Crime Control, the Police, and Culture Wars: Broken Windows and Cultural Pluralism

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December 2, 1997
Washington, D.C.

Since the 1982 publication of “Broken Windows” in the Atlantic Monthly, I have been closely identified with its ideas, along with James Q. Wilson, the first author and the originator of the metaphor. I mention Professor Wilson here to acknowledge his senior and generous role in our past collaborations and to indicate that my current pursuits are mine alone and should not reflect on him.

Briefly, the theory of “Broken Windows” contends that a broken window left unfixed is a sign that nobody cares and leads to more damage; similarly, disorderly conditions and behaviors left untended are signs that nobody cares and lead to serious crime, abandonment of neighborhoods to criminals, and urban decay. The policy corollary is that minor problems warrant serious attention, a premise that challenges reigning criminal justice practice.
My pursuit of these ideas has been both practical and intellectual. I consulted in the implementation of programs addressing disorder and minor crime in New York City, both in its subways and with the city’s “squeegee men”—street hustlers who, under the pretense of washing car windows, extort money from drivers. I also observed William Bratton implement assertive order-maintenance policies, first as Chief of the New York Transit Police and later as Commissioner of the New York City Police Department.

Like all metaphors that flourish, “broken windows” embeds ideas that appear simple. They are expressed allegorically, making them vivid, readily communicable, and comprehensible. While not exactly a household phrase, “broken windows” nonetheless communicates well to a broad lay audience and local politicians. More recently, criminal justice practitioners and academicians have been attracted to the idea as well.

But metaphors are tricky. As they become entrenched and everybody believes he or she knows what they mean, their underlying complexity drops out of sight. And, as I have written elsewhere, “Metaphors gain ideological power as their literary power fades. When metaphors lose their capacity to attract attention—when they become a linguistic habit—they become dangerous: A trick of language becomes an intellectual trap.” Finally, a metaphor may take on a life of its own—or even gain a meaning the exact opposite of its origin and intent.

There is ample evidence in criminal justice of metaphors as intellectual traps. The “criminal justice system,” the “war on drugs,” “white-collar crime,” and the “thin blue line” all constrict thinking and distort crime control policy. Although “broken windows” has not become as universally known as these metaphors, it has become closely associated with the dramatic crime reductions in New York City. In addition, Catherine Coles’ and my recent book, Fixing Broken Windows: Restoring Order and Reducing Crime in Our
Communities, has been widely disseminated and reviewed and is receiving, at
times, critical attention.\(^3\)

Not surprisingly, attacks on the theory of “broken windows” come mainly from
the political left. “Broken windows” challenges many of the left’s axioms: To
deal with crime one must deal with the social “causes” of crime—poverty,
racism, and social injustice; minor offenses like prostitution and aggressive
panhandling are victimless crimes; police order-maintenance activities consti-
tute a “war against the poor and minorities”; behaviors called disorderly are
really expressions of cultural diversity that challenge middle-class mores; and
finally, individual rights eclipse community interests on virtually every
dimension short of imminent violence. These axioms have been a part of
mainstream criminology since the 1960s.

The political right “get tough” faction, on the other hand, is quite enthusiastic
about restoring order. Indeed, it can get fervid about the idea. For the far
right, zero tolerance has become the call to arms justifying “turning the police
loose” sweeps that target youths in high-crime neighborhoods and arrest
massive numbers of people in the name of restoring order.

Although both the far right and the far left have misinterpreted and misappro-
priated the ideas in “broken windows,” they have raised important issues. The
first is the extent to which the original “Broken Windows” article invites
police abuse or misinterpretation. The second is the extent to which the “root
causes” theory continues to penetrate criminal justice thinking. The third and
final issue concerns the current declines in crime and the role of order mainte-
nance in those declines.

I believe that root-cause, liberty-interest zealots on the left and “lock ’em up”
fanatics on the right have dominated criminal justice thinking and practice
since the 1960s. Both the far left and the far right were more concerned with
their constituencies than with what was occurring in urban communities. The
prevention of crime became synonymous with broad social and economic change and the practice of criminal justice became synonymous with processing offenders. Imprisonment soared, yet neighborhoods spun out of control. Some communities, often with a lot of help, are now reasserting control of their territory.

Police Abuse of Citizens

Did Professor Wilson and I invite or foster police abuse of citizens in the original “Broken Windows”? Two paragraphs in the original article are vulnerable to suggestions that we did.

The first refers to the historic role of police in maintaining order in neighborhoods. We addressed the issue of how a neighborhood or a community reasserted control of its turf:

The police in this earlier period assisted in that reassertion of authority by acting, sometimes violently, on behalf of the community. Young toughs were roughed up, people were arrested “on suspicion” or for vagrancy, and prostitutes and petty thieves were routed. “Rights” were something enjoyed by decent folk and perhaps also by the serious professional criminal, who avoided violence and could afford a lawyer.4

The second refers to persistent gang activities in Chicago’s Robert Taylor Homes and the residents’ insistence that police do something about them (the “ass-kicking” paragraph):

But do what? Though the police can obviously make arrests whenever a gang member breaks the law, a gang can form, recruit, and congregate without breaking the law. And only a tiny fraction of gang-related crimes can be resolved by an arrest; thus, if an arrest is the only recourse for the
police, the residents’ fears will go unassuaged. The police will soon feel helpless, and the residents will again believe that the police “do nothing.” What the police in fact do is to chase known gang members out of the project. In the words of one officer, “We kick ass.” Project residents both know and approve of this.5

I was indignant about the circumstances residents faced in the Robert Taylor Homes during the early 1980s. I recall one African-American woman in her forties whom I interviewed in her apartment while I was evaluating HUD’s Urban Initiatives Anticrime Program. She had three sons: two in their early teens and one who had just turned 19 and joined the military. She had been raped several months earlier in the laundry room by two youths. After raping her, they hurled her down a flight of stairs, smashing her jaw. Her teeth were still wired together when we talked. During the interview, she pointed out one of the youths—out of jail on bail or recognizance—who was walking past her apartment four or five stories below. She did not think he was there to menace her in particular; the menacing swagger of gang members was simply life as usual in the Robert Taylor Homes.

She began to cry. I mistakenly assumed that she was upset about the rape, the assault, and the ongoing presence of her assailants. She explained, however, that for years her older son had protected her young sons from violence and being recruited into gangs. Now he was in the service. She saw no way she could save her young sons from gangs.

The police response to gangs had been to “send a car” to do “something.” What they were to do was unclear. When the sergeant we wrote about in “Broken Windows” told me he “kicked ass,” he was not conducting a war against the poor. He had been raised in Chicago’s highrise public housing and was not prepared to walk away from its problems. Given police practice at that time, he did not know what else to do and was given little, if any, advice from the police department.
“Broken Windows” explored ideas: the relationship between disorder and fear; the persistent demand from citizens that police do something about disorder; the growing evidence that police and citizen priorities were “out of whack”; the role of citizens in crime control; the potential of police and other criminal justice agencies to prevent crime; and, most important, the source of police authority to restore and maintain order.

This final issue, the source of police authority to restore and maintain order, was a perplexing one, especially in light of then-current trends towards decriminalizing minor offenses and the potential for abuse inherent in loitering and vagrancy statutes. We fussed about this:

We inevitably ask, what constitutes an “undesirable person” and why should we “criminalize” vagrancy or drunkenness. A strong and commendable desire to see that people are treated fairly makes us worry about allowing the police to rout persons who are undesirable by some vague or parochial standard.6

And, in another example:

The concern about equity is . . . serious. We might agree that certain behavior makes one person more undesirable than another, but 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?

We can offer no wholly satisfactory answer to this important question. We are not confident that there is a satisfactory answer, except to hope that by their selection, training, and supervision the police will be inculcated with a clear sense of the outer limit of their discretionary authority.7
Other examples from the article could be given.

How could such inquiries have made it sound like we “unequivocally endorse the use of extralegal methods and the need to ‘kick ass’ to keep people in order”? Because citizens give order high priority, did we propose a “heavy-handed, truncheon-wielding army of police officers descending on their neighborhood . . .”? Is it true that “Broken Windows” is a “euphemism enabling cops to hassle anyone who offends the police sense of order . . .”? In each case, it is not.

This does not suggest that random, arbitrary, and repressive policing has not been committed in the name of “broken windows.” It has. Claiming, however, that “broken windows” is the “seed” of brutal policing, as one retired chief of police has, is disingenuous. This is tantamount to saying that anyone who supports criminal investigation supports torture, because we know that torture was “business as usual” among detectives for decades until the Supreme Court acted in the 1960s. Both criminal investigation and order maintenance are powerful tools that must be used wisely and humanely.

Moreover, no support exists for the claim of one criminologist that “this approach [‘broken windows’] has been discredited by the courts in America repeatedly.” In fact, the legal basis for the maintenance of order is becoming increasingly firm as police, prosecutors, and city attorneys adapt civil law and nuisance abatement as well as misdemeanor ordinances to deal with disorder. As courts are becoming more exposed to communities and as communities’ interests become better articulated, a judicial shift toward a more balanced approach to individual rights versus community interests can be discerned. The recent California Supreme Court decision upholding the use of nuisance-abatement ordinances to restrain gang behavior is an example of this shift in legal thinking. Begging and the extent to which it is a First Amendment free-speech issue has been the source of most litigation. No one has had the final word yet.
A buses and corruption are inevitable in policing, whether they are the outcome of order maintenance, drug enforcement, arrests, or criminal investigation. Leadership and administrative processes, including holding people accountable when they become abusive, must be used to keep abuse to a minimum. Anechiarico and Jacobs, however, point out in their book, *The Pursuit of Absolute Integrity*, that pursuing the goal of absolute integrity is a certain path to organizational paralysis.\(^{14}\)

The “broken windows” metaphor expresses complex and highly nuanced issues simply. It appeals strongly to citizens and reopens questions of public policy that many thought had been answered. But, its apparent simplicity makes it easy to be distorted by both the left and right. Nonetheless, a good share of the debate about order maintenance has been civil, and some has been thoughtful. New York City’s experience during the early 1990s, however, changed this. It became the front line of the culture wars. As Professor Wesley Skogan sardonically said to me at a recent meeting of the American Society of Criminology: “When the criminological war crimes trials begin, you and I are going to be the first two at the docket.” I suspect he was slightly wrong; Professor James Q. Wilson and former New York City Police Commissioner William Bratton, not to mention my wife and coauthor Catherine Coles, will be among the first as well.

**The Failure of the “Root Causes” Theory**

The idea that social injustice, racism, and poverty are the root causes of crime received an enormous boost during the 1960s, especially by President Johnson’s Commission on Law Enforcement and Administration of Justice. I have little quarrel with the idea that links exist between these issues and crime; however, I am certain that they are complex and indirect. James K. “Chips” Stewart, a former director of the National Institute of Justice, was among the first to argue the inverse of the root-causes argument: Social
injustice and poverty are caused by crime. Disorder, fear, and crime undermine social and economic institutions to such an extent that families, schools, churches, commerce, and other institutions cannot function. I believe that we do not need to choose which comes first; crime and other social problems are intimately and complexly linked.

I also believe, however, that it is false to leap from the idea that these problems are linked to the idea that we must deal with “root causes” to reduce crime. Police entered the 1960s certain that they could control or reduce crime; it was only a question of enough personnel. Preventive patrol and rapid response to calls for service were self-evidently effective. Chief after chief testified that if only he could have so many new positions, he could reduce crime substantially. The number of police soared in many cities, along with crime.

By the late 1970s, the surge in nationwide crime rates and research findings on preventive patrol and rapid response ended such certainties. The idea that preventive patrol and rapid response didn’t work was mixed in with the root-causes argument in a perverse logic: Crime is caused by poverty, racism, and social injustice; to deal with crime one must deal with these root causes; police and other criminal justice agencies have little to do with the root causes of crime; therefore, police and other criminal justice agencies can do little about crime. Police can push crime around from wealthier, better defended neighborhoods to poorer, less well-defended neighborhoods; however, this only increases social injustice.

This logic penetrated deeply into policing, in effect “depolicing” the crime problem. Many staunch advocates of the root-causes theory were associated with the development of community policing, which contributed to the misperception that community policing was not serious about crime and akin to “soft” policing, community relations, or social work. The idea that
Community policing was “soft policing” so ingrained that even the cautious and highly discretionary order-maintenance activities described in Fixing Broken Windows were too strong for some chiefs. “There is another war raging among and within the ranks of America’s police departments. The ‘Fixing Broken Windows’ philosophy is pitted against that of ‘Community Policing.’”

While crime was spinning out of control in many communities, many advocates of the “broken windows” theory said, although they wanted to achieve social justice and end racism, there must be other approaches to crime control than massive social change and case processing. This raised fears and charges in many quarters that they were backing away from civil and human rights. One such charge regarding “broken windows” was: “Wilson and Kelling express little interest in developing mechanisms and agencies which may empower the poor and the powerless, and they seem even less interested in directing resources towards the disadvantaged and marginalized.” This charge is not only irrelevant to the issues Professor Wilson and I were exploring; it is untrue.

Mixing root-causes ideology with the case-processing model (police as the front end of the criminal justice system) left arresting offenders as the only police business. (For a good example of this model as it pertains to juveniles, see a 1964 publication of the International Association of Chiefs of Police, Juvenile Delinquency and Youth Crime: The Police Role.) To the extent that police prevented crime, they did so merely through incarceration and primary and secondary deterrence linked to arrest, jailing, and imprisonment. (Departments may have had small crime-prevention units that met with neighborhood groups about locks and alarms, but they were part of the “empty holster” crowd. Real policing was arresting the bad guys.) Under this view, police tactics largely remained at the level of “sending a car,” alienating police from community residents: Police whisked in and out, seemingly “not getting it” or not caring. It also set the terms of the relationship between police and young
people: Police indiscriminately hassled youths, estranging many who desperately needed police protection and influence. Finally, “sending a car” poisoned the police culture, turning many good officers into “dirty workers,” doing what had to be done and “covering ass.” In the meantime, as Ed Davis, Chief of Police in Lowell, Massachusetts, points out, “Even when everybody does their job well—police make good arrests and investigations, prosecutors handle cases well, etc.—problems on the street get worse and worse.”

The experience in New York City during the late 1990s, with its abrupt decrease in crime, first in the subway system and later citywide, brought this simmering debate to a boil. Suddenly, pundits and the media discovered “New York style” policing. Zero tolerance and “broken windows” were equated. As complaints against the police rose and fell in New York City, their rise was evidence of police brutality and their fall was evidence of lack of citizen confidence in the complaint system. Police Commissioner Bratton must have been “cooking the books.” Root-causes theorists claimed that eliminating the squeegee scam was not problem solving; it didn’t deal with why people became squeegee men in the first place. Ideologues who persistently attribute crime to economics went so far as to pronounce, “We have analyzed all the economic variables that would explain New York’s drop in crime. None do. Therefore there are hidden economic variables that we have not yet discovered.”

The New York City experience exposed the fault lines in academic theories of criminal justice and criminology. “New York had not changed. Well, maybe it was different, but at the cost of suppressing the poor and minorities. Anyway, crime was just being pushed around.” However, New York City residents, former residents who visited the city, and other visitors did not need statistics: The city was different. And while criminologists debated “if” and “if, why?” not even Mayor Rudolph Giuliani’s political opponents ran against the New York City Police Department—even after the Abner Louima horror.17
Nonetheless, the root-causes credo must be protected by liberals. Their fear is that if control of crime is uncoupled from racism and social injustice, crime control will no longer be used to justify social and economic change. Frankly, I understand this concern. But holding crime control hostage to social and economic change increases the suffering and plight of the very populations that liberals are concerned about. In certain respects, the liberals had it right; the police can do little about social inequities. But the paucity of criminological and criminal justice imagination has left the poor and minorities unprotected in their neighborhoods and reduced public crime-control policy to “three strikes, you’re out” and “truth in sentencing.” Neither are bad ideas; but, as the mainstays of policy, they have created a social disaster that has resulted in the unnecessary incarceration of offenders, especially African-American men. The left, however, has as much to answer for this as the right. The equation of prevention with broad social change, coupled with the idea of police and criminal justice agencies as case processors, left no middle ground. Happily, we are at the end of the criminal justice processing paradigm.

Order Maintenance and the Current Declines in Crime

The New York City story is complicated. Without diminishing the roles of Commissioner Bratton and Mayor Giuliani, I believe media accounts missed the story behind the story. Community groups had been organizing around crime prevention and pressing for policy changes for at least two decades. Business improvement districts reclaimed public spaces by providing both social services and security. Bryant Park was restored and Central Park was reclaimed. Graffiti were eliminated from the subway. Order was restored first in the subway, then in Grand Central Station, Penn Station, and the Port Authority Bus Terminal. Private security expanded and spread throughout the city. The Midtown Community Court was opened to concentrate on minor offenses. Plans were being made under former Commissioner Raymond Kelly to eliminate the squeegee scam. In other words, a widely shared consensus was
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defining new standards of appropriate behavior in New York City and discovering the means to enforce those standards. The city was systematically reclaiming its turf—from parks, to subways, to city streets.

Mayor Giuliani recognized this shift in New York City's ethos. In fact, he recruited a police commissioner who had links to the turnaround in the subway, William Bratton. Giuliani and Bratton were as much shaped by the city as they subsequently helped shape it. Bratton inherited a police department that had been sapped of its vitality by overwrought and overzealous preoccupation with control, especially control of police corruption and abuse. The result was an organization paralyzed by a "stay out of trouble" mentality and still riddled with corruption and abuse. Bratton gave the New York City Police Department a new vision of its capabilities and the administrative means of implementing it. The meaningful involvement of the police in the city's life achieved a tipping point: Police restored order, citizen fear of crime dropped, the rate of crime dropped for many offenses from farebeating to murder, and the quality of life improved. A community reasserted control over itself and its most unruly citizens. Did youngsters learn from their older brothers' experiences? I hope and believe so. Did imprisoning many youths help? Probably, but there was no lack of youths in New York City—their percentage of the population increased during the early 1990s. Were drug use patterns changing? Maybe, but there was no evidence of this at the time. The point is, the search for an explanation or the explanation—great man, broken windows, younger brothers, youths imprisoned, changing economy, and others—misses the point. Many factors worked together to enable New York City to reassert control over its public spaces.

The experiences of New York City were not unique. Aside from the seemingly inevitable growth of the suburbs, consider what was done to our cities during the 1950s, 1960s, and 1970s. In the name of urban renewal, entire inner-city neighborhoods were torn apart. No provisions were made for displaced
residents, so naturally they moved into adjacent neighborhoods. Because many of those displaced were African-Americans, real estate blockbusters followed them, undercutting property values and scaring other residents into moving. In the renewal areas, concrete blocks of multistory public housing were built, often, as in Chicago, with unsecured external elevators. This was the housing of last resort for the most troubled and troublesome families. Expanded tenant “rights,” however, made it virtually impossible to evict troublemakers regardless of their behavior or capacity for mayhem. Expressway construction followed and cut wide swaths through communities, displacing entire neighborhoods and dividing others. Neighborhood schools were abandoned and students were bused throughout the city. Mental hospitals emptied patients onto city streets and drunkenness was decriminalized. The mentally ill and alcohol and drug abusers drifted into urban centers. In the name of their “liberty interests” and to forestall family and governmental abuse, parental and governmental authority over youths was reduced. To ensure that children would not be stigmatized, we abandoned the idea of early identification of predelinquents. Meanwhile, in the name of efficiency and improved emergency response, police were withdrawn from public spaces into cars and became remote law enforcers. As “root causes” depoliced the crime problem, the use of police as an emergency response system depoliced public spaces.

Jane Jacobs saw virtually all of this coming in 1961 and anticipated its consequences when she wrote The Death and Life of Great American Cities. What more could have been done to destroy the cohesion and “small change” (daily civilities) of neighborhood life? From physical destruction, to tower block construction, to busing, to single-use zoning, to deinstitutionalization, to decriminalization, to “freeing” youth, to withdrawing police—the very underpinnings of urban life were destroyed or withdrawn. Although many of the social ends that we were attempting to achieve were lofty, their costs in terms of urban life were great.
As I go from community to community, I am struck by the extraordinary levels of activities that residents engage in (and their rich and diverse mix) to reassert influence over their communities. The list is extensive: business improvement districts, extended school days, new behavior standards in public housing, community organizing, religious programs, crime prevention through environmental design, neighborhood youth offender panels, private-sector involvement, situational crime prevention, monitoring to encourage responsible landlords, enforcement of truancy laws, advocating for new ordinances against panhandling, neighborhood police stations, park reclamation, and drug courts. The list could go on and on.

As I have observed in monitoring the Bureau of Justice Assistance's Comprehensive Communities Program (as well as other programs in which I have worked), the extent and richness of activities and the breadth of collaborations in many communities is far greater than it was just a few years previously. Moreover, the origins of the collaborations are diverse. They can start with virtually anyone: a leader of a neighborhood organization, a mayor, a district attorney, a police chief, a housing administrator, or a transportation official.

Probably no individual program had great impact, but as citizen, private-sector, and government efforts accumulated and interacted, citizens believed in their efficacy. Their evolving success then was reflected increasingly in official statistics. The evaluation and interpretation of these programs, of necessity, lagged well behind their implementation. Suggesting, however, that reassertion of community control should await the development of a proper evaluation design—if one were possible in such circumstances—is unrealistic. Besides, I doubt that what happened in New York City or San Diego is replicable. Each community reasserted control in its own way. This does not suggest that communities cannot learn from each other. They can, but adopted innovations must fit within a particular context.
The old role of police as discussed in “Broken Windows”—rouging up “undesirables”—is now unacceptable to police as well as citizens. The new role of police and other criminal justice agencies is to back up the activities of citizens and social institutions, reminding citizens of their obligations and holding them accountable when they do not live within broad definitions of acceptable behaviors.

A key to police and criminal justice officials making major gains in neighborhood reclamation and crime reduction is “talking to them”—talking to offenders, would-be offenders, and citizens. When analyzing the order-maintenance activities in Newark that Professor Wilson and I described in “Broken Windows,” the police activities in New York’s subways to end farebeating, or the current antigun violence effort now under way in Boston, a common thread emerges: communication. Officials negotiate and define new thresholds of acceptable behavior. They then let people know what the thresholds are, that they are serious about enforcing them, that they have the capability to enforce them, that they will enforce them, and finally, that they have enforced them. The purpose of “talking to them” is to get offenders and would-be offenders to change their behavior. It is not that we want to arrest “in-your-face panhandlers”; we want panhandlers to stay out of peoples’ faces. We do not want to arrest farebeaters; we want people to pay their fares. We do not want to arrest murderers; we want them not to murder.

The emphasis on changing behavior does not mean that police and criminal justice officials will forego cracking down on offenders who will not listen. As in the current Boston effort, however, it is important that police and other criminal justice agencies continue to explain their crackdowns to “wannabes” (would-be offenders) and other troubled and troublesome persons. “Talking to them” ought not to be considered a program or a special effort; it is a core activity of police, prosecutors, courts, and corrections. Such communication develops neighborhood norms, establishes the limits of what can be accomplished, and sets expectations for citizens, neighborhood interests, and authorities.
Many police are now committed to communities and actively work with them to reassert neighborhood standards. Many prosecutors at all levels, from city to U.S. Attorneys, are awakening to their responsibility to prevent crime. Although most courts are generally lagging behind, drug courts and community courts like the Midtown Community Court in New York City are leading the way. (But judges will wake up; most are closet politicians and underestimate the power of popular ideas.) Some corrections agencies are making changes as well. Prosecutors, courts, and corrections will have to go through the same painful adjustments in their organizations and cultures as police have. But, as more success stories accumulate in cities such as San Diego; Boston and Lowell, Massachusetts; Richmond, California; and many other places, more and more police departments and criminal justice agencies will be forced out of “business as usual.”

**Creating a Mainstream**

I have argued that the “broken windows” metaphor has been seriously distorted by both political extremes: the far left and the far right. Each imputed to the “broken windows” theory its own agenda: the left, the ravages of uncontrolled police; the right, zero tolerance. Such interpretations of either the original article or of Dr. Coles’ and my updating of the ideas in *Fixing Broken Windows* cannot be justified. For three decades two models of crime control have been driven largely by ideology: broad social change and more certain and longer prison sentences. A middle ground of crime prevention is currently breaking through the culture war. Mainstream liberals and conservatives are finding not only that it works, but also that it contains many elements about which they can agree. These include:

1. Achieving justice is as important as controlling crime for police and criminal justice agencies.
2. Policing and criminal justice practice must be legal and constitutional.

3. Citizens, neighborhoods, and communities must play a central role in defining neighborhood problems, establishing priorities, and crafting solutions.

4. A central mission of police and criminal justice agencies is to prevent crime—that is, to solve problems that weaken the capacity of a neighborhood to defend itself against predators.

5. New forms of collaboration among police organizations, criminal justice agencies, other government agencies, service agencies, the private sector, and religious communities are required to control fear, crime, and disorder.

6. The unique contribution of police and other criminal justice agencies is their capacity to use force to solve problems—the “or else” when miscreants do not control their behavior.

7. The case-processing model of law enforcement continues to be an important crime control method, especially for repeat violent offenders.

8. Police should continue to ensure that the needy, disturbed, and homeless are referred to social and other services.

9. Police and other criminal justice agencies should not do for people what they can and should do for themselves or fulfill needs for which other social and governmental agencies are chartered.

10. Police and criminal justice agencies must bridge gaps in social and governmental services during periods of crisis or emergency.

The last decade has seen enormous advances in our ability to think about preventing crime. We understand the tragic consequences of depolicing city streets—and the crime problem. Communities are recapturing public spaces from miscreants and predators. Police and criminal justice agencies are redis-
covering their basic roles in maintaining order and preventing crime, not just processing cases. The results have been better than we expected, and we have not seen the best yet.

Question-and-Answer Session

Roger Connor, Executive Director, American Alliance for Rights and Responsibilities, Washington, D.C.: What do we do about the loitering youths in Chicago that the neighbors want the police to round up and drive from the streets? Chicago police, as you know, arrested 45,000 young people in the last 2 years under a law that said it was illegal to loiter with a gang member. The Illinois Supreme Court just said that these arrests are unconstitutional. What do we do about the problem of loitering gang members, as an example? It seems that it is present in almost every community where I go and talk to people.

G.K.: I don’t know. But that was the same answer I gave when they asked me what to do about the New York subway. I really didn’t know. They asked, “What should we do?” And I said, “Why don’t you bring together a group of about six patrol officers who work in the subways and do the line work. Give me a couple of sergeants and at least one chief (because at times, we need some authority). But primarily give me line people and then bring in some from the civilian side. First of all, let’s figure out what the problem is. (Everyone thought the problem was homelessness, but it wasn’t.)

It is with great amusement that I watch what is happening in San Francisco now as Willie Brown inherits the situation out there. They still have the problem wrong: They think “disorder and homelessness,” rather than “disorder
and crime.” It took us a year to think through what the problem was in the subway and do something about it. My guess is that it would probably take about that long to figure out what to do in public housing, too. But I’m very confident about the process. The gun project in Boston developed in the same way. They pondered for 15 months and wondered if they would find anything. They went through the systematic planning, the diagnosis, a very rigorous problem-solving method, and finally started to figure it out.

I really mean it when I say, “I don’t know.” But I have enormous faith in the process, starting with the Kansas City experiment. (The Kansas City experiment was not my idea; it was the idea of people like Charlie Brown who said, “Preventive patrol doesn’t prevent anything—we’re kidding ourselves.”) A task force created the Kansas City experiment. In event after event in which I’ve been involved, we sit down with people who do the work, bring them the research, and go through it with them. We figure things out. There are people in this room who could sit down with people from Chicago or some other community and figure out what is going on with violence and intimidation and then deal with it.

**Jolene Hernon, Writer/Editor, National Institute of Justice, U.S. Department of Justice, Washington, D.C.:** I would appreciate any insights or observations you have about the problems we have here in Washington, D.C.

**G.K.:** Crime control gets mixed up with race and ideology. That’s what I’ve been talking about. I think that has happened here in Washington, D.C. As I understand it—and I’m not an expert in this—you have had the same trouble in Washington that we had for a long time in Boston, which kept the police department in despair. That is, the politicians couldn’t keep their hands out of the internal workings of the department. When Mayor Menino finally allowed Paul Evans to structure the department to be in sync with the community, the department flourished. I understand you’ve had a fair amount of political manipulation of your department; I don’t know whether that’s over. It would
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seem to me that a lot could be accomplished here. You have a lot of cops in the area; I hope they are starting to work together. I also understand that the U.S. Attorney’s Office is very interested in working with the police and forming collaborations.

My guess is that, like Boston, you couldn’t move very far unless at one level or another you have the support of the faith communities. Although the churches in Boston did not help devise the antigun violence effort, they were generally supportive of the department. They had a strong commitment from the faith community (the Nation of Islam, the Methodists, the synagogues, etc.) to endorse what the police were going to do. The police and the faith community agreed: “Yes, these youths who are going to go away for a long time need to and deserve to, and there are no alternatives.” It seems to me that they had a very serious problem that was associated with the historic divisions around race but also with equating the attempt to control crime as somehow harassing minorities. We must get beyond that.

Again, it wasn’t just from police officers that I learned about “broken windows.” Everywhere I went—in the toughest neighborhoods in Chicago (Robert Taylor Homes) or New Haven—poor citizens demanded order. I didn’t learn about this from wealthy citizens in suburbs. I learned about it from poor citizens who were suffering and demanding that police do something about it and who were constantly frustrated by the police whisking in and whisking out. That is a social disaster, how we have turned police into an emergency response system. It was at the cost, as I have said, of depolicing our cities.

That’s not a very good answer, but you know it’s a loaded question.

Mark Engman, Special Assistant to the Chief of Staff, U.S. Department of Housing and Urban Development, Washington, D.C.: I am very interested in some of the comments you made recently about order management and a community’s desire for order. I see that myself. But on the other hand, I see
communities where the people just don’t trust the police. It seems like you can’t have order management without that trust. My question is, how do departments get that trust so they can move on to do the jobs they need to do?

G.K.: Well, citizens don’t trust the police with good reason. Fortunately, the officer that I described in the Robert Taylor Homes was born and lived in the Ida B. Wells Homes. (I understand there was a TV special, a Frederick Wiseman film about that, that I’m eager to see.) The police are scared to go into these areas; they only go in to respond to calls. In Chicago, when kids were harassing people and they wanted cops to come, they would say, “Man with a gun,” and they’d get 13 cars up on the lawn. At least that’s the way it was; I don’t want to reflect on Chicago now. I don’t think we understand the extent to which the fear of citizens and neighborhoods leads the police to preemptive intimidating tactics, which alienate good citizens who are desperate for control. I’ve seen it happen time and time again. You put officers in tough circumstances, introduce them to some citizens, leave them there, and things simply happen. Remember Newark in the mid-1970s? That was where our cities were going.

I was criticized for working in “easy” cities like Kansas City and Dallas, so I decided to work in a tough city, Newark. Police could gain the trust of citizens, but it took time. There were some neighborhoods, frankly, where, if I were chief of police and decided to have officers go on foot patrol, I would tell their commanders to go with them and ask citizens to patrol with them as well, at least for several weeks. This makes two statements: (1) I’m here to help protect and support the officers. (2) I’m also here to control the officers because the amount of countercontrol that citizens have when officers are exposed on the streets is very great and very desirable in penetrating this “police culture” that we got stuck with when we isolated police in cars (which we deliberately did for control reasons). That is why I used strong terms I may have to answer for later when I talked about overwrought and overzealous concern for control.
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One can argue that police strategies are primarily oriented to controlling officers rather than dealing with problems in communities. That's a nice, honest police machine to have in town. But, how can it be that it is worth doing something well if it isn't worth doing at all?

Peggy Burke, Senior Associate, Center for Effective Public Policy, Silver Spring, Maryland: You spoke earlier about the pitfalls of metaphors and the extremes of case processing on the one hand and social change on the other. Have you given thought to the metaphor that you might use to describe that middle ground? You listed 10 items. When you are having a public discussion about crime prevention and control, it's helpful I think to have language, a metaphor or whatever, to characterize it easily.

G.K.: No, I don't have a metaphor for the middle ground. I wish I did, but 15 years from now, I'd probably get burned by it again. Actually, Professor Wilson was the person who had used that metaphor and placed it in the article. That is something I acknowledge in the book and I appreciate his generous support. When it comes to creating metaphors, I'm not that good.

Ruth Davis, President and CEO, The Pymatuning Group, Alexandria, Virginia: It might be a minor point, but it was brought to my attention because of your lack of reference to it. There has been a lot of attention in the media lately to one of the instruments of community law: the curfew. Will you offer your feelings or comments?

G.K.: I think curfews are not a bad idea, but I am not terribly enthusiastic about them. (This is something that I haven't thought through.) In using curfews, we set up a situation in which all youths are restrained as a consequence of the actions of a few. We had a conversation last night at [NIJ Director] Jeremy Travis's house about what we have done with juvenile laws. I believe we have effectively reduced both parental authority and governmental authority over youths, and we have to think again about how we reinstitute
some of that authority. We have extended enormous liberties to youths who
don’t have the capacity to handle them. I would want to think a lot about
how curfews fit into that and rethink laws that protect children, and secondly
(as Frank Zimring talked about), we want the laws to give them a license to
experiment (but also to reassure, influence, and protect them).

I am struck by how much we, including the police, have stopped talking to our
children. I am going to steal a story from my colleague and wife, Catherine
Coles. There was a problem with youths hanging around in the subway and
everyone was positioned to roust them. A district attorney went and talked
to them and found out they were there because a lot of police officers were
there—it was a safe place to be. But previously, nobody had talked to them to
find this out. Although they “woof” and make a lot of noise, many youths are
seeking protection, influence, and help in controlling their own behaviors. I
think when we stopped talking to them we made a big, big mistake. And when
we decided that they should have the same liberties as young adults, it was also
a mistake.

Jean O’Neil, Director, Research and Policy, National Crime Prevention
Council, Washington, D.C.: How do we judge the effectiveness of these
things? If you were going to talk to the evaluation community about new
lenses they had to put on to see the picture differently, what would you say?

G.K.: I think this is a very troublesome issue. I am aware that there is hardly
an aggregate statistic that you can’t interpret either way you want to. When
civil libertarians say that an increase in complaints reflects an increase in
brutality and a decrease in complaints reflects a lack of faith in the complaint
process, they are telling it both ways. And we can do that with reported crime.
If, for example, the number of rapes increases, it’s a sign of more rapes—or it’s
a sign of more women reporting rapes. With aggregate statistics, I have no
trouble playing with the data and turning them to their opposite meanings!
If I am right and each community will do it in a different way because each community has different problems, the indicators of success are going to be different from community to community. Some of you know that I have tried to collect indicators. I mentioned one to you: the first homecoming in 20 years. Other indicators include the delivery of pizza in the Eau Claire housing development in Columbia, South Carolina; the creation of a homebuyers’ club in the Boyd Booth neighborhood of Baltimore, where people were walking away from houses; the removal of the grates that covered shops by local merchants in East Boston because they sent the wrong message. These are indicators that say a whole lot more about what is happening in those neighborhoods than aggregate statistics do.

But, I think we have to use the aggregate statistics and we have to hound the police to make sure they are relatively accurate. We have to break the figures down and immerse ourselves in the complaint statistics to see whether the nature of complaints is changing. Are we going from officers hitting people to officers smarting off? Has there been a change in reporting standards? You have to immerse yourself in those kinds of data to understand what they mean. So quick-and-dirty evaluations, I think, are a thing of the past. So many issues are local, and aggregate data have to be thoroughly explored to understand what they mean. It is a very tough problem.

When citizens say to me, “Things are different here,” that’s very powerful testimony. I’m serious. I do a lot of public speaking now. If I were followed around, I would be accused of bringing plants into the meeting because, in every meeting I’m at, one or two people from New York stand up and give a testimonial. “I hadn’t been in New York since 1984; I said I was never going back. I eventually did go back to my old neighborhood— and I had to call my father to make sure I was at the right address. I couldn’t believe it!” But we need to break the data down—disaggregate things and look at them closely. It’s a difficult process, and I don’t think we have any easy answers to it.
William Earle, Assistant Director of Management/Chief Financial Officer, Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, Washington, D.C.: I am a 1967 graduate of Rutgers in Newark. Last year, Professor Wilson came here and talked to us about the Federal role in reducing crime. He asked, “Although the Federal Government spends a lot of money, does it really have a role in reducing crime?” Could you comment on what you see as the Federal role in what you have talked about this morning?

G.K.: Well, I have published (or proposed that it be published) something about this. One of the fascinating things that is happening in the Comprehensive Communities Program (CCP) under the Bureau of Justice Assistance is that Government officials have “let good things happen.” By that, I mean that there is no one “Comprehensive Communities Program” and there are no boundaries. When you go to one community, it is one thing; in another community, it is something else; and in a third community, it is something else again. The funds have been used to allow cities to carry out their own agendas. The cities that came into CCP with a strong agenda, vision, and leadership are really taking off. When you look at Boston, Columbia, Baltimore, Salt Lake City, the East Bay area in California, and other cities with CCP funds, very exciting things are happening—you wouldn’t believe it. The Feds are letting good things happen.

The second thing is I wouldn’t assume that the Federal Government has the good ideas—the ideas are on the ground with the people out there. We can help them develop those ideas, but basically they have to percolate up. The Federal Government can help by finding out about them, disseminating them, and sharing them. For the CCP people, I think they learned from the consultants, but they learned much more from themselves. As they were brought together, with opportunities to share experiences, they really learned a whole lot.
I think the Federal prosecutors are in a position, as in Boston with the Bureau of Alcohol, Tobacco and Firearms (ATF), to be in powerful collaborations with local police that don’t assume leadership by the Federal Government. Those of you who have read Fixing Broken Windows know that [coauthor] Catherine Coles and I spent a good part of the introduction saying that most of the ideas that come from the Federal establishment haven’t been terribly good. Important things have perked up from the ground. I think the ATF, Drug Enforcement Administration, and other organizations can assist communities, but they are minor partners. It’s not like the old days with the FBI, where the FBI was the major partner. The Federal Government should be the minor partner. So, let good things happen, help support them, lend your authority, and help spread the good ideas. I can’t go much beyond that except with a warning: Don’t think that your ideas are the best.

Notes

5. Ibid, 35.
6. Ibid, 35.


15. McNamara, “The Secret War.”


17. Abner Louima is a Haitian immigrant who was viciously assaulted by New York City police officers.


20. Richmond, California, which just a few years ago had 11 shootings in one weekend, had its first football homecoming in 20 years this fall.
Race, the Police, and “Reasonable Suspicion”

Presentation by
Randall Kennedy
Professor, Harvard Law School

February 3, 1998
Washington, D.C.

Should police be allowed to consider race in determining whether someone has committed or is about to commit a crime? State and Federal police officials routinely use race as a marker for crime. For example, the U.S. Border Patrol has acknowledged that its agents in the Southwest scrutinize motorists who appear to be of Mexican ancestry more closely than others.¹ Officials of the Drug Enforcement Administration (DEA) have acknowledged that blackness is a factor that prompts them to question certain passengers leaving airplanes.² Police officers across the country have acknowledged that they scrutinize people who seem out of place racially or who seem incongruous, as when a black person is in a predominantly white neighborhood late at night.

Allow me to make the precise target of my inquiry more clear. First, I am not focusing primarily on instances in which police officers question, detain, or arrest someone solely on the basis of race. To be sure, such conduct occurs and merits attention; indeed, it figures into my analysis. That such conduct ought to be condemned, however, is uncontroversial. The great majority of police officers, lawyers, and judges would agree that acting solely on the basis of race would be wrong and is illegal. The controversial issue is whether police ought to be allowed to use race at all in determining suspicion.