LETTER FROM
THE EDITOR

Every day I walk down the sidewalk of the city that I've lived in for three years now, and every day I notice something different that I swear was not there the day before. Every day the city is changing: historic buildings are being renovated, subways are being put in, decrepit apartments are being torn down. The city – like a child – is always growing. If you’re not paying close enough attention, you could miss its first steps, its first set of bumps and bruises, or even its first words. As Italo Calvino once wrote, “The city, however, does not tell its past, but contains it like the lines of a hand, written in the corners of the streets, the gratings of the windows, the banisters of the steps, the antennae of the lightning rods, the poles of the flags, every segment marked in turn with scratches, indentations, scrolls.”

Our program, like any city, has gone through some changes this year. We now have updated our Urban Affairs master’s program to better reflect the drive and intent of our policy-focused students to be a Master of Science in Urban Policy and Leadership, making us now the Urban Policy and Planning Department at Hunter College. Our Urban Planning graduate students continue to think of innovative and strategic ways to update our cities, while our undergraduate students visualize what an urban future looks like.

This is why our Fall 2015 issue of Urban Review had to be historic; it had to reflect back on the days of “Boss” Tweed, Mayor Hylan’s rapid transit goals, and master city plans like Brasilia in order for us to begin to conceptualize a new Second Avenue Subway Line, or a city where everyone has somewhere to sleep at night, or even one where Bronx residents do in fact have the right to a speedy public trial.

We wanted to bring our audience up to speed. We wanted to lay the ground work for what challenges the city has to endure in order to effectively serve its citizens. And, ultimately, that's what we're here for, right? As planners and policy makers, we're the ones who have to make the right decisions for our cities. We determine what is best, and what better way to do that than to consider the past so we don't make the same mistakes in the future?

We spoke with a former student-turned-transportation-planner as well as a professor who just came back from working in the public health field to see what issues are important to them. Several of our students were able to present their work to the Office of Management and Budget’s Community Solutions team in Washington, D.C. this summer. Our students, faculty, and staff are continuously thinking about the city, and the features in this issue are some of the topics our community found to be important and relevant. These are the policy and planning issues our students lay awake at night thinking about as the city changes around them.

Let’s take a moment to look back on how we got here and where we can go in the future. Let’s look up from our cell phones as we move from subway stairwells to sidewalks and really see how the city has changed before it’s too late.

Melanie Breault
Editor-in-Chief
INTerviews

05 Marisol Otero-Morales  
by Maggie Calmes

06 Philip Plotch  
by Brett Amione

08 John Chin  
by Michelle Saenz

Features

10 Challenges in Planning  
by Dylan Dekay-Bemis

13 Winds of Change  
by Shannon Jordy

16 Sidewalk Shed  
by Cindy Penn & Zachary Bloom

17 The Perils of Politics  
by Zachary Bloom

22 Facing Homelessness  
by Marielle Ray

26 Backlog in the Bronx  
by Charles Bachmann

30 UPP in DC  
by Dash Henley

31 Endnotes

Art deco graphic courtesy of Lucy Block
HOUSING
San Francisco voters went to the polls this November to decide on several propositions affecting urban issues, including a measure to use $310 million in bonds to fund affordable housing development and preservation; an “Airbnb Initiative,” which restricts all private rentals to 75 nights per year, requires guest and revenue reports from hosts and hosting website platforms, prohibits short-term leases of in-law units, and allows private action lawsuits by anyone living within 100 feet of a rental; and a measure for an 18-month moratorium on building housing units of five units or more in the Mission District, as well as the establishment of a comprehensive housing plan. The first measure passed, while the others were defeated.

New York City Mayor Bill de Blasio announced this summer his plan to create 200,000 affordable housing units over the next 10 years. The goal is to have 80,000 new units and 120,000 preserved units from existing housing across the five boroughs. The Mayor claims the plan will generate 194,000 construction jobs and approximately 7,200 permanent jobs.

REZONING
There are a number of rezoning projects throughout the New York City region, including in East New York, Southwest Bronx, Flushing, and parts of Staten Island. Community Action for Safe Apartments (CASA), a tenant organizing project of New Settlement Apartments, is working to ensure affordable and safe housing is protected and maintained in any rezoning project in the Southwest Bronx. East Harlem is moving along in their “neighborhood plan,” which is being sponsored by Speaker of the New York City Council, Melissa Mark Viverito and the community board.

TRANSPORTATION
Los Angeles is trying to improve its reputation of not being a “public transportation friendly city” by calling for hundreds of miles of new bus-only lanes, bicycle lanes, and “traffic calming” measures over the next 20 years in its Mobility Plan 2035 initiative through the city council.

The Metropolitan Transportation Authority (MTA) Board approved its 2015-19 Capital Program, totaling $29 billion, which marks the largest investment in subways, buses, railroads, bridges, and tunnels in New York City’s history.

New York City also opened its 469th subway station this year, extending the 7 line to 34th Street-Hudson Yards.

While cities continue to try and regulate transportation network companies like Lyft and Uber, Lyft has announced they are formally partnering with their first transit agency, the Dallas Area Rapid Transit.

ECONOMIC DEVELOPMENT
Detroit is looking to become one of the first cities to require developers to invite community members to the negotiating table when discussing megaprojects. As reported by Next City, “new projects with an investment of at least $15 million, expansions or renovations of at least $3 million, or projects seeking at least $300,000 in public tax subsidies, developers would have to create legally binding documents guaranteeing jobs or quality-of-life protections for the community that is going to be impacted by the development.”

While growth in New York City’s finance and legal services sectors has stagnated in recent years, its creative industries sector has been among the fastest growing segments of the city’s economy. While the growth is encouraging, New York City may not be keeping pace with other cities – Shanghai, Berlin, Portland, and Detroit for example – that are more aggressively cultivating their creative economies.

ENVIRONMENT
The recent international refugee crisis, such as the drought and political unrest in Syria and other parts of the world, has caused some in the urban planning community to think about the next refugee crisis: climate change.

A report by the Center for an Urban Future shows that park facilities are not equally distributed across New York City’s five boroughs. To combat this, NYC Parks has announced a Community ParksInitiative, which is a plan to invest in public parks in neighborhoods that are densely populated, growing, and contain higher-than-average concentrations of poverty.

Las Vegas has started an urban farming program called Vegas Roots, where community residents, students, and professionals come together to participate in a community garden.
Marisol Otero-Morales has been working at Hunter College for almost 20 years now. This year, she changed roles within the Urban Policy and Planning Department from its Administrator to Academic Program Coordinator. She tells UR how it’s going so far.

When did you transition to the Program Coordinator role? Do you feel settled in yet?

My role as Department Administrator changed significantly when the Academic Program Coordinator position became vacant. As the only staff member in the department, I knew I would be taking on additional duties until the position was filled. I was able to manage working both positions without feeling overwhelmed because I had worked closely with two former Academic Program Coordinators on tasks such as course scheduling and planning events. Now that we have Miriam Galindez, the new UPP Department Administrator, I have begun settling into my new position.

What are a few of your specific urban issues of interest?

Affordable housing, or I should say the lack thereof, concerns me because the number of people in desperate need of housing far outweighs the number of units available. It is great that Mayor de Blasio plans to build 200,000 affordable housing units in ten years, but for people struggling every day to pay rent they cannot afford, the help is needed sooner than later. Unfortunately for many New Yorkers, the possibility of becoming homeless is a true and heartbreaking reality.

Another issue of concern for me is how the MTA continues to raise fares, yet service and overcrowding conditions persist. Not only are New Yorkers paying more to ride with the MTA, but they also pay an “invisible fee” of $130 per household taken from payroll and sales taxes and even from our taxi ride fares.

What's your favorite part of your new role?

My favorite part of my new role is working with new and current students helping them settle in at the start of a semester.

What are your interests / activities outside of work at Hunter? What do you do for fun?

I love sketching, especially after a long day because it is the best way I know to relieve stress. Spending time with my family and summer vacations in Puerto Rico are also on the top of my list of fun things to do.
Philip Mark Plotch, PhD, AICP graduated SUNY Albany in 1983 with a computer science degree, and then decided to enroll in the MUP program at Hunter to pursue a more fulfilling career in the public sector. Plotch has worked for various development corporations in New York City, focusing on transportation networks as well as the MTA. In 2007, he was asked to teach Professor William Milczarski’s transportation planning class at Hunter. He enjoyed teaching so much that today Plotch is an assistant professor of political science and director of the master’s program in public administration at Saint Peter’s University in New Jersey. His book, *Politics Across the Hudson: The Tappan Zee Megaproject*, came out this year.

For those who don’t use the Tappan Zee Bridge, can you explain why this piece of infrastructure is so important and so contentious?

There are four reasons. It is the key transportation route for goods and people between New England with Mid-Atlantic States. It takes trucks off the George Washington Bridge and the Cross-Bronx Expressway in the South Bronx. It is a key part of the NYS Thruway that connects all the state’s major cities. And it allows Westchester’s corporations, which generate a great deal of tax revenue for the state, to attract workers from the greater geographical area.

You begin the timeline of the I-287/Tappan Zee Bridge Megaproject in 1978. By that time, you were entering college for computer science and business administration. Was the Tappan Zee Bridge or regional transportation on your radar yet?

In the fall of 1979, I started traveling on the Tappan Zee when I lived in Long Island and went to school in SUNY Albany. I never gave much thought to the Tappan Zee. It’s not a very attractive bridge. On the other hand, the train ride from NYC to Albany along the Hudson River is spectacular.
Can you please tell us about the many ironies of the Tappan Zee Bridge Megaproject?

Here’s one: In the 1980s, NYS Department of Transportation officials proposed a High Occupancy Vehicle (HOV) lane because they wanted to ease congestion, conserve energy, reduce pollution, and avoid the costs and environmental impacts of building a new bridge. In the 1990s, environmentalists poured much of their resources into killing the HOV plan. They would find the replacement projects to be far less appealing, however. The state widened the highway in Westchester for general traffic and is now replacing the Tappan Zee Bridge with a new bridge that is twice as wide.

I find it very interesting that you began your career as a systems programmer and yet you became a policy-oriented planner. What inspired this shift? Did Hunter play a role in that change?

I was looking to pursue a career that I found more meaningful. I didn't understand what urban planning was until I read about Hunter’s urban planning program. I couldn't believe that one program combined so many of my interests – economic development, transportation, environment, public policy, infrastructure, housing, real estate, and historic preservation. When I met the faculty and other students, I knew that I would be entering a field where people shared my enthusiasm for improving the urban environment.

The New York Metropolitan area has many transport advocacy groups with differing perspectives on how to improve transportation policy. What is the best way for those advocacy groups to engage in the process?

Collecting data is helpful. You can count pedestrians, bicyclists, and motor vehicles to document a problem. Or, you can take a survey. For example, if you see that a subway stairway entrance is really crowded because of the location of a newsstand, you are more likely to get the MTA or the city to address the problem if you can document how long it takes to get down the stairs because of crowding. Likewise, if you take a picture or a video of people trying to cross a dangerous intersection, you can provide a transportation department with information they otherwise wouldn't have. Getting people out to a public meeting can also be powerful. Remember the adage, “The squeaky wheel gets the oil.”

I had the pleasure of reading your academic paper, “What’s Taking so Long? Identifying the Underlying Causes of Delays in Planning Transportation Megaprojects in the United States”. I’m curious to hear what aspect of the research was the most surprising or exciting to uncover.

A Danish researcher, Bent Flyvbjerg, helped me understand some of the things that I uncovered while researching my dissertation / book. He has found that sponsors of megaprojects underestimate costs and overestimate benefits. They do it all over the world and they’ve been doing it for as far back as anyone can remember. He finds that megaproject promoters deliberately and strategically misrepresent forecasts in order to increase the likelihood that their projects, and not their competitors’ projects, gain approval and funding. He claims that strong incentives and weak disincentives have taught them, “Lying pays off.”

How have your roles with the MTA and the Lower Manhattan Development Corporation informed your writing of “Politics Across the Hudson”?

When I worked on large projects, I often didn’t understand why governors were making certain decisions about them. What I didn’t realize – until I talked to dozens of people – was how no one actually knows what’s going on with many megaprojects. There is so much distortion of information, both deliberate and unintentional, that it’s really hard for anyone to figure out the truth.

The information gathering process can be overwhelming; the number of interviews you undertook for your novel amazes me. How did you know who to contact first and how did you approach these people?

I started with people I knew. Then, I asked them who they thought I should talk to. That’s how I got over 100 interviews including 3 governors. It’s exactly the same way that I approached getting a job when I graduated from Hunter. Whenever I talked to someone about careers, I would always ask them whom else I could talk to.

For aspiring city planners, what is your number one piece of advice?

One word answer: NETWORK! You can go to meetings like the Metro Chapter of the APA. Get an internship or participate in your community board. You can also ask people if you could come to their office to learn about their jobs. It’s called an information interview.
AN INTERVIEW WITH
JOHN CHIN

Professor John Chin is the Program Director for the Graduate Urban Planning Program at Hunter College. He has recently published research on sexually oriented massage parlors in Los Angeles and New York City. We spoke to him about this, and his prior research related to public health.

What made you decide to research sex work in massage parlors?

Much of my research has been on vulnerable urban communities that face health risks. Sex workers in massage parlors are a vulnerable population that hasn't been studied much and that people don't know much about. Our study participants are immigrant Asian women who have limited English-speaking abilities and not a lot of marketable skills. Because of this, they have limited employment options. Sometimes they owe migration debts to the smugglers who brought them into the country, and often they're not documented so they can't legally work in the formal economic sector. They are very vulnerable to labor exploitation, and they also face health risks that include sexual risks, violence, and assault from clients.

There are three research angles on the issue of sexually oriented massage parlors: the labor question, that is, vulnerability to labor exploitation; the health risk question; and the regulation and policy question. Cities have to tackle the issue of how to regulate unwanted uses. These sorts of “vice” uses have often been seen as undesirable and policy to regulate them has been very inconsistent, especially regarding the coordination between the criminal justice system and traditional land use and zoning systems. This is an opportunity to look at how effective regulation of the industry has been. One of the particular challenges in regulating sexually oriented massage parlors is that they present themselves as legal businesses.

You've previously studied the role of religious institutions in HIV prevention. Are there any institutions or organizations that seek to provide aid to sex workers working in massage parlors?

Yes, there are a lot of them. Some organizations deal specifically with sex workers, and some deal with women who are trafficked. They’re a little bit different actually, and there are a lot of conflicting philosophies in the field, which we are learning about, that can be very contentious. With some organizations, their agenda is sex worker rights. They think of sex work as a form of work, and feel that they need to promote and protect the rights of the women as workers. On the other end of the spectrum, the women are seen as victims of trafficking and exploitation and the main goal is to help the women remove themselves from that situation. Of course, most of the legal and social service providers understand the many nuances of these women’s circumstances, but there can be conflict between the two sides, especially when these opposing views are taken to their extreme. It’s a very robust service system actually.

What have you found are factors that facilitate sex work as an outgrowth of the massage parlor business in certain areas of Los Angeles and New York City?

From a massage parlor owner’s point of view, the great thing about massage parlors is that massage is legal if a licensed practitioner does it. So you can set up a store, say you do licensed massage, and that you have a licensed massage therapist on site. You can operate under the cover of a legal business. Many advocates have argued that the owners face little risk compared to the workers. When police raid massage parlors, they often arrest everyone on site, but the owners tend to visit the massage parlors infrequently, just to check on things and collect the money. They can also claim they never condoned sexual activity and didn't know it was happening.

You have a background in public health, how does this manifest itself in your research on sexually oriented massage parlor businesses?

Our funding is through the National Institutes of Health (NIH), and the particular objective of the study from the NIH’s perspective is to understand HIV risk. If people are engaging in sexual activity, obviously HIV is a concern. That’s the biggest public health tie-in, but there are a number of other tie-ins. Other concerns are STDs and whether or not the women have access to health insurance, or other forms of healthcare. This is particularly a problem for women working in the sexually oriented massage parlor business as they are often undocumented, and because of this it’s difficult to access those services. Additionally, being victims of violence and assault is a health issue.

Your doctoral training was in urban planning. Have you found it difficult to apply your expertise in public health issues toward urban issues? How do the two intersect? Can you give some examples?

Public health and urban planning don’t have to intersect, but they do. The most obvious angle is when you think about how the structure and function of cities affect people's health.
For example, if you have a very walkable city where people are walking and engaging in physical activity, that’s clearly related to public health.

In our massage parlor study, we looked at the spatial configuration of massage parlors. We were asking, what are the spatial patterns of massage parlor location, and how are those related to 1) the regulatory environment, and 2) to the way the massage parlor industry tries to manage, control, and exploit its workers and evade law enforcement? Is there a spatial configuration to how you locate massage parlors that serve those objectives? One theory is that it’s better to spread them out, so that the women are isolated from each other. This isolation is magnified if you put the massage parlor in a place that is mostly English speaking and the women are out of their element in terms of language and culture. The other theory is to consolidate the massage parlors in ethnic enclaves like Koreatown or Chinatown because that’s where the managers have the most power. They can consolidate their control apparatus in one place and are able to manage their businesses better.

My other research on religious institutions attempts to understand how to leverage the power of key community institutions to promote a public good. So if you have churches and temples that reach many people, how do you use them to promote good public health, urban policy, or citizen involvement in government?

What were some of the more surprising outcomes of your research?

The surprising thing about the religious institution research is that they aren’t what they seem. They aren’t monolithic in any way. In any religious institution there is a wide range of views. On the other hand, we did find patterns, for example, on issues related to HIV. The Buddhists seemed to be most open-minded, the mainline Protestants were more in the middle, and the evangelical Protestants were the most conservative.

One surprising thing related to the massage parlors was the wide variety of reasons that women become involved in the massage parlor industry. You might go into it thinking that all the women are exploited or victimized, but they have a lot of different explanations for why they are in this business. It ranges from “I was duped into this; I was forced into it,” to “I chose this because it’s the best way for me to make money, and I can’t make as much money in any other way.” It’s tricky though to interpret. Some advocates would argue that many of the women are manipulated into thinking they chose this work. From that perspective, much of the worker control is more about emotional and mental manipulation, and exploiting the women’s economic vulnerability, rather than outright coercion.

Are you happy to be back at Hunter and what do you have in store now that you’ve resumed your role as the Director of the Graduate Planning Program?

Yes I’m excited to be back! There’s a lot we’re thinking about but there’s always more you want to do than there is time for.

One of our ideas is to have a prep boot camp for new students that starts before their first semester. It’s either going to be a math, research, or writing boot camp.

There’s been talk on revising the guidelines for the concentrations. Some of the guidelines show courses that don’t really exist anymore so we want to clean that up.

Accreditation for the planning program ends December 31st, 2017, so we’re getting ready for re-accreditation, which means we have to go through a pretty extensive self-study next year. We’re going to get a site visit from the Planning Accreditation Board in the fall of next year or the spring of 2017. Part of the self-study and site visit involves having students give their input through various means like meeting with the site visitors, so you might be hearing from me about participating in some of those activities.

The college is rolling out an online degree audit process. The process for graduation has been on paper, but starting in spring of 2016, it’ll be fully electronic. Also, Hunter is hosting the Metro APA studio event in the spring. And I’ve also been thinking about working more with our speaker series to give the Hunter program a little more visibility. We mostly advertise our speakers internally so we might want to think about advertising them as citywide events.
In “The Ideal of Community and the Politics of Difference,” Iris Marion Young argues that the greatness of cities lies not in unity but in the city's incoherence, the vast heterogeneity of aesthetic and individual differences. As Young states, “The modern city is without walls; it is not planned and coherent. Dwelling in the city means always having a sense of beyond, that there is much human life beyond my experience going on in or near these spaces, and I can never grasp the city as a whole.”

Young's assertion offers a valuable critique of urban planning, a critique which is supported by numerous historic examples. Historically, top-down planning has often served to make cities prescriptive and predictable. Authoritarian planning – exemplified by Le Corbusier's high modernism – resulted in doctrinaire cities. Previous attempts to make the city more orderly through alterations in the built environment have ignored the behavior and needs of stakeholders and have consequently failed. Moreover, prescriptive Euclidean zoning has helped produce equally uninspiring suburban enclaves. By learning from these past failures, planners will be better equipped to help create inclusive, vibrant cities that incorporate the incoherent.

Throughout history, planners have attempted to combat the perceived incoherence of cities by creating comprehensive master plans. Master planning was full-scale city planning, utilizing rational methods to map out entire cities that would be logical and orderly. One of the most oft-cited examples of master planning is Le Corbusier's High Modernist city, characterized by strict separation of city functions, and an orderly grid pattern aligned with a series of superblocks and formulaic high rises. Although Le Corbusier's vision remained mostly theoretical there are a few real-life examples of the High Modern city, perhaps most famously exemplified in Brazil's administrative capital, Brasilia. Constructed in 1957, Brasilia was a utopian vision standing in sharp contrast to other vibrant Brazilian cities. Unlike the rest of Brazil, Brasilia was strictly compartmentalized based on function, with separate zones for governmental, commercial, residential, recreational and entertainment activities. All residential buildings were uniform in design and contained tenants from a wide array of income levels, a strategy that planners felt would eradicate class division within the city. By establishing prescriptive control over the urban form of Brasilia, planners aimed to establish a new paradigm of social order in Brazilian cities. As James Holston explains, “In portraying an imagined and desired future, Brasilia represented a negation of existing patterns of urban life, Brasilienses reassessed social processes and cultural values that the architectural design intended to deny. What resulted was not of course the old Brazil, but neither was it the imagined city.”

Like Iris Marion Young, Brazilians experience the best cities as messy, unorganized, perfectly incoherent jumbles of overlapping functions that are never fully understood. By carefully plotting and arranging every detail, the planners of Brasilia created a place that represented the polar opposite of everything Brazilians love about cities. Consequently, Brasilia was an abject failure.

Across the Atlantic Ocean in England, British architects Alison and Peter Smithson had their own plans for achieving behavioral outcomes through
urban design – albeit on a much smaller scale. Through extended observations of close-knit British working-class neighborhoods like London’s East End, the Smithsons grew highly critical of post-war urban planning. Echoing Jane Jacobs’s famous critique, the Smithsons believed “the short narrow street of the slum succeeds where spacious redevelopment frequently fails.”

Out of their criticism, the Smithsons formulated plans to recreate active streetscapes in post-war redevelopments by constructing medium-rise buildings with extended, open-access verandas situated directly outside the apartments. Dubbed “streets-in-the-air,” the Smithson’s believed the verandas would replicate the energetic streetscape and reestablish a sense of community that was largely missing in lifeless redevelopment projects of the time. The first iteration of “streets-in-the-air” was constructed in a bombed out area of the Golden Lane neighborhood in London. Despite arguably good intentions, “streets-in-the-air” became an ambiguous blur of public and private space and went largely unutilized by residents.

Part of the failure of “streets-in-the-air” lies in the concept’s inability to account for key differences in the role of public and private space within working class British neighborhoods. Within such neighborhoods, the home is primarily reserved for private family functions with public activities occurring outside in the streets. Because “streets-in-the-air” did not establish a clear distinction between public and private space, it was doomed to fail. Similar to Brasilia, “streets-in-the-air” is an example of a top-down planning model that predicts an unsubstantiated theory will achieve a desired social outcome. Underlying the apparent chaos of working-class neighborhoods was a sense of order that planners could not perceive. This chaotic cohesion was lost in translation with the Smithson’s attempt to achieve spontaneous social interaction through urban design alterations. What resulted at Golden Lane was a perplexing and sterilized version of organic community cohesion.

While the results of Brasilia and “streets-in-the-air” were decidedly antithetical to Young’s vision of the city, perhaps the most egregious example of urban planning is the American suburb. Spurred by rapid increases in mobility that accompanied the rise of automobiles and the American interstate highway system in the 1950s, the suburbs flourished as an answer to the corrosion of congested urban environments. Prominent government organizations, such as the National Resource Committee (NRC) of the Public Works Administration (PWA), viewed congestion as an illness for which outward expansion via suburbanization was the cure. As Gabrielle Esperdy points out,

“Likening congestion and its resulting economic and social ills to ‘infections which an otherwise healthy organism can check,’ the NRC recommended expectorant action to ‘loosen up’ the urban phlegm. This action would take the form of decongestive city planning that would bypass the densely built, skyscraper studded, traffic clogged business core, leaving Manhattanism, and its schizophrenic capitalism to run amok.”

Champions of suburban expansion viewed congested cities as illogical messes, which should be reimagined as neat, orderly, and readily comprehensible areas outside the urban core.

Similar to Brasilia, the ensuing suburban cities were – and still are – clear and coherent, separating city functions into segregated zones. By strictly separating the suburbs into mono-functional sectors, planners left little room for overlap and often neglected to incorporate such provisions as public space, a problem that plagued the city of Los Angeles in its early days. As Mike Davis notes, “By 1928 parks comprised a miserable 0.6 percent of the surface of the metropolis, and barely half an inch of publicly owned beach frontage was left for each citizen in Los Angeles.
County. No large city in the United States was so stingy with public space.” This abundant void of public space was filled by privately owned gathering places such as shopping malls, further sanitizing and divorcing suburbia from its congested urban counterparts. If, as Iris Marion Young claims, the promise of cities lies in its incoherence, then the sterile, orderly suburbs represent an antithesis to urbanity and a prime example of top-down urban planning’s role in eradicating all that is great about cities.

These examples illustrate how urban planning has served to make cities more visually coherent at the expense of livability. Previous attempts at comprehensive master planning resulted in cities that are highly rational but also highly unlivable. Attempts to recreate organic forms of community cohesion through changes to the built environment ignored the needs and behavior of stakeholders and have largely failed. Additionally, prescriptive Euclidean zoning and suburban expansion has resulted in orderly yet bland antitheses to the incomprehensible metropolis championed by Iris Marion Young. Although many historic top-down planning efforts detracted from the wonder of cities, inclusive urban planning is nonetheless a valuable tool for enriching the urban fabric.

While planners were less accountable in the early years of the profession, contemporary planners are bound by increased public oversight. Extensive community engagement throughout the planning process helps to ensure that plans are democratic. Public meetings, opinion surveys, and visioning workshops have traditionally been used to encourage citizen participation and to counter planning’s autocratic past. Although traditional community outreach strategies can be effective for disseminating information and receiving feedback, they do not always garner sufficient participation. Consequently, planners should think outside the box to produce innovative approaches that encourage added participation from a diverse cross-section of residents.

Examples of innovative community outreach tactics abound. To increase community input for a plan to redevelop the commercial corridors of Chicago’s Wicker Park and Bucktown neighborhoods, urban planning firm Interface Studio transformed a vacant storefront into a three-week long interactive “open house.” The event was advertised through a series of strategically placed humorous posters designed by neighborhood artists and was well attended by community members. Participants of the event communicated ideas through a photo suggestion booth, rated existing local amenities on an interactive map, and recorded memories about the neighborhood in a video storytelling booth. By creating a unique experience, Interface Studio transformed the traditionally bland visioning workshop into a fun, interactive event that infused a high-level of community input into the planning process.

In addition to emboldening the public participation process, planners should work to reform zoning codes in order to allow neighborhoods to gradually develop and evolve over time. Although Euclidean zoning is often a necessary tool to separate highly incompatible uses (e.g., single-family residential from industrial), it is overly static and leaves little room to accommodate change. In his book, “A Better Way to Zone,” urban planner Donald L. Elliott proposes using dynamic development standards to create a more organically evolving urban environment. As Elliott explains, dynamic development standards are zoning provisions that “change over time in predictable ways, but that do not require individual council action for each change.” An example of dynamic development standards would be the introduction of automatic gradual increases in maximum building heights based on the height of adjacent buildings, in order to accommodate densification while at the same time promoting contextual development. Another example is fluctuating commercial parking requirements that vary “depending on the use rates in public parking lots in the area.” Under this example, off-street parking requirements are increased for developments in areas where local parking lots are at capacity and lowered for developments in areas with a surplus of alternative parking options. Dynamic development standards are clearly not appropriate in all neighborhoods, but they could help accommodate changes in the preferences of certain local residents and spur more organic growth within cities.

Bolstering citizen participation and reforming zoning principles are two ideas that could go a long way toward making the planning process more inclusive and democratic. By heeding the mistakes of their predecessors, planners will be better equipped to avoid prescriptive, one-size-fits-all solutions and incorporate a level of glorious incoherence into their future plans. ■
In the 1860s, the population of New York City had reached nearly one million. The formerly spacious streets were filled to capacity, and horse-drawn carriages and omnibuses often blockaded the road entirely. In Brooklyn, people were pushing past each other at the ferry house loading gates, only to be subjected to winds, storms, tides, and ice jams on their way to Manhattan. Something had to give.

It was in this setting that one man stepped forward to help the overcrowding and improve transportation with an innovative design: Alfred E. Beach and his Pneumatic Railway. His plan was extremely daring – in a time of daring plans – and he had to deal not only with the technological and financial conundrums of the day, but also the political obstacles, namely William M. “Boss” Tweed and his cronies at Tammany Hall. What this article aims to show, however, is that the long-standing myth of a dramatic Tweed and Beach rivalry is simply wrong. Primary and new secondary sources have shown that the relationship between Beach and Tweed may have been more symbiotic and friendly – at least for a time.

Beach was a short, slight man, with a notably thin moustache, born in 1826 to Moses Yale Beach, the wealthy publisher of New York newspaper the *Sun*. Beach, despite having taken over his father’s business at nineteen, found time to tinker. He played with telegraphs and cable railways and invented what some consider to be the first workable typewriter, for which he won a gold medal at the Crystal Palace exhibition in 1856. It would not be his last successful New York fair.

In 1867, Beach introduced the city to a marvel of transit: a pneumatic rail line suspended from the ceiling of the American Institute Fair. “A tube, a car, a revolving fan! Little more is required,” he would later declare. “The ponderous locomotive, with its various appurtenances, is dispensed with, and the light aerial fluid that we breathe is the substitute motor.” The press and the public went wild. One hundred thousand visitors rode it by the end of the fair, and it was the talk of town in the *New York Times*, the *New York Tribune*, and *Scientific American*. The last publication was a given, perhaps, as Beach was its owner and publisher. He had always had a deep interest in science, and when given the opportunity, he resigned from the *Sun* and purchased the fledgling magazine with his friend and former schoolmate, Orson Munn. He and Munn would later form the patent firm, Munn & Company – a masterful move considering the number of eager inventors coming through *Scientific American’s* doors.

The pneumatic rail line was not Beach’s only contribution to the fair. He also had on display a pneumatic tube for letters and packages, inspired by the pneumatic dispatch systems of England. It was under the guise of this system that he would make his next big move: New York’s first subway line.

Tweed, for his part, was running the Democratic machine, Tammany Hall, at the time, and, as stated in Alexander Callow’s book,
The Tweed Ring, he was also overseeing “patronage, the State legislature, the immigrant, the courts, the police, and organized crime.” While he served at various points as a state senator, on the County Board of Advisors, and as an alderman, his influence came from his sheer talent for political organizing and from his ability to woo immigrants and city officials by both honest and underhanded means. By the late 1860s, he had New York City thoroughly under his thumb.

Throughout 1868, Beach lobbied the New York State Legislature for permission to build a pneumatic tube – one for the transport of mail. He kept his true plans, the construction of a passenger rail, to himself. Why he limited his legal scope to postal service, we will never know for sure. Most writers on the subject assert that Beach and Tweed were foes, and that Beach was avoiding the ire of Tweed, who had his own rapid transit plan: the Viaduct Plan. However, the Viaduct Plan was not a factor until 1871, and Beach had probably rather learned a lesson from Hugh B. Wilson and his proposed subway underneath Broadway. Wealthy merchants, who opposed any building on Broadway, had destroyed Wilson’s 1864 plan. There is a reason to believe that it was the opposition of Broadway businessmen, and not Tweed, that kept Beach silent. Not only did Tweed not resist Beach’s scheme, he would later introduce a bill that expanded the scope of the Pneumatic Railway.

Shortly after receiving legislative approval to construct his pneumatic dispatch system, Beach got to work, leasing the basement of Devlin and Company Clothiers on Broadway between Warren and Murray. The nature of his work, though – and the public’s and politicians’ knowledge of it – is also a point of contention among historians. Many insist that workers were sworn to secrecy; that the construction was done in the dead of night; and that no one, especially Tweed and other City Hall officials, knew what was going on across the street. As recently as February 2014, Scientific American was claiming that construction was largely a secret, despite the near weekly reporting of it in local papers in 1869 and early 1870. The Brooklyn Daily Eagle noted, “Broadway and Warren street, New York, was blocked yesterday with large packages of machinery designed for operations in the pneumatic tunnel, which has been boring under Broadway for a year past.” The New York Times reported on the matter even earlier in the year:

“Nearly a month ago the TIMES, exclusively, advised the public that a company…had commenced to construct a pneumatic dispatch-tube in the lower part of the City, for the conveyance of parcels and letters, and it might be, passengers also….The work of tunneling beneath Broadway then begun has been slowly but steadily progressing, and will be pushed forward to completion as rapidly as possible.”

It seems that although the end goal of the project was kept secret, the fact that construction was underway was widely known, and many could have guessed that passenger rail might be in play. Even if he had intended to keep everything to himself, Beach soon had his hands full with very public complaints and even a lawsuit, brought by the city, for $100,000 in infrastructure damages.

Finally, in late February 1870, invitations began arriving at the homes and offices of New York’s elite, requesting their appearance at the office of the Pneumatic Transit Company. When they arrived on the afternoon of February 26, they found, as the New York Herald described it, “a kind of Aladdin’s cave…in which there was more to be seen than the eye could take in at once.” The Times reported that the space was “handsomely fitted up with a fountain, paintings, and seats…The car which runs upon this [track] is about half as large as a street-car, cushioned,
lighted, ventilated, and elegant in all its appointments.” Those cars, which no one seemed particularly surprised about, would soon be open to the public for 25 cents a go, with thousands of dollars eventually donated to an orphanage.

Almost as soon as the initial pneumatic tunnel was complete, Beach set to work getting legitimate approval for a passenger rail. His first attempt was the aforementioned 1870 bill, introduced by Tweed. Again, much of the literature makes no mention of Tweed’s support, despite its media coverage. The Brooklyn Daily Eagle, for one, reported on March 14, 1870, that “a bill has been introduced in the State Senate by Mr. Tweed, authorizing the Common Council of Brooklyn, among other public bodies, to invest $750,000 in the Beach pneumatic tunnel across the East River.” The paper goes on to complain about the bill, writing that Brooklyn had already bought stock in the Brooklyn Bridge, a perceived rival to the tunnel.

No one knows why Tweed supported the bill, or if he and Beach were working together. Roger Roess and Gene Sansone, in their recent book, The Wheels that Drove New York: A History of the New York City Transit System, speculate that Tweed may have been riding on the coattails of Beach’s popularity or that he saw “an opportunity for massive graft.” Indeed, the Brooklyn Daily Eagle wondered the same thing:

“Now we have an amended bill, enlarging the small tube to a great railroad tunnel, directing the city to pay three quarters of a million dollars a mile toward it, and giving this one company the entire monopoly of the underground railroad business in both cities, for all time to come. And as if this was not enough, the bill provides that any real estate above ground, anywhere within the cities, which the tunnel people think they want for the purposes of their businesses, they are empowered to take, under the State power of eminent domain…Mr. Tweed is, we hardly need add, the introducer of this bill.”

It was the overreach and resistance from the merchant A.T. Stewart – not problems from Tweed – that did in both this bill and the 1870 Arcade Railway bill. So where did the story of Beach vs. Tweed come from? From none other than Alfred E. Beach himself. In an 1873 promotional brochure, Beach tried to distance himself from Tweed, who had by then fallen far out of public favor, and omitted any mention of the 1870 bill. He blamed the Tweed Ring for the failure of another one of his bills, in 1871 – the year the Viaduct Plan was introduced.

Tweed was a supporter of the Viaduct Plan and also a director of the Viaduct Railway Company, along with Jacob Astor, Charles Tiffany, A.T. Stewart, and others. The plan proposed an elevated railway along the length of Manhattan, supported by forty-foot high arches. Most importantly for Broadway business interests, it was located blocks east of the thoroughfare. The plan would have cost the city anywhere from $50 to $65 million and would have lined Tweed’s pockets in both its construction and in the demolition of everything in its path.

Some believe that Tweed headed up the plan, but he was obviously in cahoots with A.T. Stewart and others at this time. His strong opposition to Beach’s 1871 bill is even questionable. The New York Times stated that people felt “TWEED [was] not opposed to the bill, but that he [was] so mixed up with STEWART and other gentlemen who [were] against any interference on Broadway, that he [was] obliged to show some opposition.”

For what it is worth, neither plan fared well. Although Beach’s 1871 and 1872 bills were approved, Governor Hoffman ultimately vetoed them (due to engineering issues and questions about the bill’s broad authority), and the press’s exposure of the Tweed Ring in the summer of 1871 was enough to bring the Viaduct Plan down.

A Pneumatic Railway bill would not pass until 1873, but by then it would be too late. The Great Panic of 1873 dried up investment money, and Beach had to abandon his tunnel. He lost the battle while the Tweed Ring was being dismantled, scandal-by-scandal.
Scaffolding, otherwise known as sidewalk sheds, covers nearly 200 miles of New York City’s sidewalks. Scaffolding is meant to keep us safe from building debris. Businesses have to compete with it. Many people just ignore scaffolding, use the temporary shelter to avoid sudden bursts of the elements, or lock their bikes on it.

Beautiful, historic buildings eventually have to go under the cover of scaffolding to be preserved for future generations, especially those made out of stone or masonry. The Dakota – well over a century old – now sits sheathed waiting to see the light of day once again. According to the Department of Buildings, its current scaffolding permit expires in February of 2016. The DOB reports that currently in Brooklyn, there is a shed has been up 10 years and 11 months. Let’s hope the Dakota emerges in all of its glory in a few months rather than a few years.
The symbolic space occupied by public housing in the American imagination is unmistakable. The mere mention of the "projects" conjures an image of concentrated urban decay, colossals buildings marked by latent criminal activity and visibly broken infrastructure. Descriptions of these developments generally focus on their dysfunction, the dangers to inhabitants, and, in a throwback perhaps to early housing reform movements, their deleterious impact on the social and moral life of residents unfortunate enough to live there. While critics of public housing disagreed on the causes for public housing's chronic shortcomings—blaming poor design, lack of sufficient funding, and trends towards suburban development, among other factors—the symptoms were clear: public housing programs nationwide were failing to follow through on the promise of safe, decent, and affordable housing which the public housing program was developed to provide.

This image of the federal public housing program, largely colored by racism and classism, led to wide-scale government disinvestment over time, culminating in an end to new construction in 1973. In its place, a more decentralized, privatized approach to affordable housing emerged in the later part of the 20th century, made up of local community development corporations (CDCs) and non-profits which sought to create viable alternatives to the existing models of below market rate housing. These decentralized approaches sought to address some

The Perils of Politics
Lessons from the Early Expansions of the New York City Subway
by Zachary Bloom

I undertook a study of the early expansions of the New York City subway system hoping, perhaps naively, to fully understand the political and bureaucratic mechanisms that led to the creation of the Dual System, the public-private partnership that gave rise to the largest single expansion of the subway system and one of the largest civil engineering projects in American history. I also wondered what factors led the city, a mere decade after signing the contracts for the Dual System, to commit itself to the creation of the publicly-owned and operated Independent Subway System to compete with the monopolies the city itself had just created. I hoped that the answers to these questions would point the way toward a few discrete reforms that could break the cycles of bureaucratic foot-dragging and cost overruns that have plagued every planned expansion of the subway system for the last fifty years.

Instead, I stumbled into a thicket of political badmouthing and unforeseen circumstances that provides few if any lessons applicable to the present. If anything, the story of the Dual System and the Independent Subway shows the extent to which good governance depends on the wisdom of a single person in possession of both vision and political power, and the reality that a single politician can break—sometimes literally—an entire city.

As we go along, two men will emerge as the main players: George McAneny, Borough President of Manhattan from 1910 to 1913 and later chairman of the state Transit Commission, and John Francis Hylan, Mayor of New York from 1918 to 1925. But in order to understand their competing visions and the transportation system that eventually emerged from them, we must begin by examining the transportation crisis facing New York City after the completion of the first subway line in 1904 and see how the city came to solve it.

Graphic Courtesy of the New York City Transit Museum.
THE FIRST SUBWAY AND EARLY EXPANSION ATTEMPTS

New York’s first subway system rapidly became a victim of its own success. The subway was constructed between 1900 and 1904 using $50 million dollars in city funds and consisted of a trunk line running from City Hall to 145th Street in Manhattan (a line still used today by the 1, 2, 3, 4, 5, and 6 trains and 42nd Street shuttle), which by 1908 had expanded into the Bronx and Brooklyn. The sum of city money devoted to the project was unprecedented: adjusted for relative GDP share it equates to roughly $30 billion in 2012 dollars. The money expended on the subway was so great that it caused the city to run up against its statutory debt limit.

NEW POLITICS, NEW POLICY

Although the inadequacy of the rapid transit system became clear almost immediately after the first subway line opened, it took a complex series of events spanning several years to make the possibility of expansion a political reality at the state and city level. On the state level, perhaps the most important change was the appointment of the Public Service Commission in 1907 by reform governor Charles Evans Hughes. However, the Public Service Commission was initially limited in its power to negotiate contracts to attract private capital. Thus, in 1909 and 1912, the state legislature amended the subway’s enabling legislation, the Rapid Transit Act, to give the Public Service Commission more latitude in contract negotiations. Yet the Commission and the city were still hamstrung by the debt limit, so in 1909 the legislature exempted subway bonds from the debt limit under certain conditions.

Simultaneous to these state-level developments, political changes were afoot in the city government. The 1909 election brought a crop of reform-minded politicians to power, including Manhattan Borough President George McAneny. McAneny was a man who “always held that the City should make its own transit plan, placing individual routes where they will do the most good and not necessarily with reference to their earning capacity alone, nor to their relationship to enterprise in real estate.” In January 1911, the Board of Estimate and Apportionment, convinced that “the provision of new subway lines was too important to be left primarily to the private sector,” created a new transit committee headed by McAneny.

Following these political and legal changes, McAneny’s transit committee and the Public Service Commission dove into negotiations with the major rapid transit companies operating within New York City. Initial negotiations involved the Interborough Rapid Transit company (IRT), the Brooklyn Rapid Transit company (BRT, later the Brooklyn-Manhattan Transit company or BMT), and the Hudson and Manhattan Railroad, which ran the system now known as PATH.

However, the Hudson and Manhattan Railroad quickly left the negotiations, so the expansion plan announced in June of 1911, known as the Dual System, envisioned an expanded rapid transit system in the form of two distinct networks, one operated by the IRT and the other by the BRT.

THE DUAL SYSTEM

It is difficult to overstate the scale and ambition of the Dual System plan. No American city, including New York itself, has ever attempted something like it before or since. The funding scheme for the expansion was simple, but staggering in size. The City and the companies would split funds for new lines: the City would contribute $150 million for subway construction, while the IRT would contribute $56 million for elevated line construction and $21 million for new equipment. The BRT would contribute $34 million for construction and $26 million for equipment, bringing the total investment to an estimated $347 million. By 1913, these costs had been revised up so that the total cost was $366 million, with a $200 million contribution from the City. This sum of money funded the largest public works project undertaken in the United States up to that time.

In exchange for this enormous expenditure, the City and the transit companies got expansion at a speed and scale never seen before. In the thirty years since the first elevated lines went up in Manhattan, the city’s rapid transit system had grown to 303 track miles, mostly in Manhattan and northern Brooklyn; the contracts for the Dual System called for that number to more...
than double to 637 miles in just five years, with new tunnels and bridges connecting every borough but Staten Island with Manhattan. The expansion of the physical footprint of the city made possible by the Dual System, along with quality of life improvements from reduced slum crowding, was profound. As Peter Derrick wrote, “More than any other single activity undertaken by the municipal government, the Dual System subway lines helped to improve the lives of the average New Yorker. It saved the city for its people.” The new Dual System lines were immensely popular, and were quickly crowded to capacity owing to a near doubling of ridership between 1913 and 1921.

Many of the new subway lines were deliberately sent into greenfield areas in the Bronx, upper Manhattan, Queens, and southern Brooklyn in order to create “subway suburbs” that would alleviate the intense overcrowding of Lower Manhattan. These lines by and large had their intended effect. Between 1910 and 1940, the population of Queens grew by 357 percent, the Bronx by 224 percent, and Brooklyn by 65 percent, while the population of Manhattan declined by about 19 percent. The population of the Lower East Side, the most densely populated place on earth at the turn of the Twentieth Century, declined by 63 percent in the same time period. The expansion of the physical fare rate was set for the full 49-year duration of the contracts unless both the city and the companies agreed to an adjustment. The companies, the Public Service Commission, and the Board of Estimate and Apportionment all agreed to the fixed fare because inflationary episodes had been rare up to that point in American history. However, with the outbreak of World War I, price levels increased significantly and permanently, with costs for raw materials like coal and steel almost doubling between 1914 and 1918. From 1904 to 1919, price levels rose 92 percent while the value of the nickel fare declined by 48 percent in real terms. Additionally, labor costs ate up an ever-growing proportion of revenue. While railways in 500 other cities had raised fares by 1920, the BRT and IRT were stymied by the need to get city permission for any fare increase, a task that became impossible after the election of the populist Mayor John Hylan in 1917, who won his first term by denouncing “the interests,” by which he usually meant the transit companies.

In 1921 and 1922, George McAneny, by then the chairman of the state’s new Transit Commission, issued two scathing reports on the status of the Dual System. In addition to criticizing what he described as the transit companies’ “swollen or forced dividends” and the “various consequences of divided organization and divided control,” he tabulated the companies’ myriad debts and neglected obligations. Between 1918 and 1921 alone, the Dual System saw an increase in ridership of 25 percent, but the transit companies had only increased service by 5 percent. Despite this huge ridership growth and stingy service, the IRT and BRT had accumulated a collective $111 million in liabilities, including $13.3 million in arrears of city and state taxes and $36 million in unpaid bond interest. In addition, McAneny and the Transit Commission estimated that the subway system was in need of $11 million to complete deferred maintenance as well as $25 million to upgrade inadequate stations and facilities. A mere ten years after its conception, the Dual System was on the verge of collapse.

**MCANENY ATTEMPTS A RESCUE**

George McAneny, the prime mover behind the Dual System expansion, became convinced that the public-private partnership model he had created was irreparably broken. When the state created a new Transit Commission, he was named its chairman and used his new position to suggest a new strategy for subway construction and operation. The Transit Commission’s plans called for an expansion of the Dual System, with an estimated cost of $218 million to be funded by a new bond issue.
Mayor of New York City in 1917 after Tammany Hall Democrat, was elected INDEPENDENT SUBWAY

junk.”

under public control as “transportation lines that McAneny hoped to consolidate by refusing to allocate any city funds to against every fare increase request and voting against Hylan's plans for the future of the system. Similar to McAneny, Hylan proposed the consolidation of all the subways, elevated lines and surface railroads into a single agency; however, Hylan's plan called for consolidation under a city agency, not a state agency. In 1924, the state legislature acceded to city control of new subway construction through the new New York City Board of Transportation under the condition that the city-owned subway set its fares to cover all operating costs and construction debt. The new city-built lines would be built largely in accordance with “Mayor Hylan's Plan for Real Rapid Transit,” published in 1922, an extraordinary document proposing the creation of an independent municipal system incorporating some elements of McAneny's plan but largely designed to compete with, rather than complement, the existing lines of the Dual System. This meant the deliberate creation of redundant routes, such as the construction of subways underneath existing elevated lines, including the BMT Fulton Street elevated in Brooklyn and the IRT Sixth Avenue elevated in Manhattan. Approved by the Board of Estimate and Apportionment in 1925, the new Independent Subway (IND) would consist of seven major routes running along 190 track miles, all to be built at an anticipated cost of $674 million.

Mayor Hylan's subway plans were initially all in the negative – no fare increases, no new Dual System expansions – but the creation of the Transit Commission in 1921 motivated him to prepare his own plans for the future of the system. Similar to McAneny, Hylan proposed the consolidation of all the subways, elevated lines and surface railroads into a single agency; however, Hylan's plan called for consolidation under a city agency, not a state agency. In 1924, the state legislature acceded to city control of new subway construction through the new New York City Board of Transportation under the condition that the city-owned subway set its fares to cover all operating costs and construction debt. The new city-built lines would be built largely in accordance with “Mayor Hylan's Plan for Real Rapid Transit,” published in 1922, an extraordinary document proposing the creation of an independent municipal system incorporating some elements of McAneny's plan but largely designed to compete with, rather than complement, the existing lines of the Dual System. This meant the deliberate creation of redundant routes, such as the construction of subways underneath existing elevated lines, including the BMT Fulton Street elevated in Brooklyn and the IRT Sixth Avenue elevated in Manhattan. Approved by the Board of Estimate and Apportionment in 1925, the new Independent Subway (IND) would consist of seven major routes running along 190 track miles, all to be built at an anticipated cost of $674 million.

Mayor Hylan's Plan is a bizarre document, part subway plan and part political screed. Like McAneny's 1921 plan, it called for the recapture of city-owned lines as soon as possible; however, it advocated city operation of the lines in addition to ownership for the first time. It proposed expanding the routes of the subway to 710 track miles. And it advocated for a new system “operated by the City itself on the basis of a five-cent fare for a continuous ride from one end of the Greater City to another.”

Not one to be outdone by McAneny, Hylan even suggested a Crosstown Line that would connect the Bronx as well as Queens and Brooklyn by traversing a new rail bridge along the alignment now occupied by the Triborough Bridge.

The Plan claimed that such an expansion, even with the nickel fare promised in perpetuity, would be fiscally feasible. It claimed that the recapture of the IRT and BRT lines would increase the city's debt limit by $500 million, though it does not explain the mechanism by which that increase would occur. Despite the fact that the city had given a ten-year tax exemption to all new residential buildings built between April 1, 1921 and April 1, 1923, the Plan argued that an expected $5 billion increase in real estate value due to new subway construction would offset any lost property taxes.

The Plan devoted much of its vitriol to attacks on George McAneny. After stating explicitly that the city's construction of the Independent system would destroy the profits of the IRT and BRT, the Plan took aim at McAneny's program to rehabilitate and extend the Dual System's elevated lines: “It would be transportation folly for the City to do as the Transit Commission proposes. When the City finishes its new rapid transit lines these properties which the State Commission wants the City to buy, will be practically useless and of no value to the City in its program for real rapid transit.” The message was clear: George McAneny no longer had the

proposed expansion would include the first tunnel to Staten Island, a Crosstown line connecting Queens and Brooklyn, extensions of several lines built as part of the Dual System, and a new Manhattan trunk line, together totaling 84 track miles.

While the track mileage of this proposed extension was far more limited than that of the Dual System, the bureaucratic reorganization proposed by the Commission was ambitious. The Commission proposed a complete restructuring of the transit system: consolidation of all subway and elevated lines under one independent public authority, the transfer of all private railroad properties to city ownership, less generous operating leases to the transit companies, free transfers between the BMT and IRT systems, the immediate planning of new lines, and automatic annual fare adjustments based on anticipated operating costs.

All of the Commission's recommendations would likely have shored up the transit system substantially, and indeed, many of them were later enacted. However, perhaps the most crucial recommended change was to take the process of fare setting out of the hands of politicians and the transit companies, which would allow revenues to rise in the face of growing operating expenses and, perhaps, fall in the face of diminishing expenses. However, the Board of Estimate and Apportionment, now under the control of Mayor John Hylan and other populists, torpedoed the Commission's plan by voting against every fare increase request and by refusing to allocate any city funds to McAneny's expansion plans, even going so far as to describe the Dual System lines that McAneny hoped to consolidate under public control as “transportation junk.” Mayor Hylan had other plans.

MAYOR HYLAN AND THE INDEPENDENT SUBWAY

John Francis Hylan, populist Tammany Hall Democrat, was elected Mayor of New York City in 1917 after running as an opponent of the Dual System. He was reelected in 1921 after making the perpetuation of the nickel fare the center of his campaign. Throughout his mayoralty, he railed against the IRT and, especially, the BRT. Hylan's anger may have its origins in an 1897 incident in which Hylan, then working as a motorman, was summarily fired by the BRT's predecessor company after nearly running over a senior employee. This grudge would result in transit policies that brought the city and the subway system to the brink of catastrophe.

Mayor Hylan's subway plans were initially all in the negative – no fare increases, no new Dual System expansions – but the creation of the Transit Commission in 1921 motivated him to prepare his own plans for the future of the system. Similar to McAneny, Hylan proposed the consolidation of all the subways, elevated lines and surface railroads into a single agency; however, Hylan's plan called for consolidation under a city agency, not a state agency. In 1924, the state legislature acceded to city control of new subway construction through the new New York City Board of Transportation under the condition that the city-owned subway set its fares to cover all operating costs and construction debt. The new city-built lines would be built largely in accordance with “Mayor Hylan's Plan for Real Rapid Transit,” published in 1922, an extraordinary document proposing the creation of an independent municipal system incorporating some elements of McAneny's plan but largely designed to compete with, rather than complement, the existing lines of the Dual System. This meant the deliberate creation of redundant routes, such as the construction of subways underneath existing elevated lines, including the BMT Fulton Street elevated in Brooklyn and the IRT Sixth Avenue elevated in Manhattan. Approved by the Board of Estimate and Apportionment in 1925, the new Independent Subway (IND) would consist of seven major routes running along 190 track miles, all to be built at an anticipated cost of $674 million.
money nor the power to fix the Dual System, and Mayor Hylan was going to use his newly vested powers to destroy it.

**THE AFTERMATH OF THE IND**

The construction of the Independent Subway system was a disastrous decision. It served its purpose of putting the private transit companies out of business, with the IRT permanently entering receivership in 1932 and the BMT following a few years later. But it also destroyed the City’s finances, creating a budgetary black hole from which the city took decades to emerge, and created a backlog of deferred maintenance from which the subway system has not yet fully recovered.

The financial facts are startling. Between 1919 and 1940, the year the city finally consolidated the IRT, BMT and IND lines into a single public agency, New York City lost $461 million dollars on its investments in subway construction. In 1932, New York City’s debt load was nearly equal to the debt of all 48 states combined, largely the result of subway construction bonds. Construction of the IND system blew past its estimated budget, costing the city a total of $766.8 million—not just over budget but nearly 125 percent more per mile than the Dual System had cost. And the city’s insistence on maintenance of the nickel fare, the political shibboleth which had haunted the IRT and the BRT, forced the IND to operate with a 9 cent loss on every ride. Fares would not rise to 10 cents until 1948. Though he spoke from naked self-interest, BMT Chairman Gerhard M. Dahl proved prescient when he told the New York Times in 1926 that construction of the IND would bring the city “to financial grief upon the rocks of unsound and impractical economics.”

**THE TAKEAWAY**

Mayor Hylan’s Independent Subway, with its rigid adherence to the nickel fare and lack of sound financing, and George McAneny’s Dual System, with its inability to endure unforeseen costs and obstreperous politicians, both look inherently doomed in retrospect. However, McAneny’s behavior as a civil servant shines brightly compared to Hylan’s mayoral antics. McAneny was the rare politician willing to recognize and rectify the consequences of his errors in judgment regarding the nickel fare and the divided operation of the rapid transit system. It is unfortunate that the failures of the Dual System led the state legislature to deprive him of power as he set about to revise and improve his vision. It is unfortunate, too, to think that the only difference between iterative progress and rash catastrophe is the person who holds the reins of power. There is no fix for the vicissitudes of politics. New York’s great subway expansion required much groundwork by many actors, but it could not have happened without one man with foresight, ambition, and political savvy—and it was nearly destroyed by a similarly ambitious politician. It has taken decades for New York’s rapid transit system to recover, more or less, from the havoc unleashed by the Independent Subway. The expansions to the Hudson Yards and up Second Avenue and the recent approval of the MTA’s $29 billion 2015-2019 capital plan reflect a political system that is relearning the necessity of expansion but not the importance of sound financing. And as New York City’s population continues to boom and the trains are crammed to capacity, a transportation crisis not unlike the one a century ago is gradually taking shape. It remains to be seen whether the people of the city will choose a Hylan or a McAneny to lead us out of it.
HISTORY, DEMOGRAPHICS, AND POLICY OVER TIME

Homelessness in New York has been a constant since New York was established as a center of industry and economic opportunity. The composition of the homeless population has varied. In times of economic wellbeing, the homeless are scarcer and more likely to be characterized by conditions of mental illness, disability, or abuse problems. During these periods, homeless people have also been geographically condensed into small, slum-like areas that accommodate their need for cheap housing. When recessions or depressions occur, their numbers increase, they are more likely to be comprised of families, and they are more likely to resemble average Americans under economic duress. While in earlier periods, private organizations provided the majority of services to homeless individuals; from the Great Depression onward the government became increasingly responsible for operating shelters and providing services to the homeless. Today, the city operates a system of hundreds of shelters to accommodate the homeless population, but it has largely failed to prevent homelessness or to address its fundamental causes. Economic difficulty and a lack of governmental housing subsidy have exacerbated the gap between individual income and housing costs. Of course, non-profit private institutions have worked to accommodate the growing demand for services to aid the homeless. Many of these institutions have implemented programs that rival or exceed the reach of the city’s services, leading to the debate that the city’s involvement should be limited to funding these private institutions. However, the city’s involvement has proved crucial when one examines the history of homelessness in New York City. With the population of homeless persons having increased by tens of thousands in people in just the past five years, it continues to be an issue of fundamental importance that the city must figure out a way to address.

Historically speaking, perhaps the earliest major development in homeless policy came about in response to the Great Depression. Rates of homelessness exploded nationwide in this period, with varying estimates between 200,000 and 1.5 million people during the most challenging periods. By 1933, New York’s shelter system was overwhelmed and overcrowded.

While the previous demographic makeup of the homeless consisted largely of older white males, many of whom suffered from mental illness or addiction, the homeless population during the Depression became much more diverse. Women and minorities, though still constituting a minority of the overall homeless population, nonetheless continued to receive disproportionately less assistance during this period due to the white-male-oriented infrastructure from previous eras. The correlation between mental illness and homelessness, meanwhile, became even more apparent in this period; as the unemployed population internalized the economic devastation across the country, depression rates increased dramatically.

The start of World War II reinvigorated the American economy, largely through the military and war industries that provided employment for both sexes, albeit temporary.
Soon after the war began, shelters that had been taken over by the federal government during the Depression were returned to local and private operation, and after the war New York City purchased many of the private shelters to house the small homeless population that remained after the war.6

This general period of economic opportunity continued through the 1950s and 1960s, coinciding with a dramatic decline in the homeless population in this period.7 This decrease was accompanied by changing attitudes towards homelessness. The demographic of the homeless more closely resembled the early image of older white males, often with addiction problems or mental illnesses, living in cheap housing options on “skid rows” like the Bowery in Manhattan.8 Social scientists conducted various studies concerning the composition of the transient Bowery population that confirmed this image; Bahr and Caplow (1973) described a population of 8,000 mostly alcoholic and mentally ill men on the Bowery, down from over 14,000 in 1949, who slept in cheap hotels and occasionally worked menial jobs.9 Very few actually slept on the street.10

In response to the problem, politicians and the public characterized the issue not as a systemic failure but as a series of individual failures on the part of the homeless population itself.11 In addition, a Cold War era opposition to socialism and other forms of government assistance discouraged political action to aid the homeless.12 The contemporaneous processes of suburbanization, urban renewal, and slum clearance targeted the impoverished and homeless both directly and indirectly, from the federal level to the local level. Eisenhower and the federal government demonstrated their preference for urban renewal over subsidized public housing through the Housing Act of 1954.

The combination of economic recession and this noninterventionist attitude had consequences on the state of homelessness nationwide. The late 1970s and 1980s saw a vast and rapid increase in the homeless population, while the face of the homeless population also changed drastically. While they continued to suffer from an elevated rate of mental illness and substance abuse issues, the ‘new’ homeless were significantly younger, more often minorities, more impoverished, and with less access to sleeping accommodations than their earlier counterparts.13 Homeless women and families also appeared in greater numbers; many of these women had suffered from domestic abuse, were newly independent divorcées without a means of supporting themselves, were ineligible for Social Security, or were hindered by the lack of economic equality between the sexes.14 Families suffered from cutbacks to the Aid to Families with Dependent Children (AFDC) and other family assistance programs. In 1983, the city sheltered 6,000 individuals from families compared with over 10,000 the very next year.15

The scale of the issue was such that it could no longer be ignored or explained away as a consequence of laziness, mental illness, and individual failure. Indeed, the diverse demographic and geographic decentralization of the homeless population essentially forced the issue into public discourse on a local and national level. New advocacy groups utilized the judicial system and the media to appeal to the public and garner widespread support for intervention.16 Most notable among these judicial victories was the case of Callahan v. Carey, a case that cited a Depression-era amendment to New York’s state constitution as the foundation for the right to adequate shelter.17 Soon, under Mayor Koch, the city was opening new shelters, enlisting religious institutions to provide space and sustenance, and subsidizing private organizations to meet the city’s newly enforceable obligations.18

From 1978 to 1985, the city increased its spending on the homeless from $8 million to more than $100 million.19 Government at all levels was funding programs to combat homelessness at rates that would have been inconceivable a decade earlier.20 New plans to shelter families employed “quasi-private accommodations” with shared facilities and temporary housing in special hotels and motels. In 1986, the average number of families in New York City living in these “welfare motels” reached 3,500 per month.21

Still, the need to increase the quantity and quality of shelters in New York remained an issue of vital concern, especially while public skepticism of government programs persisted. Governor Mario Cuomo used his Cuomo Commission to plan a “robust system of housing networks” and facilities under the newly created Department of Homeless Services, but he also enforced very strict entrance requirements for those who sought shelter.22 This system of shelters ultimately provided only a temporary solution as the need for social services and affordable housing continued to increase due to gentrification and displacement.23

Meanwhile, Mayor Giuliani institutionalized “workfare over welfare” through his Work Experience Program, invoking the tradition of Nineteenth Century almshouses that required labor in exchange for shelter and food.24 Giuliani also undertook aggressive removal tactics to eliminate homeless people from the streets, at times forcibly relocating people who refused to seek shelter. These aggressive tactics led to even greater public consciousness and discourse about the rights of homeless individuals.25 Both the Cuomo and Giuliani administrations attacked the symptoms of homelessness while failing to address the causes, namely the increasing gap between housing costs and economic opportunity for low-income individuals, which caused many people to ultimately become homeless.

Though his administration saw the greatest increase in the homeless population, Mayor Bloomberg showed promise in addressing the root problems that led to homelessness. Studies have shown that several major characteristics often accompany chronic homelessness: persistent poverty, erosion of income, behavioral disorders, impoverished social networks, and loss of affordable housing.26 In addition, an economic downturn and a lack of subsidized housing when exiting the shelter system are two other predictive factors that often appear with recurrent homelessness.27 To address issues such as these, Bloomberg initiated experimental efforts aimed at encouraging low-income students to attend school using financial incentives.28 His administration also created a ten-year plan to subsidize housing and reexamined the use of the shelter network as the primary infrastructure to combat homelessness.29 These policies showed a willingness to address the core issues that cause homelessness instead of merely increasing the temporary housing infrastructure. However, when conditions did not improve within several years, Bloomberg was quick to pull the plug on
these public investments, and the policies were abandoned. In addition, the Department of Homeless Services had previously placed thousands of homeless families in New York into permanent subsidized housing each year. However, in 2005, Bloomberg terminated the practice of distributing Section 8 rent vouchers to the homeless for federally funded public housing. He replaced these with short-term rent subsidies that often resulted in re-entry into the shelter system once the subsidy ran out.

While it is not surprising that Bloomberg’s administration saw the largest increase in the homeless population since the Great Depression, the increase in the homeless population also had roots in earlier administrations. The 2000 census revealed that 21 percent of the children in shelters nationwide resided in New York City. Between April 2000 and May 2003, there was an 84 percent increase in the sheltered family population; in that same year, the overall homeless population was close to 30,000 people. Bloomberg could not be solely responsible for these initial increases, as he only assumed office in 2002. He was also forced to contend with the Great Recession. With ever greater frequency, increasing poverty and higher housing costs have displaced families, and the lack of subsidized housing continues to force thousands into shelters each year. Bloomberg’s policy of inaction, previous federal and state governmental policy, and the recession combined to create the modern landscape of this issue.

**MODERN LANDSCAPE AND POLICY SOLUTIONS**

By 2005 the number of homeless people in New York reached nearly 30,000 people. Since then, the situation has only worsened. By July 2012, more than 45,000 people were homeless. 2014 was the first year since the Depression that this number broke 60,000 people.

Indeed, the “new homeless,” who largely consists of families and children, have created a need to reexamine homelessness policy. Politicians are looking for better ways to address the housing and social needs of at-risk populations. The increasing scale of the issue of homelessness underscores the urgent need for the city to address its underlying causes. What is especially evident is the need to transition to “good practice policy,” incorporating the psychological, socioeconomic, and structural needs of the homeless while also building the city’s capacity to house them.

New York’s current mayor, Bill de Blasio, has been making efforts to implement long-term programs while reforming the current shelter system. The scale of these reforms and increasing political obstacles, however, threaten the efficacy of the mayor’s plan to combat homelessness.

The current makeup of the homeless population reveals several trends that further reinforce the complexity of the issue. The vast majority of the current homeless population is comprised of families, including an average of 25,000 children in shelters per night in 2014. At-risk groups include young mothers from “multigenerational welfare families,” those who suffer from substance abuse and mental illness, those who have recently been deinstitutionalized from treatment facilities or foster care, and families that have not yet established their first home. It is estimated that as many as one-third of those entering shelters have recently left public institutions including jails, psychiatric facilities, and rehabilitation facilities. This proportion rises to nearly 40 percent when one includes those who have recently exited the foster care system.

These statistics indicate the importance of transitional programming for at-risk populations. On the federal level, the most notable program used to combat homelessness is the U.S. Department of Housing and Urban Development’s McKinney-Vento program, which funds states’ homelessness initiatives as long as they agree to maintain a minimum standard of care, including mandated permanent housing. On the state level, New York’s obligation to provide a bed for any homeless individual who seeks it was established in 1981’s landmark *Callahan v. Carey.* The state is responsible for funding, at least partially, the city’s programs to reduce homelessness as well as the operation of the shelter system. Meanwhile, the city is responsible for several long-term programs that are specific to tackling homelessness, including the Living in Communities (LINC) Rental Program.

The shelter system itself is in dire need of reform and revitalization. Operating alongside the centralized municipal shelters are “cluster-site shelters” or “scattered-site shelters.” Cluster-site shelters are typically affordable housing apartments in poor and often dangerous conditions that are used to rapidly house the increasing number of homeless families in New York. These shelters were introduced towards the end of the Giuliani Administration and were augmented during Bloomberg’s administration. Under Bloomberg’s administration, one quarter of homeless families were housed in cluster-site shelters. Though they are seen as a “quick-fix” to the problem of building shelter capacity, they often cost more than housing families in traditional shelters due to inflated payments required by landlords. The City often paid upwards of $3,000 per month to house families in apartments with a laundry list of health and safety hazards. Because these were emergency shelters, they were not operated under any bidding, procurement or contract requirements, and therefore resulted in payments far above the market rate. The decentralized nature of these sites made it even more difficult to enforce minimum health and...
There are a number of organizations working to reduce homelessness in New York City. One of them, Picture the Homeless, is a grassroots organization, founded and led by homeless people who are organizing for social justice on issues like housing, police violence, and the shelter-industrial complex.

One proposal they are working on aims to investigate other policy options outside of supportive housing or the Living in Communities (LINC) voucher program. They are looking at utilizing community land trusts (CLTs) and mutual housing associations (MHAs) to provide permanently affordable apartments in mixed income developments, including apartments affordable to households that are currently homeless or at risk of homelessness. This is done by shifting the astronomical cost of shelter into the preservation and development of housing, with a focus on city-owned buildings (i.e. TIL/ANCP) and public, undeveloped land. To learn more about their work, visit their site at http://picturethehomeless.org.

Recently, at Mayor de Blasio’s request, the Department of Investigation (DOI) reviewed the shelter system, including these scatter-site shelters. In a survey of 25 shelters, the DOI found 621 violations; with the worst conditions being found at cluster-site shelters. These dangerous living conditions included rat and roach infestations, fire violations, and deteriorating structures within the building. De Blasio announced last year that he would reduce the rental payments to these landlords and use these funds instead to finance rental assistance programs.

Mayor de Blasio has also taken several steps to implement and reform long term housing solutions to address family homelessness, but larger-scale intervention is still needed to more fully address the issue. In 2005, Mayor Bloomberg discontinued the practice of giving priority NYC Housing Authority (NYCHA) public housing apartments to homeless families. In June of 2014, Mayor de Blasio reinstated these priority referrals; however, the scale of the allocation was much smaller than advocacy groups like the Coalition for the Homeless called for. While the Coalition requested 2,500 units, de Blasio set aside only 750, which constituted only 13 percent of NYCHA vacancies each year. These were filled in just a few months. Still, this intervention, in combination with federal housing programs, is expected to house 1,250 families this year.

In addition, de Blasio’s ten-year “Housing New York” plan is expected to create 200,000 units of affordable housing citywide. However, de Blasio has thus far allocated less than 10 percent of these units to housing homeless individuals. Increasing the capacity to house homeless families is not the only option to decrease their numbers; in a study comparing the efficacy of policies addressing family homelessness, the most successful were those that emphasized preservation of the current housing arrangement, such as eviction-prevention programs. Between 2005 and 2014, the annual number of formal evictions carried out by a city marshal increased from 21,945 to 26,857. During this same period, the number of families who entered the shelter system after being evicted rose drastically, quadrupling in just eight years. The Family Eviction Prevention Supplement (FEPS) rent program does not match the fair market rate in their subsidies, so they are not competitive with Section 8 housing vouchers. This limitation undermines the effectiveness of this program, and the City needs to consider funding this policy much fully rather than merely increasing family shelter capacity.

Perhaps the most promising program introduced by Mayor de Blasio to end family homelessness is the new Living in Communities (LINC) Rental Assistance program, which is aimed at moving families out of shelters and into stable housing. LINC is divided into six programs, each targeting a specific population of chronic or long-term shelter users. It operates on a similar level to federal housing subsidies, covering the rent in designated apartment buildings beyond 30 percent of the family’s or individual’s monthly income. LINC I assists families who are working full-time (a total of thirty-five hours per week), but are unable to afford housing outside of the shelter system. This program targets the gap between housing costs and income that has displaced so many families. LINC II addresses homeless families that are “identified within vulnerable populations,” meaning that they have sought shelter on multiple occasions for significant periods of time.

LINC III provides assistance to families who have recently suffered domestic violence and have been certified survivors of this trauma, or who reside in Human Resource Administration domestic violence shelters. Recent estimates indicate that 28 percent of homeless families in shelters are comprised of domestic violence victims and their children. According to preliminary shelter Census Data, between December 2014 and February 2015, the number of homeless families with children has already dropped by nearly 300 families per night, or a total of 900 people per night. This decline can be attributed to at least partially to the LINC programs. Together, these three LINC programs are expected to house 4,000 qualifying families, or approximately 13,600 people, in 2015.

The differing views on the causes of homelessness – the structural versus the individual – continue to affect policy today. It is clear that a significant portion of the homeless today struggle to cope with individual issues such as domestic violence, substance abuse, and mental illness. These individuals may be unable to support themselves without a network of housing and social services that attend to their unique needs. However, the greater portion of the homeless population have suffered from structural and systemic issues, such as eviction, the gap between income and housing costs, and the reduction of government services.

This ever-growing homeless population is the result of intensifying economic inequality in this city. With the increasing housing costs in New York City, it is unlikely that even the “good practice” policies outlined above will be sufficient in ending the modern homelessness epidemic. Even if the city continues to create supportive services and housing units to accommodate the growing homeless population, homelessness will not effectively be reduced until the city creates policies that also directly address economic inequality.
COURTS IN CRISIS

In 1975, Sol Wachtler, Chief Justice of the New York Court of Appeals, made a powerful statement reaffirming a key constitutional right in Albany, New York. Writing for the majority in the matter of People v. Johnson, he said, "the speedy trial requirement not only ensures fair and humane treatment of the accused, but serves, as well, to promote the efficiency of the justice system." The court did more than pay lip service to the speedy trial ideal; the defendant was released and his conviction overturned on the grounds that the 18 months he had spent in jail while the state arranged for a prosecutor violated his constitutional right to a speedy trial.

On May 29, 2013, the Bronx district attorney dropped the case against Kalief Browder. The next day, he was released from Rikers Island, New York City’s sprawling jail complex. Just 17 years old at the time of his arrest on suspicion of stealing a backpack, Browder was jailed for three years and spent much of that time in solitary confinement. Less than six months after his release, Browder attempted suicide; on June 6, 2015, he succeeded in taking his own life.

Unfortunately, Browder’s case is not an anomaly. In the Bronx today, defendants, victims, and families are routinely forced to wait an unreasonably, unconstitutionally long time for criminal cases to be resolved. As of November 3, 2013 – the most recent publicly available statistics – 67 percent of pending felony cases in Bronx County were past the generous standard set by the judiciary itself. Defendants unable to make bail are kept in pretrial detention, often in horrible conditions. Victims and other witnesses must return to court years after the fact to recount the fading details of their most horrific ordeals.

How has the Bronx gone from a place where a man held in jail for 18 months before trial has his conviction overturned, to a jurisdiction where some accused criminals languish in pretrial detention for as long as five years? To answer this question, this article is divided into two parts. The first part, which appears below, is a careful analysis of the Bronx courts’ histories. Part two, which will appear in the Spring issue of the Urban Review, will offer several actionable policy solutions to ameliorate the current crisis and banish it permanently to the annals of history. It is convenient to blame the courts themselves for this crisis; it is also unfair. The Bronx falls at the unfortunate intersection of many structural problems with New York’s courts, and how the judiciary relates to the rest of the government.

A BRIEF HISTORY OF NEW YORK CITY’S COURT SYSTEM

To understand the backlog currently choking the Bronx’s courts requires at least a rudimentary outline and history of New York’s court system. The contemporary system traces its roots all the way back to the constitutional convention of 1846, which established “courts …[that] have remained with us to this day, as well as the organizational concept of the judicial district.” By the mid-Twentieth Century, an increasingly well-educated populace began placing ever-higher demands on courts across the state by taking ever more cases to court. High case loads overwhelmed the courts, and “almost overnight, court delay became endemic, and it was not uncommon for litigants to sit for three or four years, waiting for a trial.” Though these cases were largely civil in nature, the situation clearly foreshadows the crisis currently facing the Bronx.

Two key constitutional amendments
and two statutes have shaped the courts as they function today. The first constitutional amendment, ratified in 1962, consolidated all of New York’s courts into the New York State Unified Court System (NYSUCS), and gave each of the four Appellate Courts broad power to administer all of the lower courts within their respective departments. This power was defined by the New York Judiciary Law, which was amended in 1961 in anticipation of the passage of the constitutional amendment, and contained “all authority to fix trial court terms, to assign judges to those terms and to appoint many non-judicial court employees to their posts.” In practice, this allowed for judges to be moved to wherever they were necessary by “temporary assignments” that were effectively permanent. The second crucial statute was the 1976 Unified Court Budget Act, which moved the responsibility for funding all courts fully and directly to the state.

A second constitutional amendment, ratified in 1978, established a Chief Administrator of the Courts. As the administrative deputy of the Chief Justice of the Unified Court System, the administrator was empowered to use the authority of the Chief Judge to oversee the day-to-day operations of the court. The ratification of this amendment solidified the system that still serves New York today. The courts are highly centralized in nature, with one administrator and one funding source.

Using the constitutional authority vested in the office, the Court Administrator instituted two levels of trial court: Supreme Courts and District Courts. The Supreme Courts have an unlimited jurisdiction, but in practice, they tend to hear felonies and major pieces of civil litigation, while the district courts handle arraignments, misdemeanor cases, and claims totaling less than $25,000. Every county has its own branch of the New York State Supreme Court as well as a District Court, and each branch is responsible for handling both civil and criminal litigation. New York City has a special, unified District Court, called the Criminal Court of the City of New York. All five boroughs have their own branch of this special District Court.

ANATOMY OF A LOGJAM: ORIGINS OF THE BRONX BACKLOG

The courts of the Bronx have long been sub-par. The 1975 New York State Commission on Judicial Conduct Report singled out Bronx courts:

“Large caseloads and poor physical conditions were found to be common… the judges face heavy caseloads and generally have insufficient time to devote to individual cases. If sufficient time were devoted, they might not complete the day’s calendar…the litigants often appear without counsel and language barriers are frequently apparent. Often, no discernible effort is made by the harried judge or court personnel to help them.”

Though these “delays and caseloads” are distinct from later case backlogs and inefficiencies, this report still demonstrates that Bronx courts have a lengthy history of failing to meet standards.

The backlog that plagues Bronx courts today actually dates to the mid-1980s. Two separate trends contributed to the issue: a spike in felonies during the 1980s and 1990s accompanied by initially flat levels of misdemeanor cases, and then a spike in misdemeanor cases from the mid-1980s onward accompanied by a decline in felony cases. In order to deal with the felony spike, judges were re-assigned, particularly from the Bronx County Criminal Court, to hear felony cases in the Bronx Supreme Court. As misdemeanor arrests supplanted felony arrests, the Bronx Criminal Court was poorly equipped to deal with their sheer number.

In the words of the NYSUCS, “It became apparent that incrementally redirecting resources from court to court would not be an adequate remedy for the respective backlogs and delay.”

By the early 2000s, a significant misdemeanor backlog had already begun to fester, though the felony backlog had not yet been cleared, and in 2003, there were over 9,000 misdemeanors and 2,500 felonies pending. Prior to the merger, “[A] Supreme Court part would sit idle, with no felony case before it. This waste of resources…was difficult to justify while so many misdemeanor cases sat by, waiting for a trial part.” The two-tier structure wasted judicial resources rather than working down the crushing misdemeanor backlog. In fact, the groaning inefficiencies of the two-tier trial system had been apparent for some time; in 1983, the judges of the New York City Criminal and Civil Courts issued a report calling for a single tier trial system throughout the entire city, bemoaning the current system’s “fragmentation and duplication of court resources.”

The NYSUCS was flirting with massive reforms in the early 2000s. A 2002 judiciary report outlined a sweeping plan to overhaul the entire court’s structure. The report bemoaned the “numerous inefficiencies and anomalies [that] exist in [the] arcane
structure” of New York’s eleven trial courts, the nation’s most complex court system structure. Reducing the number of trial courts with the NYSUCS would allow existing judicial resources to be used more effectively and streamlining court procedures, while simultaneously saving the NYSUCS $131.4 million over five years. This excellent reform withered on the vine because the proposed structural reforms would have required a constitutional amendment.

THE CRISIS DEEPENS: 2003 TO 2009

In 2004, Chief Judge Judith Kaye responded to the burgeoning backlog crisis by combining the Bronx County Criminal Court and the Bronx County Supreme Court, temporarily reassigning Criminal Court judges to the Supreme Court. The Criminal Court would adjudicate summonses and arraign all criminal cases, while the Criminal Division of the Bronx Supreme Court (generally referred to as the Criminal Division) would try all criminal cases, not just felonies. This restructuring maximized usage of judicial resources without increasing the overall budget; Supreme Court parts would never sit empty, as they could easily be converted to hear misdemeanor cases.

The 2009 official judiciary report on the merger offered glowing praise for the project. Immediately following the merger, 48 justices served on the Criminal Division, and in 2003 they were able to reduce the backlog from 9,000 to approximately 5,000 pending misdemeanor cases. Compliant prosecutors helped accomplish this reduction by offering attractive plea-bargains to dispose of misdemeanor cases long past established standards and goals (S&G).

After the first year, however, prosecutorial support withdrew, and the number of pleas dropped significantly. The report credits the merger with handling a 34% increase in misdemeanor filings, even though pending misdemeanor cases again reached 9,000. Though pending felony cases rose by 72 percent, the report downplays the significance of this figure by comparing it to citywide statistics: “Other counties in New York City have also experienced large increases in the number and age of their felony inventories during this period.”

On the other hand, the New York City Bar Association report indicted the merger, citing a 55 percent reduction in the number of felony cases reaching verdicts between 2004 and 2007 and nearly a 30 percent increase in pending felony cases. By 2008, 2,443 felony cases were past S&G while felony arrests dropped to 20-year-lows. By 2007, the total number of cases reaching verdicts had dropped 20 percent compared with the number reaching verdicts in 2003, while the overall number of cases entering the system had increased. Finally, the report notes that the number of justices in the Criminal Division decreased from 48 to 40 by 2008 and, practically speaking, a maximum of 25 judges was available to cover the trial parts of the Criminal Division.

The two reports present divergent narratives. Though the official report admits the ballooning felony backlog, the Bar Association report clearly demonstrates its pernicious nature, citing the overall reduction of cases reaching verdicts, the backlog of felony cases, and specifying the structural deficiencies that led to this regrettable outcome. The majority of the Criminal Division’s failures are either ignored or briefly treated by the judiciary report. Despite its criticisms, the Bar Association ultimately calls not for an end to the Criminal Division, but rather for the allocation of more judicial resources.

Both reports agree, however, on the reasons for the Criminal Division’s failure: too few courtrooms, too few court officers, and crucially, too few judges. As the judiciary report delicately puts it, “The most critical measure necessary to improve the Court’s productivity is the enhancement of its trial capacity… What will benefit the court most is the infusion of additional judicial resources.” This is a plea to appoint more judges to the Criminal Division, or at the very least to enhance administration. The Bar Association report states explicitly “The number of judges in the Bronx is a matter of essential concern to the future prospects for the Merger project.”

THE DEMISE OF THE CRIMINAL DIVISION: 2010 TO PRESENT

By 2010, judicial resources in the Criminal Division were stretched to their maximum effectiveness. This was not the end of the Division, however; the Appellate Division of the First Department delivered the coup de grâce. In their appellate ruling on
People v. Correa, they ruled that the massive restructuring of the Bronx Criminal Division violated the constitutional authority of the Chief Judge and Chief Court Administrator. The decision harshly censured the merger, stating:

“[T]he establishment of the BCD by administrative decree, which eviscerates the Bronx Criminal Court by depriving it of its jurisdiction over class A misdemeanors and effectively restructures the constitutionally created Unified Court System, is not justifiable under the State Constitution, the Criminal Procedure Law, the Judiciary Law or any of the statutes or rules governing the administrative powers of the Chief Judge of the State of New York and Chief Administrator of the Courts.”

The defendant, Correa, had his misdemeanor conviction from the Bronx Criminal Division reversed.25

In November 2012, responsibility for misdemeanor cases was transferred back to the Bronx Criminal Court. The great merger experiment ultimately compounded the backlog, and in its aftermath, the average time for a homicide case to reach disposition in the Bronx had grown to 988 days. At that time, some accused felons had been in jail since 2008. The abruptness with which court administrators were ordered to transfer 18,000 cases, including misdemeanors and unindicted felonies, back to the criminal court also served to slow the court. By end of the experiment, the two criminal courts had become “the Bronx Gulag.”26 27 28

After the demise of the monolithic Criminal Division, the Chief Administrator instituted an emergency measure to quell the ballooning felony backlog. The so-called “judicial SWAT team” of 10 jurists from around the state received temporary appointments as Supreme Court Justices. Unlike other such temporary assignments, these terms were genuinely limited to six months. Beginning in February of 2013, these temporary Supreme Court justices were able to reduce the total backlog of cases older than two years by 27 percent, to just over 2,822 pending felony cases over S&G.2930

Unsurprisingly, this stopgap measure has not yet eliminated the felony backlog. As diligently as new temporary Supreme Court justices work, they face a stiff headwind. Due to the Unified Court Budget Act, the Bronx Criminal Court and the Bronx Supreme Court are both budgeted through the Unified Court District, and the New York State Legislature must approve court budgets. Since at least 1991, the state has at times been reluctant to provide the judiciary with the full budget amounts it has requested. That year, the shortfall was as great as $77 million.31 This shortfall helped to exacerbate the felony backlog the Bronx faced in the 1990s.

State budgets since then have also been unkind to the needs of the judiciary. In particular, since 2009, the New York City Bar Association reports that:

“[T]he Judiciary has absorbed nearly $400 million in increased costs while its budget has increased only $27.5 million, or 1.5 percent over the entire period. As a result of cutbacks…the Judiciary was forced to … close courtrooms at 4:30 p.m., lay off staff, and cease hiring to replace employees lost through attrition…[s]taff shortages caused delays in processing court documents and opening court parts and imposed hardship on litigants throughout the court system.”

During the exact period that the Bronx was attempting to clear the resurgent felony backlog, the entire Judiciary was contracting in size and effectiveness.32

A 2013 New York Times investigative report was particularly unkind to the Bronx courts. It wove a sordid tale of outright abuse aided and abetted by inefficiency and incompetence. According to the report, even if the judge is sitting at his bench at 9:30 a.m., so many other pieces of the judicial apparatus fall behind that court cannot actually begin until 11:00 a.m.. In fact, the Corrections Department considers 11:00 a.m. an “on-time” prisoner delivery. When Times reporters visited the courtrooms of the Bronx Hall of Justice on March 13, 2013, they discovered that, over the course of the day, less than half of the Hall’s 47 courtrooms were actually in session.33

**SOMETHING’S GOTTA GIVE**

The current trajectory of the Bronx courts is unsustainable. Unless a wave of peace and goodwill sweeps the Bronx, or the penal code is significantly altered to reduce the number of offences, the current system is unlikely to sustain the gains made by the Judicial SWAT team in reducing the felony backlog. These horrendous backlogs are not a disease in and of themselves, but a symptom of the various maladies currently plaguing the system. There are too many crimes, too few judges, too few courtrooms, too few court officers and other administrators, and not enough money in the budget to hire more.

It is unfair to blame the current felony backlog on the Criminal Division merger. Though the merger caused the current felony backlog, it was also instrumental in reducing the earlier misdemeanor backlog. The merger was a responsible proposal that used the resources available within the NYSUCS to increase effectiveness. The Criminal Division failed in implementation, despite its good intentions. Furthermore, it is impossible to say whether the Criminal Division could have succeeded, as the experiment was cut short by the Appellate Court.

Ultimately, there is only so much that the Unified Court District can do with its current resources and its authority to use them. The Bronx is perhaps the most visible example of the Unified Court System’s failures, but the Court System is underfunded and understaffed across the board, and has not undergone a major administrative reorganization since 1962. Though tragic, Kalief Browder’s ordeal was nearly unavoidable in such a deeply flawed system.
It is not often that students are in a position to influence decision-makers, especially those in the upper echelons of government. But this past July, ten students from the *Structure of the Urban Region* class, along with their professor, Mary Rocco, got to do just that. The group traveled to Washington, D.C. to present their findings from a six-week study of federal place-based initiatives at the White House.

At an alumni event at the University of Pennsylvania earlier this year, Professor Rocco met White House Senior Advisor Tara McGuinness. The two agreed to discuss the possibility of having a Hunter class conduct research for the Office of Management and Budget’s Community Solutions team, which focuses on “place-based” initiatives (PBIs) undertaken by the executive branch. Place-based initiatives aim to improve “prosperity, equity, sustainability and livability” by granting money in specifically targeted geographic areas of the country, at times multiple complementary investments. The Community Solutions office was interested in creating a map of PBIs around the country and wanted a deeper look at the institutional context of these initiatives in order to determine how they are being executed and who the key players are.

Tara and her team provided a list of five targeted locales: Baltimore, New Orleans, Pine Ridge (South Dakota), Seattle, and Southeast Kentucky along with six place-based initiatives: Neighborhood Revitalization Initiative, Partnership for Sustainable Communities, StrikeForce, Mayor’s Challenge to end Veteran Homelessness, Promise Zones, and My Brother’s Keeper.

The class divided into groups to study each location’s economic and demographic history and trends, the implementation of the initiatives in question, and alternative solutions to the same issues they are addressing. “Structuring the class in this way enabled students to learn about the structures of place and how those structures affect housing, education, environment, urban growth, and perspectives of management,” Professor Rocco said. “It also allowed students to become familiar with places that are not usually studied.”

On Thursday, July 9th, the class met just before 6:00 am at Penn Station to board a train down to DC. After a brief meal and some mock run-throughs of their presentation, they entered the Eisenhower Executive Office Building, and were greeted by representatives from OMB’s Community Solutions team, the Office of the Vice President, the Department of Agriculture, the White House Domestic Policy Council, as well as Senior Advisor Tara McGuinness. After being briefed on the history of the projects they had been studying, the class had the opportunity to present their findings, which included the varied results of the Veteran Homelessness initiative, ongoing housing issues in New Orleans and Pine Ridge, employment issues in Baltimore and Southeast Kentucky, and the cost of living in Seattle. McGuinness expressed enthusiasm with the depth of their research and insight into issues and initiatives.

The presentation was converted into a full report, which will be distributed to those working on these initiatives as well as other interested parties.