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Criminal  
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## CRIMINALIZING THE SIDEWALK

Why the Los Angeles City Attorney's Office Should Take  
Action to Reform the Unjust Treatment of Low-Income  
Sidewalk Vendors

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### SUPPORTERS OF REPORT'S KEY RECOMMENDATIONS FOR REFORM:

The following nonprofit organizations and community groups join in this report's recommendation of five Key Reforms to reduce the criminalization of sidewalk vendors:

**Coalition for Humane Immigrant Rights of Los Angeles**

**East Los Angeles Community Corporation**

**Los Angeles Street Vendor Campaign**

**National Lawyers Guild, Los Angeles Chapter**

**Public Counsel Law Center**

**UCLA Downtown Labor Center**

**Unión del Barrio**

**Unión de Vendedores Ambulantes, District 1**

## **ABOUT THE UCLA SCHOOL OF LAW CRIMINAL DEFENSE CLINIC**

As part of UCLA School of Law's Clinical and Experiential Learning Program, the Criminal Defense Clinic provides an advanced setting to integrate skills, substance, and professionalism through engagement with real lawyering problems. Like other live-client clinics at UCLA Law, the Criminal Defense Clinic is designed to transfer basic knowledge of the law and familiarity with lawyering skills to the far more complex tasks of working with real clients, collaborating with community groups, and complying with professional obligations. As part of its mission, the Criminal Defense Clinic takes on policy projects to address systemic criminal justice problems.

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## EXECUTIVE SUMMARY

Sidewalk vendors in Los Angeles live on subsistence wages earned from an honest day's work. Yet, they are subject to vigorous police harassment, constant ticketing, onerous criminal justice debt, bench warrants for failures to appear, arrests, and incarceration. This report, authored by the UCLA School of Law's clinical students and joined by a coalition of advocates and nonprofit organizations working on related issues, requests that the Los Angeles City Attorney's Office rethink this punitive treatment of vendors. Specifically, we recommend that the City Attorney implement the following five Key Reforms:

**Key Reform 1:** Cease all sidewalk vending prosecutions charged pursuant to Section 42.00 of the Los Angeles Municipal Code until the city has adopted new legislation to legalize and regulate vending.

**Key Reform 2:** Dismiss all pending sidewalk vending cases and bench warrants for failures to appear associated with those cases.

**Key Reform 3:** Offer a special four-hour-per-conviction community service program for vendors with criminal justice debt from past Section 42.00 convictions.

**Key Reform 4:** Work with the Los Angeles Police Department to draft and implement a property seizure protocol for sidewalk vendors that complies with the Fourth Amendment and Due Process.

**Key Reform 5:** Collaborate with community stakeholders to develop a city-wide regime for legal and regulated sidewalk vending.

## INTRODUCTION

Sidewalk vendors have long been an iconic presence in Los Angeles. Efforts to legalize sidewalk vending began in the 1990s, and are now gaining momentum in the Los Angeles City Council. However, even as the City Council is poised to legalize sidewalk sales, vendors continue to face harassment by police officers, criminal prosecution, hefty fines and fees, warrantless property confiscation, and even custodial arrests. Indeed, Los Angeles is currently the only major city in the United States to have an outright criminal ban on sidewalk vending.<sup>1</sup>

This semester, UCLA School of Law’s Criminal Defense Clinic represents Ms. Rosa Calderon, a 79-year old indigent woman, who received seven different citations for sidewalk sales. Together with Los Angeles civil rights attorney Cynthia Anderson-Barker, we assisted Ms. Calderon through each stage of her criminal prosecution—including initial reporting to court, arraignment, trial, sentencing, and, now, post-conviction appeal. At each stage, we have been deeply disturbed by the treatment of sidewalk vendors like Rosa Calderon:

- Vendors’ property is seized without warrants and without any avenue for securing its return.
- Despite the availability of viable legal defenses to many of the charges filed against them, vendors are not provided attorneys and are unable to pay for attorneys to defend themselves in court.
- The Los Angeles Superior Court process for vending cases is burdensome, time consuming, and suffers from procedural and substantive flaws.
- Vendors convicted in these cases are subject to onerous criminal justice debt that, as the poorest of Los Angeles’ poor, they are unable to afford.
- Vendors unable to pay the hefty fees and fines levied against them, or unable to navigate the labyrinth of the courthouse, are issued bench warrants for failure to appear, charged exorbitant interest rates, and harassed by collection officers—further adding to their crippling criminal justice debt and even subjecting them to arrest and incarceration.<sup>2</sup>

After researching the history of Los Angeles’s sidewalk vending ordinance, working closely with a coalition of advocates seeking to assist sidewalk vendors, and litigating Rosa Calderon’s case, we ask that the City Attorney’s Office consider an alternative to criminalizing sidewalk vendors. Among other reforms, we request that your Office announce a moratorium on sidewalk vending prosecutions under Los Angeles Municipal Code Section 42.00.

Parts I and II of this report provide a brief background on the issue and show how the rationales that have been used to support criminalizing sidewalk vendors—crime, competition, and public safety—are misguided and without

empirical basis. Next, in Part III, we conclude by setting forth in more detail the steps that the City Attorney should take to reduce the criminalization of these working poor residents of our city.

## I. THE MOVEMENT TO LEGALIZE SIDEWALK VENDING

Vending on the sidewalk has been banned in Los Angeles since the 1930s and is punishable by up to six months in jail and a fine of up to \$1,000.<sup>3</sup> The broad criminal ban on sidewalk vending in Los Angeles is not only unique among major cities, but its vagueness and over-breadth has raised serious constitutional concerns. Over the years, several successful challenges to Los Angeles' vending ordinances have highlighted the First Amendment and Due Process concerns inherent in severely restricting sidewalk activity.<sup>4</sup>

In 1990, the Los Angeles City Council formed a 40-member Task Force to reevaluate the city's aggressive ban on sidewalk vending. The Task Force was organized around the basic principle that sidewalk vending will occur in Los Angeles whether the city regulates it or not; it was simply unrealistic to think that a major city can maintain an outright ban on vending. Other cities—such as New York, Boston, San Francisco, and San Antonio—had already implemented successful lawful vending programs. Task Force members thought Los Angeles should follow the leadership of other major cities and legalize sidewalk vending so as to empower the poor by providing meaningful and lawful employment opportunities.<sup>5</sup>

Based on its conclusion that vending should no longer be banned, the Task Force proposed the creating special districts where large numbers of vendors could operate. After many discussions between the City Attorney's Office

*Task Force members thought Los Angeles should follow the leadership of other major cities and legalize sidewalk vending so as to empower the poor by providing meaningful and lawful employment opportunities.*

and the city's various Departments, the City Council passed groundbreaking legislation to create Special Sidewalk Vending Districts.<sup>6</sup> The first such Vending District was established in the iconic MacArthur Park.<sup>7</sup> Fourteen vendors were licensed, each receiving loans from local credit unions to cover business start-up

costs.<sup>8</sup> One of the original fourteen licensed sidewalk vendors—Mama's Hot Tamales—is now a flourishing brick-and-mortar business on Wilshire Boulevard, not far from where it began as a sidewalk vendor.

Although the legislation mandating the creation of Special Sidewalk Vending Districts still exists on the books, the city has failed to fully implement the ordinance. In fact, beyond the MacArthur Park Special Sidewalk Vending

District, no additional Vending Districts were established. As such, sidewalk vendors have been deprived of the legal right to sell, which they fought so hard to obtain in the 1990s, and which was agreed upon and passed by the city.

In 2013, Los Angeles City Council members embarked on a new effort to legalize sidewalk vending. On December 2, 2014, members of the City Council Economic Development Committee considered a sidewalk vending policy framework proposed by the city’s Chief Legislative Analyst (CLA).<sup>9</sup> At this hearing, Council members commented that the legalization process cannot be stopped; the question is how, not whether, the city ultimately moves forward with legalization.<sup>10</sup> After listening to public comment, the Council Committee approved the CLA’s framework in concept and directed various city Departments to report back with data and recommendations concerning the policy details needed for administration, implementation, and enforcement.<sup>11</sup>

*In 2013, Los Angeles City Council members embarked on a new effort to legalize sidewalk vending.*

The benefits of legalization will be immense. A city-wide vending permit system will create jobs and open doors to entrepreneurship in neighborhoods that have been unfairly excluded from our economic recovery. Formalizing the vending economy will enhance the vibrancy and safety of our streets. With creative incentives, a vending permit system can also increase healthy food access in communities with limited food options.<sup>12</sup> Los Angeles is poised to join the ranks of other major cities in supporting—rather than criminalizing—entrepreneurship. Leadership from the City Attorney’s Office is instrumental for ensuring passage of a city-wide vending permit system.

## **II. CRIMINALIZING VENDING DOES NOT ADVANCE THE CITY’S STATED GOALS**

There are several rationales relied upon by opponents of legalized vending to support the continued criminal prosecution of sidewalk vendors. These publicly-stated rationales include reducing crime, preventing business competition, and enhancing public safety. Indeed, the preamble to the Los Angeles Municipal Code section criminalizing sidewalk vending relies on these very rationales: sidewalk vending should be criminally prosecuted in order to protect against “visual clutter,” “blight,” and “public health and safety.”<sup>13</sup> However, these rationales are not supported by empirical evidence and ignore the valuable contributions of vendors to our city. The result is that Los



Angeles’ poor—and, more specifically, a population that is almost exclusively people of color—is subjected to constant policing, stops and seizures, mounting criminal justice debt, and even arrest and incarceration.

## CRIME

Crime reduction is often cited as a rationale for prosecuting sidewalk vending. Vigorous enforcement of order-maintenance laws like sidewalk vending is most closely associated with the “broken windows” theory of policing.<sup>14</sup> The notion, taken from George Kelling and James Wilson’s *Atlantic Monthly* essay on the topic, is that if one window is left broken and unrepaired, soon all of the building’s windows will be broken. Such theories of policing have been influential in Los Angeles, where they were first adopted when William Bratton became Police Chief in 2002 and championed zero-tolerance petty policing strategies.<sup>15</sup>



*Los Angeles Police Officers ticket sidewalk vendors in a city park.*

At Rosa Calderon’s trial, a Los Angeles Police Officer assigned to the Central Division’s “Vending Unit” testified that his entire position was dedicated to ticketing sidewalk vendors. In other words, directly reflecting the broken windows approach, police in this “Vending Unit” consume themselves with ticketing vendors in lieu of other activities, such as preventing violent crime. At trial, the officer went so far as to claim that vendors like the 79-year-old Rosa Calderon selling Christmas ornaments on the sidewalk could attract gang members to the community—and that this would lead to fear and violence.

Yet, these theories of policing vendors remain unproven. In other contexts, experts have learned that broken windows policing does not necessarily reduce crime rates. For example, a comprehensive study of such policing strategies in New York City concluded that there was no statistically significant relationship between public disorder enforcement and the commission of more serious crimes such as assault, burglary, and rape.<sup>16</sup> In Los Angeles, a recent spatial analysis of vending and crime found that the presence of sidewalk vendors was not statistically correlated with violent crime incidents.<sup>17</sup>

*In Los Angeles, a recent spatial analysis of vending and crime found that the presence of sidewalk vendors was not statistically correlated with violent crime incidents.*

Moreover, far from causing crime, research has shown that sidewalk vendors contribute to the local economy in positive ways. The Economic Roundtable, a nonprofit research group in Los Angeles, has found that vendors contribute approximately \$504 million in sales of non-food items—and an additional \$100 million in food sales—to the Los Angeles economy each year.<sup>18</sup> Furthermore, if legalized, sidewalk vending would result in an additional \$43 million in annual state and local tax revenue.<sup>19</sup>

## COMPETITION

A second rationale for prosecuting Los Angeles' sidewalk vendors is competition.<sup>20</sup> The competition argument proceeds as follows: sidewalk vendors sell attractive items on the sidewalk at a lower price, thereby luring customers from brick-and-mortar establishments that incur higher overhead costs. Businesses complain about this competition and police therefore need to rid the street of sidewalk vendors. Indeed, this was precisely the rationale that the officer invoked in Rosa Calderon's trial—he claimed that his stationhouse received complaints from businesses in the area about vendors.

Such claims about competition are not well founded. For example, in Rosa Calderon's case, we went to the area where she was ticketed and met the area business owners and workers. Many knew and loved Rosa. In fact, they expressed real concern about how the police treated her with disrespect.

We also question the appropriateness of policing strategies that favor one type of business (brick-and-mortar) over another (sidewalk vendors). Back in 1978 when the Los Angeles City Attorney attempted to prosecute sidewalk vendors selling food from carts within one hundred feet from an entrance to a brick-and-mortar establishment, the Appellate Division of the Superior Court invalidated the prosecution—declaring that the Los Angeles ordinance

“discriminated economically against” those who sold food on the street, amounting to nothing more than an unconstitutional “naked restraint of trade.”<sup>21</sup>



*A recent study by the Economic Roundtable found that when sidewalk vendors in Los Angeles sell their wares close to brick-and-mortar businesses, area businesses experience increased revenues and employment opportunities.*

More fundamentally, sidewalk vendors are rarely in direct competition with brick-and-mortar businesses. As a result of fixed costs and inventory considerations, sidewalk vendors offer a different dining or shopping experience than brick-and-mortar businesses. In fact, recent empirical research does not support the competition thesis. A recent study by the Economic Roundtable found that when sidewalk vendors in Los Angeles sell their wares close to brick-and-mortar businesses, area businesses experience increased revenues and employment opportunities.<sup>22</sup> Vending attracts foot traffic and stimulates economic activity along commercial corridors, thereby expanding the customer base for local businesses. Moreover, vendors typically “buy local,” purchasing their supplies from neighborhood businesses.

## PUBLIC HEALTH AND SAFETY

The final rationale often cited for prosecuting vendors is concern about public health and safety. For example, the officer who ticketed Rosa Calderon claimed at trial that someone in a wheelchair could be impeded by her presence on the sidewalk. Such claims are utterly unfounded. The urban sidewalk where Ms. Calderon was ticketed is wide and can easily accommodate both a person in a wheelchair and an elderly woman with a few Christmas ornaments.

Vendors like Ms. Calderon do not threaten the safety of others. In fact, the presence of men and women on the street selling handmade items, flowers, fresh food, or other similar goods can enhance the urban experience of Angelinos. These men and women become the eyes and ears of the community and understand what is happening on the streets of Los Angeles.



*Students from UCLA School of Law's Criminal Defense Clinic represent Rosa Calderon in her criminal trial for sidewalk vending at Los Angeles' Metropolitan Courthouse.*

When Ms. Calderon went to the Central Division's police station to complain about how the "Vending Unit" officers treated her, she was told that she should stop vending and instead beg on the street for money. In fact, the Commanding Officer speculated that, given her age, she could make more money begging than vending. Yet, not only does begging demean the human dignity of working people like Rosa Calderon, it also creates far more of a public health and safety concern than allowing vending. According to our City's Bureau of Street Services, there are approximately 50,000 sidewalk vendors in Los Angeles.<sup>23</sup> Asking all of these vendors to abandon their paid work and sit on the streets and beg for money would deprive the vendors of honest work, deny their customers a valuable service, and do nothing to reduce congestion on city sidewalks. Criminal prosecution of these men and women is simply not a solution.

### **III. RECOMMENDED REFORMS**

In this final Part, we outline five concrete steps that the City Attorney’s Office can take to reverse this misguided course of criminalizing sidewalk vendors. Prosecuting vendors has certainly not stopped the practice; it has only further impoverished the poor and people of color by subjecting them to mounting criminal justice debt. We urge the city to fundamentally rethink its investment of resources in these petty prosecutions. Specifically, we recommend the following five Key Reforms:

#### **KEY REFORM 1**

#### **Announce a Moratorium on Sidewalk Vending Prosecutions**

First, we recommend that the City Attorney’s Office declare a moratorium on all avenues of prosecution for Section 42.00 violations until the City Council adopts legislation for legal and regulated vending. The current system of charging infractions or misdemeanors in Superior Court is inefficient and, in some instances, threatens vendors’ constitutional rights. Additionally, the newly created Administrative Citation Enforcement (ACE) Pilot program is an unacceptable alternative method of enforcement, as it further deprives vendors of procedural protections and threatens expensive new fines on subsistence earners. This is an ideal time for such a moratorium, as the City Council is currently considering legislation that will legalize and regulate sidewalk vending in Los Angeles. This new legislation would allow vendors to sell their wares without fear of criminalization, similar to laws that have been successfully implemented in other major cities.

#### **KEY REFORM 2**

#### **Dismiss Pending Sidewalk Vending Cases and Associated Bench Warrants**

Second, we recommend that the City Attorney’s Office move to dismiss all pending sidewalk sales cases, as well as all bench warrants for failures to appear associated with such cases. Most individuals ticketed with these violations are subsistence-earners. Individuals are cited and required to appear in court, but the ticket is written in English and does not explain what courtroom to attend. As it turns out, the first court date is simply a date to go to the clerk’s window to either pay the fine or get a court date for an arraignment. To make matters worse, sometimes vendors go to court on this initial date only to be told that their ticket is not yet in the “system” and they must come

back to court daily to get an arraignment date. When the vendor fails to navigate this labyrinth, a failure to appear is recorded and a bench warrant is issued. What began as a Section 42.00 infraction becomes a serious misdemeanor charge and subjects the individual to arrest, incarceration, and additional fines and fees.<sup>24</sup> This type of escalation only further criminalizes sidewalk vendors attempting to earn a living for their families.

### **KEY REFORM 3**

#### **Reduce Community Work Hours Required to Pay Criminal Justice Debt Associated with Sidewalk Vending Convictions**

Third, for those vendors who stand convicted of sidewalk sales infractions, we recommend that the City Attorney offer a special community service program to satisfy their debt. To give you a sense of how the system works in practice, we again turn to Ms. Calderon's case. After being found guilty on one of her seven tickets, the judge sentenced her to a \$50.00 fine.<sup>25</sup> However, this fine instantly ballooned into \$306.00 of criminal justice debt—more than six times the size of the original fine—once she reported to the cashier's window at the Metropolitan Courthouse. In order to pay off the debt, this 79-year-old woman will be forced to perform 38 hours of mandated labor at poverty wages. This system is simply untenable for the poorest of Los Angeles' poor. As an alternative, we propose that sentences for past sidewalk sales be commuted to four hours of community service per conviction. A policy of four hours per conviction would not only be more just, but it would also be in line with the City Attorney's past program to humanely resolve jaywalking convictions for Skid Row residents.

### **KEY REFORM 4**

#### **Draft and Implement New Property Confiscation Protocols**

Fourth, we recommend that the Los Angeles City Attorney's Office work with community advocates and the Los Angeles Police Department to address problems with the confiscation of vendors' property.<sup>26</sup> There are multiple dimensions to this problem. First, sometimes property is seized without probable cause, and almost always without a warrant, raising serious Fourth Amendment concerns.<sup>27</sup> Second, although vendors are supposed to be given a receipt for their confiscated goods, often no receipt is provided. Third, adding further to these Due Process problems, even if a receipt is issued, the telephone number for the Central Division, which is on the back of the receipt for retrieving one's property, is inoperable. This makes it difficult for vendors to contact officials to secure return of their property.

In order to solve these problems, we ask that the City Attorney work to establish protocols to govern encounters with sidewalk vendors and timely return of property.

**KEY REFORM 5**

**Dialog with Stakeholders to Create a Legal and Regulated Sidewalk Vending Program in Los Angeles**

Finally, we recommend that the City Attorney engage in dialogue with vendors, community stakeholders, and city Departments in order to cultivate the principles and priorities for a lawful, comprehensive, and successful sidewalk vending permit program. With your leadership, we can move from a conceptual framework to the nuanced policy details of an ordinance to legalize and regulate sidewalk vending. We urge that this process be inclusive and responsive to the 50,000 low-income entrepreneurs that will be directly affected.

## ENDNOTES

<sup>1</sup> See INSTITUTE FOR JUSTICE, *STREETS OF DREAMS: HOW CITIES CAN CREATE ECONOMIC OPPORTUNITY BY KNOCKING DOWN PROTECTIONIST BARRIERS TO STREET VENDING* (2011), [https://www.ij.org/images/pdf\\_folder/economic\\_liberty/atl\\_vending/streetsofdreams\\_webfinal.pdf](https://www.ij.org/images/pdf_folder/economic_liberty/atl_vending/streetsofdreams_webfinal.pdf) (discussing the most common types of vending regulations in America's 50 largest cities).

<sup>2</sup> In a recent scathing report on court practices in Ferguson, Missouri, the United States Department of Justice criticized the identical practice of issuing arrest warrants "as a routine response to missed court appearances" as creating "unnecessary barriers" that overwhelmingly fall on people of color and running "counter to public safety." U.S. DEPARTMENT OF JUSTICE, *INVESTIGATION OF FERGUSON POLICE DEPARTMENT 3* (Mar. 4, 2015), [http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf).

<sup>3</sup> See L.A., CAL., MUN. CODE § 42.00(b) (2015) ("No person . . . shall on any sidewalk . . . offer for sale . . . any goods, wares or merchandise which the public may purchase at any time."); *id.* § 11.00(m) ("Every violation of this Code is punishable as a misdemeanor unless provision is otherwise made, and shall be punishable by a fine of not more than \$1,000.00 or by imprisonment in the County Jail for a period of not more than six months, or by both a fine and imprisonment.").

<sup>4</sup> See, e.g., *Perry v. L.A. Police Dep't*, 121 F.3d 1365 (9th Cir. 1997) (finding a Los Angeles vending ordinance that allowed vending by non-profits, but restricted others, unconstitutionally restricted free speech); *Hunt v. L.A.*, 638 F.3d 703 (9th Cir. 2011) (concluding that a Los Angeles vending ordinance that allowed sales of merchandise "inextricably intertwined" with a "religious, political, philosophical or ideological message" was unconstitutionally vague). As recently as 2013, the sidewalk vending ban was amended to allow sidewalk sales of expressive items like newspapers and bumper stickers, and items created by vendors like paintings, photographs, sculptures and audio records. See L.A., CAL., CITY COUNCIL FILE 13-1493 (2015) (last updated Mar. 2, 2015), *available at* <http://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=13-1493>.

<sup>5</sup> See L.A., CAL., CITY COUNCIL FILE NO. 95-1919 (1995) (last updated Sept. 23, 1999), *available at* <http://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=95-1919> (containing memorandums of support for street vendor legalization from various Task Force members).

<sup>6</sup> See L.A., CAL., ORDINANCE NO. 169,319 (1994), *codified as amended at* L.A., CAL., MUN. CODE § 42.00(m) (1995).

<sup>7</sup> See CITY COUNCIL FILE NO. 95-1919, *supra* note 5 (containing a summary of community advisory committee recommendations on district boundaries, density and location of vendors, cart design, goods sold, and hours of operation).

<sup>8</sup> *Id.*; see also Julie Ha, *Street Vending District Opens on MacArthur Park Sidewalks*, L.A. TIMES, June 21, 1999, *available at* <http://articles.latimes.com/1999/jun/21/local/me-48718> (last visited Mar. 18, 2015) (announcing the unveiling of the City's first Vending District in MacArthur Park).

<sup>9</sup> SHARON M. TSO, CHIEF LEGISLATIVE ANALYST TO THE ECONOMIC DEVELOPMENT COMMITTEE, CITY OF LOS ANGELES SIDEWALK VENDING STATUS REPORT (2014), [http://clkrep.lacity.org/onlinedocs/2013/13-1493\\_rpt\\_cla\\_11-26-14.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1493_rpt_cla_11-26-14.pdf).

<sup>10</sup> Emily A. Reyes, *L.A. Officials Take a Step Toward Legalizing Street Vending*, L.A. TIMES, Dec. 2, 2014 (last visited Mar. 20, 2015), *available at* <http://www.latimes.com/local/cityhall/la-me-street-vending-20141203-story.html> (reporting on the City Council Economic Development Committee's approval of a preliminary framework to legalize street vending).

<sup>11</sup> See L.A., CAL., CITY COUNCIL FILE NO. 13-1493 (2015) (last updated Mar. 2, 2015), *available at* <http://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=13-1493> (documenting Council Committee review and approval of street vendor legalization framework).

<sup>12</sup> See generally Alfonso Morales & Gregg Kettles, *Healthy Food Outside: Farmers' Markets, Taco Trucks, and Sidewalk Fruit Vendors*, 26 J. CONTEMP. HEALTH L. & POL'Y 20, 21 (2009) ("A century ago street vendors and markets helped make cities healthy. Today, we should enable them again as a tool for fostering healthy citizens.");



see also Rudy Espinoza, *Street Vendors Can Bring Healthy Food to Los Angeles*, KCET, May 13, 2014, available at <http://www.kcet.org/social/departures/healthy-los-angeles/street-vendors-can-bring-healthy-food-to-los-angeles.html> (“Street vendors can...turn food deserts into food havens by bringing fresh fruits and vegetables into communities that lack access to healthy and affordable food.”).

<sup>13</sup> L.A., CAL., ORDINANCE NO. 182,813 (2013), *codified as amended at* L.A., CAL., MUN. CODE § 42.00(b) (2013).

<sup>14</sup> James Q. Wilson & George Kelling, *Broken Windows: The Police and Neighborhood Safety*, ATLANTIC MONTHLY, Mar. 1982, at 29.

<sup>15</sup> See generally MITCHELL DUNEIER, *SIDEWALK* (1st paperback ed. 2001) (explaining how broken-windows policing has been vigorously applied to regulating sidewalk vending).

<sup>16</sup> Bernard E. Harcourt, *Reflecting on the Subject: A Critique of the Social Influence Conception of Deterrence, the Broken Windows Theory, and Order-Maintenance Policing New York Style*, 97 MICH. L. REV. 291, 293, 309–29 (1998) (concluding the broken windows theory “neglects the numerous and complex factors” contributing to crime, causing New York City to overestimate the role of public disorder in crime rates).

<sup>17</sup> Yvonne Y. Liu, Economic Roundtable, *Economic and Geographic Impact of Los Angeles Street Vendors* (forthcoming 2015) (finding that only seven percent of serious crime in Downtown Los Angeles occurred near street vendors).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* Sales tax is a portion of this figure, but the calculation also includes personal income taxes and contributions to social insurance taxes. *Id.*

<sup>20</sup> These arguments are by no means new. Despite the fundamental American valuing of competition, cities have long relied on the rhetoric of unfair competition to restrict sidewalk sales. Daniel M. Bluestone, “*The Pushcart Evil*”: *Peddlers, Merchants, and New York City’s Streets, 1890–1940*, 18 J. URB. HIST. 68, 75–76 (1991).

<sup>21</sup> *People v. Ala Carte Catering Co.*, 159 Cal. Rptr. 479, 484 (App. Dep’t Super. Ct. 1979) (quoting and affirming the trial court’s dismissal of the City Attorney’s charges).

<sup>22</sup> Liu, *supra* note 17.

<sup>23</sup> Yvonne Yen Liu, Economic Roundtable, *Impact of Street Vendors on Brick and Mortars*, Feb. 19, 2015, available at [http://economicrt.org/blog/impact-of-street-vendors-on-brick-and-mortars/#\\_ftn2](http://economicrt.org/blog/impact-of-street-vendors-on-brick-and-mortars/#_ftn2).

<sup>24</sup> In an attempt to remedy a similar municipal court problem that disproportionately affected poor residents of color, Ferguson, Missouri repealed the “Failure to Appear” charge by ordinance in late 2014. See INVESTIGATION OF FERGUSON POLICE DEPARTMENT, *supra* note 2, at 42.

<sup>25</sup> Six of Rosa Calderon’s seven tickets were dismissed. The seventh resulted in conviction; however, our Clinic has appealed the trial court’s judgment of conviction to the Appellate Division of the Los Angeles Superior Court.

<sup>26</sup> See generally Emily A. Reyes, *L.A. Street Vendors Say Police Confiscate Goods but Don’t Give Receipts*, L.A. TIMES, Jan. 15, 2015, available at <http://www.latimes.com/local/cityhall/la-me-street-vending-confiscations-20150115-story.html> (last visited Mar. 20, 2015) (describing the concerns of vendors whose property was thrown away or confiscated by police officers who did not issue receipts).

<sup>27</sup> See, e.g., *Lavan v. City of L.A.*, 797 F. Supp. 2d 1005 (C.D. Cal. 2011) (holding that even where a seizure is lawful at its inception, the manner in which the seizure is executed can nevertheless violate the Fourth Amendment); see also *U.S. v. Jacobsen*, 466 U.S. 109 (1984) (recognizing a protected possessory interest even in contraband).