

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

KELTON DAVIS, WILLIAM TURNER,
ALTAGRACIA HERNANDEZ, EDWIN
LARREGUI, ROMAN JACKSON, KRISTIN
JOHNSON, ELEANOR BRITT, ANTHONY
ANDERSON, LASHAUN SMITH, SHAWNE
JONES, HECTOR SUAREZ, ADAM COOPER,
ANDREW WASHINGTON, P.L. BY HIS PARENT
LISA PIGGOTT, DAVID WILSON, AND
GENEVA WILSON, individually and on behalf of a
class of all others similarly situated;

Plaintiffs,

-against-

THE CITY OF NEW YORK and NEW YORK
CITY HOUSING AUTHORITY;

Defendants.

Civil Action No. _____

COMPLAINT

[Class Action]

DEMAND FOR JURY TRIAL

U.S. DISTRICT COURT
S.D.N.Y.
10 JAN 28 PM 9:25
PROCESSED

PRELIMINARY STATEMENT

1. This is a civil rights action in which Plaintiffs Kelton Davis, William Turner, Altagracia Hernandez, Edwin Larregui, Roman Jackson, Kristin Johnson, Eleanor Britt, Anthony Anderson, Lashaun Smith, Shawne Jones, Hector Suarez, Adam Cooper, Andrew Washington, P.L., by his parent Lisa Piggott, David Wilson, and Geneva Wilson, (collectively, "Named Plaintiffs"), on behalf of themselves and a class of similarly situated individuals, seek to remedy the continuing violation of their rights secured by 42 U.S.C. § 1983; 42 U.S.C. § 1981; the Fourth and Fourteenth Amendments to the United States Constitution; Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d); Title VIII of the

Civil Rights Act of 1968, 42 U.S.C. § 3601 *et seq.* (“Fair Housing Act”); the United States Housing Act, 42 U.S.C. § 1437, *et seq.*; the Constitution and laws of the State of New York; and the New York City Human Rights Law.

2. The Defendants, the City of New York (“City”) and the New York City Housing Authority (“NYCHA”) (collectively, “Defendants”), operating through and in conjunction with the New York City Police Department (“NYPD”), have implemented and continue to conduct, enforce and sanction an unlawful vertical patrol and trespass arrest policy which has resulted in a pattern and practice of illegal stops, seizures, questioning, searches, and false arrests of residents of, and authorized visitors to, NYCHA residences.
3. A vertical patrol is a top-to-bottom walk-through patrol or “sweep” of hallways, stairwells, rooftops and landings, elevators, and other common areas of a NYCHA residence. (NYPD Patrol Guide 212-59 and 212-60). Under the vertical patrol policy and trespass arrest practices, New York City Police Department officers conduct roving pedestrian checkpoints in and around NYCHA residences, wherein they indiscriminately stop and question every person they observe, without objective individualized suspicion of a crime, and unlawfully arrest individuals for trespass without probable cause.
4. In addition to organized and directed vertical patrols in NYCHA residences, some trespass arrests are the result of less formal sweeps.
5. As a result, the number of trespass arrests in NYCHA residences has increased dramatically in recent years, without any reasoned justification or correlative rise in criminal activity. Instead, people with a legitimate reason for being on NYCHA property are being unconstitutionally detained and/or arrested on a routine basis.

6. Defendants enforce the trespass laws in NYCHA residences in an unlawful manner, and without adequate training and controls, based on the race, ethnicity, and/or national origin of NYCHA residents and visitors.
7. Defendants implement and apply these policies, practices, and customs in an intentionally discriminatory and race-based manner by focusing the patrols and trespass arrest practices entirely on communities of color, such as NYCHA residences, where historically entrenched racial segregation ensures that African Americans and Latinos will bear the brunt of Defendants' unlawful actions. Defendants also discriminatorily acquiesce in, ratify, and fail to monitor or rectify NYPD officers' widespread unlawful practices because the victims are overwhelmingly African Americans and Latinos.
8. The rate of trespass stops, arrests, and enforcement in predominantly minority NYCHA residences is, on average, three times higher than surrounding areas with similar rates of crime. The decision to enforce trespass laws in this disproportionate way is not explained or justified by underlying crime levels in NYCHA residences. Moreover, where predominantly minority NYCHA residences are located in predominantly white or gentrifying neighborhoods, the disparities in trespass arrest rates increase even further.
9. The vertical patrol policy and trespass arrest practices do not affect only visitors who are stopped, seized, questioned, searched, and/or arrested; they also intimidate, threaten, and interfere with NYCHA residents' enjoyment of their homes on the basis of race, ethnicity, and/or national origin. In addition, Defendants' vertical patrol policy and trespass arrest practices interfere with the rights of NYCHA residents to freely associate with individuals whom they invite to their homes.

10. The mandate of the NYPD is to safeguard community members from crime by providing security and otherwise delivering police services. Yet NYCHA residents are not provided protection on the same terms as other community members – instead, they and their invited guests are subject to police harassment and unfounded stops, seizures, questioning, searches, and arrests when merely trying to enter and leave their own homes. A recent report delivered to the NYPD Commissioner by NYCHA tenant leaders critiqued NYPD trespass enforcement and noted that residents feel like they live in “penal colonies.” Citywide Council of Presidents of NYCHA, *The Public Housing Police and Public Housing Resident Perceptions* (Nov. 30, 2009) (“CCOP Statement”). The tenant leaders decried this type of “dehumanized policing” which, they allege, has become the norm instead of the exception in NYCHA residences. *Id.*
11. The vertical patrol policy and trespass arrest practices, as applied, are unreasonable conditions that deny NYCHA residents their rights to exclusive use and occupancy of their leased unit, and their right to entertain guests in their home.
12. The pattern and practice of police activity in NYCHA buildings is so aggressive and well known that some people are afraid to visit NYCHA residents. As such, this policy has prevented many NYCHA residents from maintaining and fostering close familial and personal relationships without unjustified government interference.
13. The Named Plaintiffs seek to represent a certified class for the purpose of obtaining injunctive and declaratory relief only. Specifically, the Named Plaintiffs seek a class-wide judgment declaring that Defendants’ policies, practices, and/or customs described herein violate Plaintiffs’ statutory and constitutional rights under federal, state, and local law. The Named Plaintiffs further request a class-wide injunction enjoining Defendants from

continuing such policies, practices, and/or customs. In addition, the Named Plaintiffs seek compensatory damages for their individual claims, an award of attorneys' fees and costs, and such other relief as this Court deems equitable and just.

JURISDICTION AND VENUE

14. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4), as this action seeks redress for violations of Plaintiffs' rights under the United States Constitution and federal civil rights laws; and by 42 U.S.C. § 3613(a), as Plaintiffs seek relief with respect to discriminatory housing practices in violation of the Fair Housing Act.
15. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202.
16. This Court also has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367(a), over the Plaintiffs' claims under state and local laws because they are so related to the claims within the original jurisdiction of this Court that they form part of the same case or controversy.
17. Venue is proper in the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. § 1391(b), because a substantial part of the events that gave rise to the claims alleged in this complaint occurred in the Counties of the Bronx and New York. In addition, Defendants conduct business and maintain their principal place of business in the Counties of the Bronx and New York.

PARTIES

Plaintiffs

18. The Plaintiff Class consists of two subclasses: the "Arrested Plaintiffs" and the "Resident Plaintiffs."

19. Arrested Plaintiffs are African-American and Latino NYCHA residents or family members, guests or visitors of NYCHA residents, who were or will be unlawfully stopped, seized, questioned, searched and/or falsely arrested for trespass in or around a NYCHA residence without any reasonable, articulable suspicion or probable cause that they were engaging in criminal activity and on the bases of their race, ethnicity, and/or national origin. All of the Arrested Plaintiffs are still subject to Defendants' unlawful conduct because they continue to lawfully reside in, or visit, NYCHA residences.
20. The Resident Plaintiffs are African-American and Latino NYCHA residents who live in buildings subject to the vertical patrol policy and trespass arrest practices. They, their family members, guests, and authorized visitors have been, or will be, unlawfully stopped, seized, questioned, searched and/or arrested for trespass by NYPD officers when visiting Resident Plaintiffs in NYCHA residences and on the bases of their race, ethnicity, and/or national origin.
21. Plaintiff KELTON DAVIS is an African-American resident of 480 St. Nicholas Avenue in the City of New York, Borough of Manhattan.
22. Plaintiff WILLIAM TURNER is an African-American resident of 77 Locust Hill Avenue in the City of Yonkers, New York.
23. Plaintiff ALTAGRACIA HERNANDEZ is a Latina resident of the NYCHA Carver Houses at 60 East 102nd Street in the City of New York, Borough of Manhattan.
24. Plaintiff EDWIN LARREGUI is a Latino resident of 5045 Linden Road in the City of Rockford, Illinois.
25. Plaintiff ROMAN JACKSON is an African-American resident of 1377 South Beverly Glen Blvd. in the City of Los Angeles, California.

26. Plaintiff ELEANOR BRITT is an African-American resident of the NYCHA Taft Rehabs at 131 St. Nicholas Avenue in the City of New York, Borough of Manhattan.
27. Plaintiff KRISTIN JOHNSON is an African-American resident of 236 Frederica Avenue in the City of Jackson, Mississippi.
28. Plaintiff SHAWNE JONES is an African-American resident of the NYCHA Langston Hughes Houses at 301 Sutter Avenue in the City of New York, Borough of Brooklyn.
29. Plaintiff LASHAUN SMITH is an African-American resident of 441 Frizzell Avenue in the City of Norfolk, Virginia.
30. Plaintiff ANTHONY ANDERSON is an African-American resident of 348 East 110th Street in the City of New York, Borough of Manhattan.
31. Plaintiff HECTOR SUAREZ is a Latino resident of the NYCHA Louis H. Pink Houses at 1211 Loring Avenue in the City of New York, Borough of Brooklyn.
32. Plaintiff ADAM COOPER is an African-American resident of NYCHA Louis H. Pink Houses at 1260 Loring Avenue in the City of New York, Borough of Brooklyn.
33. Plaintiff P.L., by his parent LISA PIGGOTT, is an African-American resident of NYCHA's Eastchester Gardens at 1236 Burke Avenue in the City of New York, Borough of the Bronx.
34. Plaintiff ANDREW WASHINGTON is an African-American resident of NYCHA's Eastchester Gardens at 1240 Burke Avenue in the City of New York, Borough of the Bronx.
35. Plaintiff DAVID WILSON is an African-American resident of 55 Brooklyn Avenue in the City of New York, Borough of Brooklyn.
36. Plaintiff GENEVA WILSON is an African-American resident of NYCHA's Randolph Houses at 255 West 114th Street in the City of New York, Borough of Manhattan.

Defendants

37. Defendant City is a municipal entity created and authorized under the laws of the State of New York. It is authorized under the laws of the State of New York to maintain, operate, and govern a police department, the NYPD, which acts as its agent in the area of law enforcement and for which it is ultimately responsible. The law enforcement activities of NYPD and NYCHA are supported in part by federal funds.
38. Defendant NYCHA is a public housing authority in the City that owns and operates housing for low-income residents in all five boroughs of New York City. NYCHA is responsible for the design and implementation of policing and security policies in NYCHA residences. NYCHA's principal offices are located at 250 Broadway, New York, New York 10007.

CLASS ACTION ALLEGATIONS

39. The Named Plaintiffs bring this action on behalf of themselves, and all others similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure.
40. The Plaintiff Class includes two subclasses described above at paragraphs 19-21.
41. The Named Plaintiffs representing the Resident Plaintiffs are: KELTON DAVIS; ALTAGRACIA HERNANDEZ; ROMAN JACKSON; ELEANOR BRITT; ANDREW WASHINGTON; P.L. by his parent LISA PIGGOTT; SHAWNE JONES; HECTOR SUAREZ, and GENEVA WILSON.
42. The Named Plaintiffs representing the Arrested Plaintiffs are: WILLIAM TURNER; EDWIN LARREGUI; ROMAN JACKSON; KRISTIN JOHNSON; ANDREW WASHINGTON; P.L. by his parent LISA PIGGOTT; LASHAUN SMITH; ANTHONY ANDERSON; ADAM COOPER, and DAVID WILSON.

43. This action is properly maintainable as a class action because the requirements of Rules 23(a) and 23(b) of the Federal Rules of Civil Procedure are met, as explained below.
44. The class and each subclass are so numerous that joinder of all members is impracticable. Upon information and belief, there are presently over 400,000 residents in NYCHA residences, over 95% of whom are nonwhite. In 2008 alone, there were thousands of arrests for trespass in NYCHA residences and the overwhelming majority of those arrested were African American or Latino.
45. Joinder is also impracticable because, upon information and belief, many potential members of the class are not aware that their constitutional, statutory, and common law rights have been violated and that they have the right to seek redress in court. Further, future members of the class are unknown and therefore cannot practically be joined individually. There is no appropriate avenue for the protection of these potential class members' constitutional and statutory rights other than a class action.
46. The claims alleged on behalf of the Named Plaintiffs as class representatives raise questions of law or fact common to the Plaintiffs, and each subclass, and these questions predominate over individual questions. These common questions include, but are not limited to: (a) whether NYPD officers engage in a policy, practice and/or custom of stopping, seizing, questioning, searching, and/or arresting members of the class for trespass in the absence of reasonable, articulable suspicion or probable cause; (b) whether the NYPD has a discriminatory policy, practice, and/or custom of unconstitutional stops, seizures, questioning, searches, and arrests in NYCHA housing that is motivated by the class members' race, ethnicity and/or national origin; (c) whether Defendant City has encouraged, sanctioned, and failed to rectify unconstitutional stops and false arrests for trespass by NYPD

