
CONTAGION POLICING

Wayne A. Logan*

Today, crime, especially that involving gun violence, is often regarded as a contagious disease. Among public health actors, the recognition inspires efforts directed at prevention and cure. Police, especially in poor, crime-plagued, racially segregated communities, also regard crime as a contagion. They, however, respond in a very different manner—with punishment and stigmatization. In so doing, they effectively engage in a form of “healthwashing” and create a new public health problem: themselves.

This Article surveys how what I term “contagion policing” manifests, identifies the many serious harms it causes, and offers a new policing model dedicated to achieving positive outcomes in both public safety and public health. To achieve change, both the mien and minds of police must be transformed—from the current warrior mentality to one where they see themselves, and they are seen as, guardians of both public health and public safety. A large literature demonstrates that preventive interventions produce significant decreases in crime and promote community well-being. These findings should be deployed to inform new policing tactics and strategies. With violent crime especially, intervention is needed—to hold individuals accountable, prevent future harm, and signal to the community that the behavior will not be tolerated. Police, in short, can be guardians of community health yet still invoke the coercive force of the state when circumstances require.

To ensure success of the model, a new way of assessing police effectiveness is needed. Police performance should no longer be measured solely in terms of crime control metrics but rather be tied to both improved public safety and public health outcomes. For instance, even if resorting to high-intensity arrests for minor offenses reduces crime to a degree, evaluation should take into account the significant harms the tactic causes individuals and the communities in which they live. Importantly, moreover, metrics of success should be informed by the views of community members and key stakeholders, such as clergy and businesses, who for too long have been excluded from the goals and practices of police.

* University Research Professor, Wake Forest University School of Law. Thanks to Susan Bandes, Nadia Banteka, Alyse Bertenthal, Bennett Capers, Andrew Ferguson, Rachel Harmon, Aziz Huq, Eisha Jain, David Logan, Christopher Slobogin, Ron Wright, and Bob Weisberg for their helpful comments.

Ultimately, public health and public safety must be seen as inseparably linked. Both are critically important public goods and positive outcomes for each should be the goal of policing.

TABLE OF CONTENTS

I.	INTRODUCTION	840
II.	POLICING CONTAGION	843
	<i>A. Crime as Contagion</i>	843
	<i>B. Contagion Policing</i>	845
	1. <i>The Warrior Mentality</i>	846
	2. <i>Surveilling People and Places</i>	848
	3. <i>Searching and Seizing Individuals</i>	851
	a. Broken Windows and Zero Tolerance (a.k.a.,	
	“Quality-of-Life” and Order Maintenance) Policing	851
	b. Stop-Question-and-Frisk.....	852
	c. “Hot Spot”	853
III.	THE HARMS OF CONTAGION POLICING.....	855
	<i>A. Physical and Mental Health Harm to Individuals</i>	855
	<i>B. Social and Economic Harm to Individuals</i>	862
	<i>C. Harm to Communities</i>	864
	1. <i>Physical and Mental Wellbeing</i>	864
	2. <i>Seclusion (Isolation)</i>	866
	3. <i>Containment (Quarantine)</i>	868
	4. <i>Estrangement and Cynicism</i>	869
IV.	CHARTING A PATH FORWARD.....	872
	<i>A. Changing the “Warrior” Mentality</i>	872
	<i>B. Programmatic Changes</i>	874
	1. <i>Infusing a Public Health Orientation</i>	875
	2. <i>Involving Law Enforcement</i>	876
	a. Policing Places.....	876
	b. Policing Individuals	879
	3. <i>A Caveat</i>	882
	<i>C. Measuring Outcomes</i>	884
V.	CONCLUSION.....	885

I. INTRODUCTION

Throughout history, contagion has loomed large in human experience. One need only consider COVID-19, AIDS, and monkeypox, and before that the plague, “Spanish Flu,” and scarlet fever to recognize its enormous toll.¹

1. See JOHN FABIAN WITT, AMERICAN CONTAGIONS: EPIDEMICS AND THE LAW FROM SMALLPOX TO COVID-19 1, 13–14 (2020).

Contagion has also often served as a metaphor. Public health actors, for instance, regard crime—especially gun violence—as a contagion.² So do police.³

While intended to explain and illuminate,⁴ metaphors can also pose risks. As Robert Weisberg recently warned, “misapplication of a metaphor can result in untoward results,” whereby “characterizations meant to be scientific can spur some imaginations toward moral and metaphoric versions of the disease model with very different and often troublesome implications.”⁵

This risk is now being realized in the policing of many of the nation’s poorest, most racially segregated, crime-plagued communities.⁶ Rather than conceiving of the contagion of crime as public actors do, as a problem best addressed by prevention and cure,⁷ police have coopted the construct to punish and stigmatize,⁸ imposing significant harms upon individuals and communities.⁹ In doing so, police engage in a form of “healthwashing,”¹⁰ creating a new public health problem: themselves.¹¹

This Article proceeds in three parts. Part II first examines the crime-as-contagion literature, highlighting two of its fundamental premises: (1) that crime

2. See DEEPALI M. PATEL, MELISSA A. SIMON & RACHEL M. TAYLOR, *CONTAGION OF VIOLENCE: WORKSHOP SUMMARY*, INST. OF MED. AND NAT’L RSCH. COUNCIL 115–30 (2013); Gary Slutkin & Charles Ransford, *Violence Is a Contagious Disease: Theory and Practice in the USA and Abroad*, in *VIOLENCE, TRAUMA, AND TRAUMA SURGERY: ETHICAL ISSUES, INTERVENTIONS, AND INNOVATIONS* 67, 67–83 (Mark Siegler & Selwyn O. Rogers Jr. eds., 2020).

3. See, e.g., Nola Joyce & Sarah Schweig, *Preventing Victimization: Public Health Approaches to Fighting Crime*, POLICE CHIEF, Dec. 2014, at 38, 38 (deputy police commissioner of Philadelphia comparing violent crime to a “contagious disease” and stating that “crime and violence spread like viruses do”).

4. Metaphoric use of contagion dates back to Greek and Roman times and appears in the work of other early writers and thinkers such as Chaucer. See Martin S. Pernick, *Contagion and Culture*, 14 AM. LIT. HIST. 858, 860 (2002).

5. Robert Weisberg, *The Fertility (sic) of the Crime/Disease Linkage for Metaphor and Narrative: Response to Potter*, in *NARRATIVE AND METAPHOR IN THE LAW* 220, 227 (Michael Hanne & Robert Weisberg eds., 2018).

6. See Jeffrey Fagan & Elliott Ash, *New Policing, New Segregation: From Ferguson to New York*, 103 GEO. L.J. ONLINE 33, 108 (2017) (noting that New York City police aggressively targeted “the city’s poorest and most racially segregated neighborhoods,” areas “where serious crime rates are higher, to be sure,” yet “even after controlling for crime rates, our analyses show that these places receive more aggressive and racially skewed enforcement compared to other neighborhoods and the business districts of the city”).

7. *The Public Health Approach to Prevent Gun Violence*, JOHNS HOPKINS BLOOMBERG SCH. PUB. HEALTH, <https://publichealth.jhu.edu/center-for-gun-violence-solutions/research-reports/the-public-health-approach-to-prevent-gun-violence> [<https://perma.cc/745U-Z6N5>] (last visited Feb. 16, 2026); Gary Slutkin, Charles Ransford & Daria Zvetina, *How the Health Sector Can Reduce Violence by Treating It as a Contagion*, 20 AMA J. ETHICS 47, 47–51 (2018).

8. See *infra* Section II.B.

9. See *infra* Part III.

10. Cf. Szerena Szabo & Jane Webster, *Perceived Greenwashing: The Effects of Green Marketing on Environmental and Product Perceptions*, 171 J. BUS. ETHICS 719, 719 (2021) (discussing “greenwashing” by firms intended to convey the appearance, but not the reality, of engaging in environmentally friendly practices).

11. *Addressing Law Enforcement as a Public Health Issue*, AM. PUB. HEALTH ASS’N (Nov. 12, 2018), <https://www.apha.org/policy-and-advocacy/public-health-policy-briefs/policy-database/2019/01/29/law-enforcement-violence> [<https://perma.cc/958X-6JMK>]; Jordan E. DeVlyder, Deidre M. Anglin, Lisa Bowleg, Lisa Fedina & Bruce G. Link, *Police Violence and Public Health*, 18 ANN. REV. CLINICAL PSYCH. 527, 532–38 (2022); Paul J. Fleming et al., *Policing Is a Public Health Issue: The Important Role of Health Educators*, 48 HEALTH EDUC. & BEHAV. 553, 554 (2021).

is not random, but rather is tied to particular individuals and their social networks, and (2) that crime concentrates in small geographic areas. Next, the discussion turns to how policing has acted upon these empirical premises.¹² The shift is evidenced in an array of aggressive person- and place-based tactics, including use of intensive mass surveillance, aggressive street patrol strategies, such as stop-question-and-frisk, and “heat lists” comprised of individuals thought likely to engage in violence.¹³

Part III surveys the many significant harms caused by contagion policing. Among individuals, mental health harms include increased rates of depression and anxiety; suicidal ideation and suicide attempts; PTSD; hypervigilance; and feelings of “hopelessness” and being “dehumanized.”¹⁴ Physical harms include fatal and non-fatal injuries; elevated blood pressure and insomnia; and increased vulnerability to chronic diseases such as diabetes and stroke.¹⁵ Individuals also experience the life-long disabling effects of a criminal record, including formal and informal collateral consequences, such as lost eligibility for educational loans, housing, the right to vote, and employment opportunities.¹⁶

Part III also discusses the negative impact contagion policing has on communities. One is that entire neighborhoods now self-isolate and quarantine to avoid negative contact with police and the pervasive surveillance regime they employ in communities.¹⁷ While monitoring individuals has long figured centrally in public health efforts to prevent the spread of the contagion of disease,¹⁸ police monitor not for health betterment, but rather to promote punitive crime control interests, causing widespread legal, social, and economic harms, and political estrangement and cynicism within communities.¹⁹

Part IV charts a path forward. For change to be achieved, both the mien and minds of police must change, from a warrior mindset to one where they see themselves—and are seen as—guardians of community health and safety. A large body of research demonstrates that preventive interventions can produce both significant decreases in crime and promote community well-being.²⁰ Departments should adopt these interventions. But because “[i]nsecure places are rarely healthy places,”²¹ when prevention and cure fail, as they sometimes will, law enforcement will still have a role to play. With violent crime especially, intervention is needed—to hold individuals accountable, prevent future harm, and signal to the community that the behavior will not be tolerated.

12. *See infra* Part II.

13. *See infra* Section II.B.

14. *See infra* Section III.A.

15. *See infra* Section III.A.

16. *See infra* Section III.B.

17. *See infra* Section III.C.

18. *See infra* Section II.B.

19. *See infra* Part III.

20. *See infra* Section IV.B.

21. Evan Anderson & Scott Burris, *Policing and Public Health: Not Quite the Right Analogy*, 27 *POLICING & Soc’y* 300, 300 (2017).

Finally, a new way of assessing police effectiveness is needed. Police performance should no longer be measured solely by crime control metrics, such as arrests and gun seizures, but rather be tied to improved public safety and public health outcomes. For instance, even if resorting to high-intensity arrests for minor offenses reduces crime to a degree, evaluation must consider the significant harm they cause individuals and communities. Also, importantly, metrics of success should be informed by the views of community members and key stakeholders, such as clergy and businesses, who for too long have been excluded from the formulation of policing policy and goals.

Ultimately, public health and public safety must be understood as being inseparably linked and achieving both should be the goal of policing. A safe community is a healthy community—and vice versa.²²

II. POLICING CONTAGION

A. *Crime as Contagion*

A sizable literature draws parallels between crime and contagion. As public health scholars Gary Slotkin and Charles Ransford note, crime is “a contagious or epidemic type of disease, specifically through its clustering, spread and transmission.”²³ It is “transmitted through exposure, modeling, social learning, and norms.”²⁴ Moreover, research shows that crime is not spatially randomized but rather concentrates in micro-geographic areas—streets or segments within them (such as particular addresses).²⁵ There exists a “law of concentration,”²⁶ applicable to violent,²⁷ property,²⁸ and drug offenses alike.²⁹ “Like a disease,” Roberto Potter has observed, crime “invades the community, and acts upon it like a

22. See *infra* Section IV.B.

23. Slotkin & Ransford, *supra* note 2, at 68.

24. *Id.* at 68 fig. 5.1.

25. See DAVID WEISBURD, ELIZABETH R. GROFF & SUE-MING YANG, THE CRIMINOLOGY OF PLACE: STREET SEGMENTS AND OUR UNDERSTANDING OF THE CRIME PROBLEM 12–14 (2012).

26. David Weisburd, *The Law of Crime Concentration and the Criminology of Place*, 53 CRIMINOLOGY 133, 135–47 (2015). See generally Wim Bernasco & Wouter Steenbeek, *More Places than Crimes: Implications for Evaluating the Law of Crime Concentrations at Place*, 33 J. QUANTITATIVE CRIMINOLOGY 451, 463–64 (2017) (suggesting standard methodology for measuring and reporting crime concentration).

27. John MacDonald, George Mohler & P. Jeffrey Brantingham, *Association Between Race, Shooting Hot Spots, and the Surge in Gun Violence During the COVID-19 Pandemic in Philadelphia, New York and Los Angeles*, PREVENTIVE MED., Dec 2022, at 1, 2–5.

28. G.O. Mohler et al., *Randomized Controlled Field Trials of Predictive Policing*, 110 J. AM. STAT. ASS'N 1399, 1403 (2010); M.B. Short, M.R. D'Orsogna, P.J. Brantingham & G.E. Tita, *Measuring and Modelling Repeat and Near-Repeat Burglary Effects*, 25 J. QUANTITATIVE CRIMINOLOGY 325, 325 (2009).

29. Julie Hibdon, Cody W. Telep & Elizabeth R. Groff, *The Concentration and Stability of Drug Activity in Seattle, Washington Using Police and Emergency Services Data*, 33 J. QUANTITATIVE CRIMINOLOGY 497, 503–15 (2016); Jamie L. Humphrey et al., *Overdose as a Complex Contagion: Modelling the Community Spread of Overdose Events Following Law Enforcement Efforts to Disrupt the Drug Market*, 79 J. EPIDEMIOLOGY COMMUNITY HEALTH 147, 147–51 (2025).

cancer The mere ‘exposure’ to the criminogenic agent leads to the development of a criminal career and/or crime rates in a community.”³⁰

Gun violence in particular is known to cluster around social networks.³¹ Gun shooters and their victims often come from the same small, identifiable social networks, and are subject to “social”³² and “behavioral” contagion.³³ Violence propagates violence through such networks,³⁴ resulting in fatal³⁵ and non-fatal³⁶ outcomes, with gang relations playing an especially prominent role.³⁷ The exposures are tied to “both future violence victimization and perpetration, highlighting the infectious disease construct of contagion.”³⁸

Research also establishes that victimization and perpetration are not siloed. If gunshot survivors continue to engage in the risky behavior that placed them in their network, they subject others to risk.³⁹ Such individuals may transmit

30. Roberto H. Potter, *The “Crime as a Disease” Metaphor: Vision, Power, and Collaboration in Social Problems Research*, in *NARRATIVE AND METAPHOR IN THE LAW* 200, 201 (Michael Hanne & Robert Weisberg eds., 2018).

31. See Mohammad Tayebi, Uwe Glasser & Martin A. Andresen, *Future Applications of Big Data in Environmental Criminology*, in *CRIMINOLOGY AT THE EDGE: BIG DATA* 40, 49 (Benoit Leclerc & Jesse Cale eds., 2020) (“Offenders who are spatially close tend to be socially close, because this increases the chance of meeting each other and forming new criminal collaborations. Further, common criminal experience (with the same type of offences, for example) also affects co-offending behavior.”).

32. See Jerel M. Ezell et al., *Reconsidering the “Violence-as-a Disease” Model: Examining Violence Psychopathologies in Urban Adolescents*, 13 *PSYCH. VIOLENCE* 205, 206 (2022) (“[V]iolence has a contagious dimension, insofar as person-to-person transmission (e.g., retaliation) is highly common, and clustering of violence in particular communities is frequently observed vis-à-vis social networks.”); Jeffrey Fagan, Deanna L. Wilkinson & Garth Davies, *Social Contagion of Violence*, in *THE CAMBRIDGE HANDBOOK OF VIOLENT BEHAVIOR AND AGGRESSION* 688, 690 (Daniel J. Flannery et al. eds., 2007). See generally Nicholas A. Christakis & James H. Fowler, *Social Contagion Theory: Examining Dynamic Social Networks and Human Behavior*, 32 *STATS. MED.* 556 (2013) (utilizing data to examine spread of social factors in social networks).

33. See generally Ladd Wheeler, *Toward a Theory of Behavioral Contagion*, 73 *PSYCH. REV.* 179, 179 (1966) (defining “behavioral contagion”).

34. See Ben Green, Thibaut Horel & Andrew V. Papachristos, *Modeling Contagion Through Social Networks to Explain and Predict Gunshot Violence in Chicago, 2006 to 2014*, 177 *JAMA INTERNAL MED.* 326–32 (2017); Desmond U. Patton, David Pyrooz, Scott Decker, William R. Frey & Patrick Leonard, *When Twitter Fingers Turn to Trigger Fingers: A Qualitative Study of Social Media-Related Gang Violence*, 1 *INT’L J. BULLYING PREV.* 205, 206 (2019); Michael Sierra-Arévalo & Andrew V. Papachristos, *Social Networks and Gang Violence Reduction*, 13 *ANN. REV. L. & SOC. SCI.* 373–87 (2017).

35. See Andrew V. Papachristos, *Murder by Structure: Dominance Relations and the Social Structure of Gang Homicide*, 115 *AM. J. SOCIO.* 74, 75–76 (2009).

36. Andrew V. Papachristos, Christopher Wildeman & Elizabeth Roberto, *Tragic, but Not Random: The Social Contagion of Nonfatal Gunshot Injuries*, 125 *SOC. SCI. & MED.* 139, 143 (2015).

37. See P. Jeffrey Brantingham, Baichuan Yuan & Denise Herz, *Is Gang Violent Crime More Contagious than Non-Gang Violent Crime?*, 37 *J. QUANTITATIVE CRIMINOLOGY* 953, 953 (2020); Jason Gravel et al., *Testing Plausible Mechanisms for the Contagion of Violence Between Street Gangs Using Relational Event Models*, 11 *NETWORK SCI.* 324, 325 (2023).

38. See Ezell et al., *supra* note 32 (internal citations omitted); see also Papachristos et al., *supra* note 36, at 139–40, 145–49 (reporting results of Chicago study showing concertation of violent crime in particular “risky social networks,” and concluding that violence is an epidemic, meaning that it spreads, clusters, and transmits through exposure).

39. See Papachristos et al., *supra* note 36, at 140.

violence within their social networks, motivated by norms of retaliation, organizational memory, status-seeking behaviors, and other network processes.⁴⁰

Finally, research shows that health problems and crime location “hot spots” co-occur.⁴¹ Individuals residing in areas directly affected by or exposed to criminal violence are more likely to develop stress-related physical⁴² and mental⁴³ health problems. In Baltimore, for instance, the incidence of depression and post-traumatic stress disorder in crime hot spots was found to be more than twice that of residents in “cold spots.”⁴⁴ Researchers in “epigenetics” have also found that long-term exposure to chronic violence fuels a genetic predisposition for violent behavior.⁴⁵

B. Contagion Policing

Historically, police have been tasked with protecting the health, safety, and welfare of the communities they serve.⁴⁶ They have provided aid and housing to “drunkards” and unhoused individuals,⁴⁷ and performed public health-oriented

40. Green et al., *supra* note 34, at 327, 331; Daniel C. Semenza & Richard Stansfield, *Non-Fatal Gun Violence and Community Health Behaviors: A Neighborhood Analysis in Philadelphia*, 44 J. BEHAV. MED. 833, 837–39 (2021).

41. Beidi Dong, Clair White & David Weisburd, *Poor Health and Violent Crime Hot Spots: Mitigating the Undesirable Co-Occurrence Through Focused Place-Based Interventions*, 58 AM. J. PREVENTIVE MED. 799, 805 (2020); Clair V. Uding, Lauren C. Porter, Beidi Dong & Haley R. Moon, *Violence, Place, and Health: A Review of the Literature*, AGGRESSION & VIOLENT BEHAV., Sep.–Oct. 2024, at 1, 8; David Weisburd & Clair White, *Hot Spots of Crime Are Not Just Hot Spots of Crime: Examining Health Outcomes at Street Segments*, 35 J. CONTEMP. CRIM. JUST. 142, 150 (2019).

42. Christopher R. Harper et al., *Witnessing Community Violence, Gun Carrying, and Associations with Substance Use and Suicide Risk Among High School Students—Youth Risk Behavior Survey, United States, 2021*, 72 MORBIDITY & MORTALITY WKLY. REP. 22, 24–27 (2023); Anna W. Wright, Makeda Austin, Carolyn Booth & Wendy Kliever, *Systematic Review: Exposure to Community Violence and Physical Health Outcomes in Youth*, 42 J. PEDIATRIC PSYCH. 364, 367–76 (2017).

43. Sarah R. Lowe et al., *Childhood Trauma and Neighborhood-Level Crime Interact in Predicting Adult Posttraumatic Stress and Major Depression Symptoms*, 51 CHILD ABUSE & NEGLECT 212, 213 (2016); Melissa E. Smith et al., *The Impact of Exposure to Gun Violence Fatality on Mental Health Outcomes in Four Urban U.S. Settings*, SOC. SCI. & MED., Feb. 2020, at 1, 5; David Weisburd et al., *Mean Streets and Mental Health: Depression and Post-Traumatic Stress Disorder at Crime Hot Spots*, 61 AM. J. CMTY. PSYCH. 285, 285 (2018).

44. Weisburd et al., *supra* note 43, at 292; see also James Garbarino, *The War-Zone Mentality—Mental Health Effects of Gun Violence in U.S. Children and Adolescents*, 387 NEW ENG. J. MED. 1149, 1149–50 (2022).

45. Rotem Leshem, *Internal and External Crime Hot Spots: From Neural to Micro-Geographical Networks*, 62 INT’L ANNALS OF CRIMINOLOGY 56, 62 (2024); Rotem Leshem & David Weisburd, *Epigenetics and Hot Spots of Crime: Rethinking the Relationship Between Genetics and Criminal Behavior*, 35 J. CONTEMP. CRIM. JUST. 186, 193–98 (2019).

46. See, e.g., *Mugler v. Kansas*, 123 U.S. 623, 661 (1887) (“It belongs to that department to exert what are known as the police powers of the state, and to determine, primarily, what measures are appropriate or needful for the protection of the public morals, the public health, or the public safety.”).

47. ERIC H. MONKKONEN, *POLICE IN URBAN AMERICA 1860–1920*, at 88 (Robert Fogel & Stephan Thernstrom eds., 1981); Mark H. Haller, *Historical Roots of Police Behavior: Chicago, 1890–1925*, 10 L. & SOC’Y REV. 303, 318 (1976).

duties, such as isolating⁴⁸ and surveilling infected individuals,⁴⁹ and quarantining those possibly infected.⁵⁰ In the latter part of the twentieth century, however, law enforcement assumed a more aggressive crime-control approach, accompanied by a changed mentality. This Section discusses these changes.

1. *The Warrior Mentality*

Since the late 1960s, police have been fighting a “war” on crime⁵¹ and drugs,⁵² seeing themselves as “warriors,”⁵³ not “guardians” dedicated to protecting and serving communities they patrol.⁵⁴ As former police officer and now law professor Seth Stoughton observes, although the actual incidence of violence against police is quite low,⁵⁵ police see themselves as “locked in intermittent and unpredictable combat with unknown but highly lethal enemies,”⁵⁶ requiring hypervigilance regarding possible violence.⁵⁷ With an “us-versus-them”

48. In epidemiological terms, isolation “separates sick people with a quarantinable communicable disease from people who are not sick,” whereas quarantine “separates and restricts the movement of people who were exposed to a contagious disease to see if they become sick.” *Legal Authorities for Isolation and Quarantine*, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION (May 15, 2024), <https://www.cdc.gov/port-health/legal-authorities/isolation-quarantine.html> [<https://perma.cc/CN6A-8SS9>].

49. Stuart Elden, *Plague, Panopticon, Police*, 1 SURVEILLANCE & SOC’Y 240, 248 (2003).

50. Eugenia Tognotti, *Lessons from the History of Quarantine, from Plague to Influenza A*, 19 EMERGING INFECTIOUS DISEASES 254, 254 (2013).

51. The concept and phrase War on Crime was popularized by President Lyndon Johnson in 1965. ELIZABETH K. HINTON, *FROM THE WAR ON POVERTY TO THE WAR ON CRIME: THE MAKING OF MASS INCARCERATION IN AMERICA* 79 (2016). Police officials analogized policing in urban areas to the “jungle” battle being fought in Vietnam War. Julilly Kohler-Hausmann, *Militarizing the Police: Officer Jon Burge, Torture, and War in the “Urban Jungle,”* in CHALLENGING THE PRISON-INDUSTRIAL COMPLEX: ACTIVISM, ARTS, & EDUCATIONAL ALTERNATIVES 43, 47–48 (Stephen J. Hartnett ed., 2011).

52. President Nixon pronounced the War on Drugs in 1971. ELAINE B. SHARP, *THE DILEMMA OF DRUG POLICY IN THE UNITED STATES* 1–2 (1994). Thereafter, “[r]ather than address root causes of poverty, crime, and addiction, aid and outreach workers were replaced with police and prosecutors.” Sierra-Arévalo & Papachristos, *supra* note 34, at 380.

53. See Seth Stoughton, *Law Enforcement’s “Warrior” Problem*, 128 HARV. L. REV. F. 225, 225 (2015); Seth W. Stoughton, *Principled Policing: Warrior Cops and Guardian Officers*, 51 WAKE FOREST L. REV. 611, 612 (2016). The mindset and approach to performing the job begins in academy training and is thereafter cemented and reified by socialization. See Samantha J. Simon, *Training for War: Academy Socialization and Warrior Policing*, 70 SOC. PROBS. 1021, 1021–22 (2023).

54. Amaury Murgado, *Developing a Warrior Mindset*, POLICE MAG. (May 24, 2012), <https://www.policemag.com/training/article/15347997/developing-a-warrior-mindset> [<https://perma.cc/6FNR-DFPZ>]; see LOREN W. CHRISTENSEN, *DEFENSIVE TACTICS: MODERN ARREST AND CONTROL TECHNIQUES FOR TODAY’S POLICE WARRIOR* 379 (2008). The mindset is also manifest in the increasing police use of paramilitary units (“SWAT” squads) and military accoutrements, such as armored vehicles. See RADLEY BALKO, *RISE OF THE WARRIOR COP: THE MILITARIZATION OF AMERICA’S POLICE FORCES* 722–23 (2013).

55. See Seth W. Stoughton, *How Police Training Contributes to Avoidable Deaths*, ATLANTIC (Dec. 12, 2014), <https://www.theatlantic.com/national/archive/2014/12/police-gun-shooting-training-ferguson/383681/> [<https://perma.cc/AN4M-3MLP>] (“In percentage terms, officers were assaulted in about 0.09 percent of all interactions, were injured in some way in 0.02 percent of interactions, and were feloniously killed in 0.00008 percent of interactions.”).

56. Stoughton, *Law Enforcement’s “Warrior” Problem*, *supra* note 53, at 227.

57. *Id.* at 227–28 (“Officers learn to treat every individual they interact with as an armed threat and every situation as a deadly force encounter in the making. Every individual, every situation—no exceptions. Because the enemies’ identities are unknown, everyone is a threat until conclusively proven otherwise.”).

mentality,⁵⁸ officers often adopt a “do not resist,” “comply or die” posture when challenged,⁵⁹ and use force against those they perceive (even incorrectly) as refusing to submit.⁶⁰

Research demonstrates that this mentality is highly racialized,⁶¹ with force being much more likely used against minorities.⁶² A recent study reports that officers aimed or shot a gun at Black individuals at eight times the rate of White individuals, and threatened force or engaged in physical contact at four times the rate.⁶³ Moreover, police perception of antagonism and defensiveness among people they seize, itself often motivated by prior negative experience with police, can engender police aggression and violence.⁶⁴ The circumstances combine to create what Aziz Huq has called a “vicious cycle”:

[I]f minorities have consistently negative views of the police, and respond to stops accordingly, police may come to anticipate more resistance from those minorities. . . . Consistent with this possibility, greater perceived minority threat appears to predict higher levels of police use of force, controlling for other relevant predictors. . . . This of course merely strengthens minorities’ negative expectations of police.⁶⁵

Warrior police, in short, regard “the poor racial minority neighborhoods they patrol [as] inherently bad, a cancerous chaos that they must stop from spreading into ‘good’ white neighborhoods.”⁶⁶

58. Avlana K. Eisenberg, *Policing the Danger Narrative*, 113 J. CRIM. L. & CRIMINOLOGY 473, 480–82 (2023).

59. Ibram X. Kendi, *Compliance Will Not Save Me*, ATLANTIC (Apr. 19, 2021, at 12:25 ET), <https://www.theatlantic.com/ideas/archive/2021/04/compliance-will-not-save-my-body/618637/> [<https://perma.cc/8MAT-5Z65>]; see also Stoughton, *Principled Policing*, *supra* note 53, at 652–58 (describing how police expect deference and punish those who “must be taught the consequences of ‘contempt of cop’”). One officer was comfortable publishing an op-ed acknowledging the reality. See Sunil Dutta, *I’m a Cop. If You Don’t Want to Get Hurt, Don’t Challenge Me*, WASH. POST (Aug. 19, 2014), <https://www.washingtonpost.com/posteverything/wp/2014/08/19/im-a-cop-if-you-dont-want-to-get-hurt-dont-challenge-me/> [<https://perma.cc/4S5R-LQKV>] (“Even though it might sound harsh and impolitic, here is the bottom line: if you don’t want to get shot, tased, pepper-sprayed, struck with a baton or thrown to the ground, just do what I tell you.”).

60. Alice Ristroph, *The Constitution of Police Violence*, 64 UCLA L. REV. 1182, 1185 (2017).

61. See, e.g., Simon, *supra* note 53, at 1022, 1024.

62. See, e.g., Matthew Browning & Bruce Arrigo, *Stop and Risk: Policing, Data, and the Digital Age of Discrimination*, 46 AM. J. CRIM. JUST. 298, 308 (2021).

63. ERIKA HARRELL & ELIZABETH DAVIS, U.S. DEP’T JUST., CONTACTS BETWEEN POLICE AND THE PUBLIC, 2018–STATISTICAL TABLES 7 tbl. 5 (2023).

64. See Justin Nix, Justin T. Pickett & Renée J. Mitchell, *Compliance, Noncompliance, and the In-Between: Causal Effects of Civilian Demeanor on Police Officers’ Cognitions and Emotions*, 15 J. EXPERIMENTAL CRIMINOLOGY 611, 628–29 (2019) (reporting on survey of over 500 police officers finding that citizen hostility increases suspicion, perceived danger, and fear among officers).

65. Aziz Z. Huq, *The Consequences of Disparate Policing: Evaluating Stop and Frisk as a Modality of Urban Policing*, 101 MINN. L. REV. 2397, 2435–36 (2017).

66. Frank Rudy Cooper, *Intersectionality, Police Excessive Force, and Class*, 89 GEO. WASH. L. REV. 1452, 1500 (2021); see also *id.* at 1503 (“The poor get warrior policing, the rich get guardians.”). Although the primary focus here is on the policing of pedestrians, contagion policing also manifests in traffic patrol. See, e.g., U.S. DEP’T JUST. CIV. RTS. DIV. & U.S. ATT’Y’S OFF. W. DIST. KY. CIV. DIV., INVESTIGATION OF THE LOUISVILLE METRO POLICE DEPARTMENT AND LOUISVILLE METRO GOVERNMENT 39–45 (2023), <https://www.justice.gov/opa/press-release/file/1573011/dl> [<https://perma.cc/VPM5-VNW6>].

2. *Surveilling People and Places*

Scholars have long recognized that privacy rights are unequally distributed in society. Wealthier individuals, especially those living in stand-alone homes with curtilage, have more Fourth Amendment privacy protection than apartment dwellers, and certainly unhoused individuals.⁶⁷ As a result, individuals living in disadvantaged urban communities, especially those with high minority populations, are surveilled far more frequently and more intensively than White and wealthier ones.⁶⁸

Police undertake surveillance in two primary ways. First, as they have historically, they surveil in person, looking for individuals believed to have engaged in or are about to engage in criminal misconduct, and reacting to it on the scene.⁶⁹ Boston police recently employed a more proactive in-person strategy, recording information on individuals they surveil.⁷⁰ Under the program, “the everyday movements of persons fall under the police gaze and are memorialized in databases.”⁷¹ Later, the information is used to justify police searches and seizures, amounting to a form of “marking” allowing for future monitoring.⁷²

Of late, however, in-person surveillance by police has been largely displaced by technologically assisted surveillance at a distance.⁷³ A prime example is “ShotSpotter,” which employs a network of sensors to detect and locate gunfire in real-time.⁷⁴ The technology is marketed as a way to increase public safety and improve crime scene response time by providing police with real-time

67. See, e.g., Jessica T. Simes, Brenden Beck & John M. Eason, *Policing, Punishment, and Place: Spatial-Contextual Analyses of the Criminal Legal System*, 49 ANN. REV. SOCIO. 221, 227 (2023) (“Police are more reluctant to enter a home than they are to observe someone in public. The wealthy, then, are more easily shielded from police scrutiny when they do things in their homes that might be criminalized in public, like drinking, loitering, urinating, or fighting.”).

68. SIMONE BROWNE, DARK MATTERS: ON THE SURVEILLANCE OF BLACKNESS 10–13 (2015); see also BARTON GELLMAN & SAM ADLER-BELL, THE CENTURY FOUND., THE DISPARATE IMPACT OF SURVEILLANCE 3 (2017) (“In the lived experience of minority neighborhoods, authorities at ground level wield enormous power to peer into their lives. Privacy is not only a luxury that many residents cannot afford. In surveillance-heavy precincts, for practical purposes, privacy cannot be bought at any price.”).

69. Michael D. Reisig, *Community and Problem-Oriented Policing*, 39 CRIME & JUST. 1, 12–13 (2010).

70. Jeffrey Fagan, Anthony A. Braga, Rod K. Brunson & April Pattavina, *Stops and Stares: Street Stops, Surveillance, and Race in the New Policing*, 43 FORDHAM URB. L.J. 539, 548 (2016) (noting that the “transformation of Terry stops into an intelligence regime seems new”).

71. *Id.* at 550. With regard to the program, Fagan et al. note that “[i]ntelligence and surveillance may not be unusual in other cities, but rarely is there formal recording of observations that do not convert into contact encounters. Boston is distinctive in recording those observations in the same database as its contact encounters.” *Id.* at 611.

72. See ISSA KOHLER-HAUSMANN, MISDEMEANORLAND: CRIMINAL COURTS AND SOCIAL CONTROL IN THE AGE OF BROKEN WINDOWS POLICING 143–82 (2019) (defining “marking” as the “practice of indexing certain behaviors and status determinations” about individuals).

73. Andrew Guthrie Ferguson, *Persistent Surveillance*, 74 ALA. L. REV. 1, 5–9 (2022).

74. Amanda Busljeta, *How an Acoustic Sensor Can Catch a Gunman*, 32 J. MARSHALL J. INFO. TECH. & PRIV. L. 211, 213–14 (2016). The company has since changed its name to SoundThinking. *ShotSpotter: Save Lives and Find Critical Evidence with the Leading Gunshot Detection System*, SOUNDTHINKING [hereinafter *ShotSpotter*], <https://www.soundthinking.com/law-enforcement/leading-gunshot-detection-system/> [https://perma.cc/B33B-ENRG] (last visited Feb. 16, 2026).

information about gunfire incidents.⁷⁵ It can also compile and integrate historical data and pin maps that reveal the location of purported gunfire.⁷⁶

Research has shown, however, that the technology is prone to significant false positives, often mistakenly reporting as gunfire “bang-like” noises such as vehicle backfires, fireworks, church bells, or the use of a nail gun.⁷⁷ Moreover, to date, the technology has shown no positive effect on lowering gun violence,⁷⁸ and that its primary use “has not been to detect violent crime, but to surveil in communities of color.”⁷⁹ Police often respond to the “spot” indicated with guns drawn,⁸⁰ resulting in violent confrontations and/or the seizure of innocent individuals,⁸¹ as well as arrests for unrelated minor offenses.⁸² Departments also base personnel deployments on the number of alerts in an area, with false alerts increasing the perceived criminality of a neighborhood⁸³ and driving pretextual stops in the majority Black and Latinx neighborhoods where ShotSpotter is employed.⁸⁴

ShotSpotter is only one of multiple surveillance technologies in use. Police also employ unmanned drones and manned aerial overflights, “pole” cameras, closed-circuit television, automated license plate readers, and facial

75. *ShotSpotter*, *supra* note 74.

76. Emily A. Fogg, Comment, *Taking Aim at ShotSpotter: Gunshot Surveillance, the Fourth Amendment, and an Argument for Sonic Security*, 76 OKLA. L. REV. 1093, 1100 (2024).

77. *Id.* at 1103; *How AI-powered Tech Landed a Chicago Grandfather in Jail for Nearly a Year with Scant Evidence*, CHI. TRIB. (June 17, 2022, at 22:13 CT), <https://www.chicagotribune.com/2021/08/20/how-ai-powered-tech-landed-a-chicago-grandfather-in-jail-for-nearly-a-year-with-scant-evidence/> [<https://perma.cc/WJV7-D8G5>]. An investigation of ShotSpotter in Newark, New Jersey revealed that during a three-year period 75% of the 3,632 gunshot alerts issued were false alarms. Harvey Gee, “Bang!”: *ShotSpotter Gunshot Detection Technology, Predictive Policing, and Measuring Terry’s Reach*, 55 U. MICH. J.L. REFORM 767, 774–75 (2022).

78. See Mitchell L. Doucette, Christa Green, Jennifer Necci Dineen, David Shapiro & Kerri M. Raissian, *Impact of ShotSpotter Technology on Firearm Homicides and Arrests Among Large Metropolitan Counties: A Longitudinal Analysis, 1999–2016*, 98 J. URB. HEALTH 609, 617–18 (2021) (longitudinal analysis on ShotSpotter’s effect on gun violence finding that that presence of the sensors had no effect).

79. Ali Fraerman, *Relying on Unreliable Tech: Unchecked Police Use of Algorithmic Technologies*, 40 SANTA CLARA HIGH TECH. L.J. 115, 167–68 (2024).

80. See, e.g., Marco Poggio & Noah Goldberg, *Man Punched and Tackled by Cops in Viral Video Meets with Brooklyn DA*, DAILY NEWS (Mar. 11, 2020, at 23:03 ET), <https://www.nydailynews.com/2020/03/11/man-punched-and-tackled-by-cops-in-viral-video-meets-with-brooklyn-da/> [<https://perma.cc/MLB9-2GET>] (discussing cellphone video taken by a bystander showing the officers tackle, kick, and punch innocent person before arresting him).

81. Jay Stanley, *Four Problems with the ShotSpotter Gunshot Detection System*, ACLU (Aug. 24, 2021), <https://www.aclu.org/news/privacy-technology/four-problems-with-the-shotspotter-gunshot-detection-system/> [<https://perma.cc/A2CC-PAQW>].

82. For example, Chicago police conducted well over 2,400 investigative stops because of ShotSpotter alerts between January 2020 and May 2021. The stops rarely yielded a gun or resulted in a gun violence-related arrest. CITY OF CHI. & OFF. INSPECTOR GEN., *THE CHICAGO POLICE DEPARTMENT’S USE OF SHOTSPOTTER TECHNOLOGY* 16–21 (2021), <https://figchicago.org/wp-content/uploads/2021/08/Chicago-Police-Departments-Use-of-ShotSpotter-Technology.pdf> [<https://perma.cc/GJG7-EJZL>]; see also *id.* at 3 (noting that ShotSpotter “changed the way [Chicago police] perceive and interact with individuals present in areas where ShotSpotter alerts are frequent”).

83. *Id.* at 19–21.

84. Elizabeth E. Joh, *The Unexpected Consequences of Automation in Policing*, 75 SMUL. REV. 507, 520, 523–33 (2022) (analyzing Chicago Office of Inspector General’s report on ShotSpotter and identifying instances of its use as a pretext for weapon frisks).

recognition,⁸⁵ often providing scant public safety benefit.⁸⁶ The data generated are combined and analyzed, facilitating what is now known as data analytics,⁸⁷ resulting in a surveillance whole that is far greater than its parts.⁸⁸

Police also collect data to create “heat” or “hot lists” regarding individuals thought to pose criminal risk. Chicago’s list over time grew from 400 to over 300,000 targets,⁸⁹ but was discontinued after an audit revealed significant flaws.⁹⁰ Among other things, the audit concluded that the list was not effective in reducing gun violence⁹¹ and employed overbroad models for identifying risk.⁹² While resembling contact tracing, a staple of public health in addressing infectious diseases,⁹³ the lists did not, as Andrew Ferguson observed in his recent book *Big Data Policing*, “adopt a true public health model but instead devolved into a list for arrests.”⁹⁴ Police “police[d] the list rather than the community.”⁹⁵

85. See Mariana Oliver & Matthew B. Kugler, *Surveying Surveillance: A National Study of Police Department Surveillance Technologies*, 54 ARIZ. ST. L.J. 103, 113, 119 (2022).

86. For instance, Chicago’s roughly 4,400 surveillance cameras appeared to help solve, at best, 3.5% of 2023’s homicides. Despite costing \$279 million over the course of two decades, only about one in ten cameras documented a significant drop in crime. Madison Hopkins & Joe Mahr, *Many Cameras. Little Focus. Blurry Results.*, CHI. TRIB. (Sep. 29, 2024, at 05:00 CT), <https://www.chicagotribune.com/2024/09/29/chicago-police-cameras/> [<https://perma.cc/PE96-ELKM>].

87. See Andrew Guthrie Ferguson, *Video Analytics and Fourth Amendment Vision*, 103 TEX. L. REV. 1253, 1271–78 (2025) (discussing various applications of data analytics programs by law enforcement: “monitoring through virtual patrols,” “investigation through retrospective queries,” and “anomaly detection and alerts”). The combined effect has produced what Christopher Slobogin has referred to as “panvasive” surveillance. Christopher Slobogin, *Panvasive Surveillance, Political Process Theory, and the Nondelegation Doctrine*, 102 GEO. L.J. 1721, 1748 (2014).

88. To date, Fourth Amendment doctrine has provided few limits on the surveillance because individuals in public typically lack an expectation of privacy. Barry Friedman, *Lawless Surveillance*, 97 N.Y.U. L. REV. 1143, 1143 (2022).

89. JOHN S. HOLLYWOOD, KENNETH N. MCKAY, DULANI WOODS & DENIS AGNIEL, REAL-TIME CRIME CENTERS IN CHICAGO: EVALUATION OF THE CHICAGO POLICE DEPARTMENT’S STRATEGIC DECISION SUPPORT CENTERS 12 (2019), https://www.rand.org/pubs/research_reports/RR3242.html [<https://perma.cc/TX72-FS3L>].

90. Sam Charles, *CPD Decommissions ‘Strategic Subject List,’* CHI. SUN-TIMES (Jan. 27, 2020, at 14:11 CT), <https://chicago.suntimes.com/city-hall/2020/1/27/21084030/chicago-police-strategic-subject-list-party-to-violence-inspector-general-joe-ferguson> [<https://perma.cc/D4QT-JFCJ>].

91. See HOLLYWOOD ET AL., *supra* note 89.

92. *Id.* at 36, 38.

93. Azfar D. Hossain et al., *Effectiveness of Contact Tracing in the Control of Infectious Diseases: A Systematic Review*, 7 LANCET PUB. HEALTH e259, e259 (2022).

94. ANDREW GUTHRIE FERGUSON, THE RISE OF BIG DATA POLICING: SURVEILLANCE, RACE, AND THE FUTURE OF LAW ENFORCEMENT 46 (2017); cf. Jennifer D. Oliva & Taled El-Sabawi, *The “New” Drug War*, 110 VA. L. REV. 1103, 1128–35 (2024) (discussing how “state prescription drug monitoring programs,” massive databases that collect, store, and algorithmically analyze information concerning prescription drug users, are used to generate “red flags” and “risk scores” on individuals at risk of engaging in drug misuse, as well as drug providers posing “high-risk” of engaging in unlawful distribution).

95. FERGUSON, *supra* note 94, at 60. As Sunita Patel recently observed, Veterans Administration hospitals use behavioral watch lists, which like “hot lists” are created without individuals’ knowledge and provide no basis for appeal, which also result in increased surveillance and likelihood of police attention from “embedded” police. Sunita Patel, *Embedded Healthcare Policing*, 69 UCLA L. REV. 808, 814 (2022).

3. *Searching and Seizing Individuals*

Historically, police searches and seizures were reactive in nature: officers would observe or learn of criminal activity and respond.⁹⁶ In the latter part of the twentieth century, however, policing became more proactive and programmatic in orientation, embodying what has been called the “New Policing.”⁹⁷ The proactivity has significantly increased the frequency and intensity of police contact with community members.⁹⁸ This Subsection discusses several manifestations of this orientation and its underlying contagion-oriented mentality.

a. Broken Windows and Zero Tolerance (a.k.a., “Quality-of-Life” and Order Maintenance) Policing

“Broken windows” policing had its genesis in a highly influential 1982 article by George L. Kelling and James Q. Wilson appearing in *The Atlantic* magazine.⁹⁹ Kelling and Wilson theorized that physical disorder invites criminal activity because it (1) suggests to individuals that they can law-break with impunity and (2) signals to residents that their neighborhoods are dangerous places, leading to their withdrawal from informal social control and regulation.¹⁰⁰ As Jeffrey Fagan and Garth Davies put it, the theory posits that “disorder invites more disorder in a contagious process that progressively breaks down community standards and also suggests to would-be criminals that crime will not be reported.”¹⁰¹ To combat this occurrence, buildings in disrepair and other physical manifestations of disorder should be remedied.¹⁰²

“Zero tolerance” policing, frequently used synonymously with broken windows, but arguably distinct,¹⁰³ also originated around this time. The strategy similarly focuses on particular areas but targets social—not physical—disorder. It does so by intensive police resort to arrests for low-level offenses, such as loitering, jaywalking, and littering,¹⁰⁴ in the belief that doing so will head off the

96. See James J. Willis, *A Recent History of the Police*, in THE OXFORD HANDBOOK OF POLICE AND POLICING 3, 6–7 (Michael D. Reisig & Robert J. Kane eds., 2014).

97. Phillip B. Heyman, *The New Policing*, 28 FORDHAM URB. L.J. 407, 423–24 (2000). Although no longer “new” in a chronologic sense, the strategies are new inasmuch as they mark a break from traditional reactive policing modes.

98. See *id.* at 425–26.

99. George L. Kelling & James Q. Wilson, *Broken Windows: The Police and Neighborhood Safety*, ATLANTIC, Mar. 1982, at 29, 31, <https://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/> [<https://perma.cc/QL3S-RHDR>].

100. *Id.* at 33.

101. Jeffrey Fagan & Garth Davies, *Street Stops and Broken Windows: Terry, Race, and Disorders in New York City*, 28 FORDHAM URB. L.J. 457, 464–65 (2000).

102. In this regard, broken windows paralleled another situational intervention—“problem-oriented” policing. See *infra* notes 374–78 and accompanying text.

103. See George L. Kelling & James Q. Wilson, *A Quarter Century of Broken Windows*, AM. INT. (Sep. 1, 2006), <https://www.the-american-interest.com/2006/09/01/a-quarter-century-of-broken-windows/> [<https://perma.cc/HVU3-ZQDN>] (asserting that broken windows policing, as envisioned, did not emphasize high numbers of arrests for minor quality-of-life offenses, but rather the combating of physical decay and decrepitude).

104. See Fagan & Ash, *supra* note 6, at 34–35 (“Arrests for low-level misdemeanors, as well as noncustodial citations or summonses, are a staple of this policing model.”).

commission of more serious offenses.¹⁰⁵ The strategy seeks to “remove undesirable persons from a neighborhood,”¹⁰⁶ akin to extirpating a small cancerous lesion to prevent it from becoming a larger and more harmful one.

Assessing the crime control efficacy of zero tolerance has been difficult because, as noted, it is often combined with problem-solving oriented strategies associated with broken windows, which show efficacy in reducing crime.¹⁰⁷ According to a systematic review of the research conducted, however, zero tolerance, to the extent it can be isolated, does not generate significant crime reductions and in fact imposes significant harms on individuals and communities.¹⁰⁸

b. Stop-Question-and-Frisk

Another proactive policing strategy is “stop-question-and-frisk” (“SQF”), employed in New York, Chicago, Philadelphia, and several other large cities.¹⁰⁹ SQF involves intensive use of street stops and frisks by police in targeted neighborhoods, mainly to find guns.¹¹⁰ Applying data analytics, SQF represents a programmatic, place-based policing strategy intended to deter and prevent crime by means of aggressive police stops and frisks,¹¹¹ saturating areas in the name of identifying “could be” offenders.¹¹²

SQF differs from broken windows and zero tolerance policing in several respects. SQF is not a “prophylactic response” to the possibility that disorder will induce crime, like broken windows.¹¹³ Also, unlike zero tolerance, which focuses on arrests for non-serious offenses,¹¹⁴ SQF utilizes aggressive street stops and

105. K. Babe Howell, *Broken Lives from Broken Windows: The Hidden Costs of Aggressive Order-Maintenance Policing*, 33 N.Y.U. REV. L. & SOC. CHANGE 271, 276 (2009).

106. Kathryn R. Mason, *Civil Means to Criminal Ends*, 81 WASH. & LEE L. REV. 655, 655 (2024). Zero tolerance is also employed in Veterans’ Administration hospitals, which serve much the same populations as those most affected on the streets by contagion policing, by means of “embedded healthcare policing.” Patel, *supra* note 95, at 815–16; *see also id.* at 836 (“The hospital is a site of managing marginalized and poor people’s behavior using the threat and actual charging of low-level offenses.”). Public schools located in disadvantaged, crime-plagued areas, also utilize zero tolerance, enforced by uniformed police and school security officers, resulting in students being channeled into the legal system. Amber Baylor, *Criminalized Students, Reparations, and the Limits of Prospective Reform*, 99 WASH. U. L. REV. 1229, 1265–70 (2022); Thalia González, *Race, School Policing, and Public Health*, 73 STAN. L. REV. ONLINE 180, 189–90 (2021).

107. NAT’L ACAD. SCIS., ENG’G & MED., PROACTIVE POLICING: EFFECTS ON CRIME AND COMMUNITIES 167–68 (David Weisburd & Malay K. Majmudar eds., 2018).

108. Anthony A. Braga, Brandon C. Welsh & Cory Schnell, *Can Policing Disorder Reduce Crime? A Systematic Review and Meta-Analysis*, 52 J. RSCH. CRIME & DELINQ. 567, 581 (2015).

109. Huq, *supra* note 65, at 2398.

110. *Id.* at 2414.

111. Tracey L. Meares, *Programming Errors: Understanding the Constitutionality of Stop-and-Frisk as a Program, Not an Incident*, 82 U. CHI. L. REV. 159, 162 (2015).

112. *Id.* at 164.

113. Huq, *supra* note 65, at 2411.

114. *See* Amanda Geller, *The Process Is Still the Punishment: Low-Level Arrests in the Broken Windows Era*, 37 CARDOZO L. REV. 1025, 1032 (2016) (noting with respect to New York City SQF data that “relatively few street stops lead to arrest”).

frisks.¹¹⁵ This high-intensity, aggressive brand of street patrol, however, shares the view that crime besets an area like a contagion and must be eradicated.¹¹⁶

Whether what has been called the “confrontational policing” of SQF has had a crime-reduction effect is unclear.¹¹⁷ In New York, for instance, while crime decreased during the use of SQF, it had already ticked downward before its employment.¹¹⁸ Similar inconclusive results regarding SQF were reached in other cities,¹¹⁹ compared to those jurisdictions that did not use it.¹²⁰ Studies do consistently show, however, that the strategy is ineffective at discovering guns and contraband¹²¹ and is marked by significant racial disparities.¹²²

c. “Hot Spot”

Another proactive strategy is “hot spot” policing, which is itself based on a public health concept.¹²³ Now widely employed nationwide,¹²⁴ hot spot policing entails “the application of police interventions at very small geographic units of analysis,”¹²⁵ such as “buildings or addresses, street segments, or clusters of

115. Brandon del Pozo & Barry Friedman, *Policing in the Age of the Gun*, 98 N.Y.U. L. REV. 1831, 1855–56 (2023).

116. Just as zero tolerance policing has made its way into hospitals and public schools, *see supra* note 106 and accompanying text, SQF has been employed in “vertical patrols” of public housing. Alexis Karteron, *When Stop and Frisk Comes Home: Policing Public and Patrolled Housing*, 69 CASE W. RES. L. REV. 669, 717 (2019).

117. *See* Charles F. Manski & Daniel S. Nagin, *Assessing Benefits, Costs, and Disparate Racial Impacts of Confrontational Proactive Policing*, 114 PNAS 9308, 9312–13 (2017).

118. Jeffrey Bellin, *The Inverse Relationship Between the Constitutionality and Effectiveness of New York City “Stop and Frisk,”* 94 B.U. L. REV. 1495, 1528 (2014).

119. Huq, *supra* note 65, at 2418–21.

120. Reisig, *supra* note 69, at 2.

121. Based on data collected for federal litigation challenging SQF, from 2004–2012 New York City police conducted 4.4 million stops; just over half (52%) led to a frisk—with no weapon discovered 98.5% of the time; 88% of stops resulted in neither an arrest nor a summons. *Floyd v. City of New York*, 959 F. Supp. 2d 540, 573 (S.D.N.Y. 2013).

122. *Id.* at 573–74. In the federal litigation successfully challenging the practice the court concluded that NYPD police

carrie[d] out more stops in areas with more [B]lack and Hispanic residents, even when other relevant variables [were] held constant. The best predictor for the rate of stops... is the racial composition of that unit rather than the known crime rate. These findings are “robust,” in the sense that the results persist even when the units of analysis are changed from precincts to census tracts, or from calendar quarters to months.

Id. at 589 (citations omitted); *see also* Sharad Goel, Justin M. Rao & Ravi Shroff, *Precinct or Prejudice? Understanding Racial Disparities in New York City’s Stop-and-Frisk Policy*, 10 ANNALS APPLIED STAT. 365, 366 (2016). For discussion of similar results in Chicago, *see* MARGARET A. HICKEY, ARENTFOX SCHIFF LLP, CONSULTANT REPORT: PROGRESS UPDATE AND DATA ANALYSIS OF CHICAGO POLICE DEPARTMENT STOPS BETWEEN 2018 AND 2020 34 (2023), https://www.aclu-il.org/sites/default/files/2023.06.14_consultant_report_0.pdf [<https://perma.cc/A49W-ZLFM>].

123. Timothy M. Smith, *Hotspotting: 10 Steps to Help Patients Hospitalized Most*, AMA (Oct. 19, 2016), <https://www.ama-assn.org/education/accelerating-change-medical-education/hotspotting-10-steps-help-patients-hospitalized> [<https://perma.cc/EW6F-JKAU>].

124. Brandon Turchan & Anthony Braga, *The Effects of Hot Spot Policing on Violence: A Systematic Review and Meta-analysis*, AGGRESSION & VIOLENT BEHAV., Nov.–Dec. 2024, at 1, 2.

125. ANTHONY A. BRAGA & DAVID L. WEISBURD, POLICING PROBLEM PLACES: CRIME HOT SPOTS AND EFFECTIVE PREVENTION 9 (2010). Hot spot policing developed in the late 1980s based on empirical observations of Lawrence Sherman and David Weisburd. Lawrence W. Sherman & David Weisburd, *General Deterrent Effects of Police Patrol in Crime “Hot Spots”: A Randomized, Controlled Trial*, 12 JUST. Q. 625, 630 (1995).

addresses, block faces, or segments.”¹²⁶ The underlying logic is that if crime is “highly concentrated on specific streets in the city, the police should focus their interventions at those places.”¹²⁷ Like zero tolerance and SQF policing, hot spot policing is predicated on the idea that the contagion of crime is location-specific, albeit in more specific locales, and should be combatted where it manifests to avoid its spread to healthy areas.¹²⁸

Hot spot policing can differ significantly in its application.¹²⁹ According to a meta-study, most hot spot policing is “enforcement-oriented, including directed patrol, saturation of an area with police presence, or zero tolerance of order maintenance violations.”¹³⁰ Officers told to police a “red box” on a map do so mindful of the need to “produce results,” *i.e.*, stops and arrests, often conducted in an aggressive manner because the areas are designated as more dangerous.¹³¹ It is also often the case that the crime indicia used to delineate “hot” areas, primarily prior stops and arrests, have a circular effect: rather than being reliably indicative of criminality, the data reflect past discretionary police decisions to target particular areas and individuals.¹³²

Because departments vary in their approaches to hot spot policing, research on its efficacy varies. Research on departments employing its enforcement-oriented incarnation fails to show significant crime reduction benefits,¹³³ while departments employing less aggressive problem-oriented approaches show substantial crime reduction benefits.¹³⁴

As this Part discussed, police today see themselves as warriors engaged in a battle against the contagion of crime, employing a variety of intensive surveillance and aggressive street patrol strategies. Police have “become

126. Anthony A. Braga, *Crime and Policing Revisited*, NEW PERSPECTIVES IN POLICING, Sep. 2015, at 1, 13.

127. David Weisburd, *Does Hot Spots Policing Inevitably Lead to Unfair and Abusive Police Practices, or Can We Maximize Both Fairness and Effectiveness in the New Proactive Policing?*, 2016 U. CHI. LEGAL F. 661, 665 (2016).

128. John M. MacDonald, Alex Knorre, David Mitre-Becerril & Aaron Chalfin, *Place-Based Approaches to Reducing Violent Crime Hot Spots: A Review of the Evidence on Public Health Approaches*, 78 AGGRESSION & VIOLENT BEHAV., Sep.–Oct. 2024, at 1, 1.

129. As discussed later, hot spot policing, if conducted properly, can produce substantial crime reduction without the negative effects of more aggressive indiscriminate street patrol. *See infra* notes 358–78 and accompanying text.

130. Tammy Rinehart Kochel, *Constructing Hot Spots Policing: Unexamined Consequences for Disadvantaged Populations and for Police Legitimacy*, 22 CRIM. JUST. POL’Y REV. 350, 358 (2011).

131. *See* FERGUSON, *supra* note 94, at 79 (“Because the areas have been designated as more dangerous, police may also respond in a more aggressively protective posture. While every police presence involves potential danger, the knowledge of being in an area of higher violence may alter the daily practice of officers, leading them to resort to physical violence more often.”).

132. *See* Andrew Guthrie Ferguson, *Surveillance and the Tyrant Test*, 110 GEO. L.J. 205, 229 (2021) (asserting that police “predict[] their own future arrest patterns based on past policing patterns”). The data benefit from a misleading veneer of objectivity, “tech wash[ing]” inaccurate or unreliable data inputs. Maneka Sinha, *The Automated Fourth Amendment*, 73 EMORY L.J. 589, 598 n.57 (2024). Worse yet, judges presume the accuracy of the data inputted and the reliability of the predictive technology used. *Id.* at 632, 644.

133. NAT’L ACAD. SCIS., ENG’G & MED., *supra* note 107, at 185.

134. *Id.* at 108; *see also infra* notes 359–62 and accompanying text.

epidemiologists of a sort,” Robert Weisberg has observed, determined to be the “exterminators of the source of infection.”¹³⁵

III. THE HARMS OF CONTAGION POLICING

Thus far the Article has examined how and why crime is now seen as a contagion and how police have responded in trying to vanquish it. This Part examines the significant harms contagion policing causes to individuals and communities.

A. *Physical and Mental Health Harm to Individuals*

Although contagion policing is of modern vintage, it has been enabled by the increasing discretionary authority afforded to police by the courts over time. A key development came in 1968 when in *Terry v. Ohio* the Supreme Court permitted police to conduct investigative stops and frisks for weapons.¹³⁶

The *Terry* Court held that an officer only needs reasonable suspicion of criminality to stop an individual, a “minimal standard of objective justification,”¹³⁷ which research shows is often based on no¹³⁸ or only vague¹³⁹ suspicions of criminality. This is so even though the *Terry* Court acknowledged that a stop constitutes “a serious intrusion upon the sanctity of the person, which may inflict great indignity and arouse strong resentment, and is not to be undertaken lightly.”¹⁴⁰ Police can also frisk a person if they have reasonable suspicion that they are “armed and presently dangerous.”¹⁴¹ A frisk, the Court recognized, is “a severe, though brief, intrusion upon cherished personal security, and it must surely be an annoying, frightening, and perhaps humiliating experience.”¹⁴²

Since *Terry* was decided, courts have increasingly condoned physical and intrusive stops and frisks.¹⁴³ Police can slap, grab, and push individuals into

135. Weisberg, *supra* note 5, at 236.

136. 392 U.S. 1, 16 (1968).

137. *INS v. Delgado*, 466 U.S. 210, 217 (1984).

138. *See, e.g.*, BARRY FRIEDMAN, UNWARRANTED: POLICING WITHOUT PERMISSION 158 (2017) (officers “no longer even try” to justify their *Terry* stops: “Between 2004 and 2009, the number of stops in which a NYPD officer failed to articulate suspicion of any particular crime rose from 1[%] to 36[%]”).

139. *See, e.g.*, Jeffrey Fagan & Amanda Geller, *Following the Script: Narratives of Suspicion in Terry Stops in Street Policing*, 82 U. CHI. L. REV. 51, 78 (2015) (discussing common use by police of “scripts” invoking vague terms such as nervousness and “furtive look”). “High crime area” is another common basis for suspicion. Barry Friedman & Cynthia Benin Stein, *Redefining What’s “Reasonable”: The Protections for Policing*, 84 GEO. WASH. L. REV. 281, 347 (2016). This even though it is a highly indeterminate benchmark that is created by police themselves, based on personnel deployment practices, creating a self-perpetuating data feedback loop. Elise C. Boddie, *Racially Territorial Policing in Black Neighborhoods*, 89 U. CHI. L. REV. 477, 490–97 (2022).

140. *Terry v. Ohio*, 392 U.S. 1, 17 (1968).

141. *See id.* at 24.

142. *Id.* at 24–25; *see also id.* at 17 (deeming a frisk “a serious intrusion upon the sanctity of the person, which may inflict great indignity and arouse strong resentment”). The Court added that “it is simply fantastic to urge that such a procedure performed in public by a policeman while the citizen stands helpless, perhaps facing a wall with his hands raised, is a ‘petty indignity.’” *Id.* at 16–17.

143. Shawn E. Fields, *Stop and Frisk in a Concealed Carry World*, 93 WASH. L. REV. 1675, 1678 (2018). Importantly, known instances of abusive stops and frisks do not reflect those that do not result in discovery of a

walls or onto the ground;¹⁴⁴ kick or punch;¹⁴⁵ handcuff and point weapons;¹⁴⁶ and deploy multiple officers.¹⁴⁷ According to one study of individuals subjected to SQF in New York City, 45% of respondents reported that an officer made a verbal threat during the course of a stop,¹⁴⁸ 46% experienced use of force,¹⁴⁹ and 26% were confronted with displays of a weapon.¹⁵⁰

Aggressive stops and frisks cause significant psychological and emotional distress.¹⁵¹ As Derecka Purnell described the experience:

A stop and frisk is not simply either. It's the spreading of the legs and the groping of the thighs and genitals, without consent. . . . If we choose to defend ourselves and protect our bodies, then cops have the power to escalate the violence to an arrest. The number of stops and how often police profile are likely underreported, yet they cannot account for the constant threat of either's occurrence.¹⁵²

According to a survey of young men in New York City, those subject to SQF consistently experienced “trauma,” “anxiety,” and “depressive symptoms,”¹⁵³ and an array of psychological problems.¹⁵⁴ Aggressive police stops are associated with a 46% higher probability of mental health issues and a 36% higher probability of physical health issues.¹⁵⁵

Studies also demonstrate that “racial/ethnic degradation, and homophobia are commonplace,”¹⁵⁶ and that there exist “large racial differences” in police use

weapon or contraband, which remain invisible because they are not challenged in a motion to suppress. NAT'L ACAD. SCI., ENG'G & MED., *supra* note 107, at 91.

144. *United States v. Morgan*, 855 F.3d 1122, 1127 (10th Cir. 2017); *United States v. Maguire*, 359 F.3d 71, 77–78 (1st Cir. 2004); *United States v. McCullers*, 591 F. Supp. 3d 38, 51 (E.D. Va. 2022).

145. *Spencer v. Pew*, 117 F.4th 1130, 1134 (9th Cir. 2024).

146. *United States v. Mohamed*, 630 F.3d 1, 6 (1st Cir. 2010); *United States v. Reedy*, 989 F.3d 548, 555 (7th Cir. 2021).

147. *See United States v. Novak*, 870 F.2d 1345, 1352–54 (7th Cir. 1989).

148. JENNIFER FRATELLO, ANDRÉS F. RENGIFO, JENNIFER TRONE & BRENDA VELAZQUEZ, *COMING OF AGE WITH STOP AND FRISK: EXPERIENCES, PERCEPTIONS, AND PUBLIC SAFETY IMPLICATIONS* 26 (2013), <https://www.prisonpolicy.org/scans/vera/stop-and-frisk-technical-report-v4.pdf> [<https://perma.cc/H3TN-4TVZ>].

149. *Id.*

150. *Id.*

151. Dylan B. Jackson, Chantal Fahmy, Michael G. Vaughn & Alexander Testa, *Police Stops Among At-Risk Youth: Repercussions for Mental Health*, 65 J. ADOLESCENT HEALTH 627, 631 (2019).

152. DERECKA PURNELL, *BECOMING ABOLITIONISTS: POLICE, PROTESTS, AND THE PURSUIT OF FREEDOM* 66 (2021).

153. Amanda Geller, Jeffrey Fagan, Tom Tyler & Bruce G. Link, *Aggressive Policing and the Mental Health of Young Urban Men*, 104 AM. J. PUB. HEALTH 2321, 2321–22, 2324 (2014); *see* Melissa N. McLeod, Daliah Heller, Meredith G. Manze & Sandra E. Echeverria, *Police Interactions and the Mental Health of Black Americans: A Systematic Review*, 7 J. RACIAL & ETHNIC HEALTH DISPARITIES 10, 10 (2020).

154. J.L. Hirschtick et al., *Persistent and Aggressive Interactions with the Police: Potential Mental Health Implications*, EPIDEMIOLOGY & PSYCHIATRIC SCI., Feb. 5, 2019, at 1, 4–7; Alyasah Ali Sewell, Kevin A. Jefferson & Hedwig Lee, *Living Under Surveillance: Gender, Psychological Distress, and Stop-Question-and-Frisk Policing in New York City*, 159 SOC. SCI. & MED. 1, 9–10 (2016).

155. Kevin Petersen, David Weisburd, Sydney Fay, Elizabeth Eggins & Lorraine Mazerolle, *Police Stops to Reduce Crime: A Systematic Review and Meta-Analysis*, CAMPBELL SYSTEMATIC REVIEWS, Jan. 10, 2023, at 1, 24–25.

156. Geller et al., *supra* note 153, at 2321; *see* Rod K. Brunson, “Police Don’t Like Black People”: *African-American Young Men’s Accumulated Police Experiences*, 6 CRIMINOLOGY & PUB. POL’Y 71, 95 (2007).

of non-lethal force, including slapping, grabbing, and shoving into a wall or onto the ground.¹⁵⁷ Because police target predominantly minority neighborhoods,¹⁵⁸ individuals living in them often feel singled out,¹⁵⁹ fostering feelings of “hopelessness” and being “dehumanized.”¹⁶⁰ As one young New Yorker related:

When [police] stop you in the street, and everybody’s looking . . . it does degrade you. And then people get the wrong perception of you. That kind of colors people’s thoughts towards you, might start thinking you’re into some illegal activity, when you’re not. Just because the police [are] just stopping you for—just randomly. That’s humiliating.¹⁶¹

Police violence has an even more serious impact. Violence is closely associated with depression,¹⁶² suicidal ideation/attempts,¹⁶³ heightened blood pressure,¹⁶⁴ and other chronic medical conditions.¹⁶⁵ Individuals who have a firearm

157. Roland G. Fryer, Jr., *An Empirical Analysis of Racial Differences in Police Use of Force*, 127 J. POL. ECON. 1210, 1213 (2019).

158. See J.E. DeVlyder et al., *Prevalence, Demographic Variation and Psychological Correlates of Exposure to Police Victimization in Four US Cities*, 26 EPIDEMIOLOGY & PSYCHIATRIC SCIS. 466, 473–74 (2017); Emma Pierson et al., *A Large-Scale Analysis of Racial Disparities in Police Stops Across the United States*, 4 NATURE HUM. BEHAV. 736, 737–39 (2020). By age fifteen, over 70% of Black male youths have witnessed stops, and 40% have been stopped by police. Amanda Geller, *Youth-Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014-2017*, 111 AM. J. PUB. HEALTH 1300, 1304 tbl. 2 (2021). Black youths have a nearly nine-fold number of encounters with police as White youths and are five times as likely to experience injury during the encounters. Monique Jindal, Kamila B. Mistry, Maria Trent, Ashlyn McRae & Rachel L. J. Thornton, *Police Exposures and the Health and Well-Being of Black Youth in the US: A Systematic Review*, 176 JAMA PEDIATRICS 78, 78 (2022).

159. See, e.g., Hannah Cooper, Lisa Moore, Sofia Gruskin & Nancy Krieger, *Characterizing Perceived Police Violence: Implications for Public Health*, 94 AM. J. PUB. HEALTH 1109, 1115 (2004); Carla Shedd, *What About the Other 99%?: The Broader Impact of Street Stops on Minority Communities*, in KEY ISSUES IN THE POLICE USE OF PEDESTRIAN STOPS AND SEARCHES: DISCUSSION PAPERS FROM AN URBAN INSTITUTE ROUNDTABLE 24, 26 (Nancy La Vigne et al. eds., 2012). A phenomenon psychologists refer to as entitativity: being perceived as members of an out-group, as opposed to individuals. Brian Lickel et al., *Varieties of Groups and the Perception of Group Entitativity*, 78 J. PERSONALITY & SOC. PSYCH. 223, 224 (2000).

160. Rod K. Brunson & Ronald Weitzer, *Police Relations with Black and White Youths in Different Urban Neighborhoods*, 44 URB. AFFS. REV. 858, 869, 879 (2009).

161. CTR. FOR CONST. RTS., STOP AND FRISK: THE HUMAN IMPACT 6 (2012), <https://ccrjustice.org/sites/default/files/attach/2015/08/the-human-impact-report.pdf> [<https://perma.cc/X4GP-ZR5H>] (second alteration in original).

162. See DeVlyder et al., *supra* note 158, at 466; Jordan E. DeVlyder et al., *Association of Exposure to Police Violence with Prevalence of Mental Health Symptoms Among Urban Residents in the United States*, JAMA NETWORK OPEN, Nov. 21, 2018, at 1, 1.

163. See DeVlyder et al., *supra* note 11, at 536 (noting that “while police violence is associated with increased risk of multiple negative mental outcomes, the magnitude of association with suicide attempts in particular is extremely large”); Christopher R. Dennison & Jessica G. Finkeldey, *Self-Reported Experiences and Consequences of Unfair Treatment by Police*, 59 CRIMINOLOGY 254, 279 (2021).

164. See Jennifer Ahern, Ellicott C. Matthey, Dana E. Goin, Kriszta Farkas & Kara E. Rudolph, *Acute Changes in Community Violence and Increases in Hospital Visits and Deaths from Stress-Responsive Diseases*, 29 EPIDEMIOLOGY 684, 689 n.39 (2018); Nichole A. Smith, Dexter R. Voisin, Joyce P. Yang & Elizabeth L. Tung, *Keeping Your Guard Up: Hypervigilance Among Urban Residents Affected by Community and Police Violence*, 38 HEALTH AFFS. 1662, 1667–68 (2019); Matthew Kimble et al., *The Impact of Hypervigilance: Evidence for a Forward Feedback Loop*, 28 J. ANXIETY DISORDERS 241, 241 (2014).

165. Ryan D. Talbert, *Lethal Police Encounters and Cardiovascular Health Among Black Americans*, 10 J. RACIAL & ETHNIC HEALTH DISPARITIES 1756, 1760 (2023); Alexa A. Freedman et al., *Complaints About Excessive Use of Police Force in Women’s Neighborhoods and Subsequent Perinatal and Cardiovascular Health*, SCI. ADVANCES, Jan. 19, 2022, at 1, 5; Smith et al., *supra* note 164.

pointed at them by police experience especially adverse mental health impacts.¹⁶⁶

Adolescents are especially affected. Studies show that stops of adolescents have a significant adverse mental health impact¹⁶⁷ and cause considerable trauma, stress, and anxiety,¹⁶⁸ which is exacerbated by police use of harsh language, racial insults, or taunts about sexuality.¹⁶⁹ Longer term, police aggression impairs educational attainment,¹⁷⁰ perceived self-worth,¹⁷¹ and even sleep patterns.¹⁷² Research also shows that police stops increase the likelihood that youths will engage in future criminal behavior.¹⁷³

Hypervigilance and related stresses are also common among adolescents.¹⁷⁴ As one young male related, even being in the presence of an officer is impactful:

[It] makes you anxious about just being, walking around and doing your daily things while having a bunch of police always there, always present and stopping people that look like me. . . . So, it's always this fear that "okay, this cop might stop me," for no good reason, while I'm just sitting there in my neighborhood.¹⁷⁵

Youths often recall and relive past negative experiences when they see the police, prompting flashbacks and physical and psychological reactions, such as

166. Dylan B. Jackson et al., *Officer Gunpoint During Police Stops: Repercussions for Youth Mental Health and Perceived Anxiety*, 34 J. RSCH. ADOLESCENCE 1679, 1684 (2024).

167. See, e.g., Jackson et al., *supra* note 151.

168. Dylan B. Jackson, Juan Del Toro, Daniel C. Semenza, Alexander Testa & Michael G. Vaughn, *Unpacking Racial/Ethnic Disparities in Emotional Distress Among Adolescents During Witnessed Police Stops*, 69 J. ADOLESCENT HEALTH 248, 248–49 (2021); Sewell et al., *supra* note 154, at 9.

169. Geller et al., *supra* note 153, at 2321. For discussion of police use of *Terry* stops to sexually victimize Black men, see PAUL BUTLER, *CHOKEHOLD: POLICING BLACK MEN* 83–97 (2017).

170. Juan Del Toro, Dylan B. Jackson & Ming-Te Wang, *The Policing Paradox: Police Stops Predict Youth's School Disengagement via Elevated Psychological Distress*, 58 DEVELOPMENTAL PSYCH. 1402, 1404 (2022); Benjamin Justice, *Hobbling: The Effects of Proactive Policing and Mass Imprisonment on Children's Education*, 17 ANN. REV. L. & SOC. SCI. 31, 37 (2021); Joscha Legewie & Jeffrey Fagan, *Aggressive Policing and the Educational Performance of Minority Youth*, 84 AM. SOCIO. REV. 220, 224 (2019).

171. Nikki Jones, "The Regular Routine": *Proactive Policing and Adolescent Development Among Young, Poor Black Men*, 143 NEW DIRECTIONS FOR CHILD & ADOLESCENT DEV. 33, 36 (2014); Kristin Turney, Alexander Testa & Dylan B. Jackson, *Police Stops and the Erosion of Positive Future Orientation Among Urban Adolescents*, 71 J. ADOLESCENT HEALTH 180, 183–85 (2022).

172. Dylan B. Jackson, Alexander Testa, Michael G. Vaughn & Daniel C. Semenza, *Police Stops and Sleep Behaviors Among At-Risk Youth*, 6 SLEEP HEALTH 435, 439 (2020).

173. See, e.g., Juan Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys*, 116 PNAS 8261, 8261 (2019); Dylan B. Jackson, Alexander Testa & Michael G. Vaughn, *Low Self-Control and Legal Cynicism Among At-Risk Youth: An Investigation into Direct and Vicarious Police Contact*, 57 J. CRIME & DELINQ. 741, 747 (2020); Jeffrey T. Ward, Marvin D. Krohn & Chris L. Gibson, *The Effects of Police Contact on Trajectories of Violence: A Group-Based, Propensity Score Matching Analysis*, 29 J. INTERPERSONAL VIOLENCE 440, 440 (2014).

174. Jackson et al., *supra* note 172, at 435; Lindsey Webb et al., *Anticipation of Racially Motivated Police Brutality and Youth Mental Health*, J. CRIM. JUST., June 6, 2024, at 1, 1.

175. CTR. FOR CONST. RTS., *supra* note 161, at 17; see Sirry Alang, Donna McAlpine, Ellen McCreedy & Rachel Hardeman, *Police Brutality and Black Health: Setting the Agenda for Public Health Scholars*, 107 AM. J. PUB. HEALTH 662, 663 (2017); Abigail A. Sewell & Kevin A. Jefferson, *Collateral Damage: The Health Effects of Invasive Police Encounters in New York City*, 93 J. URB. HEALTH: BULL. N.Y. ACAD. MED. 542, 543 (2016).

sweating, difficulty breathing, and nausea.¹⁷⁶ Those witnessing such contact also experience trauma,¹⁷⁷ with exposure to police use of fatal force being especially traumatic.¹⁷⁸

The sense that stops and frisks are unfair and unjustified aggravates the negative health effects.¹⁷⁹ As one young Black male in Baltimore put it, police detain residents “at any time and they can do whatever. They can hop on you and just beat you up for no reason.”¹⁸⁰ A young Black New York City male recounted an officer yelling “Mother –er, don’t move or I’ll break your face!” and another pulling a cell phone from his pocket, tossing it onto the street, where it broke, with no apology or compensation provided.¹⁸¹ Such experiences are especially impactful when they occur repeatedly.¹⁸²

The common absence of legal accountability for police misconduct,¹⁸³ and the judicial proclivity to believe police accounts and refuse to suppress evidence in criminal cases,¹⁸⁴ add a sense of impotence and hopelessness. As Adam Davidson recently noted, residents “must reckon with the possibility that they will be subjected not only to excessive force from someone visibly armed, but also to legal force backed by the state that arms their aggressor.”¹⁸⁵

Police aggression also results in serious physical harm. Although available data are known to significantly undercount the extent of non-fatal injuries caused by police,¹⁸⁶ research shows that the number is likely quite high.¹⁸⁷ The extent

176. Jackson et al., *supra* note 151, at 628.

177. Dylan B. Jackson, Alexander Testa, Daniel C. Semenza & Rebecca L. Fix, *Youth Mental Well-Being Following Witnessed Police Stops*, 99 J. URB. HEALTH 783, 790–91 (2022); Kristin Turney, *Depressive Symptoms Among Adolescents Exposed to Personal and Vicarious Police Contact*, 11 SOC’Y & MENTAL HEALTH 113, 115 (2021).

178. Christopher R. Browning et al., *Exposure to Police-Related Deaths and Physiological Stress Among Urban Black Youth*, PSYCHONEUROENDOCRINOLOGY, March 2021, at 1, 11.

179. Jackson et al., *supra* note 151, at 628; Michael J. McFarland, Amanda Geller & Cheryl McFarland, *Police Contact and Health Among Urban Adolescents: The Role of Perceived Injustice*, SOC. SCI. & MED., Aug. 13, 2019, at 1, 2; Alexander Testa & Dylan B. Jackson, *Adverse Childhood Experiences and Perceived Unfair Police Treatment: Differences by Race and Ethnicity*, 70 J. ADOLESCENT HEALTH 804, 807–08 (2022).

180. Jocelyn R. Smith Lee & Michael A. Robinson, “*That’s My Number One Fear in Life. It’s the Police*”: *Examining Young Black Men’s Exposures to Trauma and Loss Resulting from Police Violence and Police Killings*, 45 J. BLACK PSYCH. 143, 167 (2019).

181. JAN HALDIPUR, *NO PLACE ON THE CORNER: THE COSTS OF AGGRESSIVE POLICING* 80, 98–99 (2019). For additional troubling accounts, see Kami Chavis Simmons, *The Legacy of Stop and Frisk: Addressing the Vestiges of a Violent Police Culture*, 49 WAKE FOREST L. REV. 849, 861–63 (2014).

182. See Meares, *supra* note 111, at 159 (saying of New York’s stop-question-and-frisk practice that “many of those who are stopped—the majority of them young men of color—do not experience the stops as one-off incidents. They experience them as a program to police them as a group, which is, of course, the reality”).

183. See, e.g., *Nolin v. Isbell*, 207 F.3d 1253, 1255, 1258 (11th Cir. 2000) (finding officer protected by qualified immunity when he “grabbed [suspect] from behind by the shoulder and wrist, threw him against a van three or four feet away, kned him in the back and pushed his head into the side of the van”). See generally JOANNA SCHWARTZ, *SHIELDED: HOW THE POLICE BECAME UNTOUCHABLE* (2023) (discussing the untouchable nature of police).

184. Shima Baradaran, *Rebalancing the Fourth Amendment*, 102 GEO. L.J. 1, 16–17 (2013).

185. Adam A. Davidson, *The Shadow of the Law of the Police*, 122 MICH. L. REV. 1035, 1048 (2024).

186. GBD 2019 Police Violence U.S. Subnational Collaborators, *Fatal Police Violence by Race and State in the USA, 1980–2019: A Network Meta-Regression*, 398 LANCET 1239, 1240 (2021).

187. See *id.*

of actual fatalities is better known and is troublingly common. Recent high-profile police killings highlight the widespread use of deadly force by police, especially against unarmed Black males.¹⁸⁸ According to one recent study, Black males are more than twice as likely as other populations to be killed by police, controlling for numerous factors,¹⁸⁹ with the incidence of death being even higher among those suffering from mental health problems.¹⁹⁰ Two in every 1,000 Black males can expect to be killed by police, whereas White males have a rate of 0.7.¹⁹¹ In Baltimore, youth describe dying at the hands of police as a primary fear in daily life.¹⁹²

The preceding discussion mainly focuses on stops and frisks. Arrests also have a significant impact. As with stops, police enjoy enormous discretionary authority to arrest, based on the undemanding evidentiary standard of probable cause.¹⁹³ Police can arrest for “very minor” criminal offenses,¹⁹⁴ even though such arrests often impose “pointless indignity” resulting in “gratuitous humiliations.”¹⁹⁵ An arrest, the Supreme Court has acknowledged, is “a serious personal intrusion regardless of whether the person seized is guilty or innocent.”¹⁹⁶ “Once a police officer attempts an arrest,” Rachel Harmon notes, “he is authorized to use force, sometimes deadly force, to enforce that decision. As a result, arrests always risk and sometimes lead to injury or death.”¹⁹⁷

188. Frank Edwards, Hedwig Lee & Michael Esposito, *Risk of Being Killed by Police Use of Force in the United States by Age, Race-Ethnicity, and Sex*, 116 PNAS 16793, 16793–95 (2019); Cody T. Ross, Bruce Winterhalder & Richard McElreath, *Racial Disparities in Police Use of Deadly Force Against Unarmed Individuals Persist After Appropriately Benchmarking Shooting Data on Violent Crime Rates*, 12 SOC. PSYCH. & PERSONALITY SCI. 323, 324–27 (2020).

189. Jeffrey A. Fagan & Alexis D. Campbell, *Race and Reasonableness in Police Killings*, 100 B.U. L. REV. 951, 961 (2020).

190. See Jamelia N. Morgan, *Psychiatric Holds and the Fourth Amendment*, 124 COLUM. L. REV. 1363, 1375 (2024) (“Individuals in mental [health] crisis are more than sixteen times more likely to die in encounters with law enforcement.”).

191. Edwards et al., *supra* note 188, at 16793, 16795; Rashawn Ray, Paula M. Lantz & David Williams, *Upstream Policy Changes to Improve Population Health and Health Equity: A Priority Agenda*, 101 MILBANK Q. 20, 20 (2023).

192. Lee & Robinson, *supra* note 180, at 168.

193. See *Kaley v. United States*, 571 U.S. 320, 338 (2014) (explaining that probable cause is “not a high bar”); *Illinois v. Gates*, 462 U.S. 213, 246 (1983) (describing probable cause as “a fair probability” of wrongdoing).

194. *Atwater v. City of Lago Vista*, 532 U.S. 318, 354 (2001). In *Atwater*, the arrest basis was a motorist failing to wear a seatbelt, punishable by only a small monetary fine. *Id.* at 323.

195. *Id.* at 346–47.

196. *United States v. Watson*, 423 U.S. 411, 428 (1976) (Powell, J., concurring); see also *United States v. Marion*, 404 U.S. 307, 320 (1971) (describing arrest as “a public act that may seriously interfere with the defendant’s liberty . . . disrupt his employment, drain his financial resources, curtail his associations, subject him to public obloquy, and create anxiety in him, his family, and his friends”).

197. Rachel A. Harmon, *Why Arrest?*, 115 MICH. L. REV. 307, 315 (2016).

Although arrests are usually based on less serious offenses,¹⁹⁸ and very often do not result in conviction,¹⁹⁹ they impose an array of immediate additional harms.²⁰⁰ These can include detention in an often dangerous and unsanitary detention facility,²⁰¹ a strip-search,²⁰² a lengthy period of detention without being charged,²⁰³ and being required to provide a buccal swab for a DNA sample.²⁰⁴ Those fortunate enough to secure their liberty must often comply with repeated in-person court appearances, frequently resulting from postponements, disrupting work, education, and family obligations.²⁰⁵ While awaiting their case disposition they might be subject to electronic monitoring, requiring them to pay significant monthly costs for the privilege.²⁰⁶ Furthermore, arrestees, very often already poor,²⁰⁷ must pay fees, fines, and other costs,²⁰⁸ which can result in major mental and emotional stress and difficulty.²⁰⁹ And, like stops,²¹⁰ arrests “mark” individuals for future system consequences.²¹¹

198. See *Emerging Findings*, VERA INST. JUST., <http://www.vera.org/publications/arrest-trends-every-three-seconds-landing/arrest-trends-every-three-seconds/findings> [<https://perma.cc/3L69-BNND>] (last visited Feb. 16, 2026) (noting that “non-serious, low-level offenses, such as ‘drug abuse violations’ and ‘disorderly conduct’ make up over [eighty] percent of arrests”).

199. See, e.g., Adam M. Gershowitz, *Prosecutorial Dismissals as Teachable Moments (and Databases) for the Police*, 86 GEO. WASH. L. REV. 1525, 1531–35 (2018) (noting same and providing data in support); Alexandra Natapoff, *Misdemeanor Declination: A Theory of Internal Separation of Powers*, 102 TEX. L. REV. 937, 945, 983–88 (2024) (noting low misdemeanor prosecutorial declination rates nationwide, often based on prosecutors “rubber-stamping” police arrests, along with high subsequent dismissal rates of charges); see also Erin E. Myers, *Mass Criminalization and Racial Disparities in Conviction Rates*, 73 HASTINGS L.J. 1099, 1126 (2022) (finding, based on a nationally representative sample, that Black arrestees were 29% less likely to be convicted than White arrestees).

200. For discussion of “hanging arrests” commonly stored in databases, which do not indicate the outcome of an arrestee’s case, see Wayne A. Logan & Andrew Guthrie Ferguson, *Policing Criminal Justice Data*, 101 MINN. L. REV. 541, 560–61, 566 (2016).

201. See *Cty. of Riverside v. McLaughlin*, 500 U.S. 44, 51 (1991).

202. *Florence v. Bd. of Chosen Freeholders*, 566 U.S. 318, 330 (2012).

203. See Pamela R. Metzger & Janet C. Hoefel, *Charging Time*, 108 IOWA L. REV. 1723, 1743–46 (2023).

204. *Maryland v. King*, 569 U.S. 435, 439 (2013).

205. Lauren Roberts, *The Costs of Showing Up*, 120 NW. U. L. REV. ONLINE (2025).

206. Prithika Balakrishnan, *Mass Surveillance as Racialized Control*, 71 UCLA L. REV. 478, 507 (2024).

207. See PETER EDELMAN, NOT A CRIME TO BE POOR: THE CRIMINALIZATION OF POVERTY IN AMERICA 11 (2017) (“Low-income people are arrested for minor violations that are only annoyances for people with means but are disastrous for the poor and near poor . . .”); Lottie Joiner, *How Families Pay the Never-Ending Price of a Criminal Record*, ATLANTIC (Dec. 15, 2015), <https://www.theatlantic.com/politics/archive/2015/12/how-families-pay-the-never-ending-price-of-a-criminal-record/433641/> [<https://perma.cc/H3ER-PSXC>].

208. Wayne A. Logan & Ronald F. Wright, *Mercenary Criminal Justice*, 2014 U. ILL. REV. 1175, 1186.

209. Alexes Harris & Tyler Smith, *Monetary Sanctions as Chronic Stressors: The Emotional Strain of People Who Owe Court Fines and Fees*, 8 RSF: RUSS. SAGE FOUND. J. SOC. SCI. 36, 36 (2022).

210. See *supra* note 72 and accompanying text.

211. See, e.g., Eisha Jain, *Arrests as Regulation*, 67 STAN. L. REV. 809, 819 (2015) (explaining that arrests for even petty offenses “give law enforcement an opportunity to monitor arrested individuals over time, particularly when arrests remain open for months or even years due to delayed court dates, or when arrested individuals agree to a form of court-ordered monitoring as a condition of dismissal”).

B. Social and Economic Harm to Individuals

Stops, arrests, and convictions have myriad life-altering negative effects for individuals. Police rely on them when making search and seizure decisions,²¹² and having a criminal record, especially a conviction, can negatively impact later criminal justice system outcomes.²¹³ This is so even though convictions can be misleading measures of culpability because individuals, especially when arrested for minor offenses, frequently admit guilt simply to obtain release from detention.²¹⁴

Outside the legal system, a record negatively impacts basic living conditions. A record for even a minor offense can jeopardize current and future employment,²¹⁵ with research showing a far more profound impact on Blacks than on Whites.²¹⁶ A record also imposes a broad array of “civil disabilities,” including deportation,²¹⁷ and loss of the right to vote, serve on a jury, hold public office,²¹⁸ possess a firearm,²¹⁹ and serve in the military.²²⁰ Individuals also experience loss of occupational licensure,²²¹ student loan opportunities,²²² child custody rights,²²³ eligibility for public assistance for food²²⁴ and housing,²²⁵ and the ability to obtain a driver’s license.²²⁶

A criminal record also imposes “informal” collateral consequences, arising from the many non-legal effects of a criminal record.²²⁷ For instance, while laws impose formal limits on public housing opportunities,²²⁸ private sector landlords

212. See, e.g., *United States v. Erwin*, 155 F.3d 818, 822 (6th Cir. 1998); *United States v. Myers*, 106 F.3d 936, 939 (10th Cir. 1997). The practice has been facilitated by police use of computer laptops and portable handheld devices. Wendy Ruderman, *New Tool for Police Officers: Records at Their Fingerprints*, N.Y. TIMES, Apr. 11, 2013, at A17.

213. Jane Kelly, *The Power of the Prior Conviction*, 97 N.Y.U. L. REV. 902, 924 (2022); Eisha Jain, *Prosecuting Collateral Consequences*, 104 GEO. L. J. 1197, 1206–07 (2016).

214. Lucian E. Dervan, Vanessa A. Edkins & Thea Johnson, *Victims of Coercive Plea Bargaining: Defendants Who Give False Testimony for False Pleas*, 72 AM. U. L. REV. 1919, 1966–67 (2023).

215. See Jain, *supra* note 211, at 812, 815, 840–41 (noting that arrests can result in work suspensions, reassignments, and terminations); see Benjamin D. Geffen, *The Collateral Consequences of Acquittal: Employment Discrimination on the Basis of Arrests Without Convictions*, 20 U. PA. J.L. & SOC. CHANGE 81, 81 (2017).

216. Devah Pager, *The Mark of a Criminal Record*, 108 AM. J. SOCIO. 937, 957–58 (2003).

217. MARGARET COLGATE LOVE, JENNY ROBERTS & WAYNE A. LOGAN, *COLLATERAL CONSEQUENCES OF CRIMINAL CONVICTION: LAW, POLICY AND PRACTICE* § 2:47 (2021); Sarah Venzules, *Guilty After Proven Innocent: Hidden Factfinding in Immigration Decision-Making*, 112 CALIF. L. REV. 697, 705 (2024).

218. LOVE ET AL., *supra* note 217, §§ 2:2–2:5.

219. *Id.* § 2:29.

220. *Id.* § 2:7.

221. *Id.* §§ 2:8–2:10.

222. Mason, *supra* note 106, at 705–06.

223. LOVE ET AL., *supra* note 217, §§ 2:25, 2:27.

224. *Id.* §§ 2:17, 2:18.

225. *Id.* § 2:17.

226. *Id.* § 2:23.

227. Wayne A. Logan, *Informal Collateral Consequences*, 88 WASH. L. REV. 1103, 1105–09 (2013). As Eisha Jain has recognized, individuals with “criminal records may never realize the full impact of their contact with the criminal justice system, because they have no ability to track how their record is used.” Eisha Jain, *The Mark of Policing: Race and Criminal Records*, 73 STAN. L. REV. ONLINE 162, 171 (2021).

228. Eumi K. Lee, *The Centerpiece to Real Reform? Political, Legal, and Social Barriers to Reentry in California*, 7 HASTINGS RACE & POVERTY L.J. 243, 254 (2010).

often informally use criminal history as a screening device.²²⁹ Lack of housing in turn makes job searches far more difficult,²³⁰ adding to formal legal disabilities regarding employment.²³¹ Being unhoused also increases the likelihood of subsequent arrest.²³²

Also, like medical contagion,²³³ a criminal record imposes significant social stigma.²³⁴ The stigma can impugn reputation even beyond the grave,²³⁵ and have a self-fulfilling criminogenic effect, predisposing individuals to become the deviants they were branded to be.²³⁶ Aggravating matters, records are readily and indelibly available on the internet,²³⁷ and record-remediation measures are more theoretical than real.²³⁸

Finally, a criminal record negatively affects an individual's family and close associates. Limited housing options affect families and dependents;²³⁹ so do employment barriers,²⁴⁰ denied access to federal government loans for education and training,²⁴¹ and eligibility for food stamps.²⁴² And, time spent in detention for an arrest or conviction (especially when involving incarceration) can

229. Laura M. DeMarco, *Criminal Record Stigma, Race, and Neighborhood Inequality*, 61 *CRIMINOLOGY* 705, 707 (2023). The fact of criminal conviction, formerly convicted individuals report, serves as the single greatest impediment to securing housing. Katharine H. Bradley, R.B. Michael Oliver, Noel C. Richardson & Elspeth M. Slayter, *NO PLACE LIKE HOME: HOUSING AND THE EX-PRISONER* 8 (2001), https://www.cjinstute.org/assets/sites/2/2001/05/54_No_Place_Like_Home.pdf [<https://perma.cc/2BDE-3GAN>].

230. Benjamin Levin, *Criminal Employment Law*, 39 *CARDOZO L. REV.* 2265, 2267–68 (2018).

231. *Id.* at 2268, 2273–74.

232. *See, e.g.*, Madeline Bailey, Erica Crew & Madz Reeve, *No Access to Justice: Breaking the Cycle of Homelessness and Jail*, VERA INST. (Aug. 2020), <https://www.safetyandjusticechallenge.org/wp-content/uploads/2020/08/homelessness-brief-web.pdf> [<https://perma.cc/LH6A-AA3P>] (noting that unhoused individuals are eleven times more likely to be arrested than housed individuals).

233. Fahimeh Saeed et al., *A Narrative Review of Stigma Related to Infectious Disease Outbreaks: What Can Be Learned in the Face of the Covid-19 Pandemic?*, *FRONTIERS PSYCHIATRY*, Dec. 2, 2020, at 1, 3.

234. Jain, *supra* note 227, at 178; Pager, *supra* note 216, at 942.

235. Eric Lipton, *Giuliani Cites Criminal Past of Slain Man*, *N.Y. TIMES*, Mar. 20, 2000, at B1.

236. Terri A. Winnick & Mark Bodkin, *Anticipated Stigma and Stigma Management Among Those to Be Labeled "Ex-Con"*, 29 *DEVIANT BEHAV.* 295, 298–99 (2008).

237. Sarah E. Lageson, Elizabeth H. Webster & Juan R. Sandoval, *Digitizing and Disclosing Personal Data: The Proliferation of State Criminal Records on the Internet*, 46 *LAW & SOC. INQUIRY* 635, 635 (2021).

238. *See* J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, 133 *HARV. L. REV.* 2460, 2466, 2501–10 (2020) (noting that “only 6.5% of all eligible individuals [in Michigan] receive an expungement within five years of the date at which they first qualify for one”). On the racial and economic disparities vis-à-vis access to expungement, see Amy F. Kimpel, *Paying for a Clean Record*, 112 *J. CRIM. L. & CRIMINOLOGY* 439, 441 (2022).

239. Deborah N. Archer, *Exile from Main Street*, 55 *HARV. C.R.-C.L. L. REV.* 788, 791 (2020).

240. Howell, *supra* note 105, at 296.

241. *See, e.g.*, 20 U.S.C. § 1091(r)(1) (2020) (rendering ineligible for aid any student who has been convicted of an offense involving the sale or possession of a controlled substance).

242. LEGAL ACTION CTR., *AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS* 12 (2004), <https://www.prisonlegalnews.org/media/publications/after%20prison%2C%20roadblocks%20to%20re-entry%2C%20%20legal%20action%20center's%20report%2C%20%202004.pdf> [<https://perma.cc/ATW7-GF9R>].

exacerbate often already unstable family financial situations,²⁴³ with the situation worsened when the inmate is a sole provider or caregiver.²⁴⁴

Together, the many adverse effects of a criminal record impose major obstacles upon individuals seeking to live a productive, crime-free life.²⁴⁵ From a public health perspective, criminal records impair the cure and treatment of affected individuals.

C. *Harm to Communities*

To gauge the full effect of contagion policing, the lens of understanding must be broadened beyond individuals to include the aggregate harm imposed on the communities in which they live.²⁴⁶

1. *Physical and Mental Wellbeing*

Collectively, residents of areas subject to contagion policing experience increased stress, anxiety, and psychiatric emergencies,²⁴⁷ which result in long-term and chronic physical health conditions.²⁴⁸ They are also more likely to engage in unhealthy behaviors and suffer from corresponding health problems, such as smoking, physical inactivity, diabetes, obesity, and asthma.²⁴⁹

243. Jeremy Travis & Michelle Waul, *Prisoners Once Removed: The Children and Families of Prisoners*, in *PRISONERS ONCE REMOVED: THE IMPACT OF INCARCERATION AND REENTRY ON CHILDREN, FAMILIES, AND COMMUNITIES* 1, 1–2 (Jeremy Travis & Michelle Waul eds., 2003); Leslie Acoca & Myrna S. Raeder, *Severing Family Ties: The Plight of Nonviolent Female Offenders and Their Children*, 11 *STAN. L. & POL'Y REV.* 113, 140 (1999).

244. JOAN PETERSILIA, *WHEN PRISONERS COME HOME: PAROLE AND PRISONER REENTRY* 350–51 (2003). In some instances, of course, physical removal of a parent can have a beneficial effect. However, research establishes that even criminally active parents can and do provide positive-parenting influence, as well as needed financial support. *Id.*

245. See Colleen Chien, *America's Paper Prisons: The Second Chance Gap*, 119 *MICH. L. REV.* 519, 524 (2020).

246. It is worth noting that public health policy changes in themselves can positively impact public safety. For instance, after the Affordable Care Act (“Obamacare”) coverage expanded to Medicaid, police arrests significantly declined. There was a 22–41% difference in drug arrests, a 19–29% decrease in arrests for violence, and a 24–28% reduction in low-level arrests in the three years following the expansion. Jessica T. Simes & Jaquelyn L. Jahn, *The Consequences of Medicaid Expansion under the Affordable Care Act for Police Arrests*, 17 *PLOS ONE* 1, 1 (2022). The researchers concluded that the expanded public health safety net provided “new avenues for individuals to seek care, receive treatment, and avoid criminalization.” *Id.* at 11.

247. Sewell et al., *supra* note 154, at 6; Abhery Das & Tim A. Bruckner, *New York City's Stop, Question, and Frisk Policy and Psychiatric Emergencies Among Black Americans*, 100 *J. URB. HEALTH* 255, 261 (2023); Katherine P. Theall et al., *Neighborhood Police Encounters, Health, and Violence in a Southern City*, 41 *HEALTH AFFS.* 228, 229 (2022).

248. Jaquelyn L. Jahn, Maeve Wallace, Katherine P. Theall & Rachel R. Hardeman, *Neighborhood Proactive Policing and Racial Inequities in Preterm Birth in New Orleans 2018-2019*, 113 *AM. J. PUB. HEALTH* S21, S26 (2023).

249. *Id.* at S23; Theall et al., *supra* note 247.

Research shows that communities where a police killing occurs have an elevated incidence of suicide²⁵⁰ and mental distress.²⁵¹ Those witnessing police violence, personally²⁵² or vicariously (including via posted cell phone footage²⁵³), experience trauma long after the event,²⁵⁴ imposing intergenerational harm.²⁵⁵ One recent survey found that roughly half of respondents stated that they would rather be robbed or burglarized than have uninitiated contact with police.²⁵⁶

Finally, communities suffer significant adverse socio-economic consequences. Todd Clear, for instance, has highlighted the harmful effects mass convictions and incarceration have on neighborhoods,²⁵⁷ and Loic Wacquant has demonstrated how aggressive street patrol in poor neighborhoods results in “territorial stigmatization,” labeling them as “lawless” and uninhabitable, increasing their social, political, and economic marginality.²⁵⁸

250. Geoffrey Carney-Knisely, Marquianna Griffin, Alaxandria Crawford, Kamesha Spates & Parvarti Singh, *Police Killings of Unarmed Black Persons and Suicides Among Black Youth in the U.S.: A National Time-Series Analysis*, 94 ANNALS EPIDEMIOLOGY 91, 95 (2024); Ilias Kyriopoulos, Sotiris Vantoros & Ichiro Kawachi, *Police Killings and Suicide Among Black Americans*, SOC. SCI. & MED., July 2022, at 1, 2 (2022).

251. Jacob Bor, Atheendar S. Venkataramani, David R. Williams & Alexander C. Tsai, *Police Killings and Their Spillover Effects on the Mental Health of Black Americans: A Population-Based, Quasi-Experimental Study*, 392 LANCET 302, 308 (2018).

252. Jordan DeVlyder, Lisa Fedina & Bruce Link, *Impact of Police Violence on Mental Health: A Theoretical Framework*, 110 AM. J. PUB. HEALTH 1704, 1705–06 (2020); Lee & Robinson, *supra* note 180, at 147.

253. Brandon Alston, *Recognizing “Camera Cues”: Policing, Cellphones and Citizen Countersurveillance*, 58 L. & SOC’Y REV. 216, 228–29 (2025).

254. Minyvonne Burke, *For Black People, The Mental Effects of Police Killings Linger*, NBC NEWS (Nov. 4, 2021, at 03:30 CT), <https://www.nbcnews.com/news/us-news/black-people-mental-effects-police-killings-linger-n1281353> [<https://perma.cc/D5UC-Y4C2>]; Kenya Downs, *When Black Death Goes Viral, It Can Trigger PTSD-Like Trauma*, PBS (July 22, 2016, at 20:04 ET), <https://www.pbs.org/newshour/nation/black-pain-gone-viral-racism-graphic-videos-can-create-ptsd-like-trauma> [<https://perma.cc/W96A-L6X6>].

255. See Camille A. Nelson, *Frontlines: Policing at the Nexus of Race and Mental Health*, 43 FORDHAM URB. L.J. 615, 630–32 (2016); Maayan Simckes et al., *The Adverse Effects of Policing on Population Health: A Conceptual Model*, SOC. SCI. & MED., July 2021, at 1, 7. Police stops of youths adversely impact the well-being of their parents. Dylan B. Jackson & Kristin Turney, *Sleep Problems Among Mothers of Youth Stopped by the Police*, 98 J. URB. HEALTH 163, 166 (2021); Kristin Turney & Dylan B. Jackson, *Mothers’ Health Following Youth Police Stops*, PREVENTIVE MED., Sep. 2021, at 1, 5.

256. Justin Pickett, Amanda Graham & Francis T. Cullen, *The American Racial Divide in Fear of the Police*, 60 CRIMINOLOGY 291, 301–02 (2022); see also Amanda Graham et al., *Race and Worrying About Police Brutality: The Hidden Injuries of Minority Status in America*, 15 VICTIMS & OFFENDERS 549, 558 (2020).

257. TODD R. CLEAR, IMPRISONING COMMUNITIES: HOW MASS INCARCERATION MAKES DISADVANTAGED COMMUNITIES WORSE 69–91 (2007).

258. Loïc Wacquant, Tom Slater & Virgílio Borges Pereira, *Territorial Stigmatization in Action*, 46 ENV’T & PLANNING 1270, 1274–75 (2014).

2. Seclusion (Isolation)

When community members are regarded by police “solely as threats and objects of intervention,”²⁵⁹ they understandably will try to avoid police.²⁶⁰ The likelihood of uninitiated police contact is increased by the existence of departmental ticket and arrest quotas that must be satisfied to demonstrate officer “productivity”²⁶¹ and financial incentives for police to initiate street contacts.²⁶²

Isolation manifests in a variety of ways. Many residents withdraw from public space and remain inside²⁶³ or limit where and when they visit,²⁶⁴ availing themselves of “cop wisdom” to predict police activities and evade contact.²⁶⁵ As one young New Yorker related, “I incorporated into my daily life the sense that I might find myself up against a wall or on the ground with an officer’s gun at my head.”²⁶⁶ Parents, besides giving their children “The Talk” alerting them to the dangers posed by police,²⁶⁷ keep them inside to avoid police.²⁶⁸

The isolation has a significant sociological impact. As Jan Haldipur writes in his book *No Place on the Corner: The Costs of Aggressive Policing*, based on

259. James Forman, Jr., *Community Policing and Youth as Assets*, 95 J. CRIM. L. & CRIMINOLOGY 1, 3 (2004).

260. See *infra* note 263 and accompanying text; Lisa Bowleg, Ana Maria del Rio-Gonzalez, Mary Mbaba, Cheriko A. Boone & Sidney L. Holt, *Negative Police Encounters and Police Avoidance as Pathways to Depressive Symptoms Among US Black Men, 2015-2016*, 110 AM. J. PUB. HEALTH S160, S164 (2020).

261. Shaun Ossei-Owusu, *Police Quotas*, 96 N.Y.U. L. REV. 529, 584 (2021). Recently, several jurisdictions banned traffic and pedestrian ticket quotas, which seem to have at best “minimal evidence” of impact. See Griffin Edwards & Stephen Rushin, *The Effect of Police Quota Laws*, 109 IOWA L. REV. 2127, 2129, 2155 (2024).

262. Devon W. Carbado, *Predatory Policing*, 85 UMKC L. REV. 545, 548–49, 564–65 (2017); Alan Feuer & Joseph Goldstein, *The Arrest Was a Bust. The Officers Got Overtime Anyway*, N.Y. TIMES, Feb. 20, 2018, at A1. Police can also be foot soldiers in service of broader institutional pressures to generate government operating funds, such as vividly highlighted by the U.S. Department of Justice in its investigation of practices in Ferguson, Missouri. See U.S. DEP’T OF JUST., C.R. DIV., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 2 (2015), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf [<https://perma.cc/36CD-HKQ4>] (reporting that local police aggressively enforced low-level code violations, viewing residents “less as constituents to be protected than as potential offenders and sources of revenue”).

263. ELIJAH ANDERSON, CODE OF THE STREET: DECENCY, VIOLENCE, AND THE MORAL LIFE OF THE INNER CITY 18–19 (1999); Brunson, *supra* note 156, at 75; Mark T. Berg, Eric A. Stewart, Jonathan Intravia, Patricia Y. Warren & Ronald L. Simons, *Cynical Streets: Neighborhood Social Processes and Perceptions of Criminal Injustice*, 54 CRIMINOLOGY 520, 526–27 (2016).

264. See Fagan & Ash, *supra* note 6, at 93 (noting “the risks of unwanted and harsh police contacts in the course of everyday movements through neighborhoods. These are costs that are borne uniquely by minorities in largely minority neighborhoods, in turn reinforcing the isolation of those places and the costs of journeying not only outside them, but often simply moving about within them”); Webb et al., *supra* note 174, at 3.

265. FORREST STUART, DOWN, OUT, AND UNDER ARREST: POLICING AND EVERYDAY LIFE IN SKID ROW 15 (2016).

266. Nicholas K. Peart, *Why Is the N.Y.P.D. After Me?*, N.Y. TIMES, Dec. 18, 2011, at SR-6.

267. Trevor George Gardner, *Police Violence and the African American Procedural Habitus*, 100 B.U. L. REV. 849, 875–81 (2020).

268. See, e.g., Gwen Prowse, Vesla M. Weaver & Tracey L. Meares, *The State from Below: Distorted Responsiveness in Policed Communities*, 56 URB. AFFS. REV. 1423, 1437–38 (2020) (noting Milwaukee mother of two-year-old son relating that “Me and my son, we scared to walk down the street [because of police]. We go home, we shut all the doors, let all the blinds down. We go to bed . . . I want to be able to take him to a park . . . and not be no police up there. Because now they everywhere”).

his fieldwork in the Bronx, in New York City,²⁶⁹ “[a]ggressive policing continually discourages the creation of neighborhood-level-social ties, the very ties that may aid in getting a job or further educational activities.”²⁷⁰ As a result, “[p]ublic spaces that were once relied upon to allow people to socialize and create meaningful associations are no longer available.”²⁷¹

The pervasive surveillance communities experience,²⁷² which is often employed without prior testing or approval and is subject to few if any guidelines for its use,²⁷³ aggravates the isolation.²⁷⁴ Frequently, the surveillance is known and obvious, such as by “pole” cameras situated outside a home or on a street corner,²⁷⁵ or cameras installed on the grounds or inside public housing units.²⁷⁶

Often, however, residents are unaware of the surveillance technology being used. Police use of facial recognition technology, which has been shown to result in mistaken arrests,²⁷⁷ is illustrative. As a recent *Washington Post* study revealed, individuals remain unaware of the technology because officers “obscured their reliance on the [recognition] software in public-facing reports, saying that they identified suspects ‘through investigative means’ or that a human source such as a witness or police officer made the initial identification.”²⁷⁸ Not knowing of the

269. HALDIPUR, *supra* note 181, at xii.

270. *Id.* at 152; *see also id.* at 112–13 (noting “isolationist strategy” engaged in by residents in heavily policed area studied).

271. *Id.* at 152; *see also id.* (noting that to cope “with an overzealous police force, . . . [it is common] for residents to withdraw from the greater community”).

272. In New York City, the NYPD’s surveillance system is composed of more than 15,000 cameras which are concentrated in Black and Latino neighborhoods. *See* Todd Feathers, *NYPD’s Sprawling Facial Recognition System Now Has More Than 15,000 Cameras*, VICE (June 3, 2021, at 12:27 CT), <https://www.vice.com/en/article/epnv8z/nypds-sprawling-facial-recognition-system-now-has-more-than-15000-cameras> [<https://perma.cc/RP3-ZJLN>].

273. *See* Elizabeth E. Joh, *Police Technology Experiments*, 125 COLUM. L. REV. F. 1, 3 (2025) (noting same and likening use of new surveillance technologies to experiments on human subjects).

274. *See* Monica C. Bell, *Anti-Segregation Policing*, 95 N.Y.U. L. REV. 650, 708–11 (2020); Sewell et al., *supra* note 154, at 6. Surveillance is even more acutely felt by individuals who are subject to community supervision, who experience “self-surveillance.” GARY T. MARX, *UNDERCOVER: POLICE SURVEILLANCE IN AMERICA* 216–19 (1988). The population mainly includes probationer and parolees, who often must secure pre-approval from authorities if they wish to leave their homes. Kate Weisburd, *The Carceral Home*, 103 B.U. L. REV. 1879, 1899 (2023). Increasingly, however, “e-carceration” also extends to pretrial detainees. Balakrishnan, *supra* note 206, at 484.

275. *See, e.g.*, *United States v. Tuggle*, 4 F.4th 505, 525 (7th Cir. 2021) (holding that warrantless use of police camera is not a “search” and is therefore permissible).

276. *See, e.g.*, Justin Wm. Moyer, *Lawsuit Alleges D.C. Housing’s Cameras Could ‘Capture Intimate Details’*, WASH. POST (Dec. 30, 2022), <https://www.washingtonpost.com/dc-md-va/2022/12/30/dc-housing-authority-surveillance/> [<https://perma.cc/X4J3-QP8Q>].

277. *See, e.g.*, Douglas MacMillan, David Ovalle & Aaron Schaffer, *Arrested by AI: Police Ignore Standards After Facial Recognition Matches*, WASH. POST (Jan. 13, 2025), <https://www.washingtonpost.com/business/interactive/2025/police-artificial-intelligence-facial-recognition/> [<https://perma.cc/9TTW-4WB3>]; Alyxaundria Sanford, *Artificial Intelligence Is Putting Innocent People at Risk of Being Incarcerated*, INNOCENCE PROJECT (Feb. 14, 2024), <https://innocenceproject.org/artificial-intelligence-is-putting-innocent-people-at-risk-of-being-incarcerated/> [<https://perma.cc/E6T9-C8R9>].

278. Douglas MacMillan, David Ovalle & Aaron Schaffer, *Police Seldom Disclose Use of Facial Recognition Despite False Arrests*, WASH. POST (Oct. 6, 2024), <https://www.washingtonpost.com/business/2024/10/06/police-facial-recognition-secret-false-arrest/> [<https://perma.cc/SG7U-6E8G>].

possible surveillance can foster a sense of omnipresent surveillance,²⁷⁹ lending force to Michel Foucault’s observation that surveillance can be “permanent in its effects, even if it is discontinuous in its action.”²⁸⁰

Finally, individuals with criminal records can experience particular isolation. Sociologist Sarah Brayne’s work demonstrates how such individuals engage in “system avoidance”—they avoid “institutions that keep formal records (*i.e.*, put them ‘in the system’) which heighten the risk of surveillance and [reincarceration] by authorities.”²⁸¹ Those “in the system” are less likely to establish relationships with “surveilling institutions,”²⁸² including schools, employers, and medical providers.²⁸³ The avoidance, Brayne notes, isolates “an already marginalized subpopulation from institutions that are pivotal to desistance from crime and their own integration into broader society.”²⁸⁴

3. Containment (*Quarantine*)

The intensive surveillance and aggressive street patrol of contagion policing also constricts the living space of community members, in effect quarantining them. It does so in two ways.

First, it does so at the neighborhood level. As geographer Steve Herbert observed, police “create and enforce boundaries,”²⁸⁵ with one byproduct being the containment of individuals within their neighborhoods.²⁸⁶ Already very often

279. Hannah Bloch-Wehba, *Visible Policing: Technology, Transparency, and Democratic Control*, 109 CALIF. L. REV. 917, 919 (2021); *see also* Christina Koningisor, *Police Secrecy Exceptionalism*, 123 COLUM. L. REV. 615, 665–66 (2023) (surveying the many statutes protecting secrecy of police agencies, including with regard to the existence and effectiveness of particular methods).

280. MICHEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* 201 (Alan Sheridan trans., 2d ed. 1995); *see also id.* at 238 (observing that the surveillance and isolation within America’s early prisons was intended to curtail spread of “moral contagion”).

281. Sarah Brayne, *Surveillance and System Avoidance: Criminal Justice Contact and Institutional Attachment*, 79 AM. SOCIO. REV. 367, 368 (2014).

282. *Id.*

283. Individuals with a criminal record had 31% greater likelihood of not obtaining medical care when they needed it (with those being stopped avoiding medical institution at the same rate as those who had been convicted). *Id.* at 376.

284. *Id.* at 367. Ultimately, Brayne determined that individuals with criminal justice system involvement had (1) “31 percent higher odds of not obtaining medical care when they needed it, compared to those who did not have [criminal justice] contact;” (2) over fifty percent higher odds of not having a bank account; and (3) “31 percent higher odds of neither working nor being in school compared to those who had no [criminal justice] contact.” *Id.* at 367–79. For more on system avoidance, *see* Jamie J. Fader, “*I Don’t Have Time for Drama*”: *Managing Risk and Uncertainty Through Network Avoidance*, 59 CRIMINOLOGY 291, 292 (2021); Erin M. Kerrison & Alyasah A. Sewell, *Negative Illness Feedbacks: High-Frisk Policing Reduces Civilian Reliance on ED Services*, 55 HEALTH SERVS. RSCH. 787, 794 (2020).

285. STEVE HERBERT, *POLICING SPACE: TERRITORIALITY AND THE LOS ANGELES POLICE DEPARTMENT* 11 (1997); *see also* Boddie, *supra* note 139, at 481 (“[P]olice control people by controlling space [P]olice not only respond to the spatial environment but also help create it.”); Daanika Gordon, *The Police as Place-Consolidators: The Organizational Amplification of Urban Inequality*, 45 L. & SOC. INQUIRY 1, 19–20 (2020).

286. *See* ROBERT SACK, *HUMAN TERRITORIALITY: ITS THEORY AND HISTORY* 22 (Alan R.H. Baker, J.B. Harley & David Ward, eds., 1986) (noting how the creation of territory controls “access to the area and to things within it, or to things outside of it by restraining those within”).

constrained by a lack of wherewithal to relocate to a less heavily policed area,²⁸⁷ residents remain “locked” into their neighborhoods.²⁸⁸

Second, containment occurs in a more granular fashion. Fieldwork demonstrates the self-containment individuals experience as a result of intensive surveillance and aggressive enforcement. SQF policing in New York public housing, for instance, “place[ed] residents under a very close police gaze” and “contained residents within the boundaries of [their] public housing sites.”²⁸⁹ Illustrative is the experience of a sixty-year-old Black male resident of Baltimore who described how police “got out of the car and told everyone on the sidewalk, sitting on the stoops, to get into their houses because this was his street and nobody was allowed outside.”²⁹⁰ In Chicago, a Department of Justice investigation found, police are seen by residents as an “occupying force.”²⁹¹

Achieving containment figures centrally in contagion policing. As Robert Weisberg observed of SQF, police “hope that their mere presence reduces the likelihood of transmission of contagion. [They] rely on the public-health vision of the neighborhood as a legally cognizable justification for temporary quarantine.”²⁹²

4. *Estrangement and Cynicism*

Contagion policing also fosters community estrangement and cynicism. In many poor urban communities, police often embody and personify the government writ large. As James Forman has written, they are the “central representative of the state in inner-city communities.”²⁹³ When police engage in uncivil, discriminatory, and violent practices, community members can experience a feeling of estrangement from the government’s security obligation.²⁹⁴

287. See Robert J. Sampson & Patrick Sharkey, *Neighborhood Selection and the Social Reproduction of Concentrated Racial Inequality*, 45 DEMOGRAPHY 1, 20–21 tbl.4 (2008) (showing intergenerational reproduction of racial inequality through constrained mobility pathways that vary by race).

288. See Simes et al., *supra* note 67, at 228 (“Arrests, incarcerations, monetary sanctions, and the burdens of a criminal record might ‘exacerbate pre-existing disadvantage, thereby locking low-income people of color into already disadvantaged neighborhoods.’”) (citation omitted).

289. Jeffrey Fagan, Garth Davies & Adam Carlis, *Race and Selective Enforcement in Public Housing*, 9 J. EMPIRICAL LEGAL STUDS. 697, 697 (2012); see also, e.g., CTR. FOR CONST. RTS., *supra* note 161, at 17–18 (discussing how residents in a predominantly Black neighborhood in New York City reported that they felt as if they were trapped inside their apartments because leaving would subject them to police harassment).

290. Marisela B. Gomez, *Policing, Community Fragmentation, and Public Health: Observations from Baltimore*, 93 J. URB. HEALTH S154, S162 (2016).

291. U.S. DEP’T JUST. CIV. RTS. DIV. & U.S. ATT’Y’S OFF., N. DIST. ILL., INVESTIGATION OF THE CHICAGO POLICE DEPARTMENT 143 (2017), https://www.justice.gov/d9/chicago_police_department_findings.pdf [<https://perma.cc/E2R6-2QK9>].

292. Weisberg, *supra* note 5, at 236.

293. Forman, *supra* note 259; see also Joe Soss & Vesla Weaver, *Police Are Our Government: Politics, Political Science, and the Policing of Race-Class Subjugated Communities*, 20 ANN. REV. POL. SCI. 565, 569–73 (2017).

294. See Forman, *supra* note 259, at 2 (noting that the “the alienation generated by the warrior model creates costs that are borne not just by [targeted individuals] themselves, but by their neighbors and the rest of society”); see also Monica C. Bell, *Police Reform and the Dismantling of Legal Estrangement*, 126 YALE L.J. 2054, 2054 (2017) (“Legal estrangement is a theory of detachment and eventual alienation from the law’s enforcers . . . [that]

Such estrangement is problematic for several reasons. Perhaps most concerning is its undermining of public safety. One recent study of young men in Philadelphia found that less than 10% were willing to call the police under “any circumstance” because of negative experiences with police.²⁹⁵ When residents are unwilling to engage with police, the job of reducing crime in already high-crime neighborhoods becomes even more difficult.²⁹⁶

Estrangement can also contribute to the “vicious cycle” driving aggression in police-citizen encounters noted earlier.²⁹⁷ As social psychologist Tom Tyler and his co-author note, “as the police undermine their legitimacy, they increasingly require the use of force to do their job. Their use of force, in turn, promotes anger and resistance and further undermines trust.”²⁹⁸

Community members become cynical because of a paradox: They are at once significantly over-policed and under-policed.²⁹⁹ Voicing a sentiment aligning with empirical evidence showing significantly lower clearance rates for cases involving Black homicide victims,³⁰⁰ one Chicago resident related, “[i]n my city, they’ll put you in jail for weed or something little but if somebody gets shot in the head down the street, they can’t be found. That’s how it goes here.”³⁰¹ Residents also feel that police fail to respond to their more general service needs,³⁰² which exacerbates matters.³⁰³

reflects the intuition among many people in poor communities of color that the law operates to exclude them from society.”).

295. Patrick J. Carr, Laura Napolitano & Jessica Keating, *We Never Call the Cops and Here Is Why: A Qualitative Examination of Legal Cynicism in Three Philadelphia Neighborhoods*, 45 *CRIMINOLOGY* 445, 457 (2007); see also Brunson, *supra* note 156, at 71–72 (reporting same result in St. Louis); Matthew Desmond, Andrew V. Papachristos & David S. Kirk, *Police Violence and Citizen Crime Reporting in the Black Community*, 81 *AM. SOCIO. REV.* 857, 858 (2016) (Milwaukee).

296. Desmond et al., *supra* note 295, at 870; Hyounggon Kwak, Rick Dierenfeldt & Susan McNeeley, *The Code of the Street and Cooperation with the Police: Do Codes of Violence, Procedural Injustice, and Police Ineffectiveness Discourage Reporting Violent Victimization to the Police?*, 60 *J. CRIM. JUST.* 25, 33 (2019).

297. See Huq, *supra* note 65, at 2430 and accompanying text.

298. TOM R. TYLER & CAROLINE NOBO, *LEGITIMACY-BASED POLICING AND THE PROMOTION OF COMMUNITY VITALITY* 11 (David Weisburd ed., 2022).

299. Hunter M. Boehme, Deanna Cann & Deena A. Isom, *Citizens’ Perceptions of Over- and Under-Policing: A Look at Race, Ethnicity, and Community Characteristics*, 68 *CRIME & DELINQ.* 123, 124 (2022).

300. See, e.g., Gian Maria Campedelli, *Homicides Involving Black Victims Are Less Likely to Be Cleared in the United States*, 62 *CRIMINOLOGY* 90, 115 (2023).

301. Prowse et al., *supra* note 268, at 1437; see also JILL LEOVY, *GHETTOSIDE: A TRUE STORY OF MURDER IN AMERICA* ch. 1 (2015); Wesley Lowery, Kimbriell Kelly & Steven Rich, *Murder with Impunity: An Unequal Justice*, *WASH. POST* (July 25, 2018), <https://www.washingtonpost.com/graphics/2018/investigations/black-homicides-arrests/> [https://perma.cc/F8DY-ZMAN]. On the historic failure (or refusal) of law enforcement to protect Black lives, bodies, and property, see BRANDON T. JETT, *RACE, CRIME, AND POLICING IN THE JIM CROW SOUTH: AFRICAN AMERICANS AND LAW ENFORCEMENT IN BIRMINGHAM, MEMPHIS, AND NEW ORLEANS, 1920–1945* 62 (2021).

302. As Daanika Gordon documented in her fieldwork in the Bronx, police “[r]eliance on investigatory stops [and] overgeneralized assumptions of criminality . . . disproportionately subjected the [area’s] majority Black residents to intrusive policing. At the same time, patrol officers handled a large and stressful workload, and officers were not always available to respond to citizens’ needs.” DAANIKA GORDON, *POLICING THE RACIAL DIVIDE: URBAN GROWTH POLITICS AND THE REMAKING OF SEGREGATION* 138 (Ilene Kalish ed., 2022).

303. See Prowse et al., *supra* note 268, at 1428 (residents in heavily policed community viewed police as everywhere and nowhere. Police authority was most energetic where it did not matter [to] their lives”); *id.* at

Combined, estrangement and cynicism reduce community political engagement. Encounters with police impart lessons in what Benjamin Justice and Tracey Meares call “anticitizenry”: community members are “bombarded with messages that they are not citizens belonging to a group . . . but [rather] are a class of problem people to be excluded, monitored, and surveilled, treated harshly and punished arbitrarily.”³⁰⁴

According to one study, individuals stopped by police are considerably less likely to vote.³⁰⁵ Individuals arrested but never convicted are 16% less likely to “feel like a full and equal citizen,” 20% less likely to believe that “everyone in the U.S. has an equal chance to succeed,” and 10% more likely to express distrust of the government.³⁰⁶ According to another, more recent study, the suppressive effect is such that it has a residual impact—it continues after contagion policing tactics have been discontinued in an area, affecting those earlier subject to it and newcomers alike.³⁰⁷ Such disenchantment is especially problematic in disadvantaged communities already suffering from a deficit of political power,³⁰⁸ lessening the likelihood that they might influence local policing policy (*e.g.*, imposing limits on police surveillance technology)³⁰⁹ and the enactment and retention of local low-level criminal laws that figure centrally in contagion policing.³¹⁰

1436 (noting that when residents are harmed or threatened with harm police are “absent or slow to respond or dismissive, and when they did respond police further victimized them or treated them as criminal suspects”).

304. Benjamin Justice & Tracey L. Meares, *How the Criminal Justice System Educates Citizens*, 651 ANNALS AM. ACAD. POL. & SOC. SCI. 159, 161–167 (2014).

305. See AMY E. LERMAN & VESLA M. WEAVER, ARRESTING CITIZENSHIP: THE DEMOCRATIC CONSEQUENCES OF AMERICAN CRIME CONTROL 222 (2014) (finding that “[t]he probability of voting declined by 8 percent for those who ha[ve] been stopped”).

306. *Id.* at 152 fig. 6.2, 176 fig. 7.3; see also Aaron Rosenthal & Christina Farhart, *Timing Matters: How Adolescent Police Contact Shapes Political Lives*, 45 POL. BEHAV. 1933, 1954 (2023) (study finding that police contact has greater impact on adult political engagement when contact first takes place in early adolescence); Ariel White, *Misdemeanor Disenfranchisement? The Demobilizing Effect of Brief Jail Spells on Potential Voters*, 113 AM. POL. SCI. REV. 311, 311 (2019) (finding that even brief jail sentences and pretrial detention significantly decrease the likelihood of voting, especially among Black citizens).

307. Alexis Palmer, *Reform and Community Level Participation: The Overturn of Stop, Question, and Frisk (SQF) in New York City*, 61 URB. AFFS. REV. 38, 58 (2025).

308. For discussion of how police infringement of privacy and personal autonomy can stifle exercise of corollary citizenship rights such as the right to gather and engage in free speech, see Wayne A. Logan, *Fourth Amendment Localism*, 93 IND. L.J. 369, 412–13 (2018).

309. See, *e.g.*, ARI CHIVUKULA & TYLER TAKEMOTO, SAMUELSON L., TECH. & PUB. POL’Y CLINIC, LOCAL SURVEILLANCE OVERSIGHT ORDINANCES 1, 4–5 (2021) (noting sixteen localities enacting laws regulating police surveillance, including requirements of annual reporting of technology usage, power to approve or reject acquisition of technologies, and authority to review and approve use policies for new and existing surveillance technologies).

310. See Brenner M. Fissell, *Localizing Local Public Order*, 78 VAND. L. REV. 1521, 1524, 1527–31 (2025) (discussing results of nationwide survey of low-level offenses enacted by local government political bodies, which because of their smaller size are more susceptible to majority dominance, and their role in order maintenance policing); Wayne A. Logan, *The Shadow Criminal Law of Municipal Governance*, 62 OHIO ST. L.J. 1409 (2001) (discussing the power of municipalities to enact low-level criminal offenses, the specter that they will indulge punitive or parochial tendencies, and the central role the laws play in order maintenance policing).

IV. CHARTING A PATH FORWARD

Despite the negative consequences of contagion policing, viewing crime as a public health problem remains an important and positive development.³¹¹ The problem lies not in police conceptualizing crime as a contagion, but rather in how they have operationalized their conceptualization. Public health actors, for their part, have recognized that past efforts to address contagious diseases by stigmatization and punitive enforcement have been ineffective and harmful.³¹² Police have yet to recognize the same in their public safety wheelhouse. They regard the individuals and communities they police as carriers (or potential carriers) of contagion deserving of punishment and stigmatization.³¹³

The status quo need not persist. With policing, the nation has been engaged in a much-needed reassessment. Since the 2020 murder of George Floyd, there have been efforts directed toward “disaggregating”³¹⁴ and “unbundling”³¹⁵ police duties, such as by having health care professionals respond to individuals in mental health crisis,³¹⁶ or designating police and mental health care professionals as co-responders.³¹⁷

What follows are several ways to pursue a path toward a more holistic, health-oriented path, first focusing on the need to transform the dominant “warrior” mentality and its manifestations, followed by a discussion of interventions that utilize a public health framework to achieve the dual dividends of public health and public safety. This Part concludes by making the case for why the effectiveness of policing should be assessed in terms of both public health and public safety, and how this can come about.

A. Changing the “Warrior” Mentality

As noted earlier, contemporary policing is dominated by a warrior mentality.³¹⁸ Police view themselves as being engaged in a daily war against individuals and communities plagued by the contagion of crime, not as guardians dedicated

311. As Andrew Ferguson has observed, the evolution in thought “opens up new opportunities to rethink how best to identify and respond to criminal risk.” FERGUSON, *supra* note 94, at 67.

312. See, e.g., Zygmunt Dembek et al., *Ebola Virus Disease Outbreaks: Lessons Learned from Past and Facing Future Challenges*, 189 MIL. MED. e1470, e1475 (2024).

313. See GERALD V. O'BRIEN, *CONTAGION AND THE NATIONAL BODY: THE ORGANISM METAPHOR IN AMERICAN THOUGHT* 5–16 (2018) (discussing how use of the contagion metaphor can negatively affect vulnerable and marginalized populations, “othering” and dehumanizing them, justifying social control and discriminatory measures).

314. Barry Friedman, *Disaggregating the Policing Function*, 169 U. PA. L. REV. 925, 931 (2021).

315. See Derek Thompson, *Unbundle the Police*, THE ATLANTIC (June 11, 2020), <https://www.theatlantic.com/ideas/archive/2020/06/unbundle-police/612913/> [<https://perma.cc/BL24-NRAP>].

316. Rob Waters, *Calling Mental Health Workers, Not Police, to Deal with Mental Health Crises*, WASH. POST (June 20, 2021), https://www.washingtonpost.com/health/mental-health-workers-not-police/2021/06/18/bf250938-c937-11eb-a11b-6c6191ccd599_story.html [<https://perma.cc/VS88-TQ6A>].

317. Helena A. Addison, Ruth Shefner, Jennifer Wood & Evan Anderson, *Resident Perspectives on Police Involvement in the Response to Mental Health Crises*, 8 J. CMTY. SAFETY & WELL-BEING 112, 117 (2023).

318. See *supra* Subsection II.B.1 and accompanying text.

to securing and maintaining the overall well-being of communities.³¹⁹ The mindset has resulted in significant harm, legal abuses, and acute distrust of police.³²⁰ In *Terry v. Ohio* (1968), the Supreme Court recognized these perils,³²¹ which have grown over time.³²²

The shift in mindset should entail several components, with training³²³ and socialization³²⁴ playing key roles. Police cadets and veterans alike must come to have (1) respect for human dignity, (2) empathy, (3) patience, (4) inclusivity, and (5) introspection.³²⁵ Realizing these changes will not be easy. The warrior mentality figures centrally in officer training,³²⁶ which is known to be hidebound.³²⁷ Early results from research, however, provide reason for optimism. One 2020 study, for instance, compared the effects of warrior training with a guardian approach.³²⁸ The data suggest that guardian-oriented officers were less likely, and warrior-oriented officers more likely, to use inappropriate or unnecessary force.³²⁹ Guardian officers also evidenced stronger communication skills during interactions with civilians, while warrior officers prioritized physical control.³³⁰

319. See *supra* note 54 and accompanying text.

320. See Stoughton, *Principled Policing*, *supra* note 53, at 612 (“In too many communities, however, the principles that have grown out of Warrior policing have proven counterproductive, contributing to a distrustful, adversarial, and sometimes aggressive approach to policing that has undermined good police-community relations and exposed officers and civilians alike to unnecessary risk.”).

321. See 392 U.S. 1, 14 n.11 (1968) (citations omitted) (noting that “aggressive” stop-and-frisk policing “cannot help but be a severely exacerbating factor in police-community tensions. This is particularly true in situations where the ‘stop and frisk’ of youths or minority group members is ‘motivated by the officers’ perceived need to maintain the power image of the beat officer, an aim sometimes accomplished by humiliating anyone who attempts to undermine police control of the streets”). After *Terry*, Justice Brennan, who sided with the eight-member *Terry* majority, expressed concern that *Terry* would “aggravate the already white heat resentment of ghetto Negroes against the police.” John Q. Barrett, *Deciding the Stop and Frisk Cases: A Look Inside the Supreme Court’s Conference*, 72 ST. JOHN’S L. REV. 749, 825–26 (1998) (citation omitted).

322. See *supra* Section III.A.

323. See Simon, *supra* note 53, at 1038; see also *Estate of Jones v. City of Martinsburg*, 961 F.3d 661, 671 (4th Cir. 2020) (recognizing a “desperate need” for more and different police training).

324. On the importance of socialization, especially that imparted by senior officers during street-patrol training, see Allison T. Chappell & Lonn Lanza-Kaduce, *Police Academy Socialization: Understanding the Lessons Learned in a Paramilitary-Bureaucratic Organization*, 39 J. CONTEMP. ETHNOGRAPHY 187, 189 (2010).

325. Kyle McLean, Scott E. Wolfe, Jeff Rojek, Geoffrey P. Alpert & Michael R. Smith, *Police Officers as Warriors or Guardians: Empirical Reality or Intriguing Rhetoric?*, 37 JUST. Q. 1096, 1097 (2020).

326. See, e.g., Sue Rahr & Stephen K. Rice, *From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals*, NEW PERSPS. POLICING BULL., Apr. 2015, at 1, 4 (explaining that the “seeds” of a warrior culture “are planted during recruit training . . . in an academy environment that is modeled after military boot camp, a model designed to produce a warrior ready for battle and ready to follow orders and rules without question”); Caitlin Lynch, *You Have the Right to Remain Violent: Police Academy Curricula and the Facilitation of Police Overreach*, 45 SOC. JUST. 75, 80–82 (2018).

327. See Scott W. Phillips, *The Formation of Suspicion: A Vignette Study*, 22 INT’L J. POLICE SCI. & MGMT. 274, 277 (2020) (noting that police training and war stories ingrain cognitive biases “that are nearly impervious to statistical information about the realities of policing” (citation omitted)).

328. McLean et al., *supra* note 325, at 1098.

329. *Id.* at 1113.

330. *Id.* at 1112.

There must also be a shift away from the related “hypermasculinity” common in departments, which is conducive to police aggression and violence.³³¹ Based on their study of multiple police departments, L. Song Richardson and Phillip Goff report that “physically aggressive masculinity is institutionalized in police departments. In fact, hierarchies amongst the rank and file are defined by the amount of aggression and violence perceived to be necessary to perform the job.”³³² The “clash of masculinities,” other research has found, is especially problematic in interactions between White officers and Black residents.³³³ Effort should be dedicated to developing curricula designed to “de-masculine” the mentality and methods of street patrol.³³⁴

Attention should also be paid to lessening the insularity of police culture,³³⁵ and increasing police awareness of the existence and effect of implicit and explicit racial bias in their work.³³⁶ In terms of tactics, officers should be trained in de-escalation and other techniques to reduce resort to violence,³³⁷ and, presuming that police will remain tasked with “social welfare” responsibilities to some extent, provided training in handling such matters as family disputes and drunk or disorderly persons.³³⁸

B. Programmatic Changes

From a public health perspective, effective policing is not simply a matter of dosage, *i.e.*, the number of officers assigned to an area. What officers do and where and how they do it are key.

331. See Angela P. Harris, *Gender, Violence, Race, and Criminal Justice*, 52 STAN. L. REV. 777, 793 (2000) (“Violence and masculinity converge in the sociological notion of ‘hypermasculinity’: a masculinity in which the strictures against femininity and homosexuality are especially intense and in which physical strength and aggressiveness are paramount. Police work has traditionally been coded hypermasculine.”). See also generally Jordan Blair Woods, *Destabilizing Policing’s Masculinity Project*, 89 GEO. WASH. L. REV. 1527 (2021) (discussing postmodern feminist and queer theories to provide policy suggestions for reducing hypermasculinity in police departments).

332. L. Song Richardson & Phillip Atiba Goff, *Interrogating Racial Violence*, 12 OHIO ST. J. CRIM. L. 115, 133 (2014).

333. See Ann C. McGinley, *Policing and the Clash of Masculinities*, 59 HOW. L.J. 221, 261 (2015) (“[M]ale police officers accomplish masculinity by acting tough in arresting poor black male suspects.”); *id.* at 225–26 (framing police violence against men of color in terms of a “clash of masculinities”).

334. See Frank Rudy Cooper, “Who’s the Man?”: *Masculinities Studies, Terry Stops, and Police Training*, 18 COLUM. J. GENDER & L. 671, 732 (2009) (“If masculinist training is the problem, anti-masculinist training may provide an essential answer—adjusting the behavior of cadets and police officers.”); McGinley, *supra* note 333, at 267 (recommending “[c]reation of models for police trainings and continuing education that . . . work to reduce efforts of police to prove masculinity through the use of excessive force”).

335. See generally Eugene A. Paoline III, *Taking Stock: Toward a Richer Understanding of Police Culture*, 31 J. CRIM. JUST. 199 (2003) (discussing various negative aspects of police culture, including intense in-group loyalty and social isolation conducive to abuse and lack of accountability).

336. See, e.g., Jill K. Swencionis & Phillip Atiba Goff, *The Psychological Science of Racial Bias and Policing*, 23 PSYCH., PUB. POL’Y, & L. 398, 405 (2017).

337. See Steven Arrigg Koh, *Policing & the Problem of Physical Restraint*, 64 B.C. L. REV. 309, 345–70 (2023) (describing programs and their efficacy).

338. Megan Quattlebaum & Tom Tyler, *Beyond the Law: An Agenda for Policing Reform*, 100 B.U. L. REV. 1017, 1033 (2020).

While the framing of crime and how it should be addressed are of critical importance,³³⁹ it is neither necessary nor in the interest of public health and public safety to take an “either-or” approach; a health-infused approach to public safety can be pursued.

1. *Infusing a Public Health Orientation*

Shifting to a public-health approach to policing will entail a sea-change in orientation. As John McDonald and his co-authors recently wrote, a public health approach “emphasizes preventing injuries and fatal events. By identifying the risk factors and sources of harm, it aims to develop interventions that effectively reduce violence. It moves from identifying victims of violence to preventing them from becoming one.”³⁴⁰ Seeing crime through a public health lens also recognizes that the social determinants of crime and health overlap considerably³⁴¹ and that victims and offenders alike very often travel through the same criminal legal and health care systems.³⁴²

One strategy could involve the reorientation of hot spot policing, which, as noted, has shown success in reducing crime.³⁴³ Rather than using data collection and analysis to identify crime “hot spots,” based on the reported incidence of criminal activity, the focus can align with the actual health-related origins of the concept.³⁴⁴ In health care, hotspotting focuses on specific individuals, those with complex, hard-to-manage needs and chronic conditions who account for much of the cost in U.S. health care.³⁴⁵ The approach “aims to fashion a system of multidisciplinary, coordinated care that in large part seeks to meet patient needs by addressing nonmedical issues that affect health. These include housing, mental health, substance abuse and emotional support.”³⁴⁶

In his recent book, Andrew Ferguson envisioned how such an overhaul of hotspot policing can take shape. Officers, he writes, can identify “the hot spots of social need (or decay).”³⁴⁷ Rather than using a “heat list” to target purportedly criminally risky individuals, as in Chicago,³⁴⁸ police can maintain a “social-need heat list” containing names of individuals most in need of social, educational,

339. See, e.g., Paul Thibodeau, James L. McClelland & Lera Boroditsky, *When a Bad Metaphor May Not Be a Victimless Crime: The Role of Metaphor in Social Policy*, in PROCEEDINGS OF THE 31ST ANNUAL CONFERENCE OF THE COGNITIVE SCIENCE SOCIETY 809, 809–14 (Niels Taatgen & Dirk van Rijn eds., 2009) (reporting results of study finding that individuals conceiving of “crime as a predator” favored a more enforcement-oriented and punitive response than those concerning of “crime as a virus,” who favored social programs as most beneficial). On the impact of semantics characterizing populations and practices in the criminal legal system, see Anna Roberts, *Criminal Terms*, 107 MINN. L. REV. 1495, 1496 (2023).

340. MacDonald et al., *supra* note 128, at 2 (citation omitted).

341. See *supra* notes 41–45 and accompanying text.

342. See *supra* notes 39–40 and accompanying text.

343. See *supra* note 134 and accompanying text.

344. See *supra* note 123 and accompanying text.

345. Smith, *supra* note 123.

346. *Id.*

347. FERGUSON, *supra* note 94, at 178.

348. *Id.* at 180.

mental, and physical health assistance.³⁴⁹ “Networks of neglect could be tracked instead of networks of criminal associates. In essence, the entire surveillance architecture, used for social control, could be restructured for social betterment.”³⁵⁰

2. *Involving Law Enforcement*

Although it must be reoriented, law enforcement still has a critical role to play. As Anthony Braga recently recognized with respect to gun violence, public health scholars need to recognize that community members want violent gun offenders held accountable . . . and demand justice for gunshot victims and their loved ones. . . . [M]aking arrests in fatal and nonfatal shooting cases can prevent subsequent shootings through incapacitation . . . and deterrence.³⁵¹

Braga adds that “[i]n this way, a well-functioning criminal justice system that incapacitates and deters should be viewed as a form of primary prevention,” in keeping with a chief goal of public health.³⁵²

Interventions combining a public health and law enforcement orientation can be classified broadly as place and individual-oriented in nature.³⁵³

a. Policing Places

As Part II makes clear, place-based interventions by police have not always been successful, either in terms of public health or public safety. Police focus on specific areas, however, is not problematic in itself. Rather, the critical question is what police do in the areas they target.

“Hot spot” policing again offers a constructive framework. The strategy is predicated on the fact that particular micro-geographic areas account for vastly disproportionate amounts of crime,³⁵⁴ which as noted also often suffer from major public health problems.³⁵⁵ Too often, however, hot spot policing entails the

349. *Id.* at 180–81.

350. *Id.* For discussion of the lasting public safety benefits of increasing funding for social services, especially education, see Brenden Beck, *Local Government Spending: Policing Versus Social Services*, 8 ANN. REV. CRIMINOLOGY 505, 520 (2025).

351. Anthony A. Braga, *Gun Violence Is a Public Health Crisis that Needs More Applied Criminologists*, 21 CRIMINOLOGY & PUB. POL’Y 811, 823 (2022); *see also id.* at 829 (“Although public health experts are correct to argue excessive blame and harsh punishments are counterproductive, the absence of accountability when dealing with gun violence problems can demoralize community partners and serve as a risk factor for additional gun violence as offenders are free to commit further shootings or be shot by those seeking retribution for unpunished prior shootings.”).

352. *Id.* at 824; *see also* STEVE HERBERT, *CITIZENS, COPS, AND POWER: RECOGNIZING THE LIMITS OF COMMUNITY* 140 (2006) (“As coercive agents, the police do have a role to play. They remain a vital means of resolving immediate crises, of promoting a sense of safety, [and] of responding to specific instances of criminality.”).

353. A distinction drawn while aware that the two categories can overlap. *See* Thomas Abt, David B. Wilson, Catherine S. Kimbrell, Richard Hahn & William Johnson, *Crime, Place, Policy, and Politics*, AGGRESSION & VIOLENT BEHAV., Nov.–Dec. 2024, at 1, 7 (“Place-based strategies often have people-based elements, and vice versa. . . . The differences between these approaches, while real, are primarily a matter of emphasis.”).

354. *See supra* notes 124–28 and accompanying text.

355. *See supra* notes 41–45 and accompanying text.

use of aggressive street patrol tactics such as SQF and zero tolerance policing, which are of questionable efficacy³⁵⁶ and cause major harm to individuals and communities.³⁵⁷

Yet hot spot policing can be done well. Research demonstrates that the strategy can significantly reduce violent and property crime when police utilize community and problem-oriented policing strategies.³⁵⁸ And it does so not only without displacing crime elsewhere,³⁵⁹ but actually producing crime-control benefits in adjoining areas.³⁶⁰ Moreover, and critically important, when done properly, hot spot policing generates community health improvements.³⁶¹

When employing hot spot tactics, personnel deployments should be very circumscribed in geographic scope and dedicated to addressing a specific problem, such as unlawful gun possession,³⁶² to limit the negative effects of police contact.³⁶³ Resort to aggressive strategies such as SQF and zero tolerance policing should be sparing—of limited physical scope and duration (approximately fifteen minutes), to both limit negative impacts on communities and to optimize crime-reduction impacts.³⁶⁴

Consistent with public health tenets,³⁶⁵ police should consult with community members before and during implementation. Residents should be made

356. See *supra* notes 104–22 and accompanying text.

357. See *supra* Part III.

358. See, e.g., Cynthia Lum & Daniel S. Nagin, *Reinventing American Policing*, 46 CRIME & JUST. 339, 350 (2017) (“When police geographically target high-crime places and do so with tactics tailored to the problems at hand, they are more effective in preventing crime.”); Anthony A. Braga, Cory Schnell & Brandon C. Welsh, *Disorder Policing to Reduce Crime: An Updated Systematic Review and Meta-Analysis*, 23 CRIMINOLOGY & PUB. POL’Y 745, 764 (2024); Aaron Chalfin, *Investments in Policing and Community Safety*, 8 ANN. REV. CRIMINOLOGY 403, 410 (2024); Christopher S. Koper, Bruce G. Taylor, Weiwei Liu & Xiaoyun Wu, *Police Activities and Community Views of Police in Hot Spots*, 39 JUST. Q. 1400, 1402 (2022); Turchan & Braga, *supra* note 124, at 9.

359. NAT’L ACAD. SCIS., ENG’G & MED., *supra* note 107, at 6.

360. *Id.* at 29.

361. Dong et al., *supra* note 41, at 801; Michelle C. Kondo, Elena Andreyeva, Eugenia C. South, John M. MacDonald & Charles C. Branas, *Neighborhood Interventions to Reduce Violence*, 39 ANN. REV. PUB. HEALTH 253, 266 (2018).

362. See THOMAS ABT, BLEEDING OUT: THE DEVASTATING CONSEQUENCES OF URBAN VIOLENCE—AND A BOLD NEW PLAN FOR PEACE IN THE STREETS 48 (2019) (“Enforcement oriented strategies are necessary to address the crime and violence that is happening right now or has just happened.”); Lum & Nagin, *supra* note 358, at 369 (“Crime prevention can be achieved when police proactively tailor their deployment and action to specific problems and when they target [specific problems] where/with/whom crime tends to concentrate.”).

363. See ABT, *supra* note 362, at 41 (“Overbroad strategies . . . stigmatize the law-abiding residents of high-crime neighborhoods. Community members will rightfully object to inaccurate and unfair over generalizations that vilify entire groups or neighborhoods”); Koper et al., *supra* note 358, at 1416–17 (concluding that police should “attempt to target their actions as carefully as possible on suspicious persons, activities, and locations”).

364. Philipp M. Dau, Christophe Vandeviver, Maite Dewinter, Frank Witlox & Tom Vander Beken, *Policing Directions: A Systematic Review on the Effectiveness of Police Presence*, 29 EUR. J. CRIM. POL’Y & RSCH. 191, 214 (2023). Limiting duration and area also saves resources, which is important to the long-term political sustainability of the effort. See ABT, *supra* note 362, at 49–51 (noting same).

365. See David Hemenway & Matthew Miller, *Public Health Approaches to the Prevention of Gun Violence*, 368 NEW ENG. J. MED. 2033, 2033 (2013) (noting that public health “tries to engage as many people and institutions as possible in a multifaceted way”); Maren M. Spolum, William D. Lopez, Daphne C. Watkins & Paul J. Fleming, *Police Violence: Reducing the Harms of Policing Through Public Health-Informed Alternative*

aware of why a tactic is being employed and their input should be solicited on methods and goals.³⁶⁶ As David Weisburd, one of the leading scholars on hot spot policing observed, there must be a “collaborative exercise where the police and community jointly review crime maps and select particular places for focused attention. In those settings, police and community members can also discuss a range of strategies that might be adopted to address targeted crime hot spots.”³⁶⁷ Equally important, community members should also be consulted on police use of surveillance technology.³⁶⁸

In short, rather than estranging community members, police should seek to increase their engagement as co-producers of public safety (and therefore also public health). For too long, police have regarded themselves as having a monopoly on how communities can be best policed, shunning or not seeking community input. As Roberto Potter observed, “[t]he crime as disease metaphor suggests that a particular professional group has the status and knowledge to provide answers to the problem of crime and that their judgment exceeds that of the democratic process.”³⁶⁹ This needs to change.

While police presence in hot spots is critically important,³⁷⁰ so is having police treat community members with dignity and respect.³⁷¹ Training police in procedural justice norms and practices can result in fewer arrests, less crime, and increased satisfaction with police,³⁷² which is essential to achieving and maintaining community collective efficacy.³⁷³

Finally, police efforts to problem-solve are critically important to success.³⁷⁴ Helpful interventions can include improving street lighting and blight remediation, targeting abandoned housing and vacant and unkempt lots, and

Response Programs, 113 AM. J. PUB. HEALTH S37, S39 (2023) (“A core principle of public health program design is that affected communities should be at the center of any design process.”).

366. Koper et al., *supra* note 358, 1416–17.

367. Weisburd, *supra* note 127, at 678; *see also* Braga et al., *supra* note 358 (discussing studies finding crime reduction results of collaborative police-community relationships).

368. Vincent M. Southerland, *The Master’s Tools and a Mission: Using Community Control and Oversight Laws to Resist and Abolish Police Surveillance Technologies*, 70 UCLA L. REV. 2, 73 (2023).

369. Potter, *supra* note 30, at 218.

370. *See* Dau et al., *supra* note 364, at 202 (finding strong evidence that police presence has crime reduction effects on motor theft, property, violence, and firearms offenses; reduces calls for service; and improves traffic behavior).

371. Qassim Bolaji & Christi Metcalfe, *Exploring the Association Between Levels of Police Presence, Contact, and Perceptions of Police Legitimacy*, 70 CRIME & DELINQ. 3308, 3328–29 (2024).

372. David Weisburd et al., *Reforming the Police Through Procedural Justice Training: A Multicity Randomized Trial at Crime Hot Spots*, 119 PNAS, Mar. 28, 2022, at 1, 5; George Wood, Tom R. Tyler & Andrew V. Papachristos, *Procedural Justice Training Reduces Police Use of Force and Complaints Against Officers*, 117 PNAS 9815, 9819 (2020).

373. *See* Weisburd, *supra* note 127, at 677 (“The police need active public cooperation . . . to control crime and maintain order. Cooperation increases not only when the police are viewed as effective in preventing crime and maintaining order, but also when citizens see [them] as legitimate authorities who are entitled to be obeyed.”).

374. Kevin Petersen, David Weisburd, Joshua C. Hinkle, Cody W. Telep & Sydney Fay, *Does Level of Geography Influence Proactive Policing’s Impact on Crime? A Synthesis of Systematic Reviews of Three Evidence-Based Policing Strategies*, AGGRESSION & VIOLENT BEHAV., Sep.–Oct. 2024, at 1, 11 (2024) (emphasizing critical importance of problem-oriented interventions and their superiority to aggressive police stops, noting that they have significant crime reduction impact without the negative impact of “aggressive enforcement tactics”).

repurposing space as community gardens or playing fields.³⁷⁵ Research shows that such “cleaning and greening” improvements are a low-cost, beneficial part of a community safety and health enhancement effort.³⁷⁶ Problem-solving can also entail regulatory changes. For instance, police can alert public officials to the benefit of limiting alcohol sales and addressing zoning deficiencies.³⁷⁷ In Baltimore, police investigated stores selling ammunition to minors, while the health department used its licensing and abatement authority to take corrective action at the sites, resulting in a 46% decrease in ammunition distribution.³⁷⁸

b. Policing Individuals

Police have long focused on “dangerous classes,”³⁷⁹ the composition of which has changed over time.³⁸⁰ Today, several police interventions targeting individuals reflect a public health orientation and show promise for significantly reducing violent crime, consistent with other efforts dedicated to “harm-reduction” policing.³⁸¹

One is “offender-focused deterrence,” also known as “pulling levers,” which targets small populations of chronic offenders.³⁸² As a recent report from the National Academy of Sciences summarizes, “[t]he strategy aims to directly confront offenders—for example, by telling them that continued offending will not be tolerated and informing them how the system will respond if they violate behavior standards.”³⁸³ The approach is similar to Chicago’s “heat list,” discussed earlier.³⁸⁴ The difference, however, is that the interventions by police seek

375. Claudia Gross Shader, Charlotte Gill, Xiaotian Zheng & Benjamin Carleton, *City Government as Super-Controller: A Systematic Review of Non-Police Mechanisms that City Governments Can Apply to Reduce Crime at Hot Spots*, AGGRESSION & VIOLENT BEHAV., Sep.–Oct. 2024, at 1, 6, 8, 9.

376. ABT, *supra* note 362, at 124–25.

377. Shader et al., *supra* note 375, at 7.

378. Nancy Lewin et al., *The Baltimore Youth Ammunition Initiative: A Model Application of Local Public Health Authority in Preventing Gun Violence*, 95 AM. J. PUB. HEALTH 762, 763 (2005).

379. CHARLES LORING BRACE, *THE DANGEROUS CLASSES OF NEW YORK, AND TWENTY YEARS’ WORK AMONG THEM* 6 (1872).

380. Jeffrey L. Vagle, *The History, Means, and Effects of Structural Surveillance*, 9 NE. UNIV. L. REV. 103, 123, 134 (2017).

381. See, e.g., Katherine Beckett, *The Uses and Abuses of Police Discretion: Toward Harm Reduction Policing*, 10 HARV. L. & POL’Y REV. 77, 77 (2016) (discussing Seattle’s Law Enforcement Assisted Diversion (LEAD) Program, which encourages police to use their discretion to channel individuals suspected of committing low-level offenses away from the criminal legal system and toward social and health services).

382. See NAT’L ACAD. SCIS., ENG’G & MED., *supra* note 107, at 310 (“[F]ocused deterrence programs show consistent crime-control impacts in reducing gang violence, street crime driven by drug markets, and repeat individual offending. The available literature suggests that these programs have both short-term and long-term areawide impacts on crime.”); Anthony A. Braga, David Weisburd & Brandon Turchan, *Focused Deterrence Strategies Effects on Crime: A Systematic Review*, CAMPBELL SYSTEMATIC. REVIEWS., Sep. 9, 2019, at 1, 3, 28 (“The available empirical evidence suggests . . . [focused deterrence police] strategies generate crime reduction impacts” and “focused deterrence strategies to their existing portfolio of prevention and control interventions.”).

383. NAT’L ACAD. SCIS., ENG’G & MED., *supra* note 107, at 58.

384. See *supra* notes 89–95 and accompanying text.

to preempt and deter crime,³⁸⁵ and do not serve as a “most-wanted list for arrests.”³⁸⁶

The Cure Violence Health Model, now deployed in many cities,³⁸⁷ is another successful public health-based intervention. Conceiving of violence as a contagion spread through exposure,³⁸⁸ the model seeks to identify potentially lethal conflict, and deploys “violence interrupters,” trusted individuals from the community (often including those with prior criminal legal system involvement) who are not associated with the police, and have access to individuals thought most at risk of perpetrating or experiencing violence.³⁸⁹ The interrupters, who are unarmed, seek to “denormalize” violence and devise plans dedicated to establishing and maintaining relationships with individuals involved in conflicts, shootings, or plans for retaliation.³⁹⁰

The interrupters combine with “influentials,” key players in the potentially violent conflict, who seek to facilitate diplomacy.³⁹¹ Cure also deploys “outreach workers” who perform similar work, including organizing community activities, to build relationships and rapport with targeted individuals.³⁹² Cure, as noted by public health scholars Gary Slutkin and Charles Ransford, “is centered in the community, for the community, and by the community The community is empowered by the public health sector through the provision of a curriculum and skills, tools, and protocols that help to ensure effectiveness.”³⁹³

Research shows that violence interruption programs such as Cure result in large statistically significant reductions in gun violence.³⁹⁴ In several New York City communities, for instance, Cure resulted in 37%–50% reduction in gun injuries, a 14% reduction in attitudes supporting violence, and increasing confidence in police and willingness to contact police.³⁹⁵ Studies in other cities such

385. See Braga et al., *supra* note 382, at 5 (describing focused deterrence as “leverage[ing] the rationality of group members to no longer encourage norms that provoke the outbreaks of violence”).

386. FERGUSON, *supra* note 94, at 55.

387. Slutkin & Ransford, *supra* note 2, at 121 (noting that the model has been implemented in twenty-five cities).

388. Jeffrey A. Butts, Caterina Gouvis Roman, Lindsay Bostwick & Jeremy R. Porter, *Cure Violence: A Public Health Model to Reduce Gun Violence*, 36 ANN. REV. PUB. HEALTH 39, 40 (2015); Charles Ransford, Candice Kane & Gary Slutkin, *Cure Violence: A Disease Control Approach to Reduce Violence and Change Behavior*, in EPIDEMIOLOGICAL CRIMINOLOGY: THEORY TO PRACTICE 232, 232–40 (Eve Waltermaurer & Timothy A. Akers, eds., 2013).

389. Butts et al., *supra* note 388, at 41. *But see* U.S. DEP’T JUST., REDUCING GUN VIOLENCE: THE BOSTON GUN PROJECT’S OPERATION CEASEFIRE 42–43 (2001), <https://www.ojp.gov/pdffiles1/nij/188741.pdf> [<https://perma.cc/R8JN-KZDU>] (discussing Boston Gun Project, which overtly works with police to leverage threat of arrest against people identified as likely targets).

390. Butts et al., *supra* note 388, at 50.

391. *Id.* at 41.

392. *Id.* at 73.

393. Slutkin & Ransford, *supra* note 2, at 82.

394. *See id.* at 77.

395. Jeffrey A. Butts & Sheyla A. Delgado, *Repairing Trust: Young Men in Neighborhoods with Cure Violence Programs Report Growing Confidence in Police*, JOHN JAY COLL. CRIM. JUST., Oct. 2017, at 1, 2, https://academicworks.cuny.edu/jj_pubs/418/ [<https://perma.cc/69NP-72DS>].

as Chicago, Kansas City, and New Orleans reflect similar, if not better, outcomes.³⁹⁶

Other “community response” models showing positive impact include Crisis Assistance Helping Out on the Streets (“CAHOOTS”)³⁹⁷ and Group Violence Intervention,³⁹⁸ comprised of unarmed trained civilians, usually medics and trained mental health providers, not police.³⁹⁹ The Advance Peace program takes a somewhat different approach, enrolling individuals impacted by cyclical gun violence in a year-and-a-half program that provides intensive mentorship, therapy and various forms of counseling.⁴⁰⁰ Neighborhood Change Agents work to “mediate street conflict, interrupt imminent violence, and respond to shootings.”⁴⁰¹

Despite these positive results, offender-focused programs suffer from insufficient and inconsistent funding⁴⁰² and face an uphill battle in gaining acceptance and use. As Jeffrey Butts and his co-authors have observed, “[p]olicy makers are more likely to invest in law enforcement—not necessarily because enforcement is the best strategy for the problem, but because enforcement is familiar.”⁴⁰³ Moreover, the historical record is replete with police departments seeking to maintain the status quo, coopting or blocking change.⁴⁰⁴

Reform efforts must be mindful of these realities, especially in the evolving political climate. At this moment, *contra* the Defund and Abolish the Police movements, many jurisdictions are actually increasing their police budgets, after

396. Slutkin & Ransford, *supra* note 2, at 79.

397. Luis A. Gonzalez Miranda, Anuradha Shetty & Daniel Ehlke, *Analyzing Alternative Behavioral Crisis Response Models in the U.S.*, 49 J. CMTY. HEALTH 324, 325–26 (2024).

398. Christopher Lau, *Interrupting Gun Violence*, 104 B.U. L. REV. 769, 797–804 (2024) (providing overview of several community violence intervention strategies and discussing their positive results in reducing gun violence).

399. See Scottie Andrew, *This Town of 170,000 Replaced Some Cops with Medics and Mental Health Workers. It's Worked for Over 30 Years*, CNN (July 5, 2020, at 22:10 ET), <https://www.cnn.com/2020/07/05/us/cahoots-replace-police-mental-health-trnd> [<https://perma.cc/YRT7-NSYB>].

400. JASON CORBURN & AMANDA FUKUTOME-LOPEZ, BERKELEY INST. URB. & REG'L DEV., OUTCOME EVALUATION OF ADVANCE PEACE SACRAMENTO, 2018-19, at 2 (2020), <https://www.advancepeace.org/wp-content/uploads/2020/04/Corburn-and-F-Lopez-Advance-Peace-Sacramento-2-Year-Evaluation-03-2020.pdf> [<https://perma.cc/4HFE-WDBD>].

401. *Id.* For discussion of yet another successful intervention, “Choose to Change,” which pairs cognitive behavior therapy (“CBT”) with intensive mentoring to help at-risk juveniles, see Ryan Levi & Dan Gorenstein, *This Mix of Therapies Is Helping to Stop Youth Violence in Chicago*, MARSHALL PROJECT (June 5, 2025, at 06:00 ET), <https://www.themarshallproject.org/2025/06/05/chicago-child-therapy-crime-prevention> [<https://perma.cc/PQM3-C264>].

402. Lau, *supra* note 398, at 806–07 (noting the same and providing examples).

403. Butts et al., *supra* note 388, at 51; see also Anthony O'Rourke, Rick Su & Guyora Binder, *Disbanding Police Agencies*, 121 COLUM. L. REV. 1327, 1341–42 (2021) (describing the shift in local budgets away from mental-health and other social services in tandem with major growth in police budgets, with many such functions subsumed by police agencies).

404. See, e.g., TONY CHENG, THE POLICING MACHINE: ENFORCEMENT, ENDORSEMENTS, AND THE ILLUSION OF PUBLIC INPUT 23 (2024) (describing how police-community relations have been strategically deployed by police departments to resist change and reify police power); Edwards & Rushin, *supra* note 261, at 2131 n.22 (noting how departments have evaded legislated bans on ticket quotas).

initially embracing significant limits.⁴⁰⁵ To counter likely police resistance, departments must be made to recognize two realities. First, that achieving positive public health outcomes is closely connected to the reduction of serious crime.⁴⁰⁶ And second, that such benefits can be secured without engendering harmful community estrangement and cynicism.⁴⁰⁷

Finally, when prevention and cure fail, police will still need to serve as law enforcers. Their chief focus, however, should not be on conducting mass stops and arrests, given their significant harms,⁴⁰⁸ but rather on targeting the small cadre of individuals who account for an outsized proportion of serious criminal offenses.⁴⁰⁹ As Thomas Abt has written, “[w]hen police observe a known shooter in a hot spot, with a bulge in his waistband, hanging with associates, all of whom are drinking, they should be on high alert. In situations like these, most citizens expect the police to investigate and, if necessary, to intervene.”⁴¹⁰ In short, police can principally act as guardians yet still engage in warrior-like behavior when circumstances dictate.⁴¹¹

3. *A Caveat*

When undertaking reform, it is important to recognize that importing officers into the public health equation can be problematic. An example is Crisis Intervention Teams, which combine police and mental health professionals to handle behavioral health crises, in which police have been known to escalate, not de-escalate, situations that lead to violence.⁴¹² Police have also used calls to gather intelligence, recruit informants, and arrest.⁴¹³ The commingling creates

405. See Paige Hubbard, *Proposed City of Austin Budget Gives APD Its Largest Allotment Ever*, CBS AUSTIN (July 19, 2023, at 23:09 CT), <https://cbsaustin.com/news/local/proposed-city-of-austin-budget-gives-apd-its-largest-allotment-ever> [https://perma.cc/D6VF-U6TR].

406. Dong et al., *supra* note 41, at 5; see Daniel Kim, *Blues from the Neighborhood? Neighborhood Characteristics and Depression*, 30 EPIDEMIOLOGIC REVS. 101, 102 (2008); Jaewoong Won, Chanam Lee, Samuel N. Forjuoh & Marcia G. Ory, *Neighborhood Safety Factors Associated with Older Adults' Health-Related Outcomes: A Systematic Literature Review*, 165 SOC. SCI. MED. 177, 184 (2016); GREGG D. CARUSO, PUBLIC HEALTH AND SAFETY: THE SOCIAL DETERMINANTS OF HEALTH AND CRIMINAL BEHAVIOR 2 (2017).

407. See Tom Tyler & Tracey Meares, *Revisiting Broken Windows: The Role of the Community and the Police in Promoting Community Engagement*, 76 N.Y.U. ANN. SURV. AM. L. 637, 638 (2021) (noting role of community cooperation in reducing crime).

408. See *supra* notes 193–95 and accompanying text.

409. See Chalfin, *supra* note 358, at 421 (“[T]he benefits of policing can be maximized and the costs can be minimized when police eschew strategies which revolve around making large numbers of stops and arrests and instead focus their efforts on building major cases against the relatively small number of individuals who drive an outsized[d] share of the violence.”).

410. ABT, *supra* note 362, at 123.

411. See McLean et al., *supra* note 325, at 1113 (reporting study findings that the guardian and warrior attitudinal models are distinct yet that the two can coexist, with the control and aggression-oriented warrior mindset coming into play as circumstances dictate).

412. See U.S. DEP’T JUST. CIV. RTS. DIV. & U.S. ATT’Y’S OFF. W. DIST. KY. CIV. DIV., *supra* note 66, at 59–65.

413. Liam Michaud, Emily van der Meulen & Adrian Guta, *Therapeutic Alignments: Examining Police and Public Health/Harm Reduction Partnerships*, 34 POLICING & SOC’Y 290, 294, 296 (2024); see also Caitlin G. Lynch, *Social Workers’ Experiences with Police Partnerships in Mental Health Calls for Service: A Qualitative Analysis of a Co-Responder Model of Policing*, 39 J. POLICE & CRIM. PSYCH. 383, 384 (2024) (“While it is

the risk that “health care is not just seen as affected by the police—it is the police.”⁴¹⁴ When this occurs, mistrust of the police can exacerbate existing distrust of the health care system,⁴¹⁵ worsening already poor health care in disadvantaged communities of color.⁴¹⁶

Research also shows that co-responder approaches have not always proved fruitful in terms of diverting individuals with behavioral health problems from the criminal legal system or avoiding future engagements with the health system.⁴¹⁷ Nor have they proven effective at reducing police use of force.⁴¹⁸

For these reasons, the public health orientation advocated here should, to the extent feasible, be operationalized in a manner that prioritizes involvement of non-police actors.⁴¹⁹ An example is found in CAHOOTS, discussed above, which responds to mental health calls with teams consisting of civilians, usually a medic and behavioral specialist, and shows great success.⁴²⁰ “Violence interrupter” programs, also staffed by civilians,⁴²¹ are another example.⁴²²

Police should remain involved in addressing behavioral health crises, but only when force or threat of force by an individual exists.⁴²³ In this regard, 911 call takers and dispatchers can play a key role. A recent Philadelphia study highlights the difficulty of these gatekeepers identifying when a threat of violence exists, warranting deployment of police, and when the threat is absent and unarmed civilian teams can adequately respond.⁴²⁴ The authors note that at a minimum, gatekeepers can “‘prime’ officers to respond with a sensibility that is attuned to the potential for danger.”⁴²⁵ Other research highlights the benefit of

difficult to hospitalize someone for mental illness, particularly if it is done against their will, it is not difficult to send them to jail.”)

414. Teneille R. Brown, *When Doctors Become Cops*, 97 S. CAL. L. REV. 675, 683 (2024).

415. Michaud et al., *supra* note 413, at 293.

416. See Brown, *supra* note 414, at 679–80 (“[M]edical mistrust leads to poor health outcomes and is much higher in communities that are poorer, racially diverse, and overpoliced. This exacerbates health inequities, as Latinx and Black people have a long history of receiving inferior care, despite having comparable insurance and access.”).

417. Evan Marie Lowder, Eric Grommon, Katie Bailey & Bradley Ray, *Police-Mental Health Co-Response Versus Police-as-Usual Response to Behavioral Health Emergencies: A Pragmatic Randomized Effectiveness Trial*, 345 SOC. SCI. & MED., Mar. 2024, at 1, 5.

418. Taled El-Sabawi & Jennifer J. Carroll, *A Model for Defunding: An Evidence-Based Statute for Behavioral Health Crisis Response*, 94 TEMP. L. REV. 1, 13 (2021).

419. See Brown, *supra* note 414, at 719–20 (“While crisis-trained police can reduce and help divert people to treatment, these programs are only successful relative to the status quo of carceral, law enforcement methods.”); Michaud et al., *supra* note 413, at 291 (“[H]arm reduction policing models which advocate that police be deployed in therapeutic capacities should be regarded with extreme caution.”).

420. See *supra* notes 396–98 and accompanying text.

421. See *supra* note 389 and accompanying text.

422. Although beyond the scope of discussion here, it is worth noting that as interventions shift to non-police actors, existing Fourth Amendment doctrine, which is designed to regulate police investigations, might be a poor fit to ensure protection of privacy and bodily security interests of community members. Shawn E. Fields, *The Fourth Amendment Without Police*, 90 U. CHI. L. REV. 1023, 1024 (2023).

423. CHRISTOPHER SLOBOGIN, *REHABILITATING CRIMINAL JUSTICE: INNOVATIONS IN POLICING, ADJUDICATION, AND SENTENCING* 28 (2025).

424. Jennifer D. Wood & Evan Anderson, *Triaging Mental Health Emergencies: Lessons from Philadelphia*, 86 L. & CONTEMP. PROBS. 29, 31 (2023).

425. *Id.* at 31.

providing specialized training for dispatchers so they can recognize behavioral health calls and deploy responders accordingly.⁴²⁶

C. *Measuring Outcomes*

It is not enough to undertake the changes outlined; their outcomes must be assessed in terms of the goals and metrics of public health and public safety. Public health, for its part, has long incorporated outcome measurement when devising policy and practice.⁴²⁷ While policing professes dedication to measuring outcomes,⁴²⁸ it very often resists their valuable lessons, and otherwise persists in the use of hidebound metrics such as aggregate arrests, citations, and convictions,⁴²⁹ which not only fail as public safety and health measures, but also incentivize harmful police practices. This must change.

To that end, employing a strategy used in the United Kingdom⁴³⁰—“continuous impact assessments”—has appeal. Such assessments require police agencies to identify the real-time impact of interventions.⁴³¹ With respect to hot spot policing, for instance, assessment should focus on racial impact by establishing mechanisms for addressing disparities and reducing harm. Furthermore, consistent with public health teaching,⁴³² assessment criteria should include input from community members and other key stakeholders (*e.g.*, clergy, business owners, and grassroots organizations).

When evaluating outcomes, care should be taken to avoid siloing public health and public safety effects. As several prominent public health researchers have recently advocated, we need a “conceptual interface,” an evaluative model that “shows how police activities influence health and how health can be a guide to police practice and a measure of police impact on social wellbeing.”⁴³³ For example, even if arrests achieve a degree of crime-reduction and deterrence, evaluation must consider the very significant harms they cause to individuals and

426. Lowder et al., *supra* note 417.

427. See Stephen B. Thacker et al., *Measuring the Public's Health*, 121 PUB. HEALTH REPS. 14, 19 (2006).

428. See Cynthia Lum, Christopher S. Koper & Cody W. Telep, *The Evidence-Based Policing Matrix*, 7 J. EXPERIMENTAL CRIMINOLOGY 3, 14 (2011).

429. MALCOLM K. SPARROW, HARV. KENNEDY SCH., MEASURING PERFORMANCE IN A MODERN POLICE ORGANIZATION 2 (2015), <https://www.ojp.gov/pdffiles1/nij/248476.pdf> [<https://perma.cc/7KV9-F77N>] (citing and discussing traditional police performance metrics).

430. Lawrence W. Sherman, “*Test-As-You-Go*” for Hot Spots Policing: Continuous Impact Assessment with Repeat Crossover Designs, 6 CAMBRIDGE J. EVIDENCE-BASED POLICING 25, 26 (2022).

431. *Id.* at 26–27; see Michael L. Millenson, *Docs and Cops: Origins and Ongoing Challenges of Evidence-Based Policing*, 5 CAMBRIDGE J. EVIDENCE-BASED POLICING 146, 146 (2021). For discussion of the how “implementation science” can be usefully applied to promote innovations in policing, based on research findings, see Brandon del Pozo et al., *Using Implementation Science to Improve Evidence-Based Policing: An Introduction for Researchers and Practitioners*, 28 POLICE Q. 182, 201 (2025).

432. See *supra* notes 364–65 and accompanying text.

433. Auke J. van Dijk et al., *Law Enforcement and Public Health: Recognition and Enhancement of Joined-Up Solutions*, 393 LANCET 287, 292 (2019).

communities,⁴³⁴ what the public health field terms iatrogenic consequences.⁴³⁵ Rather than merely employing customary quantitative assessment measures, such as arrest numbers or gun seizures, more qualitative measures, such as community support and respect for police, and healthier and longer lives for community members, should be utilized.⁴³⁶

Police and public health workers, in short, must achieve a shared understanding of their contributions to one another's missions and use that understanding to evaluate success. Safety and health are public goods, and positive outcomes for each should be the goal.

V. CONCLUSION

Today, police and public health actors alike regard crime as a contagion.⁴³⁷ But they respond in very different ways. Public health actors emphasize prevention and cure, whereas police respond with punishment and stigmatization, causing very serious harms to the individuals and communities they serve.⁴³⁸

Recent experience in New York City highlights the danger of contagion policing in the context of an actual contagion. Charged with enforcing COVID-19 mandates, police exercised their authority in a warrior manner similar to that discussed earlier.⁴³⁹ They aggressively ticketed and arrested residents in predominantly Black and low-income neighborhoods, sometimes violently, at substantially higher rates than in wealthier White communities,⁴⁴⁰ perpetuating health inequities and imposing negative health effects.⁴⁴¹

One might say that the experience underscores the existence of an intrinsic problem with using the crime-as-contagion metaphor, in keeping with the risk noted at the outset.⁴⁴² As discussed, however, the harms flowing from police conceiving of crime as a contagion stem from operationalization, not conceptualization.⁴⁴³ Rather than embracing and effectuating its public health teachings, centering on prevention and cure, police have coopted the contagion metaphor

434. See *supra* Part III; see also Lum & Nagin, *supra* note 358, at 348 (noting that “there are significant costs to arrests and . . . their crime control effectiveness is often not demonstrable”).

435. Brandon C. Welsh, Alexis Yohros & Steven N. Zane, *Understanding Iatrogenic Effects for Evidence-Based Policy: A Review of Crime and Violence Prevention Programs*, AGGRESSION & VIOLENT BEHAV., Nov.–Dec. 2020, at 1, 2.

436. For more on the problems of focusing solely on quantitative results, and the benefits of a more holistic conception of public safety, see Erin Collins, *Abolishing the Evidence-Based Paradigm*, 48 BYU L. REV. 403, 432 (2022) (showcasing how quantitative criminal legal system studies often are biased and fail to capture other forms of expertise from communities themselves).

437. See *supra* notes 2–3 and accompanying text.

438. See Jackson et al., *supra* note 151, at 628.

439. Sandhya Kajeepeta, Emilie Bruzelius, Jessica Z. Ho & Seth J. Prins, *Policing the Pandemic: Estimating Spatial and Racialized Inequities in New York City Police Enforcement of COVID-19 Mandates*, 32 CRITICAL PUB. HEALTH 56, 57 (2022).

440. *Id.*

441. *Id.* at 62; see also Jacquelyn L. Jahn, Jessica T. Simes, Tori L. Cowger & Brigitte A. Davis, *Racial Disparities in Neighborhood Arrests Rates During the COVID-19 Pandemic*, 99 J. URB. HEALTH 67, 68 (2022).

442. See *supra* note 5 and accompanying text.

443. See *supra* Part IV.

to justify aggressive street patrol and pervasive surveillance, to punish and stigmatize, effectively engaging in a form of “healthwashing.”

Residents of crime-plagued communities want neither to be over- nor under-policed.⁴⁴⁴ As Fourth Circuit Court of Appeals Chief Judge Roger Gregory recently noted, they “do not want police officers to be tough on crime, or weak on crime—they want them to be smart on crime.”⁴⁴⁵ The suggestions offered here, with their public health orientation, can go a long way toward achieving that goal.

444. See Richard R.W. Brooks, *Fear and Fairness in the City: Criminal Enforcement and Perceptions of Fairness in Minority Communities*, 73 S. CAL. L. REV. 1219, 1228 (2000) (“[W]hile [B]lack[] [people] are more likely than the general population to view police brutality and harassment as a problem, they are also much more likely to perceive crime as a serious problem. Thus [B]lack[] [people] suffer from a ‘dual frustration’—being fearful of both the police and criminals.”).

445. *United States v. Curry*, 965 F.3d 313, 333 (4th Cir. 2020) (en banc) (Gregory, C.J., concurring).