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A CONFLICTED MISSION

An ideologically-fraught quarrel poses unique challenges



For Police Issues by Julius (Jay) Wachtel. There we were, all set to begin work on a brilliant essay that had nothing to do with that nasty bug when [an article](#) in the *Los Angeles Times* caught our eye. Here's the synopsis we posted in our blog's [COVID-19 compliance section](#) a few days ago:

A labor union's threat to organize a massive protest that would implicitly violate social distancing restrictions helped discourage the San Luis Obispo (Calif.) city council from considering a law that, if enacted, would go against the interests of the union's members.

That protest, incidentally, wouldn't be over social distancing. It's about another quarrel. Utility Workers Union of America Local 132 represents blue-collar workers who work for the gas company. But natural gas has come under the gun of nasty environmentalists, who are lobbying for a law that would encourage newly constructed buildings to be all-electric.

Now, we're not taking sides in the "gas or electric" dispute, which at this writing lingers unresolved. But one can appreciate how police might be affected should a zillion angry workers decide to march cheek-to-cheek during a pandemic. Still, if folks socially "distance," then it's O.K., right? Not in New York, which at this writing remains "[On Pause](#)." Through an [executive order](#) issued March 23rd and since [extended to May 15th](#), Governor Mario Cuomo prohibited, among other things, "all non-essential gatherings of individuals of any size for any reason."

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Of course, getting folks to do the right thing without using force can be tough in the best of times. As a glance through our COVID-19 compliance section suggests, Governor Cuomo's order, and those of his counterparts around the country, may be unavoidably doing a whole lot of damage to that *other* kind of body: the body *politic*. Here's [an example from May 3rd](#):

During the weekend New York City had 1,000 plainclothes officers enforcing social distancing. A citizen who challenged an officer was tackled and seriously hurt. Mayor DeBlasio, who was reportedly troubled by a video of the incident, denied it was typical of what took place. But the police union said officers shouldn't be policing distancing and called the mission "untenable."

That video is disturbing. Its implications led Patrick Lynch, the head of the patrol officer union, to warn that forcing cops to enforce social distancing [was tearing the city apart](#):

This situation is untenable: the NYPD needs to get cops out of the social distancing enforcement business altogether. The cowards who run this city have given us nothing but vague guidelines and mixed messages, leaving the cops on the street corners to fend for ourselves. Nobody has a right to interfere with a police action. But now that the inevitable backlash has arrived, they are once again throwing us under the bus.

Mr. Lynch's hostility to social distancing, if not the rest of the message, is shared by his polar opposite. Robert Gangi leads the "[Police Reform Organizing Project](#)," a New York City-based organization that seeks to "expose and end the current ineffective, unjust, discriminatory and racially biased, practices of the NYPD." [According to Mr. Gangi](#), cops should never have been called on to address the pandemic: "We need to move away from using the police and the law enforcement system to respond to social and health problems." (Mr. Gangi also endorses clearing out the jails, which he feels are packed with persons who have been "needlessly" arrested and "certainly do not deserve to be put in the harm's way of a deadly disease.")

Blowback from enforcing a conflicted edict has affected relationships within police departments and between the police and city hall. NYPD's managers of course know that. But as we suggested in "[Urban Ship](#)," ready solutions to urban disorder may not always be at hand. According to NYPD Chief [Terence A. Monahan](#), enforcing the pandemic is intrinsically fraught:

It's not something we want to do, it's something we have to do to keep people safe...It's been a small percentage where either we had to make a summons or

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make an arrest. We don't want to summons people, we don't want to arrest them. We want to warn them, educate them and get them to comply.

That sounds pretty good. Only problem is, "people" come in various colors and ethnicities. These seem tied to economic conditions, which are in turn tied to crime and disorder. Grab a peek at the graphs in "[Place Matters](#)." Citywide, about one-third of New York City's residents are white. Yet according to a [2018 report](#) whites figured as either victim or suspect in *less than one in ten* homicides.

Fine. But social distancing isn't about crime. So what does race and ethnicity have to do with it?

Maybe a lot. [Brooklyn](#) is 43.5 percent white, 32.6 percent black, and about twenty percent Hispanic. Yet [data released by the Brooklyn D.A.](#) revealed that *thirty-five* of the forty persons arrested in the borough for social distancing violations during a recent seven-week period were black (four were Hispanic and one was white.) More than one-third of arrests reportedly took place in a black-majority neighborhood.

Once [all the boroughs weighed in](#) the numbers grew even more concerning. According to the [Census](#), New York City is 31.9 percent white, 21.7 percent black, and 29.2 percent Hispanic/Latino. NYPD wrote 374 social distancing summonses between March 16 and May 5, nearly half at seventeen unauthorized gatherings. Fifty-two percent (193) of the citations were issued to blacks and thirty percent (111) to Hispanics. That left a measly eighteen percent for whites, Asians and other groups.

Remember bad-old "stop and frisk"? While its application has been somewhat toned down, major agencies continue using such measures to address the violence that besets poverty-stricken areas (for LAPD click [here](#); for NYPD click [here](#).) Thanks to litigation, they're now keeping track. [NYPD data](#) reveals that in 2016 its officers stopped 1,270 whites and 6,498 blacks. In the end, eighty percent (1,008 whites and 5,194 blacks) were let go.

Just like in coronavirus enforcement, that racial disparity was likely the product of geography – of the places where cops looked. It's what we discovered when poring through stop-and-frisk data [in Los Angeles](#). But each of those thousands of "false positives" is a *person*. Here's how [one of L.A.'s citizens](#) saw it:

Brian Williams, a middle-aged black man, [recently described an incident](#) that happened not long ago while waiting outside his apartment building for a friend: "Someone called in a report and police questioned me and asked me why I was there. I had to prove to them that I actually lived there. It did not become

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physically violent but my initial reaction was visceral, I was like I need to watch what I say here because this could turn bad.”

Incidentally, Mr. Williams happens to be a trauma surgeon.

It's not surprising that critics harken social distancing enforcement to stop-and-frisk. [Representative Hakeem Jeffries](#), a Democrat from Brooklyn, wonders whether police are using coronavirus enforcement to the same effect: “We can't unleash a new era of overly aggressive policing of communities of color in the name of social distancing.” For [Jumaane Williams](#), New York City's elected Public Advocate, the question's been asked and answered (for his full official statement click [here](#)):

This virus has disproportionately claimed thousands of black and brown bodies, and now, in response, it is black and brown bodies facing the kind of over-policing never seen in other communities....

It's not just about race. Restrictions imposed because of the pandemic have been challenged for violating a host of civil liberties. For example:

- Right to protest. Flaunting California's lockdown rules, about one-hundred protesters waving flags and signs (e.g., “Defy Fascist Lockdown”) [gathered in Huntington Beach](#) to demonstrate against restrictions. “It's not dangerous out here” said one. “The beaches are open. It's a nice beautiful day. What are we doing? Stop being a germophobe.” Police watched and occasionally cleared the street for traffic. Observing them was a 57-year old self-professed member of “the 31st Field Force Light Foot California State Militia.” Throughout, armed citizens have made themselves highly visible. In Michigan, fatigue-clad, [rifle-toting militia members](#) accompanied “several hundred” protesters inside the State Capitol to demonstrate against coronavirus restrictions.
- Right to practice religion. In Virginia, a pastor [sued the Governor](#) for including churches in an order that bans gatherings of more than ten persons, even if a six-foot separation is maintained. (He was cited after ignoring police and holding a service for sixteen parishioners.) Attorney General William Barr filed a [“statement of interest”](#) in support of the suit.
- Right to bear arms. New Jersey initially left gun stores off the “essential” list. Fierce objections by pro-gunners followed, and [the Governor promptly caved](#). Meanwhile the President [came out in favor](#) of opening gun stores, leading gun control groups to cry foul.

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- Right to practice one's trade or profession. Bars, restaurants and hair salons have been among businesses considered “non-essential” by most States. But not everyone's gone along. In one of numerous examples of resistance, a popular [Orange County, Calif. restaurant reopened](#) in violation of the State's stay-at-home orders. It was promptly packed with customers, unmasked and not distancing. While county health inspectors visited and warned the proprietors, wary authorities deferred action to the State. But that's a little fish compared to Tesla, which as we're “going to press” announced it's reopened factory lines in Fremont, Calif. in violation of the orders. “If anyone is arrested, I ask that it only be me,” said its kingpin, Elon Musk.

It's not only State v. Doe. Private citizens on opposite sides of the lockdown have also clashed. A few of these quarrels turned lethal. An Oklahoma City woman who insisted on “eating in” was forcibly escorted from a McDonald's. She returned with a handgun [and opened fire](#), wounding three employees. In Flint, Michigan, a customer became angry when her daughter was turned away from a store by a security guard because she wasn't wearing a mask. The patron [returned with her husband and adult son](#). They confronted the middle-aged guard, and the son shot him dead.

We're not aware of any pandemic-related police encounters involving gunfire. But that tackling of a citizen ([the officer was stripped of his gun and badge](#)) was not an isolated event, and videos of other forceful encounters have surfaced. Really, ordering imperfect cops to enforce social distancing – meaning, to get imperfect people to go against their nature – virtually guarantees that stuff will happen.

Ideology has brought together some unlikely soulmates. An article in the *Los Angeles Times* [describes a convergence](#) between three movements: anti-vaccine forces, lockdown opponents, and gun-control foes. Our response to the pandemic has made some long-standing political conflicts painfully evident. We don't just mean the Prez v. the lib's, which is fodder for the nightly newscast. States and localities have acted in ways that mirror their ideological leanings, although in perhaps unexpected directions, with liberals demanding *more* enforcement while conservatives insist on less.

For example, in mostly liberal California, three small counties [that lean to the right](#) – Modoc, Sutter and Yuba – ignored the Governor and [allowed “non-essential” businesses](#) such as bars and restaurants to stay open, albeit with social distancing. In notably right-leaning Idaho, ostensibly like-minded souls [went at each other](#). State Representative Heather Scott and Bonner County Sheriff Daryl Wheeler heartily seconded citizens who rejected a (conservative) Governor's stay-at-home order. Their

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call was eagerly joined by Ammon Bundy, a radical rightist who once led an armed showdown at a wildlife refuge.

Ideology makes for more than just strange bedfellows. Liberals demand that social distancing be enforced. So they're on the cops' side, right? But when something goes astray, it's also the lefties – Representative Hakeem Jeffries and Public Advocate Jumaane Williams come to mind – who so eagerly pounce. And guess who gets left holding the...tape? (Sorry. We couldn't resist it!)

No wonder NYPD's union chief sees the lockdown as lose-lose. Alas, so do we.