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CIVIL ENFORCEMENT INITIATIVE



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THE ROLE OF CIVIL ENFORCEMENT IN COMMUNITY POLICING

The New York City Police Department is undergoing a major transformation as it adopts a community policing philosophy. This transformation is the cornerstone of Mayor Dinkins's Safe Streets/Safe City program which will increase the staffing levels of the Police Department to 30,313 police officers by June, 1995. The adoption of a community policing philosophy means that all levels of the Police Department, from the police officer on the beat to the highest levels of command, are required and empowered to identify and develop strategies to address the problems facing New York City's communities. Rather than merely respond to calls for police service, police officers will be expected to analyze the problem that generated the citizen's call to the police and develop a strategy for addressing that problem.

The Civil Enforcement Initiative reflects the problem-solving orientation of the Department's community policing philosophy. This Initiative represents a unique approach to law enforcement because it combines criminal and civil remedies into a comprehensive strategy for solving the problems facing the community of a particular precinct. Approved by Police Commissioner Lee P. Brown in September 1991, the Civil Enforcement Initiative was launched initially as a pilot project in the 52nd precinct in the Bronx to field test

these new problem-solving strategies.

This approach recognizes that the Police Department cannot rely on arrests alone to address the quality of life concerns that plague our communities. For example, rather than making numerous prostitution arrests at a house of prostitution, under the Civil Enforcement Initiative, the Police Department would attempt to close the location through the appropriate civil remedy thereby stopping the illegal activity and providing a powerful incentive for the landlord to seek a legitimate tenant. Once the illegal activity has been eliminated, the community and its police officers monitor the location to keep it free from any future criminal activity. It is the hypothesis of the Civil Enforcement Initiative that this type of approach can be applied effectively to many problems facing communities throughout New York City.

THE CIVIL ENFORCEMENT INITIATIVE

I: The 52nd Precinct Pilot Program

The first step in the pilot program was to conduct a survey of quality of life concerns facing the residents of the 52nd Precinct. In consultation with the Precinct Community Council, several community groups including the Northwest Bronx Community Clergy Coalition, and precinct personnel, the Commanding Officer of the 52nd Precinct developed a list of locations in the Precinct that were engaged in persistent illegal activity that was disrupting neighborhood life. The list included houses of prostitution, areas overtaken by street prostitution, open and notorious drug selling locations, garages known as "chop shops" that dismantle stolen cars, premises that

sell liquor to underage individuals, gambling locations, street corners where youths gather and play loud radios, among others.

For each of the problems identified by the precinct survey, the Precinct Commanding Officer and the Managing Attorney of the Legal Bureau's Civil Enforcement Unit designed a plan, combining criminal and civil enforcement strategies, to abate the nuisance at the location. The plan called for the criminal enforcement activity to be undertaken by the unit appropriate to the nuisance, e.g. the precinct personnel for loud radios, Narcotics Division personnel for drug locations, Public Morals Division personnel for prostitution or gambling, and Auto Crime personnel for the chop shops. For its part in the Civil Enforcement Initiative, the Legal Bureau developed a compendium of civil remedies and trained precinct personnel on the legal requirements for each. These civil remedies included civil actions such as nuisance abatement, padlocks, or evictions which can be used to close a location engaged in illegal activity, forfeiture actions which can result in the seizure of the proceeds or instrumentality of crime, and injunctive relief to bring illegal activity to a halt.

With a comprehensive plan developed for each location engaged in illegal activity in the 52nd precinct, the Police Commissioner then presented the proposed Civil Enforcement Initiative to the Bronx Borough President, the Bronx District Attorney, and other elected officials representing that community. All of them were very enthusiastic about the project and pledged their full support. For example, in conjunction with the project, the Bronx District Attorney's Office agreed to

commence eviction proceedings against tenants using apartments for illegal activity.

The Police Department then set about to implement the plan. The first civil enforcement action taken provided the occasion for the unveiling of the project. On June 21, 1991, the Mayor, the Police Commissioner and other government officials formally announced the inauguration of the Civil Enforcement Initiative as the Police Commissioner padlocked a house of prostitution that was operating at 20 West 190th Street.

The closing of this location signalled the potential of the Civil Enforcement Initiative for addressing persistent and disruptive illegal activity within a community. For several months, this house of prostitution had been operating openly in the basement of 20 West 190th Street. This location was identified by the Precinct Commanding Officer as a public nuisance that generated significant community concern. Of particular significance was the fact that the prostitution operation was located approximately fifty feet from a play street where the children of P.S. 261 play. The children were well aware of the activity taking place at that location. The principal of the school made several complaints regarding this illegal activity.

The closing of this house of prostitution was the first action taken under the Civil Enforcement Initiative. That same month, the Public Morals Division of the Police Department conducted the first Operation Losing Proposition at Jerome Avenue and 184th Street, a notorious street prostitution

location. They arrested seven men who were charged with patronizing a prostitute in the fourth degree. For the first time, the Police Department invoked the forfeiture section of the Administrative Code and held the cars of five of the defendants (only those who used their own cars) for forfeiture proceedings. Again, this operation was announced at a press conference at the 52nd Precinct and the community reaction was overwhelmingly supportive.

Following the successful implementation of Operation Losing Proposition, the Police Department developed a plan with the Department of Environmental Protection called Operation Soundtrap to enforce a new law, enacted in January 1991, that makes the playing of a radio in excess of eighty decibels at fifty feet a violation of the Vehicle and Traffic Law. This enforcement tool enabled the City to take appropriate action against a recent phenomenon, the souped-up cars that drive through residential neighborhoods with blaring stereo systems. Not surprisingly, these cars generate hundreds of complaints to the Police Department and other city agencies. The Department of Environmental Protection, which was very eager to work with the Police Department, provided inspectors to test decibel levels and trained Police Department personnel as experts in sound measurement. Operation Soundtrap was used for the first time in August, 1991 and seven cars were seized and the drivers were issued summonses under this new law.

II: Expansion of the Civil Enforcement Initiative
To the Northwest Bronx Precincts

Based on the early results of the 52nd Precinct pilot program, the Police Commissioner directed the Commanding Officers of all thirteen precincts in the Bronx to conduct the same type of survey that was conducted initially in the 52nd Precinct. Working with community leaders and groups, the precinct commanders identified one hundred seventy-two locations throughout the borough.

Following a presentation to the Police Commissioner, the Civil Enforcement Initiative was then expanded to include three additional precincts in the Northwest Bronx--- the 46th, the 48th, and the 50th Precincts. Among the reasons for expansion of the program to these three precincts was the strong presence of the Northwest Bronx Clergy Coalition in that area and its commitment to organizing people around their concerns for public safety. In its first year, the expansion of the Civil Enforcement Initiative to include the northwest Bronx precincts, specifically the 52nd Precinct, the 46th Precinct, the 48th Precinct and the 50th Precinct has met with the following results:

52nd Precinct

The 52nd Precinct, the location of the pilot program, is unique because it has high crime areas in the southern end of the precinct and exclusive private homes in the northern end. Complaints from the community vary. One of the first locations identified as a community problem under the Civil Enforcement Initiative was the Twelve Pins Bar. This location was notorious

for selling alcohol to underage people. This illegal activity ceased after persistent enforcement of the Alcohol Beverage Control Law by the Public Morals Division. Similar enforcement strategies were used to abate illegal alcohol sales to minors at a grocery store located at 3294 Hull Avenue. There was great community concern about this location because a local youth was murdered nearby by a panhandler. Heavy drug sales at 47 West 183 Street, and Dekalb Avenue from 212 Street to Gunhill Road were abated as the result of increased enforcement by precinct personnel and Narcotics Division officers. A grocery store located at 2588-92 Creston Avenue was the source of great community concern because it was involved with gambling and the unlicensed sale of liquor. Drug dealers also actively engaged in drug sales in front of this location. The store was located opposite newly renovated St. James Park, a source of great community pride, and the community wanted this illegal activity to cease. After numerous arrests at the location, the Police Department closed the location pursuant to the Padlock Law. Club Unity, located at 301 East Kingsbridge Road was the subject of numerous community complaints for loud noise, large groups of people congregating on the sidewalks and double and triple parked cars on the street. Heightened traffic enforcement by precinct personnel and the Department of Traffic contributed to the club's closing.

46th Precinct

The 46th Precinct serves a predominantly residential community with large apartment buildings. Narcotics activity taking place in and around these apartment buildings is a

significant neighborhood problem. Street prostitution is another quality of life concern for the community's residents. In response to complaints from the community about street prostitution, Operation Losing Proposition was implemented at the corner of Jerome Avenue and Clifford Place. This enforcement initiative resulted in six arrests for patronizing prostitutes and one vehicle seized for forfeiture. Community concern about continued narcotics activity at eight apartments in City-owned buildings located at 2322 Ryer Avenue, 2326 Ryer Avenue, 1785 Townsend Avenue, and 2170 Walton Avenue resulted in the eviction of these tenants by the Department of Housing Preservation and Development's Anti-Narcotics Unit. To address community complaints about drug activity on neighborhood streets, the Police Department's Narcotics Division increased its enforcement activity and seized twelve cars used for the unlawful sale or possession of narcotics at Davidson Avenue and West 174 Street to West 176 Street. The Auto Crime Division executed a search warrant at 1829 Jerome Avenue and arrested eight individuals responsible for operating a "chop shop". Another "chop shop" location at 16 West 177 Street discontinued its illegal activity as a result of community pressure and the work of the Auto Crime Division. After an administrative hearing conducted by the Padlock Unit of the Legal Bureau, the Police Commissioner issued an order of discontinuance for the illegal narcotics activity taking place in a "smokeshop" located at 118 East 183 Street. Oscar's Grocery, 2239 Creston Avenue, a location renowned for selling beer to minors, discontinued its unlawful activity after arrests were made by the Police

Department's Public Morals Division. The Department of Housing Preservation and Development sealed a building located at 2380 Ryer Avenue, notorious throughout the community for drug sales, after relocating tenants and evicting the drug dealers. The Public Morals Division, working with precinct community officers, identified Christina's Flower Shop located at 2051 Webster Avenue to be a gambling location. After undercover officers placed bets and made several arrests, the Legal Bureau successfully closed this location under the Nuisance Abatement Law.

48th Precinct

A large number of storefront and commercial premises are located within the confines of the 48th Precinct. A number of these locations are used for criminal activity ranging from auto crime "chop shops" to grocery stores that deal in narcotics. Street prostitution is another problem for this community. To address this problem, Operation Losing Proposition was conducted twice in the West Farms area, an area renowned for street prostitution for 25 years, resulting in arrests and vehicle seizures. Community complaints about violence and loud music at "Wild Bills," a popular unlicensed social club, resulted in enhanced enforcement by the Public Morals Division forcing the location to close. A grocery store located at 533 East 183 Street was served with an order of discontinuance of illegal activity issued by the Police Commissioner pursuant to the Padlock law. After arrests were made at this store for selling alcohol to minors and operating a gambling location, the Padlock Unit of the Legal Bureau

successfully padlocked this location. Community concern about drug activity at the Tit for Tat Variety store at 1932 Crotona Avenue and a residential apartment at 995 East 181 Street resulted in the Bronx Narcotics Division making several arrests at these locations for narcotics violations. The Padlock Unit of the Legal Bureau obtained closing orders for these locations and both were padlocked. After numerous arrests for illegal gambling at 1982 Mapes Avenue, the Legal Bureau obtained a temporary closing order for that location under the Nuisance Abatement Law. In response to numerous community complaints about double parked cars, street repairs of automobiles and the disposal of auto parts on sidewalks, a task force of City agencies including the Sanitation Department, the Department of Motor Vehicles, Consumer Affairs, the Buildings Department and the Fire Department assembled to inspect a location at 1998, 2000 and 2000A Arthur Avenue known to the community as a "chop shop". Numerous summonses were issued and Legal Bureau attorneys appeared in court on behalf of the Police Department to aggressively prosecute these cases.

50th Precinct

The quality of life concerns for the community of the 50th Precinct focus on licensed premises selling alcohol to underage people and loud noise made by groups of young people congregating on street corners. There is some narcotics activity. As a result of community complaints about drug activity in the neighborhood, the Civil Enforcement Unit worked with the District Attorney's Narcotics Eviction Unit to evict tenants from an apartment at 1 Adrian Avenue used for narcotics

sales. Increased enforcement from precinct personnel and the Narcotics Division resulted in the removal of drug dealers from 2769 University Avenue, Apt. 3C and 3660 Waldo Avenue. The Irish Food Center, a grocery store located at 253 West 231 Street had its license to sell beer suspended by the State Liquor Authority after the Civil Enforcement Unit notified the Authority of the unlawful activity.

III: Citywide Expansion Of The Civil Enforcement Initiative

To further the objectives of the Civil Enforcement Initiative, the Police Commissioner wrote to Victor Kovner, who was the Corporation Counsel, seeking authorization for Police Department attorneys to commence actions under the Nuisance Abatement Law, the most powerful civil remedy under existing local law. If authorized by the Corporation Counsel to proceed under the Nuisance Abatement Law, the Police Department could commence and maintain civil actions in Supreme Court to permanently enjoin public nuisances as well as the persons conducting, maintaining, or permitting such public nuisances. In addition, the Department could seek civil penalties of up to one thousand dollars for each day such public nuisances have been maintained. The Police Commissioner argued that the requested authorization would significantly enhance the Police Department's ability to address, through combined criminal and civil approaches, the public safety and quality of life concerns. On March 1, 1992, O. Peter Sherwood, the newly appointed Corporation Counsel, agreed to a one year pilot program in Bronx County under which the Police Department could

commence nuisance abatement actions.

As the next phase in the expansion of the Civil Enforcement Initiative, the Police Department, the Law Department and the Office of Midtown Enforcement will work together to abate public nuisance locations throughout the City. The Police Department will handle cases arising in the Bronx, the Office of Midtown Enforcement will handle those arising in its area of authorization, principally Midtown Manhattan, and the Law Department will commence nuisance abatement actions throughout the rest of the City. Every precinct commanding officer has now been directed to identify locations in their precinct that can be targeted for action under the expanded Civil Enforcement Initiative. In selecting this first set of locations, the precinct commanders are guided by the following criteria: top priority should be given to closing commercial premises that are engaged in illegal activity and conduct little or no legitimate business. The illegal activity must be occurring inside the location and must be a violation of law relating to the Penal Law, the Vehicle and Traffic Law, or the Alcoholic Beverage Control Law.

The preliminary surveys by the precinct commanders have targeted 42 locations throughout the City that meet these criteria: 13 in Manhattan - 3 drug locations, 4 prostitution locations, 4 gambling locations and 2 locations in violation of the Alcoholic Beverage Control Law, 13 in the Bronx - 8 narcotics locations, 1 prostitution location, and 4 gambling locations, 9 in Brooklyn - 4 narcotics locations, 2 narcotics locations, and 3 locations in violation of the Alcoholic

Beverage Control Law, 5 in Queens - 3 narcotics locations, 1 prostitution location and 1 gambling location, and 2 in Staten Island - 1 narcotics location and one gambling location.

The Civil Enforcement Initiative is a program that complements the Police Department's criminal enforcement activities by instituting parallel civil actions to support the Police Department's overall public safety mission. In its first year, the Initiative has developed new tools for the precinct commanding officers to address the problems that plague the communities in New York City. As a consequence, the role of the precinct commander has been expanded to include working with the Legal Bureau and personnel from specialized units in the Department to develop plans and implement strategies to eliminate public nuisances identified by the community and precinct personnel. This approach to law enforcement employs the resources of the Police Department more efficiently since the strategies developed have a long term effect on abating crime and improving the quality of life.

APPENDIX

CIVIL ENFORCEMENT ACTIONS

I. Nuisance Abatement

The Nuisance Abatement Law of the New York City Administrative Code enables the Police Department to close a location for violations of the Penal Law, the Vehicle and Traffic Law and the Alcoholic Beverage Control Law. The New York State Supreme Court will issue a temporary closing order for any location in which there was five violations for narcotics activity, marijuana sales, gambling, or any violation of the Alcoholic Beverage Control Law. Upon closing a location, a hearing is held for the court to determine if that location should be closed permanently for up to one year and to determine whether the defendant should be fined up to one thousand dollars a day for knowingly operating a location in violation of the law.

II. Padlock Actions

The Police Commissioner is authorized to close a location for one year or order the discontinuance of illegal activity in any location where there has been two arrests resulting in one conviction within the past year. Once the interested parties are notified of the unlawful activity and a conviction, an additional arrest serves as the triggering arrest needed for the Padlock Unit of the Legal Bureau to commence an action. An administrative hearing is conducted at which the Police Department and the respondents present their case before

a hearing officer. Based on all the evidence presented at this hearing, the hearing officer makes a recommendation to the Police Commissioner on the penalty to be imposed.

III. New York City Forfeiture Actions

The Police Department may commence actions for forfeiture in New York State Supreme Court against people claiming the return of property seized by the police at the time of an arrest. Pursuant to the New York City Administrative Code, property seized as the instrumentality of crime, or property that is the proceeds of crime may be forfeited to the City if the Police Department can demonstrate by a preponderance of the evidence that the owner of the property had knowledge of the underlying criminal act.

IV. New York State Forfeiture Actions

The District Attorney may commence forfeiture actions, before a conviction if the underlying criminal action, against the owners of property used as the instrumentality of crime or property that was the proceeds of felony crime. The law also empowers the District Attorney to commence actions against real property. Forfeited property is divided between the District Attorney's Office, the Police Department, the City, and the State Substance Abuse Fund.

V. Federal Forfeiture Actions

Property seized by the Police Department which cannot be forfeited under local or state law may be forfeited by the federal government. In these cases, the government must

demonstrate that there is probable cause to believe that the property was the instrumentality or proceeds of crime. The burden of proof then shifts to the defendant to show by a preponderance of the evidence that there was no knowledge of the underlying criminal activity. Property forfeited under this statute may be transferred to law enforcement agencies to be used for law enforcement purposes.

VI. Alcoholic Beverage Control Law Injunction

The Police Department may secure an injunction against a location operating in violation of the Alcoholic Beverage Control Law. The most common violations are the unlicensed sale of an alcoholic beverage and the sale of alcoholic beverages to minors.

VII. New York State Real Property Eviction Actions

Under this law, a government agency may commence an action against a landlord to compel the eviction of tenants who are conducting illegal activities from the location. If the landlord fails to commence the action, the government can commence it, naming the landlord as a defendant and seeking fines for the landlord's failure to act.