

# “QUALITY OF LIFE” POLICING

## ⇒ WHAT ARE “QUALITY OF LIFE” AND “ZERO TOLERANCE” POLICING?

The practice of order maintenance policing is premised on society being divided into two groups, the “orderly” upstanding, law-abiding citizen and the “disorderly” criminal-in-the-making. Once in existence, this construct is used to justify policies that treat the disorderly person as one who “needs to be policed, surveyed, watched, relocated, controlled.”<sup>1</sup>

The concept of “zero tolerance” came out of federal drug enforcement policies of the 1980s.<sup>2</sup> It refers to a policy of allocating additional law enforcement resources to areas where some form of crime is said to be endemic, and then applying immediate and harsh responses to even minor violations, with little or no consideration for individual circumstances.<sup>3</sup>

The term “quality of life” policing was first used in New York City in the early 90s, during the Giuliani administration. It refers to a practice of heavily policing a number of normally non-criminal activities such as standing, congregating, sleeping, eating and/or drinking in public spaces, as well as minor offenses such as graffiti, public urination, panhandling, littering, and unlicensed street vending.<sup>4</sup>

“Quality of life” policing is based on the “broken windows” theory — which says that allowing broken windows and other

signs of “disorder” to exist in a neighborhood quickly leads, if left unchecked, to an explosion of serious crime by “signaling that the community is not in control.”<sup>5</sup> When coupled with the “zero tolerance” approach, this type of policing favors arrests in situations where a warning or citation would otherwise be issued. This in turn contributes to soaring criminalization, largely of people of color, and increased police brutality.

When combined, these law enforcement practices are often referred to as “order maintenance policing.”

## ⇒ WHERE DO THESE PRACTICES COME FROM?

New York City has served as both a laboratory for implementation of the “broken windows” theory and a leading edge of the “zero tolerance” and “quality of life” law enforcement trends. As early as 1993, former New York City Mayor Giuliani introduced the “Quality of Life Initiative,” openly citing the “broken windows” theory as the basis for “zero tolerance” policies enforced by the NYPD.<sup>6</sup>

## ⇒ HOW HAVE THEY SPREAD?

A number of cities have been quick to follow New York’s lead. Police in Tampa, Washington D.C., and Chicago, among others, have stepped up enforcement of “quality of life” laws.<sup>7</sup> One of the first acts of the New Orleans police commissioner appointed in the late 90s was to hire consultants familiar with the New York approach to train his officers.<sup>8</sup> Some cities, such as Los Angeles, Oakland and Chicago, to name a few, have also initiated “anti-gang” policing campaigns using anti-loitering ordinances and youth curfews.<sup>9</sup> In early 2007, the Denver Police Department announced plans to expand “broken windows” policing to the Cole-Whittier neighborhoods, which are predominantly Black and Latin@.<sup>10</sup>



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## ⇒ WHAT DOES IT LOOK LIKE?

The vague laws that underlie “quality of life” policing allow police officers almost unlimited discretion as to who and what conduct is deemed “disorderly” or unlawful. Regulations that are not vague, such as those criminalizing the consumption of alcohol, storage of belongings, and urination in public spaces, tend to be discriminatorily applied against certain communities, and particularly against people who, due to poverty and homelessness, have no choice but to engage in such activities in public spaces.<sup>12</sup>

Allowing broad police discretion to enforce vague “quality of life” laws leaves a lot of room for officers to act on racism, sexism, homophobia, transphobia and enforcement of gender conformity, and classism. Policing “order” becomes a pretext for enforcing racial, class, gender and sexual hierarchies. Additionally, being targeted for “order maintenance policing” makes people less likely to be able to access existing systems to address interpersonal and community violence, and therefore more vulnerable to violence on every front.

After all, what does it signal to people around you when a police officer tells you, or an outreach worker seeking to provide vital services, to “move on?”

Margaret Mitchell, a homeless 54-year-old Black woman, was pulling a shopping cart along the street in Los Angeles when two officers on bicycles approached and began harassing her. Under a California law, police can ticket people and confiscate their carts for supposedly not having a store's permission to take the carts onto the street. It is a law that is almost exclusively enforced against homeless people. Margaret walked away from the police. Her shopping cart held all her possessions, including a red blanket that had become her trademark with the people in the area. As she walked down the street, someone driving by recognized her, pulled over, and tried to talk the cops out of hassling her. But the officers continued. One witness saw her running and pulling the cart behind her as the cops ran after her. “My first thought was, ‘Oh, man. When they catch this person they’re going to beat her.’ That was my first thought. I didn’t see the guns. I just saw the cops running. And I saw her in front of them running. And then I heard the bam! It was so sudden that I didn’t even realize she was shot until moments later when I processed it and I saw her laying on the ground.” One bystander was reported to have said “now I hesitate to call the police. You call the police and something worse happens. What’s the right thing to do? I don’t know who the cops are anymore; I don’t know what to do.”<sup>13</sup>

## ⇒ WHO’S TARGETED?

Police misconduct and brutality in the context of “order maintenance policing” extends beyond the experiences of young Black or Hispanic men or genderless “communities of color” to those who stand at the intersection of many identities, including young women of color, immigrant women of color, sex workers, street vendors, outreach workers, and trans and gender non-conforming people of color. It targets women and trans people of color who are the most marginalized, including street-based sex workers, homeless people, people labeled as mentally ill, and people who use controlled substances, or women and trans people of color who are profiled as such by police.

**“If there is a group of queer youth of color hanging out in front of the subway station on Christopher Street the police will tell them they are loitering but if it’s a group of white tourists blocking the subway entrance they don’t say anything.”**

- Gabriel Martinez, *FIERCE!*<sup>14</sup>



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Because “order maintenance policing” increases the number of law enforcement officers on the streets, the frequency with which and likelihood that women and trans people of color will encounter and engage with the police is also increased, widening the possibility that they will be subjected to police violence. Additionally, through “zero tolerance” policing, immigrant women find themselves drawn into the criminal justice system through arbitrary arrests for minor violations, which in turn can lead to deportation, particularly post-9/11.

“Quality of life” provisions which are associated with congregating in and using public spaces or living on the streets disproportionately impact homeless, precariously housed, and low income women and trans people of color, as well as those providing vital outreach services to those communities.<sup>15</sup> Young, homeless and poor women and trans people find themselves the direct targets of “quality of life” ordinances such as those banning sleeping in public places, “unreasonable noise,” storing belongings, urinating and consuming alcohol in public or congregating in public spaces.

FIERCE!, an organization mobilizing queer youth of color to preserve the West Village, a traditionally gay neighborhood in New York City, recently conducted a survey that found that 70% of LGBTQ youth of color report police targeting and profiling, and 61% report that no reason was given by the police when they were approached or arrested.

**“In terms of criminalization, what we see is that because of the amount of police that are roaming the streets looking for quality of life ordinances in New York City, youth tend to be most vulnerable. But the other population is cross-gender communities, because of gender transgression and the kind of stigma that that carries in our society, I think that transgender folks tend to be singled out on an increased basis by the local police force.”**

*- Trishala Deb, The Audre Lorde Project<sup>16</sup>*

**“This devaluing of certain communities paves the way for socially destructive and dangerous polices such as...the ‘Quality of Life’ campaign, [which] allows communities whose very existence is tenuous to be disenfranchised and brutalized at even greater levels. As a result, the presence and actions of women and transpeople of color, and particularly youth, sex workers, and homeless people, are always likely to be deemed ‘disorderly,’ causing ‘quality of life policing’ to curb our freedom of movement and legitimize and even facilitate police violence towards us.”**

*- The Audre Lorde Project<sup>17</sup>*



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## ⇒ ENDNOTES

- <sup>1</sup> See A. McArdle and T. Erzen, eds. *Zero Tolerance: Quality of Life and the New Police Brutality in New York City* 6 (NYU Press 2001) (quoting Bernard Harcourt, University of Chicago Law School)..
- <sup>2</sup> Boylan, Ellen M., *Advocating for Reform of Zero Tolerance Student Discipline Policies: Lessons from the Field*, Education Law Center, New York (2002);
- <sup>3</sup> See generally, A. McArdle and T. Erzen, eds. *Zero Tolerance: Quality of Life and the New Police Brutality in New York City* (NYU Press 2001).
- <sup>4</sup> Bernard E Harcourt, *Reflecting on the Subject: A Critique of the social influence conception of deterrence, the broken windows theory, and order maintenance policing New York style*, 97 Michigan Law Review 291, 308-342 (1998); T. Erzen, *Turnstile Jumpers and Broken Windows: Policing Disorder in New York City*, in A. McArdle and T. Erzen, eds. *Zero Tolerance: Quality of Life and the New Police Brutality in New York City* 19-49 (NYU Press 2001).
- <sup>5</sup> G. Kelling, *The Broken Windows Theory*, City Journal, Spring 1982, 23-34; Harcourt, Bernard E, *Policing Disorder: Can we reduce serious crime by punishing petty offenses?* Boston Review, April/May 2002, available at: <http://www.bostonreview.net/BR27.2/harcourt.html>; Barta, Peter A., *Giuliani, Broken Windows, and the Right to Beg*, Georgetown J. of Poverty Law and Policy, 6(2):165-94.
- <sup>6</sup> T. Erzen, *Turnstile Jumpers and Broken Windows: Policing Disorder in New York City*, in A. McArdle and T. Erzen, eds. *Zero Tolerance: Quality of Life and the New Police Brutality in New York City* 19-49 (NYU Press 2001).
- <sup>7</sup> A. McArdle and T. Erzen, eds. *Zero Tolerance: Quality of Life and the New Police Brutality in New York City* 5 (NYU Press 2001).
- <sup>8</sup> Barta, Peter A., *Giuliani, Broken Windows, and the Right to Beg*, 6 Georgetown J. of Poverty Law and Policy 165-94 (1999)..
- <sup>9</sup> Dirk Johnson, *Chicago Council Tries Anew with Anti-Gang Ordinance*, N.Y. Times, Feb. 22, 2000, at A14; Center for Juvenile and Criminal Justice, *The Impact of Juvenile Curfew Laws in California*, June 1998; M. Lait, *Report Questions Teen Curfews*, Los Angeles Times, February 10, 1998 A15.
- <sup>10</sup> See INCITE! Denver “Fix Broken Policing” materials on the resource CD that accompanies this toolkit.
- <sup>11</sup> Dorothy E Roberts, *Supreme Court Review, Forward: Race, Vagueness and the Social Meaning of Order-Maintenance Policing*, Journal of Criminal Law and Criminology, Spring 1999.
- <sup>12</sup> See generally, A. McArdle and T. Erzen, eds. *Zero Tolerance: Quality of Life and the New Police Brutality in New York City* (NYU Press 2001).
- <sup>13</sup> L.A.--*The Police Murder of Margaret Mitchell*, Revolutionary Worker #1010, June 13, 1999, <http://rwor.org/a/v21/1010-019/1010/lapd.htm> (September 4, 2008)
- <sup>14</sup> Gabriel Martinez of FIERCE! quoted in, Sascha Brodsky, *Fierce Kids, Village Group Advocates for queer and homeless youths*, Gay City News, available at: <http://www.gaycitynews.com/GCN4/FierceKids.html>
- <sup>15</sup> See generally, A. McArdle and T. Erzen, eds. *Zero Tolerance: Quality of Life and the New Police Brutality in New York City* (NYU Press 2001).
- <sup>16</sup> Trishala Deb, Audre Lorde Project, Amnesty International Racial Profiling Hearings, Judson Memorial Church, New York City, October 2003
- <sup>17</sup> The Audre Lorde Project, *Police Brutality Against Lesbian, Gay, Bisexual, Two-Spirit and Transgender People of Color in New York City*, draft report at 23 July 2000 [on file].

