is to discourage greater crimes by penalizing minor crimes; this translates to handing out many citations, arrests, and charges of misdemeanor crimes. The Executive Director of the Neighborhood Defender Service of Harlem commented on the impact of criminal charges on an individual:

Standing in the courtroom, it may seem like a wise thing just to get the criminal charge over with by pleading guilty, but a criminal conviction, even for a minor offense, has an enormous impact on a client's life. She may lose her housing, her job, her health or food benefits. It can impact the custody of her children. She may face deportation. No criminal conviction should be regarded as minor or unimportant. (Boruchowitz et al. 13)

The effects of misdemeanor charges, as described by the Executive Director of the Neighborhood Defender Service of Harlem in the above quotation, constitute the collateral consequences of misdemeanor convictions: the harmful ripple effects of broken windows policing. A big problem is that collateral consequences are not controllable by the state. These effectively become "civil consequences" (King 30). Thus if a city decides to dole out hundreds of thousands of misdemeanor charges and convictions a year, the state does not decide how those charges and convictions are viewed in society or what the lasting impacts of them are. There is a more accepted sense of forfeiture with serious criminals as those who transgress our nation's most sacred standards of life and liberty; murders and rapists are treated differently than loiterers and drug dealers. King suggests that these collateral consequences split our population into two categories: "those allowed full participation in society and those deemed unworthy of full participation" (King 30). However, it is not such a simple bifurcation. Rather, this divide is manifested over other divides, such as poverty, race, wealth, education access, and other factors affecting poverty and class. As these divides coalesce, the marginalized population is classified

on a spectrum, with poor criminals inhabiting the demographic of the most removed from society.

In general, poverty forces individuals into a marginalized and exiled status of citizenry. The poor often find it difficult to find and keep employment, and maintain education, health, and societal interaction. Considering the societal exclusions associated with poverty, this marginalization becomes worse for a poor individual who has a criminal record (even if their crime is a misdemeanor). In *The Working Poor*, David K. Shipler describes the psychosocial impact of poverty and criminality and how it affects the way a poor person approaches employment:

Nothing in their track records predicted success, and not brave promises could paper over their doubts about themselves. Their brash, streetwise armor seemed a thin veneer. Underneath, they were as tender as babies, deeply vulnerable. They admitted gently that they were afraid of making the phone call, of getting no reply, of filling out the application, of going to the interview. They waited tensely for the inevitable question about a police record—afraid of telling the truth, and afraid of lying. “You got to put down, have you been arrested? I always have a feeling I’m not gonna get hired here—sitting there looking at people’s faces and knowing I’m not gonna get hired,” said Wayne, his eyes lowered to the floor. “So I pick up little [jobs] here and there—

McDonald's. It's a fear of rejection, and its holding me back.

(Shipler 122)

Poverty and its effects are intensified by when someone is removed from society due to misdemeanor charges given through broken windows policing techniques. Shipler describes the already fragile and disadvantaged abilities of the poor, and then explains how criminal charges intensify the struggle to break out of poverty or into the formal economic sector. For instance, a company is free to choose who it wants to hire and is free to not hire convicted criminals; broken windows policing makes it easier for people not to get hired. Again, the poor is a group of people already struggling to find jobs, and this only exacerbates their struggles.

K. Babe Howell notes that the consequences for the individual are vast with regard to a simple misdemeanor charge; these consequences may include “deportation, housing and employment penalties, ineligibility for public assistance and food stamps, future sentencing, parole or probation revocation and incarceration, driver’s license suspension, and...civil judgments” (Howell 300). Isaac Hammond-Paul, a juvenile-specialist at a the Cook County Prison (Chicago, IL) and crime and drug policy graduate student at the Harris School for Public Policy (University of Chicago), confirms Howell’s description how collateral consequences impact a poor person and perpetuate a cycle of crime and poverty:

Lot's of my kids have to go back to jail because if they are evicted or something, they cannot go live in section 8 housing with an electronic monitor. There is a political movement towards more rehab vs. traditional custody; poor people don't have much access to these programs, so they have less of a chance of walking away

from the life of crime. Remember – prison/jail makes people more violent, more likely to commit crimes, and exposes people to a larger criminal network. (Hammond-Paul “Interview”)

Howell details, in a very specific example, how community service (a seemingly harmless punishment for an individual charged with a misdemeanor) can have enormous collateral consequences for the convicted individual. One day of community service, she explains, “will generally demand significant portions of three different days” the individual must first show up to sign up for community service (this must occur on a weekday) (Howell 296). Then the person must complete the community service, and lastly, the person must return to the court to prove that he or she indeed did finish the community service. This last step must also be completed on a week day. She notes, that “an arrestee will typically miss between two and four days of work or school. For some employed individuals, particularly those in low-skill or service sector jobs, such absences can mean the loss of a job. In many more cases they mean the loss of income” (Howell 296). Furthermore, the impacts of this on childcare, transportation costs and other hidden fees create a significant burden on a poor person. Again, the impacts of this exacerbate the trepidations of poverty. Money that should be spent on “food, clothing, school supplies, housing expenses, and other necessities” is instead spent on dealing with court fees, transportation, and other court related expenditures related to the arrestee’s infraction (Howell 296). Misdemeanor charges further marginalize impoverished individuals because they limit a convicted person’s ability to participate in society and exercise standard rights. While there are significant institutionalized consequences, the more serious ones are perhaps the ones that are not controlled by the state.

David K. Shipler offers accounts of poor American's lives that describe the endemic struggle of poverty. The following passage, gives a personal view of what policing, misdemeanor charges, and poverty look like for an individual in the process of looking for jobs:

Camellia had misgivings. Two days before her orientation, she told Glenda that she wasn't going because of an embarrassing shoplifting charge on her record, which she was sure would mean rejection. "But I think it would be very helpful if you went anyway and just let them deal with that," Glenda advised her. "Sometimes when you're honest or you're up front about it, they'll be honest and up front themselves." But would they have hired a shoplifter?

"I don't think so," Glenda told me later. "I personally don't think that they would have ... (Shipler 124)

Camellia did not end up getting the job because she did not show up for her interview. This description reveals the limited employment prospects that a misdemeanor charge can have on an individual. There is the double burden of first not being able to get a job, but second, and more long-term trauma, of not having the confidence that you could never get a job because of your impoverished and disheveled history.

In her article "Preventing Internal Exile: The Need for Restrictions on Collateral Sentencing Consequences," Nora V. Demleitner discusses the implications of institutionalized mass arrests and charging. She focuses her argument on the collateral consequences of criminal charges and how they impact an individual's ability to participate in society. She breaks the collateral consequences of criminal charges into three initial categories: civil rights (to own

property, freedom of speech and religion, right to work and have access to the labor market), political rights (to vote and be represented in the “exercise of political power”), and social rights (food, shelter, cultural rights, welfare, and education) (Demleitner “Exile” 155).

Until recently, when the nation had limited national regulation with many citizens working low skill jobs, the impact of criminal status (ex-offender status) on employment was relatively insignificant (Demleitner “Exile” 156). However, as low-skill jobs began to disappear and be replaced by government regulated processes, there have been negative economic consequences for ex-offenders as they are excluded from certain types of jobs through government regulations; examples of these are lawyers, bartenders, nurses, barber, plumber, teachers, or other jobs that require professional licenses (Demleitner “Exile” 156). Because the poor are most likely to be unskilled laborers, due to their limited access to high quality education and other professional enabling opportunities, the poor bear the brunt of the collateral consequences resulting in restricted access to employment. In a nation that “treats labor force participation as a prerequisite for full membership in the polity,” being excluded from work opportunities can be devastating to individuals (Demleitner “Exile” 157). Returning to the cycle of poverty and crime, an individual who is barred entry from the labor market will be forced to resort to the informal sector to sustain life; therefore, a poor person with a criminal record will be excluded from jobs that they are qualified for, and may be pushed into crime (theft, drug dealing, etc.) in order to maintain the most basic standard of life.

The denial of social and welfare rights due to a criminal record is perhaps one of the most significant of the collateral consequences for the poor. For drug charges, as minimal as simple possession of illegal or controlled substances, the offender can be excluded from welfare rolls for

up to one year for a first offense and up to five years for a second offense, and can become ineligible for public housing (Demleitner “Exile” 158). Needless to say, the implications of this are detrimental to the poor. Welfare programs are meant to act as a safety net for the marginalized members of society, whom society has failed. When a poor person is removed from welfare because of a crime they committed (likely attributed to their status as a poor person in a poor neighborhood), they are doubly marginalized. They have effectively lost their safety net, and so they are, again, pushed to find support in the informal sector and are sucked deeper and deeper into lives of poverty and crime.

While misdemeanor convictions infrequently result in significant jail sentences, subsequent arrests and convictions may in fact lead to significant incarceration due to multiple offenses, and violations of probation and parole (Howell 302-303). Multiple convictions for the same individual become common resulting in increasingly harsh punishments (jail time and also fines). While the initial conviction for loitering or vandalism may seem insignificant with minimal consequences, the second or third conviction for similar crimes can lead to longer jail sentences, financial penalties, and other imposed sanctions and collateral consequences (Howell 303). Included in these imposed sanctions is often revocation of the ability to drive legally; the implications of this consequence for the poor can be great as it will invariably inhibit access to work and education and may strain time and money spent on commuting (Howell 303-304). It might prove that people getting arrested and convicted for minor crimes are pushed toward larger crime because the collateral consequences push them deeper into poverty and crime.

A single misdemeanor charge can also result in deportation, “even for a legal permanent resident” (Howell 300). Of the nearly 200,000 criminals deported from the U.S. during 2011,

more than 45% had only one or two misdemeanor convictions (Politico “Stats”). This statistic reveals the severity of collateral consequences for broken windows policing. People are being removed from our country because of loitering, vandalism, possession of controlled substances, and other minor crimes. Broken windows policing targets a marginalized section of the population that already suffers social and formal exclusion from the major markets of the country. Like welfare denial for convicted felon, the effects of deportation are devastating for the individual and more importantly her family, dependents, and community. Entire families can be evicted and made ineligible for public housing, or forced to abandon members from their homes, due to a single misdemeanor conviction; these ineligibilities last from 2 to 5 years depending on the severity of the crime and the circumstance of its occurrence (Howell 302).

Attorneys do not know all of the collateral consequences, nor the magnitude of their impact on, that a guilty plea to a misdemeanor brings about (Howell 300). The high volume of cases needed to be heard bears a huge burden on public defenders. This overloaded system in turn affects the quality of work lawyers are able to do, and the advice they are able to give. Some of the figures can be astounding: in Chicago, Atlanta, and Miami, defenders have more than 2,000 misdemeanor cases every year; this works out to an average of 70 minutes per case (Boruchowitz et al. 21-22). Because of the overburdened caseloads public defenders have, clients are often misadvised by their lawyers; clients, especially the poor who depend on public defense, are placed “at greater risk of unforeseen harm if the defender is too overburdened by his caseload to properly advise the client of the impact of the decision to plead guilty or proceed to trial” (Boruchowitz et al. 34). Staggering figures like these raise questions about what kind of advice and what quality advice an arrestee can get from his or her legal counsel.

The lasting impacts of a misdemeanor conviction are far-reaching. Someone convicted of a misdemeanor crime can become ineligible for student loans or may be expelled from their college or high school (Boruchowitz et al. 12). The impacts of this for the poor, who already are stunted with regard to educational opportunities, are serious. Not being able to access student loans may permanently exclude all possibilities for some individuals, especially very poor ones, from ever being able to enroll at an institution of higher learning. Misdemeanor conviction can result in loss of ability to hold firearm, serve in military, live in public housing, receive student aid, other public benefits, drive a car legally, and adopt a child (King 28). Child custody can also be seriously impacted by having a misdemeanor charge (Boruchowitz et al. 34). It is clear here what affects poor and what does not: student aid, public housing, driving a car (get to a job), and public benefits, all directly impact the lives that poor people must live. A criminal record, even with only a misdemeanor, furthermore limits their opportunities and capabilities as it pushes the convicted outside the classification of “normal” citizens.

The collateral consequences of a misdemeanor conviction are complicated by the role of technology in our world and the widespread accessibility of personal information: for instance, criminal background checks are now incredibly accessible. Shipler offers a glimpse of what it looks like from an employer’s perspective (what their access to information is) and how non-institutionalized restrictions (i.e. collateral consequences imposed by society, not the state) impact individuals with criminal histories:

Some firms automatically reject applicants with prison records, some do not. “In our industry they have to be bondable,” said the head of a Kansas City temp agency. “Bondable means able to

handle checks, handle cash, confidential information for the companies...As far as a conviction for an offense, of course, we ask them why. That is an immediate heads-up for us, especially if it's dealing with anything regarding stealing, anything you were convicted for, anything that would impose a liability issue... We have a company that for \$50, they give us their full police records.

(Shipler 136-137)

Employers are not forced to deny hiring due to applicant's criminal pasts, but they are able to ask questions regarding the applicant's previous criminal history: "even where no bar to employment exists, employers favor applicants who have not had contact with the criminal justice system"

(Howell 305). Any contact with the criminal justice system will invariably affect an individual's job prospects. Again, a population of criminals, who also happen to be poor, gets marginalized from society. Having established that criminals tend to be poor anyway, and poor people are marginalized from society, these poor criminals are doubly marginalized and face extraordinary odds of every breaking out of the cycle of poverty.

The impacts of all of these aforementioned consequences permeate deeply into the community of the arrestee. While policing and arrests *may* benefit the community with regard to communal order, the implications for the individual and his family are severe (Howell 306). The financial costs as well as the imposed restrictions tend to have significantly negative impacts on families and dependents. Leaving the direct impacts on the family, these types of arrests and convictions—for misdemeanors and minor crimes—also have significant impacts on communities; they enhance stereotypes of criminality, promote cycles of poverty, encourage

police to extend beyond the reaches of their authority and more confidently profile minorities and the poor, and most importantly, they do not truly diminish crime or poverty (Howell 307).

VI. Suggested Reforms

One day a single mother sees a baby floating down the East River in Queens, NY. She dives into the river and saves the baby. The next day there are two floating babies, the following day four, the day after that ten, and so on. Over time the borough of Queens develops a system to save the hundreds of babies that come floating down the river past their community. All their energy goes into saving the babies downstream, and despite this overwhelming floating baby problem, no one stops to ask why babies are floating down the river in the first place.

This parable highlights the difference between “upstream” and “downstream” approaches to social issues. A “downstream” approach seeks to remedy and address the ills that immediately confront a population: saving the babies floating down the river. An “upstream” approach seeks to understand causality as a means to addressing an issue: why are babies floating down the river in the first place? (Hicks “The Source”).

Addressing the aforementioned problems with policing, collateral consequences of misdemeanor convictions, and poverty, require two separate types of reform: one upstream, and one downstream. The first type of reform necessary is downstream policing policy reform. The second type, upstream infrastructure reform, demands that causal factors connecting crime and poverty in urban neighborhoods be addressed. The former of these two types of reforms aims to directly affect the way police interact with communities and move towards mentalities aimed at stabilizing community safety, order, and crime. While this is generally the aim of broken

windows policing strategies, in practice, these strategies prove detrimental to poor, crime-ridden neighborhoods, as they perpetuate cycles of crime and poverty.

Police departments, police, and policing are “downstream” approaches to a community’s problems. Communities need police only as a result of structural failures which enable people to act disorderly and commit crimes. Wilson and Kelling agree that only once the foundations of a community have broken down, individuals turn to crime; after these failures in infrastructure and systems does it become necessary for significant policing presence:

We suggest that “untended” behavior also leads to the breakdown of community controls. A stable neighborhood of families who care for their homes, mind each other’s children, and confidently frown on unwanted intruders can change, in a few years or even a few months, to an inhospitable and frightening jungle. A piece of property is abandoned, weeds grow up, a window is smashed.

Adults stop scolding rowdy children; the children, emboldened, become more rowdy. Families move out, unattached adults move in. Teenagers gather in front of the corner store. The merchant asks them to move; they refuse. Fights occur. Litter accumulates.

People start drinking in front of the grocery; in time, an inebriate slumps to the sidewalk and is allowed to it off. Pedestrians are approached by panhandlers. (Wilson and Kelling 4)

In an “ideal” community, perhaps like those of a gated-community or an airplane, policing is not really necessary because the foundations of a community keep people from slipping into crime

and poverty. But in the real world, where the majority of people take busses and live in ghettos, communities need police to help maintain order and safety. The issue of concern, however, is how the necessary police are expected to act and fulfill their duties to the state and its citizenry.

Broken windows policing in poor urban neighborhoods—the policy that enforces it and the professional mentalities that accompany it—views criminals and criminal activity as the source of decrepit lawlessness perpetuating more crime. They also exclude and marginalize these populations as disorderly and “other.” The implementation of broken windows policing—doling out massive quantities of misdemeanor charges—has proven devastating to the poor, forcing many of the convicted poor into deeper cycles of poverty and crime (See Figure 2). These counterproductive results (in fact more detrimental than good), demand alternative methods be considered.

Washington and Lee University

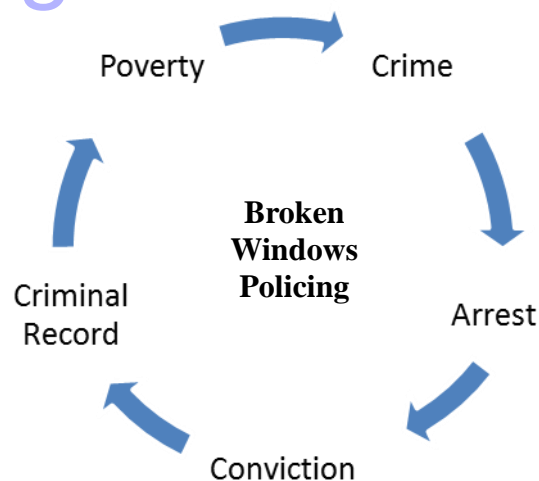


Figure 2- Cycle of Crime and Poverty as Result of Broken Windows Policing (Developed by Henri Hammond-Paul)

The findings of this paper demand an overhaul of policing methods and attitudes to the poor. Immediately, police officers need to abandon their adversarial roles and focus on protecting the safety of citizens and promoting communal order. This means that officers should not aim to punish citizens with the false hopes of affecting crime rates, but should rather be oriented at helping them. Police officers could then identify more as public servants, with the authority of local and state power to back them up, instead of third-party enforcers forcing themselves on unfamiliar communities, set out to punish “wayward” citizens. An example of how this might work in a given scenario with respect to the ideas in this paper follows: a police officer, while walking a beat in his assigned community, finds a drunken homeless man asleep on the sidewalk. Instead of arresting him, and forcing him through the misdemeanor courts with charges for public drunkenness and disorderly conduct (the effects of which would be substantially burdensome court fees resulting in the man having more difficulty getting jobs than he already has), the officer could transport the homeless man to a shelter and put him in the hands of people who could aid in his rehabilitation.

In another example, imagine the following hypothetical scenario and the two ways it might play out given different policing policies: a police officer finds a 19 year old high school dropout spray-painting the side of an abandoned building in the Bronx. In the current broken windows oriented system of policing, the police officer arrests the young man and charges him with a vandalism misdemeanor. This young man, now with pending criminal charges, must go to court where he receives sup-par advice from his publicly appointed council due to underfunding and overburdened caseloads from the city and state government. He ends up pleading guilty, getting a fine and having an official criminal record. This criminal record follows the young man in all the places he tries to go. He is not able to get student loans, and has a difficult time getting

hired even for the most basic jobs. He is in debt due to his court fees, and since he is unemployable, he resorts to theft, selling drugs, and other criminal activities. The one place a criminal record helps a person get a job is in crime. It is only a few months before the same arresting officer finds the same young man and arrests him for selling drugs. Now with his second charging, the punishment is much more severe: the young man goes to prison to serve a multi-year sentence. The rest is the history of cyclical crime and poverty.

The other possible outcome of this scenario entertains the prospect of what a police officer could do without the status quo standards of policing: the same arresting officer, but this time with orders to promote the safety of the neighborhood and to help distressed and disadvantaged citizens toward rehabilitation, stumbles upon the youth vandalizing the side of an abandoned building while on his nightly foot-patrol of the neighborhood. The officer stops the young man, questions him, and takes him home to his family or other trusting members of the community—a boy's home, community center, church, temple, or mosque, a shelter—who will be the ones to help, punish, or rehabilitate the individual accordingly. The officer does not arrest the young man, nor does he subject him to the burden of having a criminal record. This is a story of rehabilitation and hope.

Both of these hypothetical scenarios are “downstream” approaches to an “upstream” problem: crime and poverty. The latter of these scenarios brings the scope of the larger issue at hand into focus. Because there is most certainly little community or family structure that can currently help an individual like the young man mentioned in the above scenario, policing is the residual solution to dealing with crime rates and abject poverty. This brings attention to the

“upstream problem”: why are babies floating down the East river—why are there so many people caught in cycles of crime and poverty?

New policing methods will be described by the following changes. First, police officers will patrol on foot, and integrate themselves within their assigned communities. They will have a general knowledge of the community and its leaders, and will be acutely aware of the resources available (homeless shelters, boy’s homes, school principals, religious centers, etc.). Second, they will not excessively target minor crime through arrests and charging, but will instead escort violators to the appropriate aforementioned resources. They will have the ability to arrest violators, and defend themselves with firearms, but will be instructed to resort to such tactics only in emergencies. Through presence and numbers they will discourage minor crimes. Third, designated and trained police will be assigned to target violent crime and more serious offenses (a pressing cause of violence and harm to communities).

Wilson and Kelling argue, “Though citizens can do a great deal, the police are mainly the key to order maintenance” (Wilson and Kelling 9). This is their most egregious failure; they are depending on a “downstream” agent to remedy an “upstream” problem. As discussed in the first section of this paper, poverty and crime are deeply connected issues. Combined, they perpetuate the cycle of poverty and disparity to an already devastatingly marginalized percentage of our population. Shifting to a policing system based in rehabilitation, helping citizens, and maintaining order and safety to work, demands that a society must also address the “upstream” causal problems. Addressing the question, “why are poor people likely to commit crimes and how do we fix the reoccurring process of poverty and crime?” is a topic that will fill volumes upon volumes of unwritten books. Very simply, however, it boils down to a few essential

elements that are absent from poor urban neighborhoods. Combined, the absence of these elements create an environment devoid of opportunity; poor people get caught in unbreakable cycles of destitution as they, like their parents, enter lives destined to begin and end in poverty. Most poor neighborhoods lack the most basic infrastructures needed for successful lives: good schools, leadership, accessible health care, adequate housing, empowering mentors, recreational facilities, social mobility, job access, child care facilities, affordable access to healthy food, libraries, supportive families, a sense of communal ownership, and other essentials that provide opportunity to all individuals. The absence of this central infrastructure is what truly fosters breeding grounds for crime and poverty, and makes policing necessary. Broken windows policing compounds this structural deterioration by enabling and reinforcing a cyclical system of poverty and crime.

The real problem is not only police and the methods that police use take to affect crime rates. The real causal issue is the way our country has chosen to neglect the poor and allow the proliferation of poverty to occur. The poor are the marginalized in our nation; the young men and women who will never live to see a future outside of poverty, abuse, crime, depression, and violence. To affect crime rates and make poor neighborhoods prosperous and safe, our nation must first understand what causes poverty, and the basic necessities that are needed to overcome it.

Works Cited

Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: New, 2010. Print.

Bach, Amy. *Ordinary Injustice: How America Holds Court*. New York: Metropolitan /Henry Holt &, 2010. Print.

Blau, Judith R., and Peter M. Blau. "The Cost of Inequality: Metropolitan Structure and Violent Crime." *American Sociological Review* 47. February (1982): 114-29. Print.

Bogira, Steve. *Courtroom 302: A Year behind the Scenes in an American Criminal Courthouse*. New York: A. Knopf, 2005. Print.

Boruchowitz, Robert C., Malia N. Brink, & Maureen Dimino, NAT'L Assoc. Criminal Def. Lawyers, "MINOR CRIMES, MASSIVE WASTE: THE TERRIBLE TOLL OF AMERICA'S BROKEN MISDEMEANOR COURTS" 11 (2009)

(<http://www.nacdl.org/criminaldefense.aspx?id=22112&terms=minor+crimes+massive+waste>)

Bratton, William, and George L. Kelling. "There Are No Cracks in the Broken Windows: Ideological Academics Are Trying to Undermine a Perfectly Good Idea." *The National Review.com* 28 Feb. 2006. Accessed online (http://old.nationalreview.com/comment/bratton_kelling200602281015.asp).

Corman, Hope, and Naci Mocan. "Carrots, Sticks, and Broken Windows*." *The Journal of Law and Economics* 48.1 (2005): 235-66. Print.

Davis, Angela Y. *Are Prisons Obsolete?* New York: Seven Stories, 2003. Print.

Demleitner, Nora V. "Preventing Internal Exile: The Need for Restrictions on Collateral Sentencing Consequences." *STANFORD LAW & POLICY REVIEW* 11.1 (1999): 153-71. Print.

Demleitner, Nora V. "Smart Public Policy: Replacing Imprisonment with Targeted Nonprison Sentences and Collateral Sanctions." *Stanford Law Review* 58.1 (2005): 339-60. Print.

Hammond-Paul, Isaac E., "Interview: Broken Windows Policing and the Poor." 4.10.2012.

Harcourt, Bernard E. *Illusion of Order: The False Promise of Broken Windows Policing*. Cambridge, MA: Harvard UP, 2001. Print.

Harcourt, Bernard E., and Jens Ludwig. "Broken Windows: New Evidence from New York City and a Five-City Social Experiment." *The University of Chicago Law Review* Winter 73.1 (2006): 271-320. Print.

Hicks, Marybeth. "Finding the source of 'floating babies,'" The Washington Times Online 28 Sep. 2010. 15 Dec. 2011 < <http://www.washingtontimes.com/news/2010/sep/28/hicks-finding-the-source-of-floating-babies/?page=all>>

Howell, K. Babe. "BROKEN LIVES FROM BROKEN WINDOWS: THE HIDDEN COSTS OF AGGRESSIVE ORDER-MAINTENANCE POLICING." *NYU REVIEW OF LAW & SOCIAL CHANGE* 33.271 (2009): 271-329. Print.

Kelling, George L. "'Broken Windows' Works." *Forbes.com* 16 July 2009. Accessed online (<http://www.forbes.com/2009/07/16/crime-disorder-punishment-opinions-contributors-george-kelling.html>).

King, J.D. "Beyond 'Life and Liberty': The olving Right to Counsel." *Harvard Civil Rights-Civil Liberties Law Review* Pending-Publishment (2012-2013): 1-50. Print.

Levitt, Steven D., and Stephen J. Dubner. *Freakonomics: A Rogue Economist Explores the Hidden Side of Everything*. New York: William Morrow, 2005. Print.

Levitt, Steven D., "Understanding Why Crime Fell in the 1990s: Four Factors that Explain the Decline and Six that Do Not." *Journal of Economic Perspectives* 18.1 (Winter 2004): 163-190. Print.

Politico. "Stats: 44% of deported criminals committed only misdemeanors." Accessed 4.11.2012 (http://www.politico.com/blogs/joshgerstein/1011/Stats_44_of_deported_criminals_committed_only_misdemeanors.html#).

Shipler, David K. *The Working Poor: Invisible in America*. New York: Vintage, 2005. Print.

Stewart, James K. "The Urban Strangler: How Crime Causes Poverty in the Inner City." *Policy Review* Summer (1986): 6-10. Print.

Wilson, James Q., and George. E. Kelling. "Broken Windows: The Police and Neighborhood Safety." *Atlantic Monthly*, March (1982): 1-10.

Zhao, Haiyun, Zhilan Feng, and Carlos Castillo-Chavez. "The Dynamics of Poverty and Crime." MTBI-02-08M (<http://mtbi.asu.edu/downloads/Document8.pdf>) Accessed 4.10.2012.