



..... NO MORE DELAY

PROVEN POLICY SOLUTIONS FOR NEW YORK CITY

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An in-depth look at six successful policies implemented in Austin, Berkeley, Minneapolis, San Francisco and Washington DC, and how these ideas can work for New York City.

NO MORE DELAY: PROVEN POLICY SOLUTIONS FOR NEW YORK CITY

John Petro, Policy Analyst for Urban Affairs

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INTRODUCTION

This fall, New York City voters will decide whether Mayor Bloomberg deserves a third term in office. We will also be electing nearly fifty other municipal officials, from city council members to the city comptroller. It is important, then, to examine the city's record on critical issues that affect all New York City residents. This report focuses on six pressing areas of policy: economic opportunity, housing affordability, criminal justice, workplace standards, environmental sustainability, and health care. In each area, it shows how New York City has failed to address significant challenges facing New Yorkers, offers a proven solution from another city, and explains why that policy prescription is appropriate for New York.

This report is constructive; it highlights specific lapses in public policy and then proposes concrete solutions that all candidates for public office are urged to embrace. Often policy debates between the candidates come late in the campaign season, if at all. Let's start them now.

POLICY SUMMARY

PROBLEM: As the H1NI virus rages across the city, one million working New Yorkers do not have a single paid sick day.

SOLUTION: **San Francisco** guarantees all workers paid sick days to care for themselves or a sick loved one. The policy is not only a meaningful benefit for workers, but also aims to increase employee productivity and reduce the spread of contagious disease. In addition, members of the business community in San Francisco agree that the policy has not been a problem, despite their initial opposition. In New York, Mayor Bloomberg's recent support for paid sick days is an enormously encouraging sign.

PROBLEM: New York City gives out millions of dollars a year in tax breaks to private companies that may not need subsidies and that go on to create poverty-level jobs—or few jobs at all.

SOLUTION: **Minneapolis** requires that subsidy recipients create living wage jobs. If the jobs are not created, the subsidy must be paid back with penalty. The policy ensures that the public receives significant benefits when tax dollars are invested in a business subsidy deal.

PROBLEM: New Yorkers falsely confess to crimes they did not commit, harming public safety and damaging the integrity of the criminal justice system.

SOLUTION: **Washington, DC** requires that all interrogations be videotaped in their entirety. This policy creates a permanent record of interrogations, makes police officers less vulnerable to allegations of abuse, and prevents the miscarriage of justice.

PROBLEM: New luxury housing has pushed up housing prices in the city, resulting in displacement of long-time residents.

SOLUTION: **San Francisco** requires developers to build affordable units when constructing new market-rate housing developments. This policy not only preserves economically integrated neighborhoods, but also provides neighborhood benefits.

PROBLEM: Over one million New Yorkers do not have health insurance or access to basic health services.

SOLUTION: **San Francisco** has created a program that provides basic health services to the uninsured. This program provides health care to the 60,000 San Franciscans that do not have health insurance and do not qualify for public health insurance programs.

PROBLEM: Three quarters of New York City’s greenhouse gas emissions are from heating, cooling, and powering our buildings.

SOLUTION: **Berkeley, CA** is providing low-cost financing to property owners that wish to install renewable energy systems or make energy efficiency improvements. This policy not only defrays the high upfront cost for property owners, but has almost zero impact on the city’s budget.

SIX POLICY SOLUTIONS FOR NEW YORK CITY

1. SAN FRANCISCO, CA: PAID SICK LEAVE

The Problem: Nearly one million working New Yorkers do not receive any paid sick days, contributing to negative health outcomes, the spread of contagious disease, and lower worker productivity. As the swine flu continues to spread and scientists predict a resurgence of the disease in the fall, New York cannot afford to have its workers coming to work sick.

When workers without paid sick days become ill, they are faced with an unfortunate decision: they can either come into work and risk infecting those that they come into contact with, or they can call in sick and lose a day's pay (and in some cases risk losing their job). Additionally, these workers are unable to take time off in order to care for their children when they become ill. Parents must decide whether to send their sick children to school and daycare or face the consequences of missing work.

No New Yorker should have to make this choice. Unfortunately, low wage workers living paycheck-to-paycheck are the least likely to have paid sick days, and they can least afford to miss work, no matter how ill. Two out of three low-wage New Yorkers do not have any paid sick days.¹ Higher-income earners fare somewhat better, though one third of moderate- and high-income workers in New York still do not receive paid sick leave.²

When sick workers don't take time off, their illnesses may become worse, and workers suffering from infectious disease like influenza or hepatitis may spread it to coworkers, customers, and clients. Since food service workers are among the employees least likely to have access to paid sick days, this represents a particular public health threat. Only 16 percent of the 202,000 New York City restaurant workers have paid sick leave.³ In a survey of restaurant workers, 52 percent of the respondents said that they have gone to work when they were sick.⁴

While paid sick leave is an issue that affects workers across the country, the densely populated nature of New York heightens the need for reform. Nowhere in America is the threat of contagion more acute. Millions of New Yorkers travel to work on crowded subways and buses and jostle for space on congested sidewalks in the busiest business districts in the country. Additionally, New York City is a major tourist destination for both domestic and international travelers, increasing the risk of spreading illness across state and national borders.

The H1N1 swine flu pandemic that began in April of 2009 is a pertinent reminder of the dangers of contagion and the difficulties that workers without paid sick leave face. After dozens of cases were confirmed in Queens, the New York City Health Department advised, "The most effective way to lower the risk [of infection] is for people with fever and either cough or sore throat to stay home."⁵ But for most restaurant workers, retail workers, and home health care workers, staying home is simply not an option. With scientists predicting continued flu activity in the summer and an even greater resurgence of the disease this coming fall and winter,⁶ New York City must act quickly to ensure that sickened residents can afford to miss work.

1 *The Unheard Third 2007*. Community Service Society. 2007.

2 *The Unheard Third 2007*.

3 *Behind the Kitchen Door*. The Restaurant Opportunities Center. 2005.

4 *Behind the Kitchen Door*.

5 "Health Department Updates Flu Status; Survey Reveals that 1 in 3 St. Francis Prep Students Had Flu-like Symptoms," The City of New York. May 1, 2009. Available at <http://www.nyc.gov/html/doh/html/pr2009/pr020-09.shtml>.

6 "CDC Telebriefing on Investigation of Human Cases of Novel Influenza A (H1N1)." Centers for Disease Control. June 18, 2009. Available at: <http://www.cdc.gov/media/transcripts/2009/t090618.htm>.

The Solution: Paid Sick Leave Ordinance

In 2007, the city of San Francisco became the first place in the U.S. to require that employers provide their workers with paid sick days. The law guarantees that every person working in San Francisco will receive paid sick leave, including temporary and part-time employees.

- Employees begin to earn paid sick leave after 90 days of work in the city. Beyond that point, they earn one hour of paid sick leave for every 30 hours they work.
- Employees that work for companies with fewer than ten employees can amass a maximum of 40 hours of paid sick leave at any one time; those that work for larger companies are limited to 72 hours of paid sick leave at any one time under the ordinance (employers are free to offer more generous policies if they choose).
- Paid sick leave may be used to recover from a personal illness or injury, seek medical care, or provide care for a family member or other person (the employee must designate this person in advance).
- Employees can take the leave in hourly increments and must be paid their hourly wage or an equivalent fraction of their salary.
- Employers are prohibited from retaliating against employees who use paid sick leave.
- A poster notifying employees of the ordinance in six languages must be posted at all workplaces.
- Employers who are found to have unlawfully denied paid sick leave must pay the employee four times the value of any leave withheld as well as any additional back pay owed and must reinstate the employee if they were fired.
- The city's Office of Labor Standards Enforcement enforces the law and employees can also sue under the statute.

Impact

The success of San Francisco's policy is easy to illustrate: 116,000 workers who previously lacked the benefit now have paid sick days. Additionally, the business groups that had initially opposed the ordinance in San Francisco admit that it has posed few problems for their members.

Before the ordinance was passed, a study by the Institute for Women's Policy Research projected that it would cost the city and its employers \$33.5 million each year in additional wages, payroll taxes, and administrative expenses. These costs, which amount to \$5.56 per week per newly covered worker, were a major source of business opposition to the ordinance. However, IWPR also projected that the benefits of guaranteeing paid sick days would amount to \$7.64 per newly covered worker per week, achieved by decreasing employee turnover, improving productivity and reducing the spread of disease. Ultimately, San Francisco was projected to see a net gain of \$12.5 million annually.⁷ While no follow up study has been conducted, the organization did look at the city's employment rate after the law was passed. Researchers found that employment in San Francisco did not suffer after the implementation of the ordinance, and in fact the industry most affected by the new mandate (restaurant and hospitality businesses) saw strong job growth relative to other counties in the region.⁸ These outcomes are consistent with research from the Center for Economic and Policy Research which concluded that there was no relationship between unemployment and government-mandated paid sick leave.⁹

7 Vicky Lovell. "Valuing Good Health in San Francisco: The Costs and Benefits of a Proposed Sick Leave Policy," Institute for Women's Policy Research. 2006 July.

8 Vicky Lovell and Kevin Miller. "Job Growth Strong With Paid Sick Days," Institute for Women's Policy Research. 2008 October.

9 John Schmitt, Hye Jin Rho, Alison Earle, and Jody Heymann. "Paid Sick Days Don't Cause Unemployment," Center for Economic and Policy Research. 2009 June.

Today even the strongest business opponents of paid sick leave admit that the policy has not been the economic disaster that they initially predicted. In fact, The Golden Gate Restaurant Association called the law “successful” and acknowledged that employee abuse of the new benefit was not widespread.¹⁰ In 2008, a spokesperson for the San Francisco Chamber of Commerce admitted that “we really have not heard much about it being a major issue for a lot of businesses.”¹¹

Implications for New York

San Francisco’s experience shows that a city can successfully require employers to provide paid sick leave to their employees without significant disruption to business activity. New York should take similar steps, improving public health and contributing to the wellbeing and financial security of working New Yorkers who currently do not have paid leave.

In San Francisco, the paid sick leave ordinance was passed through a popular referendum. Sixty-one percent of the voters approved the legislation. In New York, the Mayor and City Council could simply pass an ordinance that mandates paid sick leave. This makes Mayor Bloomberg’s recent support for paid sick days enormously encouraging. The city has the legal authority to legislate paid sick days without going to Albany for approval.

The city would need to identify or create an agency that would be responsible for enforcing the new law. In San Francisco, the Office of Labor Standards Enforcement enforces labor laws that are specific to the city, such as the paid sick leave law. New York City, on the other hand does not have this type of agency. The City Comptroller’s Bureau of Labor Law is responsible for investigating violations of the city’s prevailing wage laws, and could take on the enforcement of paid sick days. The city’s Commission on Human Rights has also been suggested as a possible enforcement agency for paid sick days.¹²

San Francisco’s law made concessions for small businesses, requiring that employers provide fewer sick days at businesses with fewer than ten employees. Sherry Leiwant, Executive Director of A Better Balance, a major advocacy group for paid sick days in New York, suggests that New York City could make similar allowances, “It seems appropriate to require fewer days from smaller businesses. It is sensitivity for the difficulties that smaller businesses might face.” However, there should not be exemptions for certain industries, such as the restaurant or health care industries. Because workers in these industries commonly come into contact with the general population during the course of a working day, “these are the industries where you would not want exemptions.”

According to polling data, three in four New Yorkers voice support for a law requiring at least seven days of paid sick leave per year for full-time workers.¹³ The biggest obstacle to passing paid sick leave legislation in New York City would be overcoming the opposition of business interests. However, the experience of San Francisco proves that there is no good reason not to guarantee paid sick leave. Despite the dire predictions from businesses, job growth in San Francisco remained high. It turns out that a healthy workforce and a healthy business environment can coexist.

10 Stephen Singer. “State pushes law to require paid sick days,” *USA Today*. August 20, 2008.

11 Kelly Spors. “Should Employers Be Required to Give Paid Sick Days?” *Wall Street Journal Blogs*. August 25, 2008.

12 “Marketplace of Ideas: Sara Flocks on Guaranteeing Paid Sick Leave,” Drum Major Institute for Public Policy. May 28, 2008.

13 *The Unheard Third 2007*.

2. MINNEAPOLIS, MN AND AUSTIN, TX: USING ECONOMIC DEVELOPMENT SUBSIDIES TO CREATE HIGH-QUALITY JOBS

The Problem: Despite its strained budget, New York City gives out millions of dollars a year in tax breaks to private companies that may not need subsidies and that go on to create poverty-level jobs—or few jobs at all. The process includes little public accountability.

Economic development subsidies are intended to promote economic activity in the city by helping businesses relocate or expand their operations in New York City. However, subsidy deals made by the city-controlled Economic Development Corporation and the NYC Industrial Development Agency do not always include binding job creation targets or job quality mandates, such as living wage requirements. In some cases, subsidy recipients have actually been permitted to reduce the number of their employees in the city without penalty.

The public pays the price when large city subsidy agreements allow major global corporations like JP Morgan Chase, Bank of America, American International Group, and Bear Stearns to avoid billions of dollars in sales and property taxes. In practice, these expansion and retention subsidies for large firms are often given to corporations that have no intention of leaving New York City, where there is a large concentration of skilled workers, world-class cultural amenities, and the country’s best and largest public transit system. Ultimately it is these factors, not corporate subsidy packages, which attract large corporate firms and small companies alike. Yet the tax revenue lost in subsidy deals results in less money for these very services and infrastructure improvements. In addition, as Bettina Damiani of Good Jobs New York notes, “The tax burden then gets shifted onto smaller companies and individuals who don’t have that kind of power [to demand subsidies of their own.]”

City taxpayers are hit twice in the case of deals like the Yankee Stadium subsidy agreement, in which the team received \$800 million in land, infrastructure, forgone taxes, rent rebates, and tax exempt bonds to construct a new stadium.¹⁴ According to Damiani, the city failed to leverage its subsidies to create living wage jobs for residents of the South Bronx. Consequently, taxpayer dollars are first diverted from schools, infrastructure, and other city needs. Then taxpayer dollars must go towards programs such as Medicaid, food stamps, housing assistance, and other social services that are needed by the workers in city subsidized jobs who still cannot make ends meet. Bettina Damiani puts it simply: “We shouldn’t be subsidizing low-paying jobs. That doesn’t benefit anybody.”

The fight to ensure that the public gets a fair deal in exchange for their subsidy dollars is playing out right now in the Bronx, where citizen groups are currently fighting to ensure that job quality standards such as a living wage and health benefits are part of the deal to redevelop the Kingsbridge Armory. The city, through the Industrial Development Agency, is in negotiations with developer Related Companies to sell the historic structure and provide tens of millions of dollars in tax breaks to the developer for a new retail center. Although Related Companies boasts of creating many new jobs on the site, the city has not been receptive to neighborhood efforts to ensure that retail tenants pay a living wage.

New York’s development subsidies are investments made on behalf of the residents and taxpayers of the city. As the economic crisis takes its toll on the city’s budget, it is especially important that New York leverages these investments to generate tangible benefits for city residents.

14 “Taxpayer Subsidies for the New Yankee Stadium and Parking Garages,” Good Jobs New York. January 16, 2009.

The Solution: Living Wage Requirements, Clawbacks, and Criteria

Minneapolis, MN requires that each subsidy deal create a certain number of living wage jobs.¹⁵ Additionally, the city has recourse if the recipient does not create the promised living wage jobs or if the recipient decides to leave the city after receiving a subsidy. These penalties, called clawbacks, provide for greater accountability on the part of the subsidy recipients.

- For every \$25,000 of subsidy, at least one living wage job must be created.
- Any recipient of a business subsidy that fails to meet the living wage requirement owes the city \$100,000 in damages for every living wage job that was not created.
- The recipient must remain in the city for at least five years after the subsidy is given or pay back the subsidy with interest.
- The city may grant exemptions to these requirements, but only after a public hearing and upon a majority vote of the city council.

Austin, TX has a process for ensuring that its economic development subsidies achieve the highest possible economic returns for the city. Austin calls its subsidy grants “performance-based.” There is a signed agreement between the city and the subsidy recipient that includes tangible measures, such as the number of jobs created and an expanded tax base. Most importantly, companies that receive tax abatements must pay the taxes up front. The company then receives the promised tax rebate only if it complies with its job creation commitments.

Austin also includes minority participation requirements for subsidy recipients. A company receiving incentives from Austin needs to comply with one of the following options:

- Incorporate the city’s Minority-Owned and Women-Owned Business Enterprise goals.
- Provide historical data that demonstrates the company has been successful in achieving diversity in contracting and hiring.
- Provide a plan for establishing goals for diversity in hiring and vendor contracting.

Impact

By implementing these policies, both Minneapolis and Austin have taken concrete steps to ensure that the development subsidy process is more transparent, that subsidy recipients are held accountable, and that the subsidy process creates benefits for city residents.

These policies have not impacted the ability of these cities to attract and retain businesses. What Minneapolis’ policy has done, according to Kent Robbins, of the Community Planning and Economic Development department of Minneapolis, is create an environment in which businesses are aware of the need to create living-wage jobs if they are to receive public subsidies. Since 1996, when Minneapolis first started including living wage criteria in its development subsidy deals, 81 percent of those that were hired by subsidy recipients are paid a living wage (\$13.25 an hour in Minnesota).¹⁶

Austin has used its economic development subsidies to leverage higher rates of job creation and private investment than other Texas cities. Austin’s subsidy policies allow the city to be more selective and more targeted. According to documents supplied by Austin’s Economic Growth and Redevelopment Services Office, Austin entered into seven economic development agreements from January 2000 to October 2007. Comparatively, smaller cities such as Plano and Fort Worth entered into far more agreements, 66 and 21, respectively, over the same time period. In the past year, five companies have applied for incentives in Austin and only two were approved.¹⁷

15 In Minneapolis in 2009, a living wage is considered to be \$13.78 per hour without health benefits or \$11.66 per hour without health benefits.

16 Job Linkage Report, 2006. Minneapolis City Council. Provided by Kent Robbins, Minneapolis Department of Community Planning and Economic Development.

17 The City of Austin, Peer City Comparison. Available at <http://www.ci.austin.tx.us/redevelopment/edagreements.htm>.

Data also indicate that the policy is effective in securing a high rate of return in terms of jobs and private investment. On average, Austin required 419 jobs per economic development agreement, approximately one and a half times higher than the number required by other cities in Texas. Even more impressive, the average amount of private investment that is required of subsidy recipients in Austin is \$626 million, a rate 14 times higher than that of Houston (\$44 million) and 48 times higher than Dallas (\$13 million).

Implications for New York

In New York, economic development subsidies are made on behalf of the city primarily by the New York City Economic Development Corporation (EDC) and the New York City Industrial Development Agency (IDA). They are not official city agencies. However, the Mayor appoints the chairman of the board of the EDC and the IDA as well as most of the members of their respective boards. The Mayor also appoints the president of the EDC (who is also the chairman of the board of the IDA). The EDC officially oversees the programs of the IDA and reports to the Deputy Mayor for Economic Development. The IDA uses a wide array of economic development tools to attract, retain, and expand businesses in the city. The board of the IDA decides which companies and projects receive discretionary subsidies.

The IDA does incorporate some clawback measures in its development subsidy deals in certain situations: if the company falls below its required employment commitment or if the company relocates outside of New York City within a certain number of years of the deal.¹⁸ However, there are questions about how often the city actually enforces these provisions. Instead, the city has a tendency to disqualify the recipient from future subsidy deals. According to Damiani, “The Bloomberg administration gave Pfizer a subsidy deal. Within about four years of that they’ve closed down their Brooklyn plant. So, instead of saying that Pfizer had to pay back that subsidy, what they’re saying is ‘OK, we’ll just forego any future subsidy for you.’”

Additionally, the IDA allows “certain negotiated buffers” on job retention or creation numbers before a recipient is considered to be in violation of their subsidy agreement. For example, under their development deal, “Merrill Lynch could lay off up to 12 percent of their workforce before receiving any kind of penalty.”¹⁹

The EDC’s and the IDA’s status as public-private entities raises some accountability issues. “They have these quasi- public-private entities where it sort of looks like it’s an independent entity,” according to Bettina Damiani, “But in reality all the major players are appointed by public officials. And they’re actually kind of troubling because there is less opportunity for accountability.”

The City Council passed Local Law 48 in 2005 in order to address concerns about accountability. The law requires the EDC to submit a report each year to the City Council, the Mayor, the City Comptroller, the Public Advocate, and the Borough Presidents. The report must contain information on the development projects that receive discretionary assistance,²⁰ including the amount of city assistance and the calculated city benefits. When calculating city benefits, however, the EDC does not take job quality—such as the wage rate or provision of benefits—into account. There is no requirement that projects receiving development subsidies must create living wage jobs, nor are there any local hiring requirements.

Since the EDC is under the control of mayoral appointees, the Mayor could change EDC policy to require that job quality standards, such as living wage requirements, be included in all future subsidy deals. Additionally, the City Council could pass legislation, as it did with Local Law 48, to put stricter regulations on the EDC and the IDA. These regulations could be applied to all subsidy deals that are “discretionary,” as opposed to “as-of-right.”

18 For some projects, “the recapture period shall be determined by the Staff in its sole Discretion.” For others, such as industrial projects, the time frame is ten years. See http://www.nycedc.com/FinancingIncentives/NYCIDA/InsideNYCIDA/Documents/2ndAmendedRestatedUTEF_v2.pdf.

19 *Know When to Fold’ Em: Time to Walk Away From NYC’s Corporate Retention Game*. Good Jobs New York. 2004 February.

20 The EDC makes a distinction between the projects that receive assistance as of right and those that must be granted approval by the EDC.

3. WASHINGTON, DC: VIDEOTAPING POLICE INTERROGATIONS

The Problem: Innocent people confess to crimes they did not commit at an alarmingly high rate. As a result, the wrongfully convicted lose years in prison, public safety is endangered as the real criminals remain free, and the integrity of the justice system is damaged. Since 2000, ten individuals convicted of felony crimes in New York City have been exonerated by DNA evidence. Five of these individuals falsely confessed to the crime.

The reasons for false confessions are not fully understood. Possible reasons range from voluntary confessions, in which an individual makes a confession in order to protect someone else, to involuntary or coerced confessions during which police interrogators use aggressive tactics. While cases in which a false confession was made due to police coercion are infrequent, they foster distrust of police practices and of confessions in general.

Relations between the community and the NYPD have been damaged in the past by high profile allegations of misconduct. The Civilian Complaint Review Board received 3,700 reports of police misconduct from the community during the first half of 2009.²¹ After rising rapidly between 2002 and 2006, the number of complaints has remained near record levels since. While the vast majority of reported instances of misconduct are not substantiated, the number of reports shows that tensions between the community and the police force remain high.

In the high-profile Central Park jogger case, five youth were wrongfully convicted of rape and assault after confessing to the crimes. While the confessions of four of the youth were videotaped, the hours of interrogations leading up to the confessions were not. After the youth retracted their confessions, there were allegations of police coercion during the interrogations. The youth served between five and eleven years in prison (one of the individuals was tried and convicted as an adult) before being exonerated by DNA evidence. It is unknown why the suspects confessed to a crime that they did not commit. Because the interrogations were not recorded in their entirety, we will never know. The case remains a major stain on New York's criminal justice procedures.

The Solution: Videotaping Interrogations

Washington, DC's police force, the Metropolitan Police Department, began videotaping the interrogation of suspects in 2006. The police department issued a General Order that outlines the department's policy of electronically recording "custodial interrogations."²²

- The police department is to electronically record, in their entirety, custodial interrogations of persons suspected of committing a crime of violence when the interrogation takes place in police interrogation rooms equipped with electronic recording equipment.
- The recording is to begin when the subject first enters the interview room and end only when the subject leaves the interview room.

21 *Civilian Complaint Review Board: Status Report January-June 2008*. City of New York. 2008 June.

22 Custodial interrogations are defined as "words or actions that the police should know are reasonably likely to elicit an incriminating response from a person who is suspected to have committed a crime ... and who is under formal arrest, or whose freedom of movement has been restrained to the degree associated with a formal arrest."

- The policy also states that interrogations are not to be conducted unless the suspect has waived his or her Miranda rights.
 - If the subject has not previously been read his or her Miranda rights, the recording is to include the reading of these rights to the suspects and his or her waiver of the rights.
 - If the rights have been waived before the suspect enters the room, the interviewer is to review the rights card with the subject and ask the subject to affirm that he or she was informed of and waived these rights.

The Order states that the recording equipment will not be turned off unless the suspect states that he or she does not want the interview to be recorded. The suspect must be recorded making this request. If video/audio recording equipment is found not to be working, the detective or investigator responsible for conducting the investigation must move the interrogation to another room that has functioning equipment.

Impact

In DC, as in many other jurisdictions where the practice has been adopted, the police department was initially opposed to videotaping interrogations. However, once it was implemented, videotaping has operated successfully in DC, as it has in over 500 other law enforcement agencies across the country.²³

Once police officers have time to get used to the practice, the overwhelming majority of them support videotaping interrogations, according to a report by the Northwestern University School of Law. After speaking with hundreds of police jurisdictions, the researchers found that “virtually every officer with whom we spoke, having given custodial recordings a try, was enthusiastically in favor of the practice.”²⁴

The videotaping of interrogations does not necessarily prevent suspects from falsely confessing to a crime. However, what it does do is allow fact finders—prosecutors, defenders, juries, and judges—to go back later and to see what actually took place during the interrogation. A detective from Washington, DC’s police force wrote an editorial in the *Los Angeles Times* about his experience with taking a false confession and the realization, after watching the video, that he had inadvertently fed facts about the case to the suspect.²⁵

At first, the suspect couldn't tell us anything about the murder, and she professed her innocence. As the interrogation progressed, she became more cooperative, and her confession included many details of the crime. The suspect said she had beaten the man to death and dumped his body by a river. She said she made purchases with the victim's credit card and tried to withdraw cash using his ATM card...Then we discovered that the suspect had an ironclad alibi... Reviewing the tapes years later, I saw that we had fallen into a classic trap. We ignored evidence that our suspect might not have been guilty, and during the interrogation we inadvertently fed her details of the crime that she repeated back to us in her confession. If we hadn't discovered and verified the suspect's alibi—or if we hadn't recorded the interrogation—she probably would have been convicted of first-degree murder and would be in prison today. The true perpetrator of the crime was never identified, partly because the investigation was derailed when we focused on an innocent person.

Videotaping an interrogation from beginning to end provides a permanent record of what was said and done, how the suspects acted, and how the officers acted. This method not only protects suspects, but also helps police officers and prosecutors perform their jobs more effectively. There are many ways in which videotaping interrogations benefits police departments and prosecutors:

23 “False Confessions and Mandatory Recording of Interrogations,” The Innocence Project. Available at <http://www.innocenceproject.org/fix/False-Confessions.php>.

24 Thomas P. Sullivan. *Police Experiences with Recording Custodial Interrogations*. Northwestern University School of Law Center on Wrongful Convictions. Summer 2004.

25 Jim Trainum. “The case for videotaping interrogations,” *Los Angeles Times*. October 24, 2008.

- For police departments:
 - A permanent record is created that shows what was said and done, how the suspects acted, and how officers acted.
 - Officers are less vulnerable to allegations of abusive conduct.
 - Voluntary admissions and confessions are indisputable.
 - Officers do not need to make detailed notes and are therefore able to concentrate on the suspect's demeanor and statements.
 - Officers are no longer required to recall details of what was said and done days or weeks later.
 - Public confidence in police practices may increase because of added transparency.
- For prosecutors:
 - Taped confessions strengthen their case, providing irrefutable evidence in the courtroom with the defendant's own words.
 - They eliminate the problem of suspects changing their stories once in court.
 - They allow the jury to see how the suspect looked before being "cleaned up" for court.
 - Recordings dramatically reduce the number of defense motions to suppress statements and confessions.

The National District Attorneys Association has stated that it "encourages" police departments to videotape interrogations, but that it does not support the automatic exclusion of confessions from evidence if they were not videotaped. In Washington, DC, earlier versions of the policy included an "evidentiary presumption" clause, which would have instructed juries to presume confessions that were not videotaped were involuntary unless the prosecution could prove otherwise. This clause was removed before the policy was enacted.

Implications for New York

The City Council introduced legislation in 2004 that would have required the practice of videotaping interrogations by the NYPD. At the time, a spokesperson for the department argued that the requirement would be "a massive logistical problem for the NYPD."²⁶ The legislation required that all interrogations be recorded and that they be kept for a period of ten years.

The legislation was never adopted. However, the assertion that the NYPD is unable to adopt the videotaping of interrogations because of logistical problems is not a very convincing one. For example, there were no reported problems associated with the Washington, DC police force adopting the practice. While it is true that the NYPD is larger than any other police force in the country, the nation's second largest police force, which serves the city of Chicago, successfully complied with a 2005 state law requiring them to videotape interrogations. The Chicago Police Department estimated that it would need \$4 million for purchasing equipment, setting up interrogation rooms, and training officers.²⁷

The City Council should improve on its 2004 proposed bill by passing new legislation which details specific recommended procedures for police interrogations. According to the Innocence Project, there are certain procedures that must also be in place in order to ensure that electronic recordings achieve their full effectiveness. First, the entire custodial interrogation must be recorded in all felony cases. Recording should begin with and

26 Richard Schwartz. "Anti-Cop Bills Bare a Council Rife with Brats," *Daily News*. February 28, 2004.

27 "Illinois Initiates Plans to Videotape Suspects," *Crime Control Digest*. April 8, 2005. Available at: http://findarticles.com/p/articles/mi_qa4440/is_200504/ai_n16056657/?tag=content:col1.

include the delivery of the suspect's Miranda rights and continue, unaltered and uninterrupted, until the end of the interview. Second, a recording with both video and audio is preferable to just audio. Finally, the video should utilize a neutral angle that shows both the suspect and the interviewers.

These reforms have a record of successful implementation in hundreds of jurisdictions across the country. There is no reason to doubt that once enacted, the NYPD will support the videotaping of interrogations as much as other police departments that have adopted the practice.

4. SAN FRANCISCO, CA: STRENGTHENING INCLUSIONARY ZONING

The Problem: New luxury housing developments in traditionally low- and middle-income neighborhoods have made housing less affordable in these areas and led to the displacement of long-time residents.

New York City is in the midst of a severe housing shortage, as evidenced by its 2.8 percent rental vacancy rate.²⁸ While 315,000 new housing units have been added to the city's housing stock in the past 25 years, many more units are needed to meet current demand. The city estimates that we must add at least 265,000 new housing units to the city's supply by 2030.²⁹

The city's housing shortage has led to an increasingly expensive housing market. Over 500,000 households in the city spend more than half of their income on rent.³⁰ According to the city's *PlaNYC 2030* document, "By 2030, we expect 900,000 more people to arrive. If supply is not created as fast as people arrive, affordability could suffer further."

In order to address New York's need for new housing development, the city is in the process of identifying areas that could potentially absorb some of this new growth and rezoning them for increased density and new housing development. These recent rezonings have resulted in thousands of new housing units. However, very few of these units are affordable for low, moderate, and middle income households.

In fact, despite the assumption that increased supply will lower prices, home purchase prices and rents in these neighborhoods have actually increased. Developers are focusing on building luxury housing units that are affordable to only those individuals with the highest incomes or speculators hoping to make a quick profit. This has led to the displacement of long-time neighborhood residents as new developments attract those with higher incomes, putting upward pressure on rents in the entire neighborhood.

For example, the neighborhoods of Greenpoint and Williamsburg experienced tremendous growth and witnessed the construction of new high-rise residential developments. However, the median price for a housing unit increased 140 percent between 2000 and 2007, while the median price in the city as a whole increased at the lesser rate of 87 percent.³¹

Even though there is tremendous demand for middle-income units in New York City, most developers choose not to build for this segment of the market. Luxury apartments are only slightly more expensive to build than affordable units, but the purchase or rental price of luxury housing is significantly higher than affordable units. Developers also take on a sizable risk when constructing new multi-unit housing, as do the banks that provide the construction loans. Large projects will have several lenders, each expecting a sizable return on their investment that will justify the risk.

If the city is going to take steps to create value for real estate developers, such as large neighborhood rezonings, we should ensure that current residents also benefit from these changes. Long-time neighborhood residents are rightfully suspicious of rezonings. Without finding a way to preserve economic integration, the city will face increasing opposition to future neighborhood rezonings.

28 *2008 New York City Housing and Vacancy Survey*. U.S. Census Bureau. 2008.

29 *PlaNYC 2030*. "Housing." The City of New York. 2006.

30 *2008 New York City Housing and Vacancy Survey*.

31 Calculated from data from the *State of New York City's Housing and Neighborhoods 2008*. The Furman Center. 2009.

The Solution: Mandatory Inclusionary Zoning

In order to encourage the development of affordable units alongside the development of luxury and market rate units, many cities have turned towards inclusionary zoning. Inclusionary zoning is the requirement that developers set aside a certain percentage of the units in a new development as affordable units. Sometimes developers are given “density bonuses,” or the right to build at higher densities, in exchange for including affordable units. Since the inclusion of affordable units decreases the amount of profit that a developer can make on a certain project, density bonuses are designed to offset any negative impact affordable units will have on a project’s bottom line.

In 2002, San Francisco adopted a mandatory inclusionary zoning policy.

- All new residential developments over 10 units must set aside 10 percent of the units as affordable.
 - San Francisco defines affordability using Area Median Income for San Francisco, Marin, and San Mateo counties. Affordable units under the inclusionary zoning program must be affordable to households making less than 60 percent of Area Median Income.
- In 2006, the city strengthened the law so that all developments over 5 units must include 15 percent affordable units.
- Developers may choose to produce affordable housing off-site, but the required percentage of affordable units increases to 20 percent and the affordable units must be within one mile of the market rate units.
- Alternatively, developers may choose to either pay a fee, which is used for the construction of affordable units, or to provide land for affordable housing development if they do not want to construct the affordable units themselves.

San Francisco has also included additional inclusionary zoning requirements and optional density bonuses in its adoption of the Eastern Neighborhoods Plan. The Plan covers four neighborhoods, for a total of 22,000 acres in what were traditionally industrial neighborhoods. The Plan came as a response to development pressures similar to those that exist in many New York City neighborhoods: the need for more housing production in general and the need to provide affordable housing.

The Eastern Neighborhoods plan includes more stringent inclusionary zoning requirements than San Francisco’s citywide policy. The citywide requirements still apply, but the city added special mandates for housing developments that are on previously industrial land.

The Eastern Neighborhoods plan also has a “middle-income alternative” where the units must be affordable to households whose income is between 120 and 150 percent of local median income.

San Francisco Eastern Neighborhoods Inclusionary Zoning Requirements

	On-Site Housing Requirement	Off-site Requirement	Middle Income Alternative	Land Dedication Alternative, Sites with less than 30,000 square feet	Land Dedication Alternative, Sites with at least 30,000 square feet
No Zoning Change	18 percent affordable	23 percent affordable	30 percent affordable	35 percent affordable	30 percent affordable
Height Increase of Two Stories	20 percent affordable	25 percent affordable	35 percent affordable	40 percent affordable	35 percent affordable
Height Increase of Three or More Stories	22 percent affordable	27 percent affordable	40 percent affordable	45 percent affordable	40 percent affordable

Impact

San Francisco is a relatively small city, with a population of 764,000. However, since 2004 San Francisco has produced 1,045 units of affordable housing through its inclusionary zoning policy. This represents one-tenth of the total number of new units completed in San Francisco over the same time period.³² Through inclusionary zoning, San Francisco was able to increase the number of affordable units in the city without having to provide a subsidy to renters or landlords.

Studies have found that mandatory inclusionary zoning policies, such as the one in San Francisco, produce more affordable units than voluntary policies.³³ Other research suggests that inclusionary zoning policies that are more flexible and offer developers more options, such as payments in-lieu of affordable units, produce more affordable housing.³⁴

Developers may argue that by implementing mandatory inclusionary zoning, the rate of housing production will fall and the price of market-rate units will increase. Research from the Furman Center for Real Estate and Urban Policy suggests inclusionary zoning policies have had no effect on the rate of housing production in the San Francisco Bay Area. However, these policies were shown to increase housing prices somewhat during times of housing appreciation, and to have a downward effect on prices during times of housing depreciation.³⁵

No studies have been conducted on the effect of inclusionary zoning on the displacement of low-income and moderate-income residents in San Francisco neighborhoods. However, in neighborhoods where new market rate housing development is taking place, we know that at least 15 percent of the new units will be affordable. Without inclusionary zoning, it is likely that there would be many fewer new affordable units in these neighborhoods.

Implications for New York

New York City has had some experience using inclusionary zoning and the city has identified inclusionary zoning (New York City calls these policies “inclusionary housing”) as one way to “expand targeted affordability.”³⁶ The city’s policy is a voluntary program, in which developers can receive density bonuses in exchange for constructing affordable units. In fact, the city included voluntary inclusionary zoning provisions in the Williamsburg/Greenpoint rezoning.

The city has had modest success with its current inclusionary zoning policies; approximately 3,300 affordable units have been produced since 1997, according to the Department of Housing Preservation and Development. However, by strengthening its inclusionary zoning policy so that it is mandatory, the city could produce far more units. If New York City’s inclusionary zoning policy produced new units at the same rate as San Francisco’s, the city would have produced 5,800 affordable units since 2005, more than the total number of inclusionary units produced in New York City since 1997.

Inclusionary zoning does not represent a complete affordable housing strategy. Rather, it is a tool for keeping neighborhoods economically and socially integrated. It is a means for long-time neighborhood residents to reap some benefits from new housing development and neighborhood change. By finding a way for all residents to benefit from the development of luxury housing, inclusionary zoning can help secure neighborhood “buy-in” for higher density development.

32 *San Francisco Housing Inventory 2008*. San Francisco Planning Department. 2009 April.

33 Nicholas Brunick, Lauren Goldberg, and Susannah Levine. *Voluntary or Mandatory Inclusionary Housing? Production, Predictability, and Enforcement*. Business and Professional People for the Public Interest. 2004 August.

34 Jenny Schuetz, Rachel Meltzer, and Vicki Been. *Silver Bullet or Trojan Horse? The Effects of Inclusionary Zoning on Local Housing Markets in Greater Boston*. Furman Center for Real Estate and Urban Policy, NYU. 2009 March.

35 *Silver Bullet or Trojan Horse?*

36 *PlaNYC 2030*.

Research suggests that inclusionary zoning will not slow the rate of housing production to any significant degree. In fact, by including sufficient density bonuses, inclusionary zoning can increase the number of units that are produced on a parcel of land.

5. SAN FRANCISCO, CA: EXPANDING HEALTH CARE ACCESS WITH HEALTHY SAN FRANCISCO

The Problem: Over 1.2 million New York City residents, one in six people under the age of 65, were uninsured in 2005.³⁷ It is likely that this number has increased due to the rising costs of health care and the current economic recession.

Most uninsured individuals do not have a regular source of health care. Nationally, the uninsured are four times more likely to delay or skip needed medical care than people with insurance and are also far more likely to forgo necessary prescription drugs.³⁸ Uninsured people suffer more frequent and severe illnesses. Without treatment, diseases spread to others, conditions worsen, and health deteriorates. Uninsured people are more likely to be hospitalized for preventable conditions and to die prematurely.³⁹

The city bears some of the financial cost of caring for the uninsured. Uninsured residents are more likely to use the emergency room when they are sick or injured, and an emergency room visit is far costlier than a primary care office or clinic visit. Health care for the uninsured provided by the city's public health care system, Health and Hospital Corporation, cost \$850 million in 2008, over \$500 million of which was paid for by the city.⁴⁰

Seventy percent of uninsured adult New Yorkers are actually employed, but their employers do not offer affordable health benefits.⁴¹ For example, research by the Brennan Center for Justice estimates that in 2006 approximately 28 percent of large grocery and food retail stores in New York City did not contribute to employee health costs.⁴² These companies gain a competitive advantage by shifting their employee costs to the public.

When public money is spent on covering uninsured patients instead of improving the quality of health services, everyone suffers. Catherine Abate of the Community Healthcare Network explains, "Let's face it, we all pay whether we are insured or not. We all visit hospitals, clinics and private doctors. If they are seeing more and more uninsured, that affects the quality of care and their ability to hire staff, innovate and invest in new technology."

The New York Health and Hospital Corporation provides access to free and reduced-cost health care, including primary and preventive care, for New York City's uninsured lower-income residents through the HHC Options program. However, the program has only reached a paltry eight percent of the city's uninsured population since its inception in 2004.⁴³ Additionally, the Health and Hospital Corporation is facing worsening financial difficulties, which are culminating into a billion dollar debt leading to hospital and clinic closures, hiring freezes, and turmoil within the corporation. Without a more secure source of funding, the current system would almost certainly be unable to cover a large percentage of the population's uninsured with HHC Options.

37 See "Health Insurance Coverage in New York, 2005-2006," United Hospital Fund. Available at: http://www.uhfnyc.org/usr_doc/Health_Insurance_Coverage_in_New_York_2005_2006.pdf. See also *Health Care Access Among Adults in New York City: The importance of having insurance and a regular care provider*. New York City Department of Health and Mental Hygiene. 2007 May.

38 Kaiser Commission on Medicaid and the Uninsured. "The Uninsured and the Difference Health Insurance Makes." The Henry J. Kaiser Family Foundation. 2008 September. <http://www.kff.org/uninsured/1420.cfm>.

39 *Ibid.*

40 "Budget Gap Closing Plan Highlights," Health and Hospitals Corporation. 2009 March.

41 *Health Care Access Among Adults in New York City*.

42 "Frequently Asked Questions." Brennan Center for Justice and Jobs With Justice. Available at http://www.brennancenter.org/page/-/d/download_file_35192.pdf.

43 Calculated from data from "HHC President Alan D. Aviles's Testimony on the New York City Council Fiscal Year 2009 Preliminary Budget Hearing Committee On Health." The City of New York. 2008 March. Available at <http://www.nyc.gov/html/hhc/html/pressroom/press-budget-hearing-20080311.shtml>.

The Solution: Healthy San Francisco Health Care Program

Healthy San Francisco, implemented in 2007, provides access to health care for the city’s uninsured residents. The program is not insurance. Rather, it provides health services to residents at select facilities in the city, including several hospitals and 29 “medical homes.” A medical home is a clinic where program participants receive primary health care services. In addition, Kaiser Permanente, a managed care organization based in California, joined the program and will begin providing medical services to Healthy San Francisco participants at its San Francisco medical facilities on July 1, 2009.

Individuals are eligible for the program if they:

- Live at or below 500 percent of the federal poverty level, reside in San Francisco, and are 18—64 years old;
- Are uninsured and are ineligible for public insurance programs; and
- Have been without employer-based or individually-purchased health insurance for at least 90 days.

Enrollment status is not contingent upon immigration status, employment status, or pre-existing conditions. Healthy San Francisco provides access to:

- Primary, preventive, and specialty care;
- Urgent, emergency, and hospital care;
- Ambulance services;
- Alcohol and drug abuse care;
- Laboratory services and tests;
- Durable medical equipment; and
- Prescription medications.

The program, which is estimated to cost \$200 million annually when it is fully implemented, is funded via federal, state, and city funds, participant fees, and an employer spending requirement.

- Participant contributions include:
 - Quarterly fees dependent upon one’s income, ranging from \$0 to \$675;
 - Point-of-service fees, depending on the patients’ income and type of care provided, ranging from \$0 to \$200.
- Employer spending requirement:
 - The employer spending requirement went into effect in 2008 when the Healthy San Francisco was enacted, requiring medium- and large-size employers to make minimum health care expenditures on behalf of their employees. Covered employees include those working at least eight hours per week and have not waived the right to have their employer make a contribution for their benefit.
 - Businesses with 20-99 employees must contribute \$1.23 per hour per covered employee.
 - Businesses with at least 100 employees must contribute \$1.85 per hour per covered employee.
 - The employer spending requirement does not apply to small businesses and nonprofits with fewer than 20 employees.
 - To fulfill the requirement, employers may contribute to a city fund. Payments to this option fund health care for employees covered by Healthy San Francisco or a Medical Reimbursement Account (often used by those who work in San Francisco but live outside the city).

Impact

To date, Healthy San Francisco has succeeded in enrolling over two-thirds of the city's uninsured population, or 42,000 individuals.⁴⁴ The program has enabled these San Franciscans to receive care for chronic diseases and conditions that, if left untreated, can lead to chronic disease, premature death, and overuse of emergency care. The program is also allowing health officials in San Francisco to identify individuals who qualify for, but were not enrolled in, public health insurance programs such as Medicaid.

Cost-savings stem from fewer hospital and emergency room visits both directly and indirectly. Initial outcome data show that the cost of providing Healthy San Francisco is less than the estimated cost of providing program participants with private insurance.⁴⁵ The data show that participants are relying more on their medical homes instead of hospitals as a usual site of care.⁴⁶ The number of "avoidable" emergency room visits for Healthy San Francisco participants was lower in comparison to adult Medi-Cal (California's Medicaid program) recipients.⁴⁷

Healthy San Francisco's net costs were \$600,000 in its first year—\$4.9 million in start-up costs and \$4.3 million in revenues. Projections for the second year show revenues to exceed costs by roughly \$3.3 million, with nearly \$20 million in revenues coming from the employer spending requirement.⁴⁸ With annual per participant costs at roughly \$3,360, employer contributions can fully cover health care costs for nearly 6,000 uninsured people. As of October 2008, over 1,000 San Francisco employers have opted to contribute to the city fund to fulfill their spending requirement. Contributions to the city fund currently account for approximately \$14 million of the total revenues of Healthy San Francisco.

The Golden Gate Restaurant Association challenged the employer spending requirement in 2006, citing it as a violation of the Employee Retirement Income Security Act (ERISA). The court upheld the ordinance as valid because it does not require employers to establish ERISA plans or make any change to existing ERISA plans. Employers instead have the option of making payments to the city on behalf of their employees. Further, the ordinance is concerned with payments but not with the nature or quality of health care benefits employers provide.

The program has several potential benefits for employers. Healthy individuals are more productive in the workplace, less likely to spread an illness to other workers, and utilize fewer sick days. Additionally, the employer spending requirement levels the playing field for responsible businesses that previously offered insurance options to employees.

Implications for New York

The New York City public health care system's health care program, HHC Options, provides affordable health coverage for primary, preventive, specialty, emergency, vision, and dental care, as well as prescriptions to New York City residents living at or below 400 percent of the poverty line, regardless of immigration status, employment status, or medical history. Members of HHC Options pay visit fees on a sliding scale based on their income and pay no participant fee; these fees apply to any of the Health and Hospital Corporation's 11 hospitals and more than 80 clinics.

The San Francisco and New York City programs have many similarities; however there are some important aspects of Healthy San Francisco lacking in HHC Options that likely contribute to its comparative success:

44 See http://www.healthysanfrancisco.org/about_us/Stats.aspx#.

45 City and County of San Francisco, Department of Public Health. Memorandum March 17, 2009. See http://www.healthysanfrancisco.org/files/PDF/HSF_Services_and_Costs.pdf.

46 *Ibid.*

47 *Ibid.*

48 *Ibid.*

- **Employer spending requirement and participation fees**—HHC Options does not receive funding from an employer spending requirement or participation fees, two funding sources that contribute to Healthy San Francisco’s success. If New York effectively implements similar measures, a city health care program would benefit from millions of dollars of funding, enabling the city to improve care and expand it to more uninsured New Yorkers.
- **Multiple health care providers**—Health and Hospital Corporation facilities are the only sites at which HHC Options members can access care. A citywide program should seek a partnership between multiple health care providers, as Healthy San Francisco has done, to expand health care access, improve the quality of service, and discourage emergency room use.
- **Simple enrollment procedure**—In order to enroll in HHC Options one must first make a medical appointment with an HHC Options provider and consult with a financial counselor at the time of the visit. Because the applicant may have to pay for the visit depending on subsequent enrollment in HCC Options or a public insurance option, some would-be applicants may shy away from applying to the program. Enrolling in Healthy San Francisco simply requires completion of paperwork and showing proof of residency at one of many enrollment sites throughout San Francisco. A streamlined process would likely encourage enrollment in a New York City health program.
- **Expanded eligibility**—New York’s health care program should expand its eligibility to include more of the uninsured middle class. Healthy San Francisco allows participation by those living up to 500 percent of the poverty line, while HHC Options limits eligibility to 400 percent of the poverty line, excluding over 150,000 uninsured New York City residents who fall in this range.⁴⁹

The most significant difference between the programs is Healthy San Francisco’s employer spending requirement. New York City has already attempted to create a funding mechanism similar to San Francisco’s. In 2005 the City Council passed the Health Care Security Act which requires grocery stores and other food retailers to contribute \$2.50 toward health care for each hour an employee works, or \$5,000 a year for a full-time employee. Mayor Bloomberg vetoed the Act and was overridden by the City Council. However, the Mayor has chosen not to enforce the Act after a ruling by the New York State Court of Appeals stated that the Mayor does not have to enforce laws that he believes violate state and federal statutes. The court’s ruling that Healthy San Francisco does not violate federal law should make the Mayor reconsider his stance and act quickly to extend health coverage to more uninsured New Yorkers.

49 “Health Insurance Coverage in New York, 2005-2006.”

6. BERKELEY, CA: IMPROVING ENERGY EFFICIENCY AND PROMOTING RENEWABLE ENERGY

The Problem: Over three quarters of the city’s greenhouse gas emissions come from buildings. While New York City is promoting new ways to reduce emissions from the city’s largest buildings, small buildings also need energy efficiency improvements.

Building operations—heating, cooling, and lighting as well as powering appliances—are responsible for 78 percent of the city’s carbon dioxide emissions. This is primarily because New York City’s building stock is so old. The median age of a residential unit in the city is 73 years⁵⁰ and 43 percent of the city’s housing stock was built before 1939.⁵¹ By retrofitting older buildings with new, green building technologies, the buildings’ energy usage can be considerably reduced.

For example, energy efficiency improvements in the Empire State Building, built in 1931, began in April 2009. The improvements are expected to reduce energy usage by 38 percent, for savings of \$4.4 million annually.⁵² Energy efficiency upgrades are not just altruistic exercises for saving the planet, but also have a real impact on a building owner’s bottom line.

Even though energy efficiency improvements will reduce a building owner’s energy costs, the high upfront cost is both a psychological and financial barrier for building owners. The cost of energy efficiency improvements varies greatly from case to case. However, to provide an example, a case study of a 208 unit mid-rise apartment building in Buffalo, NY revealed that the building owners made an investment of nearly one million dollars to finance its energy efficiency improvements.⁵³ Even after a building owner applies for the various tax breaks and other incentives offered at the state and federal level, the upfront cost is still a major impediment.

Given the fact that such a large percentage of New York City’s greenhouse gas emissions come from building operations, the city will need to take ambitious action to increase energy efficiency if New York is to meet the Mayor’s goal of reducing emissions by 30 percent by 2030.

The Solution: Berkeley FIRST Municipal Financing

The Berkeley FIRST model of municipal financing spreads the costs of installing a solar energy system out over time so that payments for the system are matched by energy savings, month for month. The program allows property owners to borrow funds to install solar photovoltaic systems on their residential or commercial property and repay the cost of installation (plus interest) over a period of 20 years through their property tax bills. The program was initially conceived to provide financing for both solar projects and energy efficiency projects. However, during Berkeley’s first pilot phase of the project, the city decided to limit the project to solar power systems.

- The City of Berkeley established a special tax district specifically for the Berkeley FIRST program. The tax district only includes those property owners that voluntarily “opt-in” to Berkeley FIRST as a financing mechanism for solar installation.
- Berkeley issued bonds based on future tax revenue from the special tax district.

50 *State of New York City’s Housing and Neighborhoods 2008.*

51 *American Community Survey 2007.* U.S. Census Bureau.

52 Mireya Navarro, “Empire State Building Plans Environmental Retrofit,” *New York Times*. April 6, 2009.

53 Cliff Majersik. *The Impact of Energy Costs on Multi-Family Residential Building Value.* Institute for Market Transformation. August 2004.

- In order to administer the program, Berkeley has teamed up with Renewable Funding, a limited liability company that purchases the bonds and administers the application process.
- Property owners that wish to secure financing through Berkeley FIRST apply online with Renewable Funding and pay a \$25 “reservation fee.”
 - At the time of application a property owner needs to have an initial bid on the solar installation from a certified contractor. The property owner must also apply for state and federal solar incentive programs.
- After approval, a property owner has 270 days to complete the installation of a solar energy system.
- Once installation is complete, the property owner submits a funding request. Participants can receive full funding for the project, after state and federal rebates, up to \$37,500.
- The city then places a lien on the property for the exact amount of the installation, plus interest.
 - The interest is set at a rate equal to the 10-Year Treasury Rate plus 3.25 percent, or 6.75 percent, whichever is greater.
- After the lien is placed on the property, the property owner is issued a check for the cost of installation and the property owner pays the installation contractor. Property owners repay the city bi-annually through their property tax bill and the city pays back the bonds to Renewable Funding.

The tax assessment is transferable between owners; that is, if one sells a property prior to the end of the 20-year repayment period, the next owner takes over the assessment as part of their property tax bill. The energy systems are considered part of the property and ownership of the energy system will transfer to the new owner at the close of the real estate sale. Failure to pay the tax may result in foreclosure of the property. The tax is secured by a lien on the property, which ranks senior to the first mortgage. As a general matter, if a property owner fails to pay property taxes for five years, the county will foreclose on the property to collect delinquent taxes.

Impact

Berkeley FIRST was rolled out in November of 2008 as a pilot project limited to 40 properties. The application process for the program was opened on November 6, 2008. After the application process was opened, the city received more applications than available slots within minutes. Since then, two projects have been completed and the funds have been distributed to the property owners. An additional 38 ongoing projects have funding commitments from the City of Berkeley.

The Berkeley FIRST program offers several benefits to property owners who wish to install solar power systems on their property:

- There is relatively little up-front cost to the property owner.
- The cost is spread over 20 years. The annual cost for the installation of a \$28,000 system comes to about \$2,089 a year, or \$182 a month.
- Energy savings are projected to match or exceed the cost of the annual assessment.
- The financing costs are comparable to a traditional equity line or mortgage, but the owner doesn’t lose equity in the property and doesn’t rely on, or draw down, a property owner’s available credit line.
- Since the solar system stays with the property, so does the tax obligation. If the property is transferred or sold, so is the remaining tax obligation. Since the average American lives in his or her home for nine years, the transferability is crucial.

Analysis conducted by the University of California Renewable and Appropriate Energy Laboratory in Berkeley explored the costs savings that single-family homeowners would receive after participating in the program. It was found that if a California homeowner were to use the Berkeley FIRST model to finance energy efficiency projects, homeowners would see savings between \$671 and \$2,902 annually, depending on how much electricity and gas prices increase over time.⁵⁴

Implications for New York

This spring, Mayor Bloomberg and City Council Speaker Christine Quinn introduced several pieces of legislation that will require energy efficiency improvements in the city's largest buildings. This legislation represents the most ambitious effort of any local government in the country to improve energy efficiency in large commercial and residential buildings. However, several of the new laws do not address the need to improve energy efficiency in small and medium-sized buildings. The new legislation will cover the 22,000 buildings in the city that are over 50,000 square feet. Together, these buildings represent 45 percent of the city's floor space.⁵⁵

However, smaller buildings, which make up the other half of the city's total floor space, need a low-cost financing mechanism. Berkeley FIRST can provide that. The new legislation is estimated to reduce the city's greenhouse gas emissions by 5 percent. By applying the Berkeley FIRST model to the city's smaller buildings, New York can build on that success.

The City Council would likely need to gain the approval of the state legislature to create a new tax district similar to the one that was established in Berkeley. The city would also need to identify and partner with one or several non-profit agencies that would take on the same responsibilities that Renewable Funding did in Berkeley.

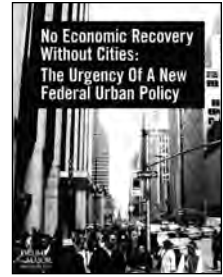
54 Merrian C. Fuller, Stephen Compagni Portis, and Daniel M. Kammen. *Eliminating the First Costs of Energy Efficiency and Solar Power through Innovative Municipal Financing*, November 2008.

55 *PlaNYC 2030: The New York City Greener, Greater Buildings Plan*. The City of New York. Available at http://www.nyc.gov/html/planyc2030/downloads/pdf/greener_greater_buildings.pdf.

ALSO FROM DMI

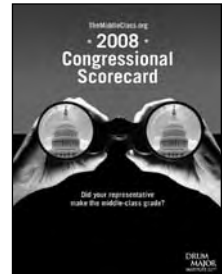
NO ECONOMIC RECOVERY WITHOUT CITIES: THE URGENCY OF A NEW FEDERAL URBAN POLICY

June 2009 / President Obama's newly created White House Office of Urban Affairs presents a new opportunity for federal urban policy. The urban policies of previous administrations have viewed cities as problems or have held that the federal government could do best for cities by doing least. In contrast, the Office of Urban Affairs provides an opportunity to maximize the economic potential of cities through well-coordinated, productive relationships with the federal government. These relationships are particularly important to the success of the economic stimulus package and to economic recovery. DMI offers a number of policy principles to guide the Office's efforts to develop a strategy for metropolitan America.



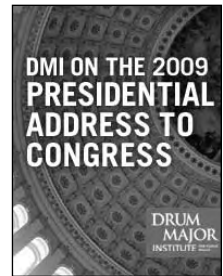
MIDDLECLASS.ORG 2008 CONGRESSIONAL SCORECARD

March 2009 / Who stood up for the middle class? We examine the good and bad decisions Congress made in 2008—from the February stimulus bill to the Senate filibusters that killed legislation to address the home mortgage crisis and to assist the struggling auto industry. We look at how the middle class gained from the New GI Bill and the Higher Education Act, and how ordinary Americans lost with the no-strings-attached bank bailout. Each member of Congress is graded on his or her votes for or against the middle class.



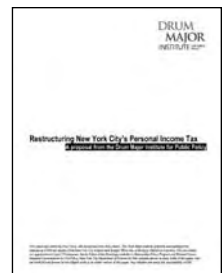
DMI ON THE 2009 PRESIDENTIAL ADDRESS TO CONGRESS

February 2009 / "The President's vision is an inspiration, and his accomplishments so far are significant. But in the context of the most severe economic crisis the nation has faced in generations, our actions must be still bolder." The Drum Major Institute's rapid analysis of Obama's State of the Union-like address hails the President's remarkable achievements for the current and aspiring middle class and calls for economic, health, education and energy policies commensurate with the tremendous challenges America faces.



RESTRUCTURING NEW YORK CITY'S PERSONAL INCOME TAX

February 2009 / 224,000 New York City households are too poor to pay state and/or federal income taxes, yet still owe taxes to the city. Almost all are households with children, most are headed by single parents. DMI proposes eliminating city income taxes on these households and paying for it with a tax increase on the city's wealthiest residents. The plan was endorsed by New York City Council Speaker Christine Quinn, Councilmember David Yassky, and State Senator Liz Krueger.



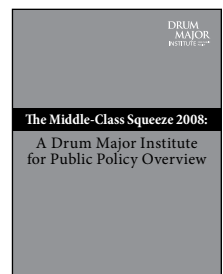
2008 YEAR IN REVIEW

December 2008 / In this Year in Review, the Drum Major Institute for Public Policy offers a look back at 2008 through the best and worst of the year's public policy, including a program to expand the ranks of the insured in San Francisco (one of the best) and the Paulson financial bailout plan (one of the worst). We also highlight on-the-ground stories from five American cities, include an idiosyncratic election timeline, and recommend the year's best books for progressives. As always, we provide a hawk's eye view of what the think tanks on the conservative right are up to and our 2008 Injustice Index, a by-the-numbers appraisal of the Bush legacy.



MIDDLE-CLASS SQUEEZE 2008: A DMI OVERVIEW

September 2008 / Most Americans aim to attain—or hold onto—a middle-class standard of living including a reliable job with fair pay; access to health care; a safe and stable home; the opportunity to provide a good education for one's children, including a college education; time off work for vacations and major life events; and the security of looking forward to a dignified retirement. With this overview, DMI brings together the latest data illustrating how precarious that standard has become.



WHO IS THE DRUM MAJOR INSTITUTE FOR PUBLIC POLICY?



The Drum Major Institute for Public Policy is a non-partisan, non-profit think tank generating the ideas that fuel the progressive movement. From releasing nationally recognized studies of our increasingly fragile middle class to showcasing progressive policies that have worked to advance social and economic justice, DMI has been on the leading edge of the public policy debate. Founded during the civil rights movement, DMI equips those on the frontlines with the tools to more effectively advance an agenda of social and economic justice, including research, model policies, policy-driven Web sites, and even young talent.

For more information, please visit www.drummajorinstitute.org

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