

New York Police Commissioner defends NYPD's use of nuisance laws

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In an op-ed last week in the *Daily News*, New York City Police Commissioner William Bratton defended the New York City Police Department's illegal use of nuisance abatement laws to evict tenants and shut down stores. "We have and will continue," he said, "and I will emphasize that, we will continue to aggressively enforce nuisance abatement as a cornerstone of our efforts to keep neighborhoods safe."

A *ProPublica/Daily News* special investigation in February revealed that NYPD has been locking residents out of their homes and shutting down delis and bodegas by using secret court orders without warning to owners or tenants.

The "public nuisance abatement laws," allow a judge to grant a secret order closing a premises at the request of the NYPD. Since the law, originally enacted in 1977 to close sex shops in Times Square, are civil suits and not criminal cases, tenants have no right to an attorney and are denied constitutional rights of due process.

The abatement law requires three allegations of illegal activity. No arrests are necessary to bring a case forward. Judges have approved 70 percent of cases with subsequent reports in the media indicating that judges frequently grant warrants without even photographic evidence.

The investigation found that there were 1,162 nuisance cases filed during 2013 and 2014. Forty-three percent were filed against residences, mainly over alleged drug sales. More than half of the residents were subsequently barred from their homes. Ninety percent of the homes subjected to such actions were in minority and poor communities.

The investigation also found that NYPD officers used aggressive tactics to force settlements in which store owners agreed to warrantless searches and fines, and to install cameras and data-storing identification that

police can access whenever they choose.

The administration of Democratic mayor Bill de Blasio initially said that it would investigate these claims, and Bratton promised he would take "a fresh look" at the practice. But in March Bratton refused to comment on the unit, the Civil Enforcement Unit, that carried out these raids, and he has now emphasized that the police will continue to use the laws.

Most of his argument rests on the grounds that civil suits can and should be used to fight crime. This is largely a legal gambit. Using civil law for prosecutions means that there are far fewer protections for the accused than under criminal law.

Bratton also argued that, "the respondents in these actions are not being denied due process. Similar to the application for a search warrant, the initial steps of a civil enforcement action are closed to the subject of the action. However, the application receives a thorough review by the New York City Law Department and a state Supreme Court justice."

But two former NYPD lawyers in an interview with the *Daily News* noted that, "the NYPD brings the cases to court without so much as checking if anyone still lives at the home they are seeking to close, or if its targets have been exonerated of the criminal charges on which the nuisance abatement actions are based."

The *ProPublica/Daily News* report revealed, in fact, that courts are simply rubber-stamping the decisions of the NYPD.

The use of the nuisance laws was part of a new strategy to control the working class in the city as social inequality began to climb steeply after the mid-1980s. The increasingly frequent application of these laws were part of the "broken windows" theory of policing in which cops are ordered to focus their attention on lifestyle crimes such as public

consumption of alcohol or graffiti to prevent more severe crimes.

The implementation of “broken windows” under Bratton in 1994 under Republican mayor Rudolf Giuliani, in fact, marked the beginning of the police-state reign of stop-and-frisk in which millions of predominantly working-class, minority youth were stopped, questioned and searched by the NYPD on the basis of “probable cause.” The campaign reached its pinnacle under Bratton’s successor, Raymond Kelly, during the Giuliani and Bloomberg administrations.

The personal information of these youth, (over 90 percent of whom were found to have committed no crime), including names and social security numbers, were put into electronic and later paper databases.

So hated was stop-and-frisk by the working class in New York City, that during the 2013 mayoral election Bratton’s future boss, de Blasio, campaigned largely on a platform of abolishing the practice. The tactic, however, had already experienced steep decreases under Blomberg. This was a tactical decision under circumstances in which the working class, particularly its poorest layers, was plunged into deep economic distress in the aftermath of the final collapse of 2008.

Although far less widespread, the use of the nuisance laws followed a similar course. It escalated in the 1990s during Bratton’s first tenure as Police Commissioner when the NYPD stopped using the “Padlock Law” which required three arrests to bring a case.

In 1994 the NYPD was given free rein to authorize its own abatement cases independent of the mayor. “Nuisance abatement” actions rose from 25 closings of businesses in 1977 to 1,082 cases in 2013, of which 44 percent were at residences.

There is considerable division, however, in the state apparatus about how to police a city in which the wealth of the top one percent continues to skyrocket, homelessness reaches new highs every month, and housing has become increasingly unaffordable for most of the city’s population.

Sections of the NYPD were in near-revolt against Mayor de Blasio after the killing of two police officers in Brooklyn by Ismaaiyl Brinsley in December, 2014, and over his perceived softness on anti-police violence protesters.

Bratton, reappointed as Police Commissioner by de Blasio in 2014, has never disavowed stop-and-frisk,

and it continues to be used by the police, although on a less widespread scale. Bratton in fact has continued to outfit the NYPD with the latest military equipment and successfully advocated for the hiring of 1,000 new cops, including the creation of a heavily armed 300-strong antiterrorism unit, which, he has acknowledged, will be directed at demonstrators.

On Tuesday, the NYPD announced that it would fit out 60 police cars with bulletproof armor. On a talk show the same day, Bratton sought to allay fears that the NYPD was attempting to break through the encryption of cellular phones

It is not accidental that Bratton has made his remarks defending the nuisance laws during the strike of 40,000 Verizon workers, 9,000 of whom live in New York City. It is a pledge to use the same methods against strikers as well as their homes and property, should the strike escape the political leash of the unions, which ties them to the Democratic Party and the de Blasio administration.

The revelations of NYPD scab herding in the strike following the injury of a striker by a car driven by a cop show that the city government has already begun its intervention.



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