

The Racial Motivations Behind M.A.R.C.H. Operations
Full M.A.R.C.H. Data Report – September 2019

CABARET LAW 2.0

SAME OLD SONG & DANCE



 THE
 **BLACK**
 INSTITUTE

TABLE OF CONTENTS

Executive Summary	3
Key Findings	4
Introduction	5
History of NYC's Cabaret Law	6
M.A.R.C.H. Operations	7
The Office of Nightlife	8
Methodology	9
Results	11
NYC's Most Raided Neighborhood	13
Most Active NYPD Precincts	18
Community Complaints & MARCH Raids	20
A Pattern of Harassment	24
Conclusion	26
References	27



Cabaret 2.0: Same Old Song & Dance

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M.A.R.C.H. Operations*
Full M.A.R.C.H. Data Report
September 2019

Prepared by: Dan Hogle & Morgan
Flores of The Black Institute

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for their cooperation and support.
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EXECUTIVE SUMMARY

New York City and New York State have been using their enforcement capabilities to terrorize, intimidate, harass and shut down businesses for nearly a century. What began in the 1920s with Cabaret Laws designed to close down jazz clubs at the height of the Harlem Renaissance, to the birth of the modern day LGBTQ movement in Greenwich Village has continued through Mayor Giuliani, Mayor Bloomberg and now Mayor de Blasio. From the first Governor Cuomo to our current one, these tools of institutional racism and discrimination have been aimed at minority owned businesses and those establishments that create a safe place for marginalized communities to gather.

The modern day manifestation that is continually used against so many nigh life establishments is known as a **Multi-Agency Response to Community Hotspot (M.A.R.C.H.)** Operation. These raids lack all of the transparency and accountability that are required to ensure their application is not abused and manipulated by gentrifying forces that are so rapidly changing New York City.

“We don’t know why they showed up. They won’t tell you. They just show up, they’re super mean, they write a bunch of tickets and they leave and go to the next one.”

– John Barclay, Owner, Bossa Nova Civic Club (www.TheBaffler.com/Latest/cut-the-music-pelly)

Based on the testimonies from numerous owners and operators that had been victimized by these raids, **The Black Institute (TBI)** was prompted to examine these disturbing accounts deeper. Following a complete analysis of information concerning M.A.R.C.H. Operations, **TBI** concluded that there is a pattern of discriminatory application of these M.A.R.C.H. raids.

This report makes clear:

- The situation demands accountability from both Governor Cuomo and Mayor de Blasio due to the conduct of agencies they are responsible for.
- The Mayor's Office of Nightlife must be adequately funded so that it can play a proactive role or disbanded to end the embarrassing half measure.
- The New York City and State legislatures must investigative and take any necessary legislative steps to address these systemic abuses of power by the State Liquor Authority, NYPD and all other relevant agencies.
- The City Council must pass Councilmembers Espinal and Levin's bill, No. 1156, to force accountability and transparency where it is clearly lacking.

KEY FINDINGS

In a **MAJORITY** minority city that claims to celebrate its diversity:

% of Raids above 45% diverse Vs Raids above 30%								
	2012	2013	2014	2015	2016	2017	Average	Full Data Set Avg
45% ^	80.52%	79.27%	76.39%	88.11%	88.37%	83.33%	82.67%	82.26%
30% ^	92.15%	89.06%	88.86%	96.49%	95.87%	95.30%	92.95%	92.45%

- Neighborhoods with a minority population of at least 45% were targeted at **four times the rate** of less diverse neighborhoods.
- **92.5%** of the M.A.R.C.H. operations occurred in neighborhoods with at least 30% minority populations.
- More than half (**51.5%**) of all M.A.R.C.H. operations listed resulted in no enforcement action being taken.
- During the entirety of the five year period (2012 - July, 2017), the fines generated from M.A.R.C.H. operations were **\$1,593,405 million dollars**.
- The most active NYPD precincts for MARCH Raid targets has paid more than **\$1.9 million dollars** in misconduct lawsuit settlements.
- Queens County Census Tract - 269.01 is the most frequently targeted neighborhood in New York City having been target 29 times between January 2012 - July 2017.

The NYPD claims to have a methodical approach to targeting these M.A.R.C.H. operations, our analysis demonstrates ample opportunity for racially disproportionate application. **Passing NYC Council Bill No. 1156 is the first step to addressing the racial bias in nightlife enforcement.**

INTRODUCTION

This report was developed in response to a pattern described by numerous minority owned nightlife establishments and those businesses that cater to those communities. The experiences that were relayed described nothing short of state sponsored harassment. The Black Institute began to evaluate the current enforcement strategies being employed.

It was clear that coordinated raids known as Multi-Agency Response to Community Hotspots (**M.A.R.C.H**) Operations were how the majority of the issues facing businesses that we interviewed originated. According to reporting done by Nikita Richardson of New York Magazine, less than 2% of nightlife establishments within New York City will receive these raids in a given year.

Records associated with **M.A.R.C.H.** raids are not available to the public, however The Artist Coalition (**TAC**) was able to obtain records from January 2012 - July 2017 through a Freedom of Information Law request. In cooperation, **TBI** has reviewed this data obtained by **TAC** and has begun an analysis of over 2,000 M.A.R.C.H. operations, with a focus on racial disparities and disproportionate enforcement.

HISTORY OF NYC'S CABARET LAW

The Cabaret Law, which made dancing illegal in any public space without a Cabaret License, originated in 1926 when it was a tool predominantly used to target black establishments and jazz clubs. In the decades following, the discriminatory application of this law continued.

Mayor Giuliani used this ancient and racist relic during his crack down on nightlife establishments in the 1990s. The law continued to be implemented during M.A.R.C.H. operations to fine and shutter businesses up until last year when the law was successfully repealed. During its final year in effect, the true nature of this racist law remained clear. Less than approximately 100 out of the 25,000 licensed nightlife establishments had a cabaret license. However, according to a survey conducted by the **Dance Liberation Network**, it was mostly Latino, Dominican and black-owned businesses that were being shut down for allowing dancing without cabaret licenses.

According to the Mayor de Blasio's Office of Nighlife's 2018 report, there are more than **25,000** nightlife establishments in New York City. This industry supports nearly **300,000 jobs** and handed New York City and New York State **697 million dollars** in tax revenue. The impact restaurants, bars and other nightlife establishments have on communities go beyond the economic contributions.

They have established New York City as a multi-cultural epicenter we often claim to celebrate. These establishments go beyond acting as a venue for social gatherings and recreation as well. Many helped foster a sense of community and security for marginalized groups. Whether it was the LGBT community facing police raids at the Stonewall Inn or the jazz clubs in the early part of the 20th century, forces within the city and state have conspired to threaten, intimidate and harass these establishments to the point where many are forced to close down. Owners lose their life's work, employees lose their livelihood and their patrons lose their sense of community. Marginal progress has been on this issue after the repeal of the prohibition era cabaret law, but there is more work that needs to be done.

During a 2017 City Council hearing concerning the law's repeal, Councilmember Espinal stated, "If any business received a cabaret violation, it was through the M.A.R.C.H. task force." Administration after administration has allowed this institutional racism to continue unabated, and it is time for Mayor de Blasio and Governor Cuomo to stand up for these communities, in an off election cycle for at least one of them.

THE NYPD & M.A.R.C.H OPERATIONS

On average, there are 340 raids every year in New York city. The targets of these raids are determined by the NYPD. A 2014 NYPD Operations Order, made public via another Freedom of Information Law request, describes how these **M.A.R.C.H.** task forces are supposed to operate. In the document, it states that all commercial establishments, either licensed or required to be licensed by the state or city agencies are eligible to receive these types of raids. However, it is the nightlife establishments that receive all the attention, which continue to be racially motivated.

The **M.A.R.C.H.** operations were designed to direct enforcement efforts at specific establishments which had become a source of complaints from the community and had a negative impact on quality of life conditions, according to the document provided by the NYPD. Allegedly, a venue's placement on the M.A.R.C.H. list is the result of 311 calls, like "noise" as well as the number of "incidents" that have happened within the vicinity of an establishment and whether the venue has a history of cooperating with authorities.

***"It is the end of any venue that it happens to.
It's like death. It's like the grim reaper."***

– John Ahearn, Owner, Silent Barn, Co-Organizer (www.TheBaffler.com/Latest/cut-the-music-pelly)

These operations are overseen by the **Criminal Justice Coordinator's Office** and are coordinated by the NYPD's **Civil Enforcement Unit**. The Civil Enforcement Unit is assisted by the New York State Liquor Authority (**NYSLA**), the NYC Department of Buildings (**DOB**), the NYC Department of Environmental Protection (**DEP**), the NYC Fire Department (**FDNY**), and the Department of Health and Mental Hygiene (**DOHMH**).

According to **Assistant Deputy Commissioner Robert Messner**, who is the commanding officer of NYPD's Civil Enforcement Unit, the NYPD is unable to provide an exact number of locations that were actually visited last year. That is extremely troubling given that NYPD's Civil Enforcement Unit is tasked with coordinating these operations according to the NYPD's own internal documents.

NYPD Commissioner O'Neil should immediately support City Council Bill No. 1156. His own deputies are unable to even track their own police actions because there is no mandate to do so. There is no accountability of any kind for abuses of power. It is a culture within the NYPD that must end.

THE MAYOR'S OFFICE OF NIGHTLIFE

The one city agency that is in the position to act as an ally to businesses in these matters is the new Office of Nightlife. Headed by **Senior Executive Director Ariel Palitz**, and housed under The Mayor's Office of Media & Entertainment. The office was formed with the right intentions, but in reality, it ended up like so many other initiatives by Mayor de Blasio that claims to be making this city more livable. When the dust finally settled, it was a half measure to placate special interests that do not share the vision of a diverse and thriving New York City.



According to a 2018 report titled *"Nightlife Economy Impact, Assets, and Opportunities,"* The Office of Nightlife claims that it is a leader in a growing global movement and that it recognizes nightlife's value to cities.

The budget for this agency is less than \$500,000 dollars and the office remains so understaffed you can count them on one hand. **TBI** has heard from numerous businesses that have been impacted by discriminatory enforcement practices who reached out to this new office and only heard about the limitations of this fledgling agency, their limited staff and shamefully small budget.

Other than a "listening tour" that served mainly as a PR stunt and an economic impact report that failed to include any details on the monetary penalties associated with M.A.R.C.H. raids that had been levied against an industry the office supposedly advocates for, New York City taxpayers have seen little return on their \$400,000 investment into this new office while watching more and more of their favorite nightlife destinations be terrorized and shut down. If the The Mayor's Office of Nightlife is the leader, it does not bode well for whatever global movement is believed to be following it.

If nothing is done to address the needs of this agency as well as this industry by **Mayor de Blasio**, the Office of Nightlife should be shuttered like the many so many businesses it has failed. Do something meaningful or end this charade.

NEW YORK STATE LIQUOR AUTHORITY

In December of 1933 the 21st Amendment to the United States Constitution was ratified, ending a failed nightlife enforcement strategy that had gone on for more than a decade. In the wake of prohibition The New York State Liquor Authority (**NYSLA**) were established in 1934.

The **NYSLA** Board is made up of three members, one Chairperson and the others act as commissioners. No more than two members of the authority shall belong to the same political party. They are appointed by the governor by and confirm the senate and serve a three year term. Members can be removed by the governor with a statement of cause to the Secretary of State. In the event of a vacancy, the remaining members will continue to operate until the vacancy has been filled with a confirmation vote in the senate.

The **NYSLA** serves two main purposes, both of which help to generate revenue for New York State. First, the NYSLA issues licenses and permits relating to the consumption of alcohol. The second purpose is to enforce the Alcoholic Beverage Control Law. The Full Board of the NYSLA holds bi-weekly meetings where they issue decisions on licensing and disciplinary matters or to amend NYSLA policies, procedures, personnel etc.

Since 2011, the Chairman is the only “full time” Member of the Authority. The two other Commissioners are categorized as “per diem” appointees. As a result the other Commissioners do not have the same restrictions required by the Public Officers Law (“POL”) which includes financial disclosure and other ethical standards.



Governor Cuomo and the State Legislature must provide oversight and accountability for this agency. There needs to be investigations in both houses to determine if any abuses of power have occurred.

METHODOLOGY

Detailed information that would be required to illustrate a clear racial bias during the targeting of these M.A.R.C.H. operations is not yet publicly available under the current New York City and State laws. However, through working with **TAC**, **TBI** was able to obtain a full list of the M.A.R.C.H. operation targets from January 2012 through July of 2017.

Utilizing this information, and cross referencing it with the United States census data, **TBI** was able to link each targeted business with the racial and demographic information contained within the census tract the business is located in. According to www.census.gov, census tracts are a relatively permanent statistical subdivision of a county and contain about 4,000 people and 1,600 housing units.

Based on the assumption that businesses within census tracts with significant minority populations (**45%**) are likely to either be owned by or whose patrons are a member of one of the many ethnic subgroups that populate this city and state of New York.

TBI reviewed the tract data for each instance of a MARCH Raid included in the NYPD FOIL list. **TBI** reviewed publicly available 311 complaint information associated with businesses that had been the target of repeated harassment. Additionally, information related to injury and death associated with alcohol which was made available by the New York State Department of Health and major crime statistics obtained from the NYPD were all examined in order to determine if the amount of MARCH Raids reflected the trends observed in the alleged underlying causes.

RESULTS

A Pattern of Discriminatory Enforcement

In the chart below, you will see the frequency these M.A.R.C.H. operations occurred across the 5 boroughs throughout the available time periods (January 2012 - July 2017).

Number of Raids By Borough						
	2012	2013	2014	2015	2016	2017
1	Manhattan (110)	Brooklyn (150)	Brooklyn (138)	Queens (111)	Queens (126)	Bronx (68)
2	Queens (84)	Manhattan (141)	Queens (121)	Brooklyn (98)	Manhattan (91)	Manhattan (67)
3	Brooklyn (76)	Queens (117)	Manhattan (87)	Bronx (91)	Brooklyn (86)	Brooklyn (57)
4	Bronx (68)	Bronx (97)	Bronx (77)	Manhattan (55)	Bronx (75)	Queens (38)
5	Staten Island (6)	Staten Island (16)	Staten Island (26)	Staten Island (15)	Staten Island (9)	Staten Island (4)
	City Wide (344)	City Wide (521)	City Wide (449)	City Wide (370)	City Wide (387)	City Wide (234)

The overwhelming majority yielded no substantial infractions but did result in a major disruption for the businesses and their patrons. During each raid all of the patrons are forced to leave an establishment while the owners are forced to close. The owner is guaranteed that their reputation within the neighborhood will be tarnished and that the M.A.R.C.H. raids will be back.

The results from the 2,305 M.A.R.C.H. Operations Target

NO ENFORCEMENT ACTION TAKEN	OCCUPANCY CONTRARY TO C OF O/NONE/ECB NOV ISSUED	MARCH: FAILURE TO MAINTAIN BLDG/ECB NOV ISSUED	ADMINISTRATIVE CLOSURE NN	NO PA PERMIT/ECB NOV ISSUED
51.53%	17.31%	4.73%	0.68%	10.96%
EXIT PASSAGE OBSTRUCTED/ECB NOV ISSUED	MARCH: EXIT PASSAGE OBSTRUCTED/ECB NOV & PARTIAL VACATE ISSUED	WORK WITHOUT PERMIT/ECB NOV ISSUED	NO PA PERMIT/ECB NOV & PARTIAL VACATE ISSUED	VACATE
3.43%	0.81%	5.05%	0.90%	4.60%

As shrouded in secrecy as the process is for an establishment to fall on to the enforcement hit list, it is even more unclear how an establishment can remove itself from the list of targets. Based on the current success rate, it is evident that no matter the manner locations are referred to the M.A.R.C.H. task force, **the team spends about half its time harassing establishments with nothing to show for it.**

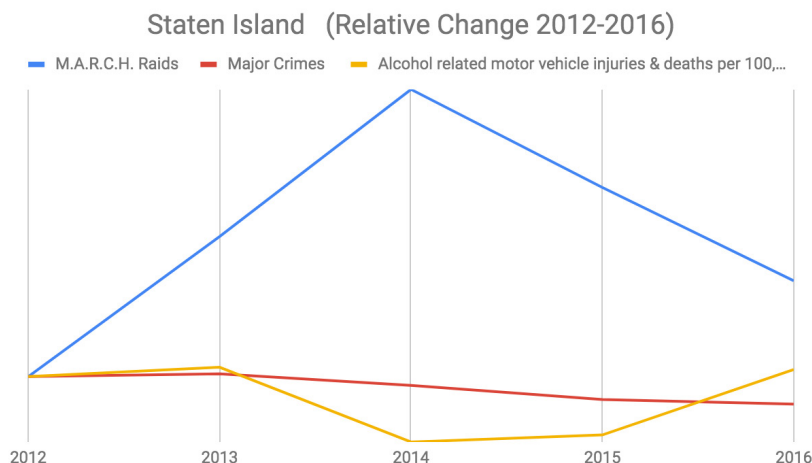
Our analysis of the data available for 2017 M.A.R.C.H. Operations and the most recent Census data help to illustrate this dangerous trend. **92.5%** of the operations were conducted in neighborhoods with a 30% minority population or more. Neighborhoods that were approaching being majority minority populations appeared in the sample set at a rate of **4:1** compared to less diverse neighborhoods.

Drunk driving and the life altering harm that it can have on a community, a city or a state is nearly immeasurable. However, New York State does provide yearly statistics and reports detailing the number of Alcohol Related Motor Vehicle Injuries & Deaths. Given the complexities of the different boroughs these figures are presented as injury or death per 100,000 people.

Borough	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Manhattan	18.7	18.5	14.3	12.6	15.9
Queens	17.9	20.9	18.8	18.4	21.6
Brooklyn	17.6	19.1	17.6	13.9	21
Bronx	15.8	18.4	18.3	17.9	23.8
Staten Island	26.8	27.9	19	19.6	25

Upon review, Staten Island, has seen a substantial increase in the loss of life due to driving under the influence. **During this same period Staten Island saw a decline in the number of MARCH Raids despite that it receives by far the least amount and the trend in Alcohol Related Motor Vehicle Injuries & Deaths.**

These trends call into question the enforcement tools and how they are applied.



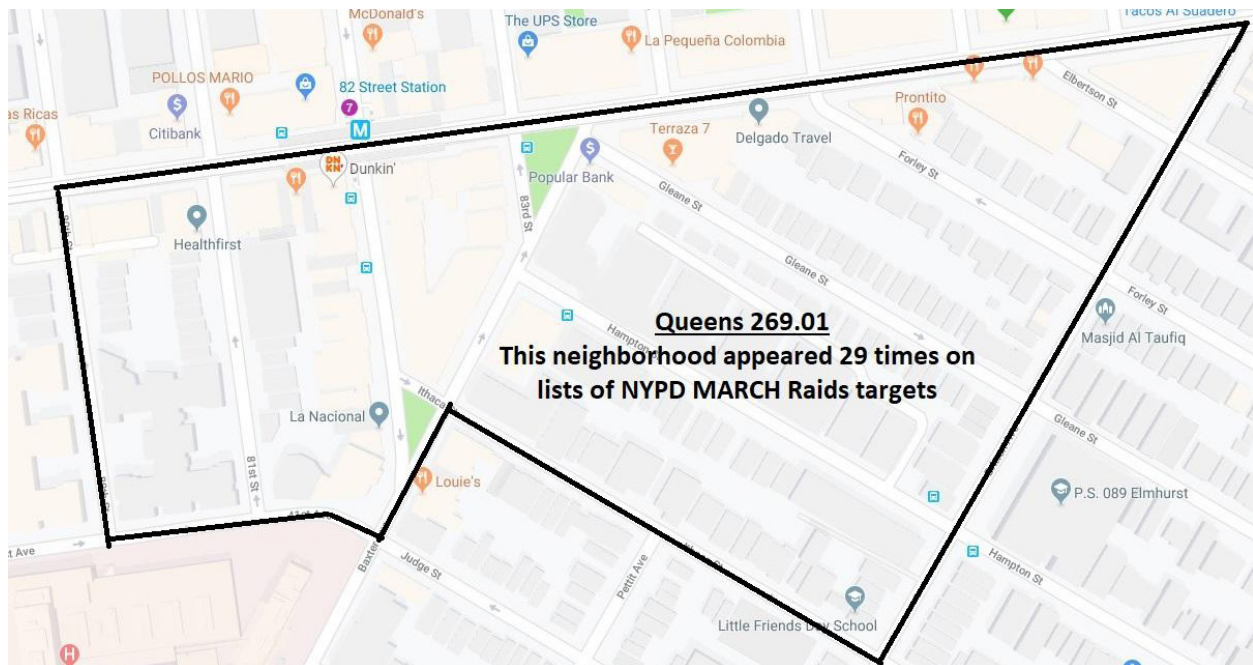
Queens 269.01					
A Closer Look at NYC's Most Raided Neighborhood					
Housing Profile					
	Number	Percent	NYC Number	NYC Percent	Difference
Total housing units	1,764	100.00%	3,455,117	100.00%	-3,453,353
Occupied housing units	1,650	93.50%	3,142,405	90.90%	-3,140,755
Vacant housing units	114	6.50%	312,712	9.10%	-312,598
	Number	Percent	NYC Number	NYC Percent	Difference
Occupied housing units	1,650	100.00%	3,142,405	100.00%	-3,140,755
Owner-occupied	297	18.00%	1,025,332	32.60%	-1,025,035
Renter-occupied	1,353	82.00%	2,117,073	67.40%	-2,115,720

	Number	Percent	NYC Number	NYC Percent	Difference
Owner-occupied units	297	100.00%	1,025,332	100.00%	-1,025,035
Less than \$50,000	31	10.40%	36,048	3.50%	-36,017
\$50,000 to \$99,999	20	6.70%	16,083	1.60%	-16,063
\$100,000 - \$149,999	22	7.40%	21,981	2.10%	-21,959
\$150,000 - \$199,999	69	23.20%	29,364	2.90%	-29,295
\$200,000 - \$299,999	36	12.10%	80,770	7.90%	-80,734
\$300,000 - \$499,999	9	3.00%	287,108	28.00%	-287,099
\$500,000 - \$999,999	110	37.00%	391,971	38.20%	-391,861
\$1,000,000 or more	0		162,007	15.80%	-162,007
Median (\$)	213,500		538,700		-325,200

	Number	Percent	NYC Number	NYC Percent	Difference
Occupied units paying rent	1,342	100.00%	2,058,894	100.00%	-2,057,552
Less than \$500	16	1.20%	227,814	11.10%	-227,798
\$500 to \$999	99	7.40%	354,359	17.20%	-354,260
\$1,000 to \$1499	539	40.20%	650,613	31.60%	-650,074
\$1,500 to \$1,999	453	33.80%	419,910	20.40%	-419,457
\$2,000 to \$2,499	235	17.50%	185,218	9.00%	-184,983
\$2,500 to \$2,999	0		91,718	4.50%	-91,718
\$3,000 or more	0		129,262	6.30%	-129,262
Median (\$)	1,519		1,340		179

A look closer at NYC's Most Raided Neighborhood

During our analysis, one neighborhood overwhelming stood out as having received the most attention by the NYPD Civil Enforcement Unit through MARCH RAIDS. Queens - Tract 269.01 is located between the Jackson Heights, Elmhurst and Corona sections of Queens.



This neighborhood falls under the jurisdiction of the 110th Precinct which is led by Commanding **Officer Captain Nicola Ventre**. The neighborhood is in the 21st City Council District (**Moya**), the 13th NYS Senate District (**Ramos**) and in the 39th Assembly District (**Cruz**) and NYS 14th Congressional District (**Ocasio-Cortez**).

Current Representation in the District



Council Member
Francisco Moya



NYS Senator
Jessica Ramos

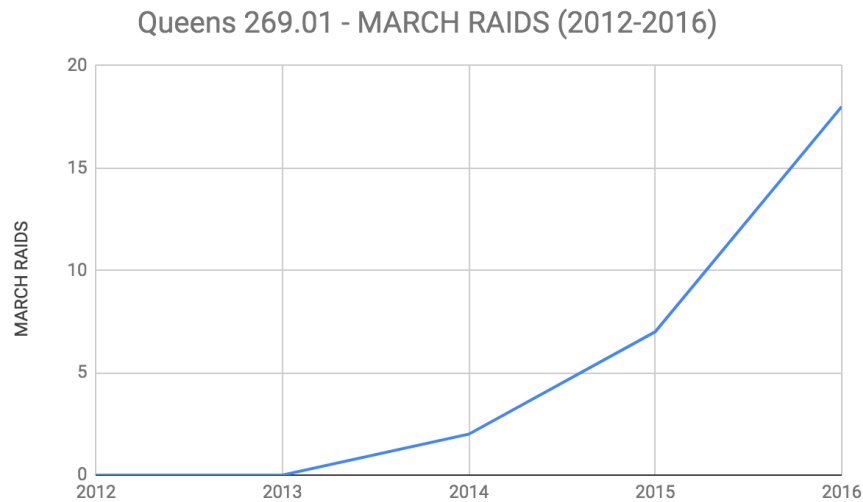


NYS Assembly
Catalina Cruz



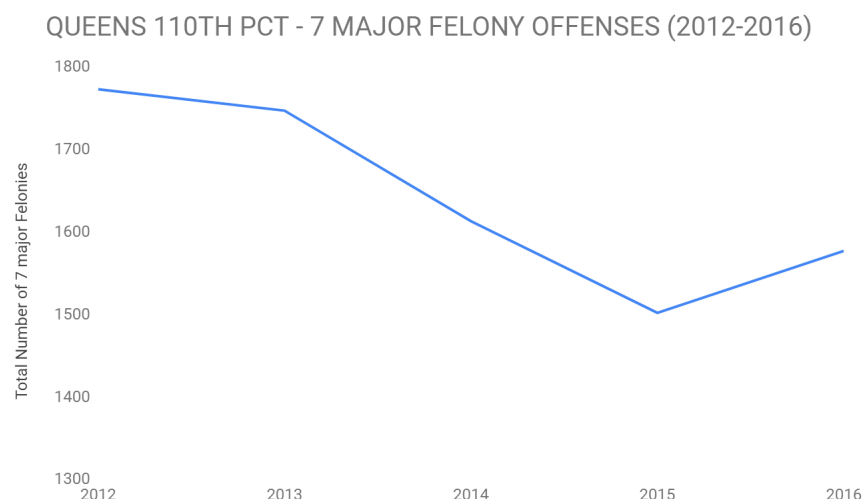
Congress Member
Alexandria Ocasio-Cortez

Establishments within a few block radius were targeted **29 times** by the MARCH Program. These raids began to occur in 2014 after having not received one visit from the MARCH Unit in 2012 or 2013.



With the exclusion of one instance in 2017, when El Tequila Bar, a Mexican bar restaurant on Baxter Avenue was targeted, the other 28 instances all occurred on **one block, Roosevelt Avenue**. These raids were spread across 5 different addresses on the block and include places like El Gato Verde Sport Bar located at 82-14 Roosevelt Avenue which is a Latinx Sports Bar. Businesses like 12 Corazones, an Ecuadorian Restaurant located just up the street at 86-22 Roosevelt Avenue. Another target was a Columbian Restaurant, El Arepazo located at 86-26 Roosevelt Avenue. Major crimes within the 110th Precinct have **continued to fall and are now 26% lower than the 2012 levels**.

When comparing the frequency this neighborhood was targeted and the crime statistics reported by the 110th Precinct, it is clear that the application of these enforcement tools is less reliant on actual data than the NYPD would suggest is the case.



Queens Tract 269.01 is a working class neighborhood. This neighborhood has a higher percentage of its population in the workforce (**76.4%**) than the entirety of New York City (**63.5%**).

Nearly half (**49.8%**) of the residents earn more than \$50,000 annually. Fewer residents were enrolled in the Supplemental Nutrition Assistance Program (SNAP) within the last 12 month period when compared to the rest of NYC as well.

Household Income and Benefits					
	Number	Percent	NYC Number	NYC Percent	Difference
Total households	1,850	100.00%	3,142,405	100.00%	-3,140,755
Less than \$10,000	119	7.20%	291,838	9.30%	-291,719
\$10,000 to \$14,999	9	0.50%	200,006	6.40%	-199,997
\$15,000 to \$24,999	197	11.90%	306,597	9.80%	-306,400
\$25,000 to \$34,999	245	14.80%	265,505	8.40%	-265,260
\$35,000 to \$49,999	258	15.60%	342,414	10.90%	-342,156
\$50,000 to \$74,999	394	23.90%	469,983	15.00%	-469,589
\$75,000 to \$99,999	135	8.20%	341,935	10.90%	-341,800
\$100,000 to \$149,999	187	11.30%	425,393	13.50%	-425,206
\$150,000 to \$199,999	74	4.50%	208,794	6.60%	-208,720
\$200,000 or more	32	1.90%	289,940	9.20%	-289,908
Median household income (\$)	49,643		57,782		-8,139
Mean household income (\$)	60,666		93,196		-32,530

The average renter is paying between \$1,500 and \$2,000 dollars a month, which is **13% more than NYC as a whole**. The majority of owner occupied dwellings are understood to be **valued at more than half a million dollars**. All of this information makes the NYPD's Civil Enforcement Units pre occupation with this community all the more suspicious.

Economic Profile					
	Number	Percent	NYC Number	NYC Percent	Difference
Population 16 years and over	4,016	100.00%	6,954,418	100.00%	-6,950,402
In labor force	3,069	76.40%	4,417,362	63.50%	-4,414,293
Civilian labor force	3,069	76.40%	4,415,097	63.50%	-4,412,028
Employed	2,949	73.40%	4,072,839	58.60%	-4,069,890
Unemployed	120	3.00%	342,258	4.90%	-342,138
Armed Forces	0		2,265	0.00%	-2,265
Not in labor force	947	23.60%	2,537,056	36.50%	-2,536,109

The community that was targeted the most contains over 96 % minority population. Within that figure, this area also contains a higher percentage of non citizens and individuals who have immigrated within the last twenty years.

Citizenship Status					
	Number	Percent	NYC Number	NYC Percent	Difference
Foreign-born population	3,753	100.00%	3,180,098	100.00%	-3,176,345
Naturalized U.S. citizen	1,505	40.10%	1,752,999	55.10%	-1,751,494
Not a U.S. citizen	2,248	59.90%	1,427,099	44.90%	-1,424,851
Year Of Entry					
	Number	Percent	NYC Number	NYC Percent	Difference
Foreign-born population	3,753	100.00%	3,180,098	100.00%	-3,176,345
Entered 2000 or later	2,355	62.70%	1,300,708	40.90%	-1,298,353

This neighborhood, and other communities like it, have continued to be targeted in nearly every manner at the NYPD's disposal. Until adequate safeguards are established to protect communities from these abuses the harassment will continue. These communities and the businesses that serve them will continue to be terrorized by the broken nightlife enforcement system.

If the amount of enforcement is really just in response to community complaints that cannot or would not be verified, it is clear that **these agencies have become another tool used to gentrify neighborhood after neighborhood.**

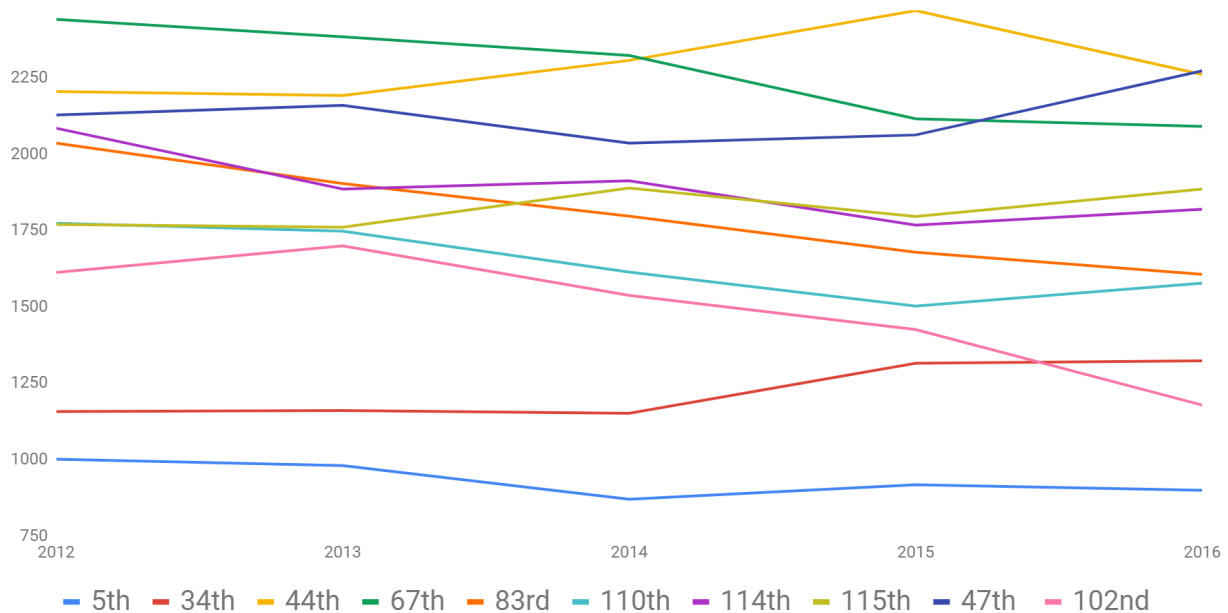
MOST ACTIVE NYPD PRECINCTS

This map on page 19 provided by The Artist Coalition, shows the distribution of MARCH raid targets across every precinct within the NYPD. While the raids themselves are organized and overseen by the Civil Enforcement Unit, the local Precincts are on the front lines of fielding complaints and responding to incidents that relate to their local nightlife establishments.

With the exception of the 34th, 44th and 47th precincts, the remaining 7 most active precincts have seen a steady decline in major crimes during the time period this report has been reviewing. **Despite this decline in major criminal activity, these precincts have remained the most active culprit for MARCH Operation harassment.**

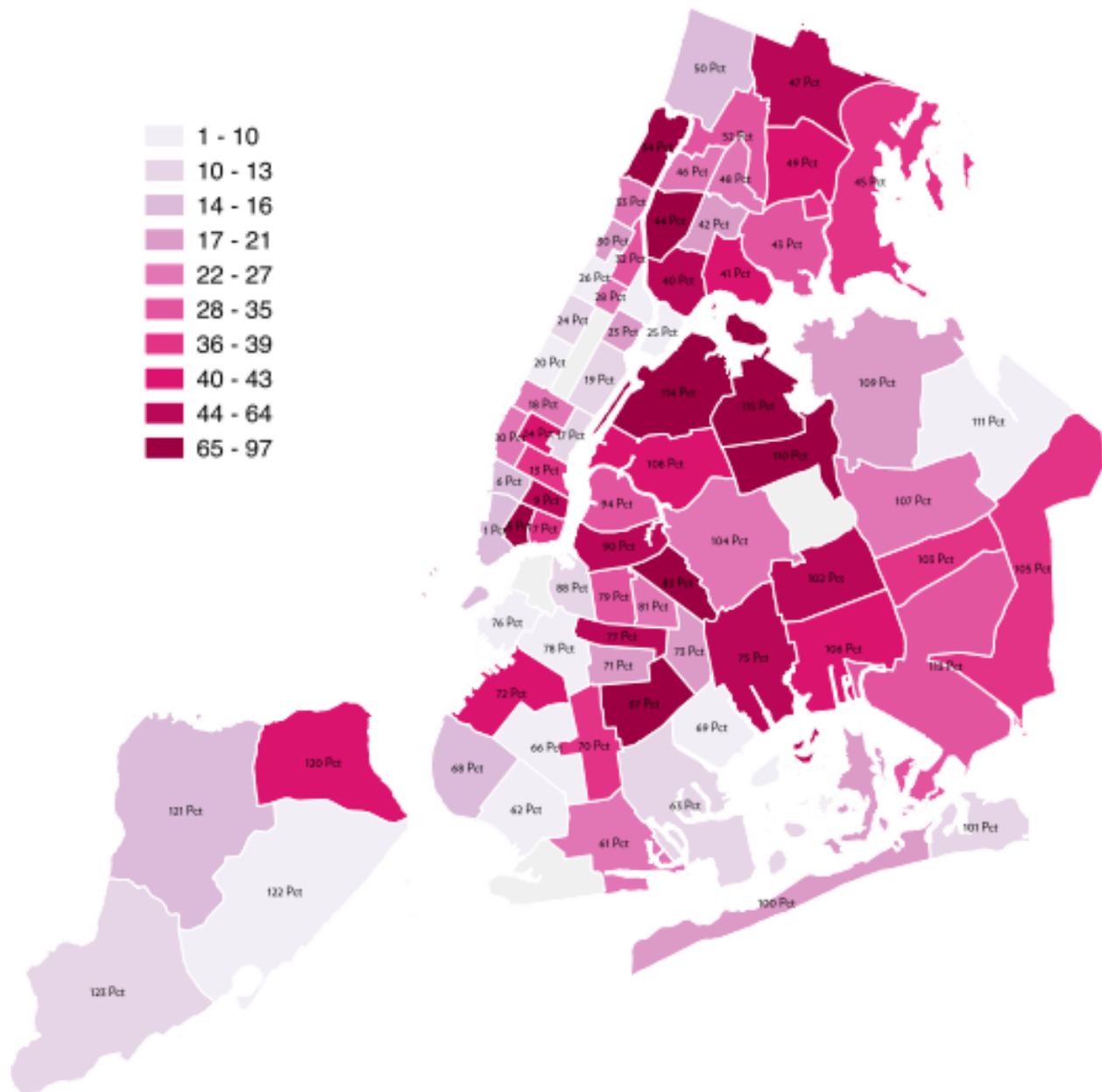
Based on MARCH data obtained through our cooperation with The Artist Coalition and information obtained by the **Legal Aid Society**, the most active NYPD precincts in terms of MARCH Raids, along with the number of misconduct lawsuits and the total settlements are displayed on page 20.

7 Major Felonies in Most Active Precincts (2012-2016)



M.A.R.C.H. 2012-2017

Operations per Police Precinct



Source: NYC Artist Coalition



**These 10 precincts, from 2015-2018 it has cost taxpayers
\$1,923,506 in settlements for misconduct allegations.**

1. 97 March Raid Targets

44th Precinct - Bronx Commanding Officer:
Deputy Inspector Louis
Phone Number: (718) 590-5511
Federal Lawsuits: 26

Total Settlements: \$273,201

2. 85 March Raid Targets

115th Precinct - Queens Commanding Officer:
Inspector Carlos Ortiz
Phone Number: (718) 533-2002
Federal Lawsuits: 8

Total Settlements: \$65,000

3. 77 March Raid Targets

110th Precinct - Queens Commanding Officer:
Captain Nicola Ventre
Phone Number: (718) 476-9311
Federal Lawsuits: 8

Total Settlements: \$95,500

4. 76 March Raid Targets

67th Precinct - Brooklyn Commanding Officer:
Inspector Elliot Colon
Phone Number: (718) 287-3211
Federal Lawsuits: 33

Total Settlements: \$656,504

5. 73 March Raid Targets

114th Precinct - Queens Commanding Officer:
Deputy Inspector Osvaldo Nuñez
Phone Number: (718) 626-9311
Federal Lawsuits: 3

Total Settlements: \$27,500

6. 72 March Raid Targets

83rd Precinct - Brooklyn Commanding Officer:
Deputy Inspector Daniel A. Dooley
Phone Number: (718) 574-1605
Federal Lawsuits: 14

Total Settlements: \$560,000

7. 70 March Raid Targets

34th Precinct - Manhattan Commanding Officer:
Deputy Inspector Peter Andrea
Phone Number: (212) 927-9711
Federal Lawsuits: 19

Total Settlements: \$95,801

8. 65 March Raid Targets

5th Precinct - Manhattan Commanding Officer:
Captain Paul J Zangrilli
Phone Number: (212) 334-0711
Federal Lawsuits: 3

Total Settlements: \$1,000

9. 61 March Raid Targets

47th Precinct - Bronx Commanding Officer:
Inspector Erik Hernandez
Phone Number: (718) 920-1211
Federal Lawsuits: 15

Total Settlements: \$85,000

10. 55 March Raid Targets

102nd Precinct - Queens Commanding Officer:
Deputy Inspector Courtney B. Nilan
Phone Number: (718) 805-3200
Federal Lawsuits: 5

Total Settlements: \$64,000

COMMUNITY COMPLAINTS & MARCH RAIDS

A factor that the NYPD allege is used to trigger these enforcement operations are complaints made through various channels that include 311, NYPD Precinct Community Council and complaints made to the relevant Community Board.

TBI heard from numerous business owners as well as their patrons about the mass of community and 311 complaints, of which many are found to be repetitive or made without merit. The unsubstantiated complaints are used by the local community boards to help sow discord with the NYSLA, the NYPD, the New York City Council and NYS elected officials.

“There is this narrative that Woodland is this crazy place, but when I was there, I didn’t see it”

– City Councilmember Rafael Espinal, D-Bushwick, East New York

A letter signed by three elected officials from the New York City Council, NYS Assembly and the NYS Senate claimed that a Brooklyn bar/restaurant, Woodland, located at 242 Flatbush Avenue, had risen far beyond other establishments in terms of its threat to public safety.

There were (510) 311 noise complaints directed at Woodland since January 1, 2014. Less than half (47.8%) were substantiated by the responding officers from the 78th Precinct. On one Sunday in October 2017, 11 noise complaints were reported within 15 minutes beginning around 4pm.

Each complaint was marked as requiring police action. The 78th Precinct is located at 65 6th Avenue, 325 feet away from Woodland. **Any system that would indicate that each complaint was validated and required police action is inherently unfair and an inaccurate indicator.**

“It’s racism. What’s happening to Woodland is just unbelievable.”

– Brooklyn Borough President, Eric Adams

During one of several NYSLA hearings brought about by Woodland's M.A.R.C.H. raid a number of officers from the 78th Precinct testified on behalf of the state against Woodland.

NCO Sergeant Anthony DiMichele has worked in the 78th Precinct for more than a year. During his sworn testimony he stated that Woodland had been on the precinct's chronic noise list 12-15 times out of the 18 months he's worked in the community. Sergeant DiMichele then acknowledged that Woodland was not currently on that list. **This not only combats the narrative that Woodland is alone in the community's concerns with the level of noise coming commercial businesses, but also that the establishment has taken steps to become a better neighbor.**

In a Bklyner article, NYPD's 78th Precinct Will Roll Out NCO Program Next Month, dated September 28, 2017 and written by Pamela Wong, **78th Precinct Community Council President Wayne Bailey** is quoted bemoaning the repeal of the racist cabaret law. He goes on to call on his fellow neighbors to redirect their efforts at their elected officials.

"Call the mayor's office, call your council person. Get those people to start doing what you want them to do."

– 78th Pct Community President, Wayne Bailey

"Call the mayor's office, call your council person. Get those people to start doing what you want them to do. If you want a quiet environment, stop electing people that let everybody just do whatever the hell they want to do."

Within a year, these residents learned the trick and the mass amounts of unfounded, vague or flat out false allegations began to take root.

"I've lived here more than 10 years and I can't say it's been any louder than anything that was there before. The dog next door is more annoying than Woodland."

– Sarah Collins, Long time neighbor


A separate Bklyner article, 78th Precinct NCO Sector C Build The Block Meeting: Lock Up Your Bikes dated June 20th, 2018 also written by Pamela Wong describes, in great detail, the 78th Precinct's quarterly Neighborhood Coordination Officer (NCO) Sector C Build The Block Meeting.

Ms. Wong states during the meeting **Officer Gonzalez** made clear that the community complaints about public drunkenness around 6th Avenue and Flatbush Avenue could not be attributed to Woodland alone based on the proximity to other nightlife establishments. Officer Gonzalez goes on to detail the lengths the precinct will go to prevent drunk driving at Woodland. Based on the testimony from the SLA and the NYPD to a New York State Administrative Law Judge, there has not been a single DWI or DUI arrest attributable to Woodland.

While Woodland (242 Flatbush Avenue) typically gets the brunt of these complaints, Officer Gonzalez pointed out that the revelers also frequent the neighboring businesses Bleachers (240 Flatbush Avenue) and Sugarcane (238 Flatbush Avenue) as well. He added that while Woodland's management has been responsive to the precinct and made changes, such as **stationing a security guard at the corner of St. Mark's & 6th Avenue**, he says there isn't much the businesses can do once the customers have left the premises.

Several neighbors insisted that the officers patrol the area more frequently, particularly on weekends, so that they can catch the drunken parties before they are able to drive away. The officers said if an individual is drunk and so much as starts a car's ignition from the driver's seat, he/she will be arrested.

This passage is taken from the fourth in the series of letters directed to the NYSLA. This is dated June 17th, 2019. The letter urges the NYSLA to deny the owners the opportunity to remain open for business while they defend themselves against these claims. This is in direct contradiction to the accounts of the 78th Precinct NCOs and is a clear example of a broken nightlife enforcement system that is based on peoples' worst inclinations.


“For years, neighbors have made complaints that detail public intoxication, noise, public urination, and concerns regarding drunk driving. The police have been called to this establishment on multiple occasions and they have witnessed public intoxication, noise, unruly behavior, trespassing, and vandalism. All of these complaints have gone far beyond the normal noise level or foot traffic that would be expected in living in close proximity to any nightlife.”

– Joint letter from Councilman Lander Assemblymember Simon & Senator Montgomery, June 17th, 2019

Luckily, the request was denied and Woodland is able to remain open for business while they are embattled in a fight against the city and state of New York.

After 4 exhaustive days of hearings across several months, New York State made its case against Woodland. There was not one piece of evidence submitted that suggested any of the allegations in the June 17th letter were true.

On September 9th Woodland's owners, their patrons and the feelings of community they have built on Flatbush Avenue will have the chance to reframe this false narrative and to combat this corrupt Nightlife Enforcement system.

A PATTERN OF HARASSMENT



Since beginning this report, TBI began to solicit testimonials from business owners that could elaborate on their experiences navigating New York City's nightlife enforcement apparatuses. Some of these owners agreed to provide their name and the name of their business but many others asked to remain anonymous for fear of retaliation in what should be an unemotional arm of justice.

Two co-owners, and mom and daughter duo in Brooklyn, described a pattern of targeted harassment. Their establishment has faced multiple MARCH raids. Some years they were hit more than once. Each

raid left the owners with a fine of over \$10,000. Their business falls under the **67th Pct.** This is one of the most active precincts in the city for MARCH raids and is also the most frequently sued for misconduct.

A member of the staff was arrested during two separate raids. The staff member was taken to the precinct and released both times without any charges being filed. The owners both remarked that the officer leading the raid, **Sgt. Alan Chau**, made unprofessional comments to the owner, members of the staff, and patrons in an effort to antagonize them. The owner was left with the feeling that the goal of these raids was not to make anyone inside their business safer, but instead was meant to intimidate, criminalize and fine the owners in order to have the business close down. **Sgt. Chau has been named in at least 7 separate lawsuits for misconduct since 2018 alone.** These same agencies that are meant to serve and protect them were weaponized against them.

The owner grew fed up with the raids and the discrepancies in their actions. She began to speak up about the harassment, and was shunned or threatened at nearly every point. She was unable to get a clear answer on MARCH guidelines, why her business was allowed to be raided and fined so often, or what she could do to ameliorate the situation. Since her business is her livelihood, any threat to her business was an immediate threat to her income, her family, and her life. To this day, the owners are still fighting in a drawn-out legal process to keep her long-standing business alive.

Another establishment that was targeted by these M.A.R.C.H. raids, Ode to Babel, received 135 noise complaints dating back to September of 2015 with just over **40%** substantiated by responding officers.

“As our erasure happens, we’re trying very hard to protect our spaces. It’s incredibly important that we do.”

– Marva Babel-Tucker, Owner, Ode to Babel

However, on a Friday night in October of 2018, an all too familiar story played out. City agencies, including the **NYSLA, DOB, DOHMH**, and the **FDNY**, barged in for a M.A.R.C.H. raid. That one night resulted \$2,000 in fines for the business owners, two women of color, and has led to an ongoing court battle with the SLA and created more issues with the community board. The owners of Ode to Babel continue to combat yet another false narrative that their establishment is anything other than a responsible member of the community.

Cafe Omar, is yet another casualty in this war against black and brown businesses and those that they frequent. 311 records indicated that the establishment had 9 complaints made against their location. These ranged from issues with parking signs and noise but included serious allegations of underage drinking. Only 1 noise complaint was substantiated by responding officers. Cafe Omar was targeted by the M.A.R.C.H operations and had their property seized, heavy penalties imposed and license revoked.

A young woman who owns a bar in downtown Brooklyn relayed her experience to be included in this report as well. The intimate space attracted a professional crowd on weekends. The bar had never received any police attention, noise complaints, or any other red flag that would signal the need for a M.A.R.C.H. raid. In fact, the community continually defended and supported the bar which became integral later on.

With no warning or indication, 311 complaints began to roll in. Nothing about the bar itself changed, but it very quickly became the target of a barrage of 311 complaints. These complaints prompted multiple police visits. As the complaints continued to pour in, so did the frequency of those NYPD visits. The bar had turned into a focal point for police attention. Unfortunately, the day came when the multi-agency crew came to the small bar dressed in SWAT gear and the owner is still dealing with the fall out months later.

***“Not only did it affect my mental state,
it affected the clientele and their perception of me.
My staff did not feel like they were in a safe environment.”***

– Diana Mora, Co-Owner, Friends and Lovers

CONCLUSION

The **City Council Speaker** must move to advance bill **No. 1156**, sponsored by Councilmembers Levin & Espinal, Jr. which calls for the additional transparency and accountability that is desperately needed. The bill should be passed as written and the City Council must resist passing a watered down version to placate those who would prefer to operate in secrecy and far away from public accountability. **The New York City Council must immediately open investigations concerning discriminatory application of the M.A.R.C.H. raids.**

“Reports from businesses and community leaders about fear-inducing raids are concerning and legislation will help city officials assess a more responsible path forward.”

– City Council Member Stephen Levin

NYPD Commissioner O’Neill should support this legislation in order to provide the transparency and oversight the police require. Once it is passed, the NYPD must comply with the new disclosure requirements. He should also conduct an internal review of the M.A.R.C.H. Taskforce to prevent this problem from continuing.

Governor Cuomo must take executive action to ensure the laws of New York State are not applied in a discriminatory way. **The New York State Legislature** must take steps to address these issues through their oversight and confirmation authorities. The Legislature must also move to investigate the NYSLA’s role in these raids and determine if there were any known abuses of power.

Mayor Bill de Blasio should support this legislation. He must also take the necessary steps to arm those businesses who are targeted with the tools to present an adequate defense.

The **Mayor’s Office of Nightlife** must be adequately funded and staffed to provide meaningful support to the industry it was intended to advocate for or the office should be abolished entirely as not to create the false perception anything is being done for these businesses or the communities they serve.

It is time to change the tune.

REFERENCE MATERIAL

M.A.R.C.H. Operations Data, *Courtesy of The Artist Coalition's FOIL Data*
www.github.com/gltd/march/find/master

Census Tract Information: www.census.gov/glossary

Demographic Information: www.popfactfinder.planning.nyc.gov

Crime Rates: www.projects.newsday.com/databases/long-island/new-york-city-crime-rate/?where=year*2012&order=year_ASC&offset=0

www1.nyc.gov/assets/nypd/downloads/pdf/analysis_and_planning/historical-crime-data/seven-major-felony-offenses-by-precinct-2000-2017.pdf

NYPD Federal Lawsuits & Settlements: www.capstat.nyc/commands/#8/40.909/-75.597

Alcohol Related Motor Vehicle Injuries & Deaths Per 100,000:
www.health.ny.gov/statistics/chac/indicators/index.htm

311 Complaint Information:
www1.nyc.gov/nyc-resources/service/981/nyc311-service-request-map

NYC's Nightlife Economy Impact, Assets, and Opportunities Report:
www1.nyc.gov/assets/mome/pdf/ESI-NYCEDC-Nightlife-Report-2018.pdf

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