Mapping police power and the limits of reform

ABSTRACT

In the response to mass protests calling to reform, defund, or abolish the police, a number of U.S. police departments have recently grappled with reforms. In a familiar cycle of periodic crises that lead to calls for police reform, many proposed reforms end up funneling more money into police departments while doing little to address entrenched and systemic forms of racism. In this article, I analyze a city-run reform effort in Lexington, KY that seeks to "dismantle systemic racism" in policing and other government agencies. I show how the police reform committee struggled to address everyday practices of policing that lead to racially disparate outcomes and, instead, largely focused on animus and bias exhibited by individual officers. In response to the perceived lack of data on racially uneven policing practices, in this article I argue that we take seriously minor 'crime' data as indicators of police discretion and priorities. To those ends, I map the uneven geographies of marijuana possessions enforcement, showing how they intersect with existing forms of vulnerability. In mapping enforcement, I offer a replicable means to shift the framing through which reform efforts are conceptualized and show how the existing, entrenched model of policing produces, amplifies, and reifies systemic racism.

1. Introduction

Following the murder of George Floyd by the Minneapolis police on May 25th, 2020, protests erupted in cities across the United States, including Lexington, KY. Just over two months prior and less than 100 miles away, Breonna Taylor had been killed by police after a no-knock raid has been ordered on her home in Louisville, KY. Both killings would become central to demands for justice and police accountability by the growing Black Lives Matter movement. On the first of many nights of gathering downtown, protesters in Lexington were met with dozens of Lexington Police Department (LPD) officers outfitted in full riot gear. The night, however, ended with a number of officers marching and kneeling with protesters, some even hugging protesters. These images were spread in local media with praise for protesters and police. While the night may not have been anomalous compared to many of the estimated 550 places around the country where people protested (Buchanan, Bui, and Patel 2020), it contrasted with images of property destruction in other cities that fueled sensationalist media reports. The progressive city of Lexington, it seemed, had a more amicable and collaborative relationship between protesters and the police than other places, even if this relationship would become more strained as protests dragged on. Of course, many recognized the deep structural issues with policing in the city that these images belied. Ideas for how to address these problems varied widely, probably best expressed in the demands issued by the activist group LPD Accountability ("LPD Accountability" n.d.). These demands included reforms to disciplinary procedures, a ban on no-knock warrants, regulations surrounding body cams, and a call to defund the police and redirect funding to social services. This wide platform received support across the city, made visible by yard signs that read, "We Demand Lexington Police Department Accountability."[1] But the exceptionalism of the LPD would become a recurrent theme even as a movement for reform become formalized by city government.

A month after protests began, Mayor Linda Gorton established the "Commission for Racial Justice & Equality," tasked with developing "solutions that dismantle systemic racism" in the city (Straub 2020). Five subcommittees were formed, each with a distinct focus, including one focused on "Law Enforcement, Justice & Accountability." Made up of judges, lawyers, police, activists, academics, and community members, the law enforcement subcommittee was tasked with providing recommendations for reforms to the city's police and justice system. The subcommittee held 15 meetings of about 1.5 hours each in order to debate, delegate work, and develop the recommendation document. The recommendations for the LPD, which are currently in various stages of implementation, broadly address transparency and civilian participation in disciplinary processes; body worn camera protocols; a review of collective bargaining and the Fraternal Order of Police (FOP); use of force and de-escalation policies; complainant anti-retaliation policies; officer discipline histories; increased information in police reports; the improvement of community relations; data analysis and surveys; use of force data; hiring and recruitment protocols; training protocols; a position for monitoring officer accountability; a 911 diversion program for calls that do not require law enforcement; and the building of a sobering center[2].

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[1] These signs were met with reactionary contestation in the form of signs expressing support for the police department.

[2] See: https://www.lexingtonky.gov/sites/default/files/2020-10/Law%20Enforcement%2C%20Justice%20%26%20Acct.%20Report.pdf

Notably, only the 911 diversion program suggests a possible diversion of funding away from policing. This is noted in an objection signed by the two law enforcement representatives on the subcommittee. Many of the recommendations, in contrast, require increased funding to support technologies, training, recruitment, data analysis, and other reforms. Indeed, the 2021 city budget increased funding to policing in order to support some of those reforms in addition to increasing positions at the LPD and building a new police roll call center (Musgrave 2021). Rather paradoxically, in the wake of growing calls to defund the police, many cities have instead raised budgets to fund reforms that ostensibly address issues raised by protests. It remains to be seen if these recommendations make substantive changes that can begin to address issues of systemic racism in Lexington as per the remit of the subcommittee. The evidence of the effectiveness of many suggested reforms, like training and body worn cameras, remains mixed, although supporters and detractors of each can easily point to studies that support their point of view. But decades of ineffectual reform efforts that purportedly address persistent racialized police violence should raise doubts about their effectiveness (Correia and Wall 2018).

Calls for reforms to policing have a long history, often resulting in more money being funneled into police departments, without substantive changes that address the fundamental problems reforms seek to address (Agee 2020). Reform efforts, however, can be effective ways to restore legitimacy to embattled police departments, even if reforms do little to alter the policing practices that led to crises (Vitale 2017). In the wake of uprisings in the 1960s, for example, 'community policing' emerged as a reform effort to increase police legitimacy, although it resulted in an ultimately fraught relationship with people most vulnerable to police power (Herbert 2006). As Ruth Wilson Gilmore (2022) argues in regards to prisons, "reform tends to strengthen institutions, especially those geared towards social control" (218) ultimately leading to their expansion. The expansion of police powers through increased funding and the acquisition of technologies, often in the name of reform, is necessary for the state to continue governing social crises precipitated by growing social inequality and the 'systematic abandonment' of social welfare (Gilmore and Gilmore 2016). In the backlash against radical proposals to defund or abolish the police that exploded in the summer of 2020, we find a similar consolidation and expansion of police power in the name of reform.

The reform recommendations in Lexington emerged from lengthy, and sometimes contentious discussions within the subcommittee. On the one hand, these discussions were evidence of reflexive conversations that began to talk about racial difference in sometimes uncomfortable, but productive ways, as they recognized differential positions of power within systemic forms of racism (Kohl and McCutcheon 2015). On the other hand, however, interlocutors struggled to address the everyday practices of policing that did not rise to a level that warranted discipline. Increased training, improving disciplinary processes, and the use of body worn cameras, for example, aim to address individual wrongdoing and bias exhibited by officers. They miss, however, the structured practices of patrol that mean heightened scrutiny for those occupying particular neighborhoods. Proposed reforms offer little in the way of changing practices that, under review, would be found to follow department protocols, but which disparately ensnare people of color into the criminal justice system. Everyday instances of harassment, disrespect, targeting, and disparate arrests were a source of frustration for a number of subcommittee participants. But these concerns, which some who voiced them had experienced firsthand, were sometimes dismissed as 'anecdotes' that data could not capture. At other times, the subcommittee hoped better data collection or community surveys in the future could reveal the source of these everyday problems with policing.

In this article, I show how everyday, structured practices of policing resist reform efforts, which often leads to reforms focused on animus and bias exhibited by individual officers. This inability to address structures of practice echoes Mat Coleman's critique of existing legal understandings of policing, which demand a high burden of proof in order to recognize racism (Coleman 2016). Under existing legal logics, which are echoed in many mainstream criminological approaches, racial and other disparities in arrests, citations, and police contacts become illegible, endlessly deferred, and buried under complex chains of causality and lack of actionable data. In contrast, I suggest we reject these logics and take seriously minor 'crime' data as indicators of police discretion and priorities. To those ends, I offer a series of maps showing the uneven geographies of marijuana possession enforcement in Lexington. These patterns, I argue, reflect the structured practices of police patrol and department priorities. Built atop existing geographies of dispossession, minor 'crime' data are evidence of systemic forms of racism that cannot be addressed through reforms focused on individual actors alone. But they do offer a different way of framing the problems with police power and may help reimagine reform efforts.

2. Geographies of policing

2.1 Discretion and overdetermination

The vast discretionary power afforded to police officers challenges reform efforts. Expansive police discretion that exceeds legal restrictions is central for police to effectively enforce order, while laws are often shaped retroactively to sanction those practices of enforcement (Neocleous 2021). Discretion affords police nearly unlimited powers to decide how to enforce the law, which includes who to search, when and how to deploy force, and where to patrol (Correia and Wall 2018). In many US cities, where policing has taken the form of the "intense regulation of low-income communities of color" (Vitale and Jefferson 2016, 158), discretion can work to amplify existing inequities. Intensive policing practices that target minor disorder in particular neighborhoods, like those expressed through "broken windows" policing, rely on police discretion and become discursively normalized by police departments, sometimes with community support (Jefferson 2016). In this paper, I show how uneven racialized practices of policing resist reform efforts because they are central to how policing is understood, practiced, and ultimately defended.

As pointed out in the subcommittee, officers spend a very small percentage of their time directly addressing violent crime, with some national estimates putting that number around 4% of a typical day (Asher and Horwitz 2020). Yet, as the LPD's Assistant Chief mentioned in a meeting, violent crime is a major factor in determining patrol routes. While route assignments might determine *where* an officer is stationed during their shift, what they do when they get there is largely open to their discretion. Studies have shown that the bulk of arrests and citations made by police are for minor crimes, while major and violent crime enforcement is much more elusive (Lum and Koper 2017). When not paired with other evidence-based measures, aggressive use of minor arrests do little to reduce crime, while sowing community distrust, ensnaring more people in the criminal justice system, and producing long term, negative effects for those arrested (Lum and Koper 2017). Thus, the allocation of patrols to neighborhoods suffering from perceived violence paired with the discretionary power of policing means people in those neighborhoods are increasingly targeted for minor violations.

In some accounts, using violent crime as a causal explanation for the uneven application of minor citations and arrests is sufficient explanation for existing disparities, whether through

appeals to broken windows style policing or the perceived need to aggressively police known 'crime' hotspots. This logic echoes work in criminology that attempts to isolate a host of variables in order to explain the disparate outcomes of policing. Some ask how does neighborhood context, types of offending, police practices, or other factors lead to people of color being targeted for law enforcement far more than would be expected if the law were evenly applied. Even after accounting for the overdetermination of law enforcement practices, a number of studies have still isolated race as a strong predictor of targeting by the police. In the application of drug laws, for example, a number of criminology studies have found that race alone makes one more vulnerable to policing, even when controlling for other explanatory variables (Beckett, Nyrop, and Pfingst 2006; Mitchell and Caudy 2015, 2017).

Mat Coleman (2016) shows how the structural and disparate application of law rarely meet accepted standards to prove racist intent in policing. Following Coleman, racialized intent is nearly impossible to prove since it requires showing animus on the part of an individual officer. Structural racism, even if evidenced through the severe and ongoing disparate application of the law, circumvents reform because of the inability to apply the 'gold standard' of individualized racist intent (Coleman and Kocher 2019). Coleman (2016) argues, "if minorities are found to comprise a larger share of the population of drivers in a neighborhood or on roads where police stopping activity is concentrated, or more plainly if policing is concentrated in minority neighborhoods and/or roads – then racial bias as such cannot be demonstrated" (83). This marks a shift in legal precedence since the civil rights movements, as clear racially disparate outcomes no longer hold up in courts (Gilmore 2002). In contrast to this narrow legal definition of racism on which 'proof' relies, structured, institutional, and historic processes continually reproduce racism in policing. As Shytierra Gaston (2019) writes:

> persistent race disparities in drug arrests are best understood as part of a broader, long-standing system of racialized social control used to maintain the U.S. racial hierarchy. The concerted workings of manufactured racialized structural conditions and racist institutions, laws, policies, and decision making all make this possible. These social control instruments include facially race-neutral drug laws and policies, selective policing of certain drugs associated with people of color rather than all drugs, aggressively policing certain geographic areas disproportionate to the drug crime they produce, case laws authorizing the discrimination of places and people of color, and officers' differential and more punitive use of discretion against people and places of color on a lower legal threshold (429).

The Law Enforcement Subcommittee recognized that structural racism was indeed endemic to policing—which was conveyed through the repeated insistence that the subcommittee's focus was on systems not individual people—but many of the recommendations focus on individualized racial animus. Some of the data gathering recommendations might eventually reveal more about the uneven geographies of racialized policing, but actually addressing them would require reforms that extend beyond the 'gold standard' of proving racist intent.

While the Assistant Chief could tout the department's embrace of a protector instead of warrior mentality, little was offered in the way of reforms that could immediately address the continued targeting of Black people by the LPD. In fact, those disparities could be explained away using the very same logics used in police studies and criminology that are the targets of Coleman's critiques. Disparities could also be deferred to the future, when more data would become available, because existing data was considered insufficient for understanding and

addressing issues brought up in the subcommittee. But what if we understand existing data on minor crime to reflect the spatial distribution of police patrols and department priorities, which results in the systemic disparities that the subcommittee was tasked to address? This argument, which I engage in the following sections, emerges from existing data on policing and statements made by law enforcement in the subcommittee meetings. Through analyzing spatial disparities in minor drug citations and arrests, I suggest a path for geographic studies to contribute to understanding the uneven geographies of policing and contribute to reframing reform efforts.

I consider this mapping process as a mode of "theorizing with GIS" (Pavlovskaya 2006) in attempt to explore "the conditions of power that shape the "reality" being depicted in the map" (Shelton 2018, 9). Minor crime data is more a reflection of policing practices than what it purportedly represents, which means that it cannot be used without contextualization and theorization. Despite its limitation, minor crime data does have potential to give insight into practices of racialized policing. This work follows Brian Jefferson's (2020) suggestion to use "the digital infrastructure of the racial state against itself, turning its tendency to document everything into a vulnerability, scrutinizing its datasets, producing data on the practices it seeks to hide" (192). To contextualize this work, in the next section, I show how police discretion and the War on Drugs in the United States are deeply intertwined, before turning to the specifics of drug enforcement in Lexington.

2.2 Drugs and discretion

In the 1980s, the War on Drugs shifted police attention to drug users by criminalizing and targeting the possession of drugs. The result of this proactive effort to enforce drug possession laws was a massive increase in incarceration and arrests which disproportionately affected people of color (Lynch 2012). The racialized criminalization of drug users is far out of proportion with estimated levels of drug use. Vast disparities in arrest rates continue to the present day, which has been the subject of a number of criminology studies. There are a number of theories that seek to explain these disparities, ranging from the contexts of drug offending to differences in usage rates. But, as noted above, a number of studies have found little evidence that eliminates race as primary variable that explains these disparities. In other words, racism is structured into the criminal justice system that disproportionately targets people of color for drug crimes, reifying existing patterns of racial difference and oppression.

The discretionary powers of policing give police wide leeway in applying drug laws. This is particularly true of marijuana, where police can claim they smelled the drug in order to justify a search. This is likely why marijuana enforcement far exceeds that of other drugs. During traffic stops, which can be initiated due to minor vehicle or traffic violations, the smell of marijuana or the appearance of suspected drug paraphernalia can be sufficient cause for the detention of a driver and search of their vehicle (Bloch 2021). Additionally, police are able to deploy drug-sniffing dogs during routine traffic stops or to check out someone's luggage, which, if the dog alerts the officer of drugs, can constitute probable cause for a search (Alexander 2012). The smell of marijuana, under certain circumstances, can even be grounds for searches that would otherwise require a warrant under protections provided by the Fourth Amendment. The Supreme Court case *Kentucky v. King* (2011), which arose from a warrantless home search of a suspect in Lexington, provides wide leeway for police searches in private residences. The Court ruled that the smell of marijuana paired with noises heard ("things were being moved" and noises of "people inside moving") after police knocked on the door were consistent with evidence being destroyed. These 'exigent' circumstances, even if partially precipitated by the police, were ruled

to be sufficient cause for the search. In a written dissent, Justice Ginsburg wrote: "The Court today arms the police with a way routinely to dishonor the Fourth Amendment's warrant requirement in drug cases. In lieu of presenting their evidence to a neutral magistrate, police officers may now knock, listen, then break the door down, never mind that they had ample time to obtain a warrant." The use of smells and sounds to determine reasonable cause, both of which can be difficult to verify retrospectively, grant police wide discretionary powers in their approach to marijuana charges.

Even as more states have legalized the recreational usage of marijuana, police in non-legalized states continue to arrest people for minor possession charges, enrolling them in the criminal justice system for something that may be legal in an adjacent state. While arrest rates in states that have legalized or decriminalized marijuana have fallen, people can still be arrested for possession in certain circumstances. And despite national reductions in overall arrests stemming from legalization, racial disparities in arrest rates remain relatively steady, with Black people being about 3.6 times more likely to be arrested on marijuana charges than white people (ACLU 2020). These disparities exist in spite of similar marijuana usage rates across racial categories. The National Survey on Drug Use and Health (2020) consistently finds usage rates of Black and white people differing by only a few percentage points. In states like Kentucky, where marijuana is illegal and Black people are arrested at nearly 10 times the rate of white people (ACLU Kentucky 2020), the consequences can be devastating, especially for already vulnerable people. As the ACLU (2020) writes, "In many states, a marijuana arrest can carry life-altering collateral consequences: parents may lose their children in court proceedings; disabled and low-income recipients of public benefits may lose health care; immigrants can face deportation; families can be evicted from public housing; and finding a job can be difficult and outright impossible in some cases. Because of racism in our criminal justice system, Black and Brown communities disproportionately face these harmful repercussions." In aggregate drug arrests, we see clear evidence of the systemic racism that the subcommittee was tasked with addressing. But in their individualized form, drug arrests are ostensibly legal and, without clear evidence to the contrary, are an acceptable practice within standard forms of policing.

Citations and Arrests	2015	2016	2017	2018	2019
Total	707	701	939	1197	930
White possession rate	1.4162	1.4519	1.78	2.259	1.78
Black possession rate	7.7884	7.1935	10.18	12.49	9.222
Black possession rate / White possession rate	5.5	4.95	5.72	5.529	5.18

Figure 1: Marijuana Possession Citations and Arrests, rates per 1000 people using ACS 5-year population estimates

Citations and Arrests	2015	2016	2017	2018	2019
Total	99	103	134	170	137
White trafficking rate	0.2	0.144	0.143	0.225	0.125
Black trafficking rate	1.07	1.346	2.08	2.354	1.943
Black trafficking rate /	5.35	9.35	14.55	10.46	15.544

White trafficking rate					

Figure 2: Marijuana Trafficking Citations and Arrests for under 8oz, rates per 1000 people using ACS 5-year population estimates

        In a presentation to the subcommittee, a criminology professor outlined significant disparities in marijuana arrests and citations in Lexington, which exceeded the already disparate national averages. He showed even greater disparities in arrests for trafficking of under 8 ounces of marijuana—an upgraded charge from possession that is largely determined by police discretion. In Figures 1 and 2, I have compiled yearly rates of charges for marijuana possession and trafficking less than eight ounces of the drug for the years 2015 through 2019. Possession charges for Black people are regularly above 5 times the rate for white people. Trafficking charges for Black people, as shown in Figure 2, exceeded 15 times the rate for white people in 2019. As noted in the subcommittee, the discretionary power of policing—which is a necessarily expansive power central to policing as we know it today (Neocleous 2021)—almost always results in racially disparate outcomes. This observation resulted in exasperated responses by some members of the committee and points to the disconnect between approaches that address individual bias and the structured practices that produce disparate effects. Notably, even as legalization efforts have spread across the country, arrest and citations have increased in the city. The 2018 totals represent a nearly 70% increase from 2015, although this number dipped by 20% in 2019. Increased total numbers amplify the disparate impacts across communities, increasing the aggregate number of Black people affected by the uneven application of drug laws.
        The enforcement of drug laws is not only racially uneven, it is also highly spatially uneven. At their peak in 2018, the number of marijuana citations and arrests equaled only ~0.38% of the total population across the city.[3] Black people faced much higher rates than the overall population, with arrests and citations equaling ~1.25% of the Black population in 2018. These arrests and citations, however, are highly concentrated in specific neighborhoods. One block group over the five-year span of this study had arrest and citation totals equaling over 14% of the population of that block group. The uneven geographies of marijuana offenses, as I show in the maps that follow, mean that many of parts of the city experience almost no enforcement, while others bear the overwhelming brunt of the continuing war on drugs as fought by the LPD. In this sense, there are two legal regimes in Lexington: one where marijuana is effectively legal and one where marijuana laws are heavily enforced. Unsurprisingly, many of the neighborhoods most impacted by marijuana prohibition contain vulnerable populations who are already affected by concentrated violence, poverty, and racism. So while aggregate statistics on the racially disparate application of drug laws are often cited, examining the uneven spatial extent of enforcement shows how specific neighborhoods become the targets of aggressive policing practices with profound impacts on those who live there. In the following sections, I map five years of minor marijuana offenses before arguing how these data show the limits of reform efforts. Data also give us a proxy for understanding where police patrol and feel licensed to exercise their discretionary powers.

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[3] Some citations or arrests could be repeat offenders, but this information is not present in the data

3 Mapping police power

3.1 Data and methods

Data on marijuana arrests and citations for the years 2015–2019 were obtained through an open records request to the Lexington Police Department filed in the summer of 2020. For mapping, only marijuana possessions charges were used. Original data is coded to the block level (e.g., '400 block of Main St.') or nearest intersection (e.g., '1st St. and Main St.') and contains information on the race of suspects. A cluster of points on the 100 block of Main Street were removed under the assumption that they represent the police station on that block and not the location of an arrest or citation. In this analysis, only racial designations of 'White' or 'Black' contained in the original data files are used due to the inconsistencies and contradictions in the 'Hispanic' ethnicity designation and the very small numbers of other designations. Racial percentages are calculated across the entire represented population, even if a number of those entries have no racial designation attached to them.

In order to distribute the approximate locations of arrests and citations, a random number between 0 and 99 was added to each address that contained a block number, effectively randomly distributing locations across possible addresses on that block. For example, using this method means an address recorded as '400 Main St.' might become '457 Main St.' or '454 Main St.' before being geocoded. This random distribution prevents the clustering of groups of points around intersections. It also distributes points across both sides of a street, which is important considering the bordering effects of police beats, Census blocks, and other boundaries used to enumerate data. Without this random distribution, a group of points at '400 Main St.' might appear to all fall into a single enumeration unit, where they should in fact be counted in an adjacent one. Some addresses only contained intersection information (e.g., "1st St. and Main St."), which was initially geocoded to the intersection point. Finally, each point was assigned a buffer of one hundred meters to represent the uncertainty in precise locations across each block. Twenty random points were drawn into each of these point buffers. To calculate totals in enumeration units, each random point was assigned the value 0.05, which counted towards the sum of points in each enumeration unit. Random block locations, buffering, and the assignment of partial values to random points aim to account for the locational uncertainty in arrest and citation locations while distributing these counts across adjacent enumeration units.

Data on minor marijuana arrests and citations were used in conjunction with data released by the LPD to the Subcommittee on Law Enforcement and data from the Census. LPD data includes violent crimes (murder, rape, robbery, and aggravated assault) per police beat, which largely determines patrol routes according to the Assistant Chief of the LPD. Violent crime data in criminology is generally considered more widely reported and accurate than other types of 'crime' data, making it widely used for patrol purposes. We should expect, however, that many of these types of crimes to be under-reported or officer-initiated (Richardson, Schultz, and Crawford 2019), with national estimates showing around 50% of such crimes go unreported (Langton et al. 2012). Finally, American Community Survey (ACS) data was used to determine block group-level demographics. 2019 5-year estimates were used to compare again 2015–2019 totals, while data for individual years was produced using 5-year estimates from the year in question.

3.2 Minor drug offenses and police power

Marijuana offenses are used to map to police patrol practices and priorities for two primary reasons. First, they correlate closely with how the LPD determines patrol routes as outlined by the LPD's Assistant Chief in a subcommittee meeting. In response to a question about how patrols are allocated, Assistant Chief Maynard answered, "most of time it's crime stats and violent crime in general" that determine patrols. In Figure 3, I have plotted reported violent crimes against minor marijuana citations and arrests within police beats. Across the time period of the study, we find a strong positive correlation between the two variables, with linear regression showing an R2 value of 0.65. Heightened patrol in neighborhoods experiencing perceived violence appears to result in the increased scrutiny of minor offenses, like the possession of marijuana.
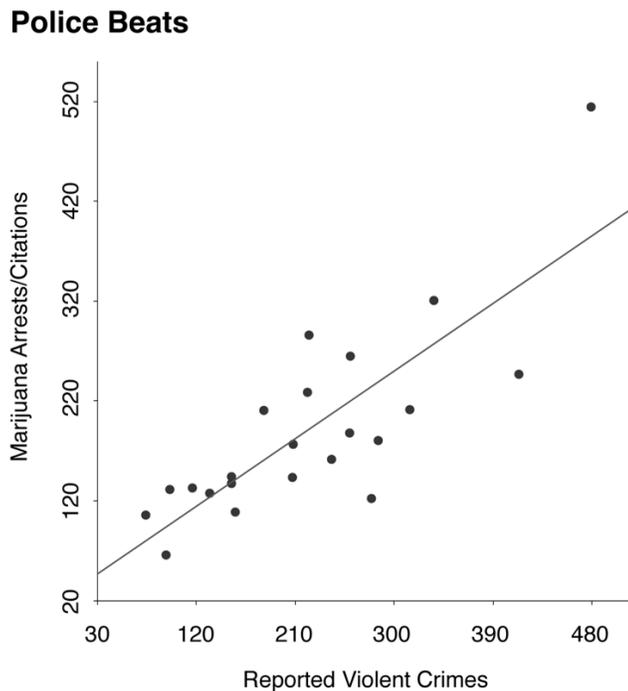
Police Beats

Figure 3: Violent crimes and marijuana citations/arrests

Second, it is generally accepted that minor drug offenses offer some of the most unreliable data on crime because they are largely officer-initiated. This means that these data offer little in understanding the actual distribution of drug crimes, but say more about *who* police prioritize stopping and *where* they feel emboldened to do so. For these reasons, minor drug crimes are roundly rejected for use in predictive policing software because they would result in feedback loops of racially-biased, officer-initiated data that reify existing police practices (Shapiro 2017). As Andrew Ferguson (2017) argues, "a predictive policing strategy that focuses on drug arrests will almost certainly replicate policing patterns independent of underlying drug use" (75). In a blog post, PredPol distanced themselves from claims of feedback loops, stating that their predictive software "excludes drug related offenses and traffic citation data from its predictions to remove officer bias from the equation and eliminate the risk of generating predictions based on officer

discretion."[4] Similarly, in code comments of the now-defunct open source program CivicScape, developers write, "Minor marijuana possession cases are one of the most biased in terms of the discrepancy between the population who uses and is arrested for using drugs."[5] National discrepancies cited by CivicScape are even larger in the context of the city of Lexington, where Black people are regularly targeted at over five times the rate of white people, compared to 3.73 times nationally as cited in the software. The rejection of minor drug arrest data for use in predictive policing software—a field that is deeply embedded in academic and evidence-based policing and criminology discourses, all of which rely on a deep faith in the veracity of crime data—is evidence of how little that data reflects anything useful about drug use, but which might be a strong indication of the discretionary powers and priorities of officers in the field.

Social pressure for the enforcement of marijuana laws is quite low in the US—national polls show an overwhelming majority of people in the US support medicinal or recreational legalization[6]—yet police continue to use those laws to enroll people into the criminal justice system. While those offenses might be relatively minor, the vast racial disparities between predicted usage rates and enforcement show how the law is selectively enforced, both racially and spatially. Studies have shown that the threshold for searching Black people is much lower than white people during traffic stops (Pierson et al. 2020)—disparities in drug citations are one reflection of this kind of disparate scrutiny by police officers. Drug laws become a tool to justify the harassment of the already vulnerable, with little accountability as the enforcement of such laws are ostensibly legal. As I argue in the section that follows, this disparate enforcement is structured into the practices of policing and evades reforms that aim to address systemic racism. Reforms that focus on individual bias cannot capture the layered forms of vulnerability that structure the spaces of the city, which become differentially targeted by the power of police discretion.

3.3 The geographies of marijuana enforcement

In contrast to the large areas that make up police beats, in this section I drill down to analyze data at the block group level to show the spatial concentration of marijuana enforcement. Block groups with fewer than twenty arrests and citations over the five year period are excluded from these maps, as those numbers mean an average of only one arrest or citation every three months. Figure 4 shows rates of marijuana enforcement across the city, normalized to Census population numbers. Rates of enforcement over the five year period are highest in the northern half of the city, with some pockets outside of New Circle Road, which serves as a boundary to the center of the city. The highest concentration of arrests and citations are clustered in the East End and Northside neighborhoods, where those numbers amount to over 10% of the population in some block groups. In Figure 4, I have highlighted the ten block groups

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[4] see: https://blog.predpol.com/machine-learning-and-policing

[5] see: https://github.com/dkg/CivicScape/blob/master/evaluation_notebooks/notebooks/PreventingBias.ipynb

[6] In a recent Pew poll, 60% of adults in the US said marijuana should be legal for recreational and medicinal purposes, while 31% said it should be legal for only medicinal purposes. Only 8% of respondents said it should not be legal in any form. Support for full legalization was higher for young people and liberals: https://www.pewresearch.org/fact-tank/2021/04/16/americans-overwhelmingly-say-marijuana-should-be-legal-for-recreational-or-medical-use/

with the highest arrest and citation rates, which cluster around the East End—one of Lexington's historically African American neighborhoods that has been subject to intensifying gentrification in recent years.
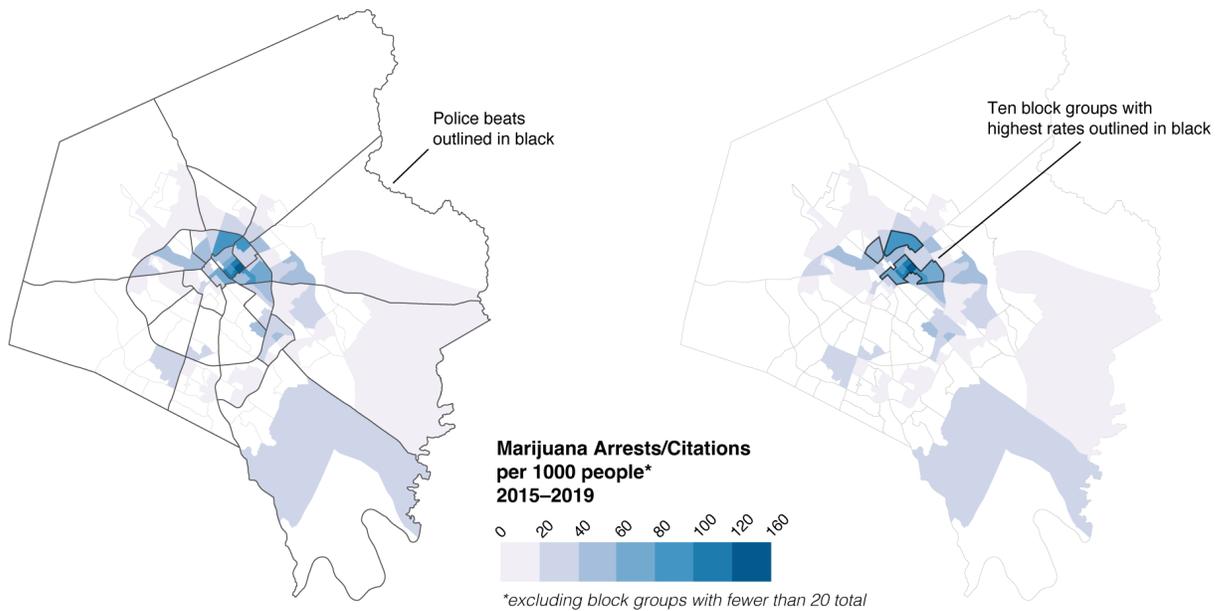

Figure 4: Marijuana arrests and citations

       The concentration of marijuana enforcement in the East End and Northside neighborhoods drives racially disparate outcomes, which is further exacerbated by the overrepresentation of Black people compared to neighborhood demographics. Figure 5 shows the difference between the percentage of Black people who are cited or arrested for minor marijuana offenses and the percentage of Black people in that block group. Barring two exceptions, Black people are significantly overrepresented in block groups across the city. In both of these anomalous block groups, citations and arrests are clustered in commercial areas on the edges of the enumeration units, which are unlikely to be representative of neighborhood demographics. While Census data does not account for the mobility of people across the city—people congregating in commercial areas, for example, where enforcement totals are often elevated—the overrepresentation of Black people across the city does give a sense of the systemic nature of the problem.
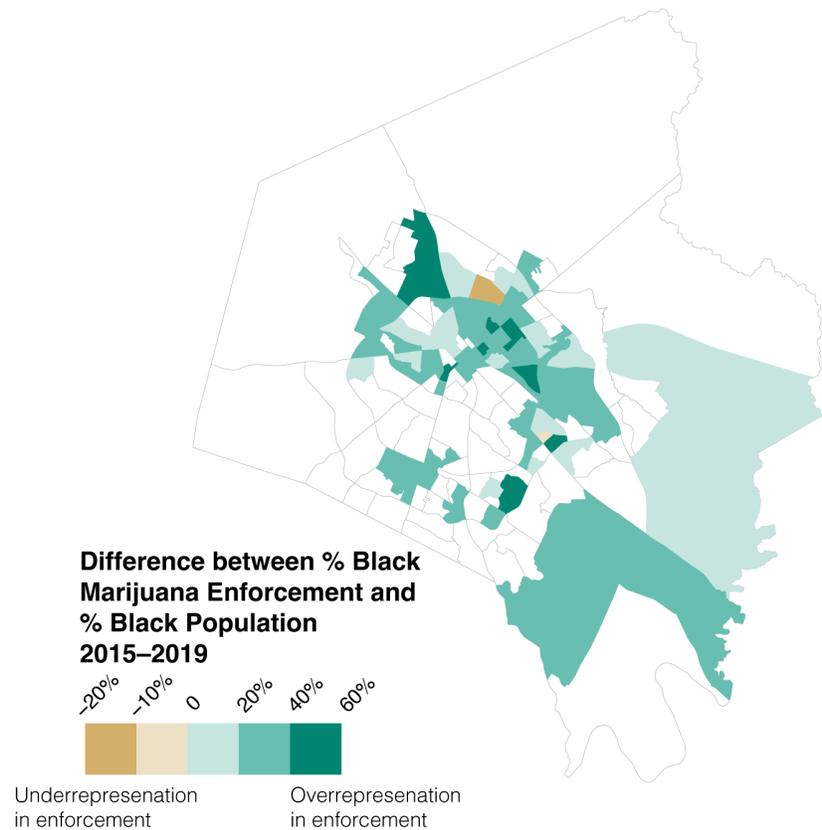
Difference between % Black Marijuana Enforcement and % Black Population 2015–2019

-20% -10% 0 20% 40% 60%

Underrepresenation in enforcement

Overrepresenation in enforcement

Figure 5: Disparate enforcement

Many neighborhoods facing increased enforcement also face other forms of existing vulnerability Figure 6 shows two forms of social vulnerability mapped by other scholars. The map on the left, juxtaposed against enforcement rates, highlights 2014 'racially/ethnically concentrated areas of poverty' and relative poverty as calculated by Taylor Shelton (2018). As Shelton (2018) reminds us in his relational approach to concentrated poverty, these areas are produced by and support concentrated areas of affluence in the city—areas that are not subject to intensified marijuana enforcement. In other words, those who profit from the ownership of real estate in poor areas of the city are subject to a very different legal regime. The map on the right highlights the ten block groups most vulnerable to 'involuntary displacement' due to gentrification as determined by the Task Force on Neighborhoods in Transition in Lexington (2021) in collaboration with academics. Notably, the three block groups with highest enforcement rates—which are the only three with rates that exceed one hundred arrests and citations per one thousand people—rank first, second, and fourth for risk of involuntary displacement. Studies in major U.S. cities have shown how encroaching borders of gentrification are met with increased police surveillance of those at risk of displacement (Ramírez 2020; Cahill et al. 2019), often at the behest of newcomers to the neighborhood (Parekh 2015; Bloch and Meyer 2019). These dynamics have been less studied in smaller cities like Lexington, but appear to follow similar dynamics here. Additionally, of the twenty block groups with the highest enforcement rates,

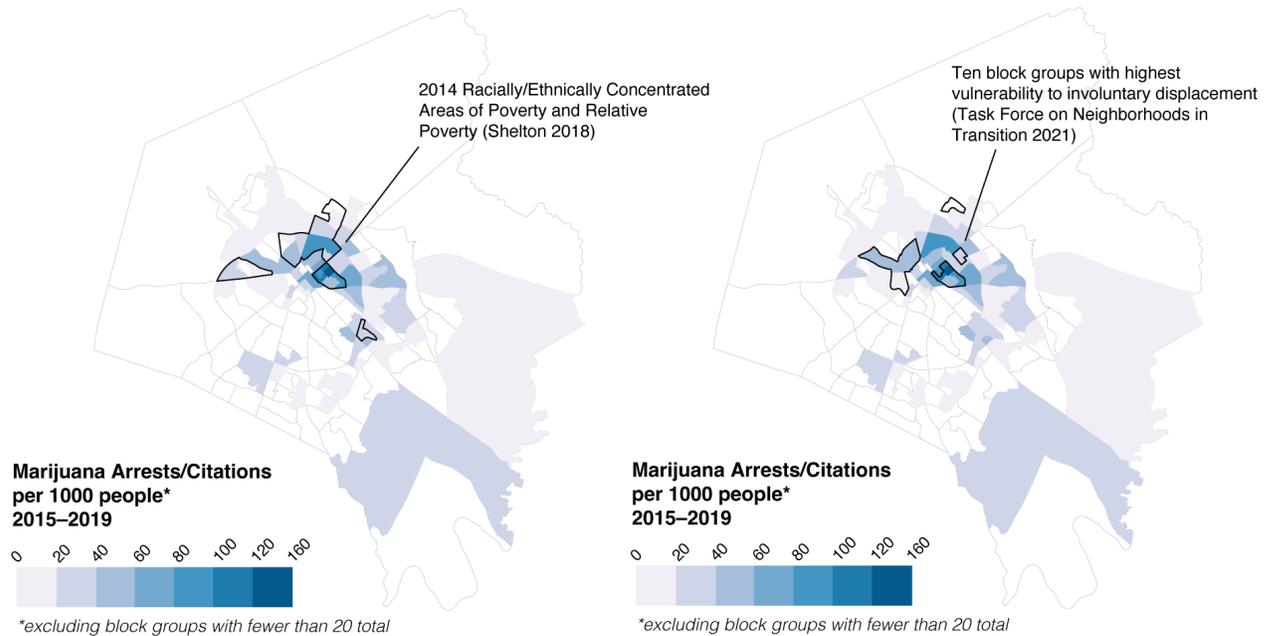eighteen are within or adjacent to block groups identified with one of these two types of vulnerability[7].

Figure 6: Measures of social vulnerability

Mapping marijuana enforcement shows how policing works in concert with historical and ongoing processes of disinvestment, displacement, segregation, and other forms of produced vulnerability. Marijuana enforcement is analyzed here not because it is the most pressing issue in the uneven geographies of policing, but because it can be read as a trace of the quotidian powers of policing. Other forms of minor 'crime' enforcement likely follow similar spatial patterns, in addition to harder-to-measure forms of soft touch that the police use as a tool of affective power (Woodward and Bruzzone 2015). These geographies of police contact cut across and unevenly reify classed, raced, gendered, and other forms of difference. Moreover, as I argue in the next section, these patterns are built on logics that evade police reform efforts.

4. The limits of reform

The spatial concentration of marijuana enforcement is a consequence of policing logics that take the perceived concentration of violent crime in certain neighborhoods as a reason to increase patrols in those neighborhoods. This ostensibly 'common sense' approach to policing circumvents the messy complexities of race, class, and other forms of difference that are unevenly produced and policed. In fact, data-driven methods for mapping crime can be read as a way to justify existing, uneven policing practices (Jefferson 2018). This unevenness can be read as an example of what Rashad Shabazz (2015) calls "spatialized blackness," as carceral logics come to inform the governance of racialized urban spaces. Clear racial differences in aggregate enforcement, however, cannot serve as evidence of racialized policing within current legal frameworks because they are merely acceptable disparities that emerge from taken-for-grant

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[7] Of the nine adjacent block groups, one is queen adjacent, while the rest are rook adjacent

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policing logics (Coleman 2016). The unspoken correlation between race and criminality that are side effects of these seemingly colorblind logics, as Keith Woodward (2016) reminds us, is the question "that state reason would like to jump to a convenient conclusion" (90). This is this pernicious logic of systemic racism structured into city governance, whose causes are always deferred and irresolvable, left untouched by the arbiters of reform.

But what if we rethink the chains of causality that lead us from poverty to crime and their correlation with racialized populations? The selected enforcement of minor laws might lead us to consider how differential enforcement may reify the very imaginaries and conditions that produce criminality as a phenomenon. Once a neighborhood is identified by the police as experiencing violence, we can trace at least three consequences that flow from each other. First, as is evidenced through the analysis above, people in those neighborhoods are stopped and charged for unrelated minor law violations. Similarly, in a study on policing in St. Louis, Shytierra Gaston (2019) found that drug arrests in majority Black neighborhoods were more often the result of discretionary stops while arrests in white neighborhoods were primarily the result of reactive policing. In addition to disproportionately suffering the legal consequences of selective enforcement, people in targeted neighborhoods may also be subject to ongoing affective trauma. For example, in targeted enforcement zones in New York City, Emily Kaufman (2016) found people experienced "pervasive fear" that limited their mobilities. Similarly, Hannah LF Cooper (2015) outlines the psychological, physical, and sexual violence that people experienced amidst a drug crackdown in a predominately non-white, poor community in New York City.

Second, these charges mean more people in those neighborhoods are interpellated as criminals and enrolled into the criminal justice system. Even minor offenses can have serious consequences for a person's life chances—including, but not limited to loss of employment, housing, and immigration status—which ripple out into the community and may ultimately reify the conditions that justify policing in the first place (Howell 2009). While part of the reforms in Lexington have focused on diversion programs for first time offenders, selective enforcement still places undue burdens on people who are increasingly targeted by virtue of occupying specific spaces. Failure to abide by increased surveillance requirements after an arrest or citation, including those set by diversion programs, can lead to incarceration, which can be particularly onerous and devastating for primary caregivers and their children (Lynch 2012). Simone Browne (2015) calls the heightened scrutiny of people of color "racialized surveillance" to describe "moments when enactments of surveillance reify boundaries, borders, and bodies along racial lines" with discriminatory outcomes (16).

And third, increased police presence will result in more violent and other crimes being found and persecuted, which likely leads to a feedback loop that further justifies police patrols in these neighborhoods (Jefferson 2018). While violent crime might be more reported than other types, the vast underreporting of such crimes, as outlined above, almost certainly means that proactive policing and patrol will lead to more violent crime detection. This, in turn, will justify further presence in certain neighborhoods, creating a presence–detection–justification feedback loop—the same feedback loop that predictive crime mapping purports to avoid by not including drug enforcement data. This cycle is built on top of historic patterns of uneven development that produce spatial inequalities and differential vulnerability. Meaningful police reform, as it has been defined in the subcommittee, would need to intervene in policing's contribution to structural and systemic feedback loops instead of just focusing on individual bias and racial animus.

In recognizing policing's contribution to structural inequality, we are confronted with deep contradictions inherent to policing that resist reform. On the one hand, existing practices

and inequalities are built on sedimented and long-running models of policing that are taken as 'common sense.' With murder rates rising during the COVID-19 pandemic, for example, we see increasing calls in the media and politics for more police on the streets[8]. Here it is assumed that there is a simple causal relationship between number of police and violent crime. Rather paradoxically, the standard model of policing (e.g., increased police presence, random police patrols, reactive policing, rapid response, etc) and community policing (however ill-defined the practice may be) have shown little or no effects on crime rates (Weisburd and Eck 2004). One of the only demonstrably effective crime reduction methods used by police is proactive policing in known 'crime' hotspots (Weisburd and Eck 2004). This geographic concentration of police, however, inevitably leads to more people coming into contact with police in those spaces, leading to more enforcement of minor crimes, further accentuating spatial inequality. While the adoption of evidence-based practices has not been widespread in the U.S., adopting those logics will result in police feeling even more emboldened to aggressively police these hot spots. On the other hand, people living in spaces targeted by increased policing have complex desires and allegiances that emerge from the social and material conditions they face. Policing as an institution, for example, offers one of the only immediate and accessible ways to address public safety concerns. In a thesis on drug enforcement in the William Wells Brown neighborhood in Lexington's East End, Christine Smith (2010) writes of the complex and often conflicting relationships that residents have with police. In describing the vibrant and close-knit communities of the East End, Smith writes of the inability of the police to substantively address neighborhood concerns, while often "creating an atmosphere of harassment and distrust, and inflicting even more injuries on an already vulnerable community" (117). Despite this, Smith describes how some residents continue to call on the police in the hopes of them addressing ongoing public safety concerns.

In contrast to these structural and systemic problems with policing, many reform efforts of today echo individualized and technocratic reforms from a previous era. Micol Seigel (2018) argues that current reform efforts in the United States threaten to "expand and relegitimate the police" while justifying increased surveillance and imprisonment, just like similar reforms did in the 1970s (3). In the liberal city of Lexington—where the police are praised for their 'guardian' mentality, lack of spectacular acts of violence, and openness to coming to the table to share data and entertain reform proposals—structural reforms may become ever more elusive. Progressive exceptionalism can serve to obscure deep inequalities that are exacerbated by policing. Some of the highest racial disparities in policing can be found in progressives cities like Madison, WI and San Francisco, CA where progressive city politics limit conversations around racial injustice, treating racism as an unexpected aberration (Lynch et al. 2013; Lally et al. 2020).

Despite the exceptionalism granted to the LPD, moments in the subcommittee meetings hinted at tensions between the police and certain city residents. Both law enforcement representatives, for example, referenced the 'evil' that their officers face in the line of duty. Additionally, in a presentation that was later denounced by some subcommittee participants, Fraternal Order of Police President Jonathan Bastian denied racism existed in the department; took offense to criticisms of police conducting their own investigations into police misconduct (which was echoed by another law enforcement representative on the subcommittee); questioned the credentials of the criminology professor who spoke earlier; and reiterated the exceptionalism of the LPD by claiming national statistics and studies were irrelevant to Lexington. In denying

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[8] The Fraternal Order of Police that represents Lexington has been particularly vocal on this point.

racism in the LPD, Bastian instead blamed lack of educational and economic opportunities for producing systemic racism. While it is beyond the scope of this article to examine the complex viewpoints of individuals in law enforcement, these moments give hints at the challenges to instituting even the smallest reforms into a notoriously obdurate institution.

5. Conclusion

In mapping disparities in minor marijuana offenses, I have sought to offer a replicable means to shift the framing through which reform efforts are conceptualized. While individual animus and racial bias are indeed important and pressing problems for law enforcement to address[9], so too are the quotidian practices of policing that entrench spatialized and racialized forms of difference. These latter practices do not rely on overt racism as expressed through individual animus. For this reason, they are much more complex, intractable, and, as we have seen, overdetermined by intersecting forces. Drug legalization, for example, would help address the immediate disparities that are the subject of this study, but we would expect that other minor crime enforcement practices follow similar patterns and feedback loops that would not be affected. Recognizing the need to reduce enforcement practices that lead to disparities[10] would force us to grapple with how decades of spatially disparate law enforcement has affected particularly communities.

Addressing fundamental questions around how to approach public safety without further disadvantaging classed and racialized populations is imperative for reforms that aim to address policing's role in the perpetuation of systemic racism. Solutions will require reimagining and restructuring institutions dedicated to public safety in ways that are more profound and far-reaching than the individualized, technocratic, and minor reform efforts that continue to expand, bolster, and further reinforce ongoing forms of racialized policing. Decades of police reform efforts that inevitably follow periodic crises of legitimacy have done little to address systemic racism. In fact, as we have seen, these efforts usually result in the expansion of police powers and the increased surveillance and oppression of racialized populations. This is why many activists in the wake of recent protests have called for defunding the police in order to redirect funding towards withering social services whose absence have led to growing social inequalities. As Ruth Wilson Gilmore and Craig Gilmore (2016), Stuart Hall (2021), and others have argued, classed and racialized policing is the necessary result of austerity, abandonment, and the resultant widening of social inequalities. In this context, the movement towards defunding not only addresses direct harms inflicted by policing by suggesting its reduction—it also seeks to address the conditions that make policing the primary answer to so many unfolding and intertwined social crises caused by austerity and abandonment.

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[9] The FBI issued a now declassified briefing called "White Supremacist Infiltration of Law Enforcement" in 2006 and since then, a number of ties between police officers and white supremacist groups have been revealed (German 2020)

[10] and here I assume reduction because increasing enforcement in affluent parts of the city would be wildly unpopular, making it socially and politically untenable

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