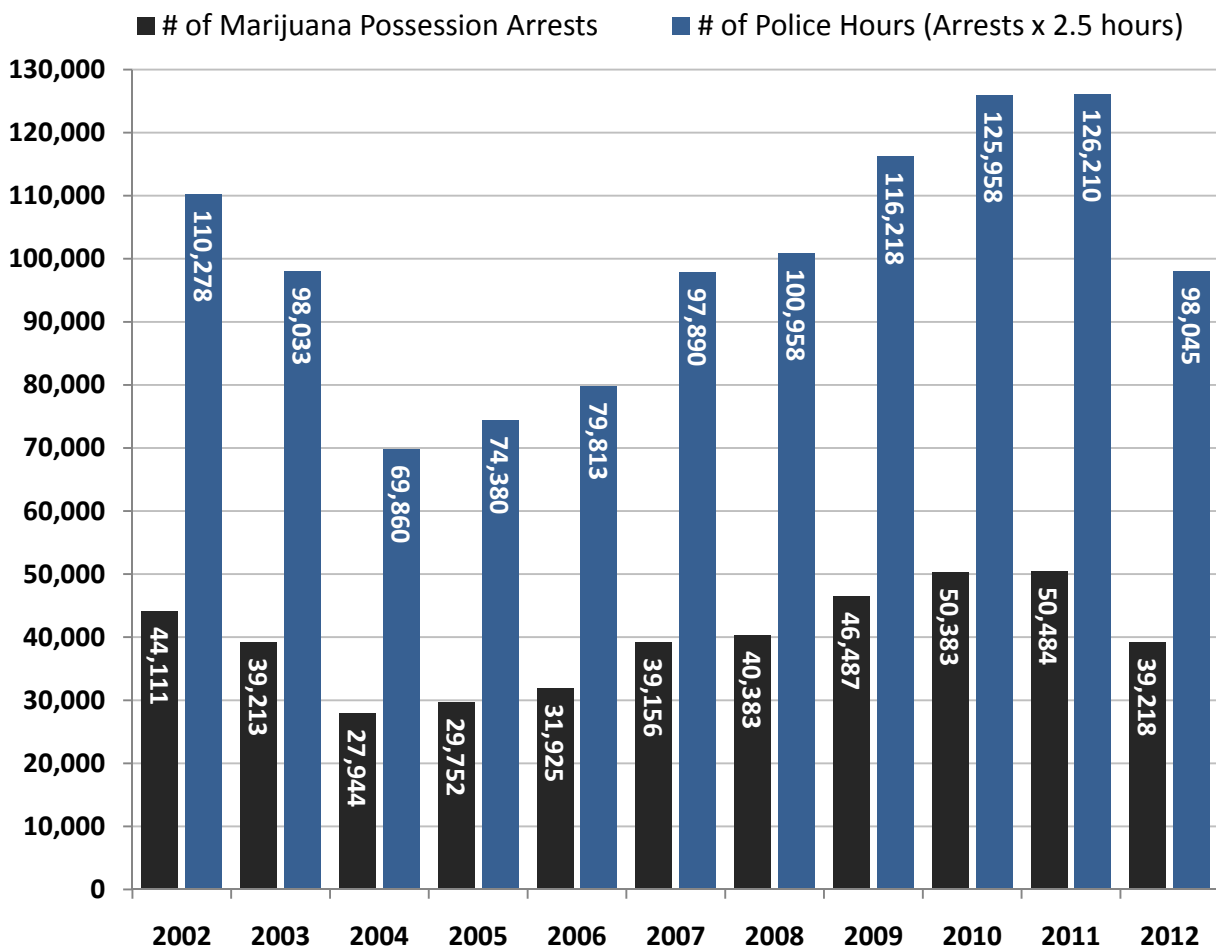


One Million Police Hours

Making 440,000 Marijuana Possession Arrests In New York City, 2002-2012



Prepared by Harry Levine, Loren Siegel, and Gabriel Sayegh for the Drug Policy Alliance and the Marijuana Arrest Research Project, March 2013.

Source: New York State Division of Criminal Justice Services

One Million Police Hours: Making 440,000 Marijuana Possession Arrests in New York City, 2002-2012

Police Hours

Members of the New York City Council and the New York State Legislature asked us to determine how many hours New York City police officers have spent making hundreds of thousands of lowest-level marijuana possession arrests. This is necessarily a range from lower to higher because the number of officers involved in a single arrest varies, and the time each spends varies considerably.

In our ongoing research about marijuana possession arrests in New York,¹ we have found that a basic misdemeanor arrest for marijuana possession in New York City varied from a minimum of two or three hours for one officer, to four or five hours or even longer for multiple officers. During this time the officers returned to the police station with the handcuffed arrestees and booked them; they took photographs and fingerprints, gathered other information and wrote it up. They sent the personal data to be checked against the state's criminal databases and often waited to receive the arrestees' criminal records, if the database searches found any. Arresting officers regularly took suspects to the central booking jail, were interviewed by assistant district attorneys, and appeared in court.

We used two and a half hours as a minimum average amount of time one officer spends making a marijuana possession arrest. This is a very conservative estimate. We multiplied 2.5 hours by the number of lowest-level marijuana possession arrests (charged under NYS Penal Law 221.10) for each year since 2002 when Mayor Bloomberg took office.

The front cover of this report shows a graph with the number of marijuana arrests for each year from 2002 through 2012. In those eleven years the NYPD made a total of 439,056 possession-only arrests. Multiplied by two and a half hours of police time per arrest that equals 1,097,640 hours – or approximately one million hours of police officer time to make 440,000 marijuana possession arrests. *That is the equivalent of having 31 police officers working eight hours a day, 365 days a year, for 11 years, making only marijuana possession arrests.*

Doubling the time to one officer for five hours, or two officers for two and half hours each, equals two million hours of police time to make the 440,000 arrests. Two officers for five hours equals four million hours of police time. This does not include the time spent by police supervisors or by corrections, court, and prosecutor staff, nor the time officers spent searching for people to arrest.

Even at the minimum of one million police officer hours for the 440,000 arrests, it is clear that the marijuana arrests have taken police off the street and away from other crime-fighting activities for a significant amount of time.

Cost of Marijuana Arrests

Several years ago, in response to requests from members of the New York City Council and the State Legislature, we researched the criminal justice system costs of New York City's marijuana possession arrests. The question was: How much have New York taxpayers been paying to make these arrests? In March, 2011, we presented our findings in a report: "*\$75 Million A Year: The Cost of New York City's Marijuana Possession Arrests.*"² Its principal findings were:

1) Over the last 15 years, a single arrest for marijuana possession, including all police and court expenses, has cost from \$1,000 to \$2,000 or more, conservatively estimated. This covers all police time including overtime pay for arresting officers and supervisors, all pre-arraignment jail costs and all court and prosecutor expenses.

2) In 2010, New York City spent \$75 million or more arresting and jailing mostly young people simply for possessing small amounts of marijuana.

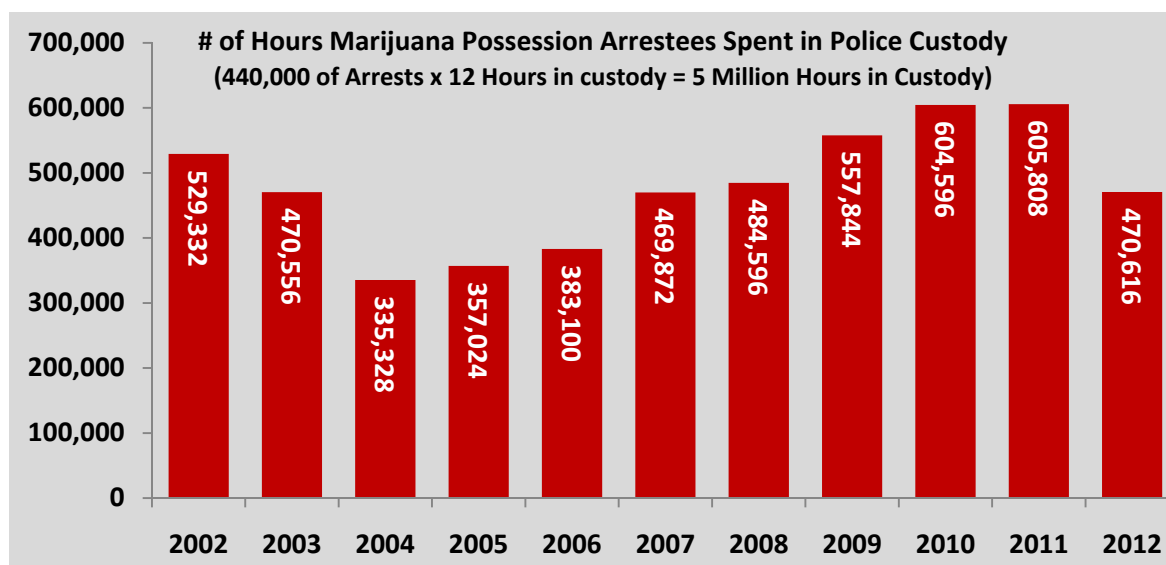
3) From 1997 through 2010 the NYPD made 536,000 arrests for marijuana possession. This has cost taxpayers \$500 million to over \$1 billion.

The report received considerable media coverage; our estimates were almost certainly low and have never been contested. The economics columnist for the New York Times drew upon our research, and Governor Cuomo cited our findings in his State of the State report in 2013. Our report suggested that the NYPD's marijuana possession arrest crusade was not a sensible use of valuable police and city resources.

Responses to the 440,000 Marijuana Possession Arrests

In the next section we have arranged excerpts from numerous prominent publications exposing New York City's marijuana possession arrests. The excerpts cover six years in chronological order with a hyperlink to each article in the end notes. As even a quick review will reveal, many journalists, editorial boards, public officials, law enforcement professionals, and public advocates have articulately and often eloquently drawn attention to the arrests and their costs, harmful consequences, wastefulness, and extreme racial bias. We agree with Governor Cuomo who said in his 2013 State of the State address: "*These arrests stigmatize, they criminalize, they create a permanent record. It's not fair, it's not right, it must end, and it must end now.*"

NOTE: We have also graphed the number of hours the people arrested have spent in police custody. Professionals in the criminal justice system report that most people arrested spend up to 24 hours in custody. We took the conservative figure of 12 hours to construct the following graph. For the years 2002 through 2012, at an average detention of only 12 hours per arrest (almost certainly low), the people the NYPD arrested spent over five million hours in custody. At 18 hours for an arrest, that equals nearly eight million hours in police custody for the mostly black and Latino young people arrested.



Responses To New York City's 440,000 Marijuana Possession Arrests, 2002-2012 (and to Their Costs, Wastefulness, Consequences, and Racial Disparities)

– Bernard Harcourt and Jens Ludwig, *University of Chicago Law School, 2007*³

We find no good evidence that the MPV [marijuana in public view] arrests are associated with reductions in serious violent or property crimes in the city. As a result New York City's marijuana policing strategy seems likely to simply divert scarce police resources away from more effective approaches that research suggests is capable of reducing real crime"....

This policing strategy focused on misdemeanor [marijuana in public view] arrests is having exactly the wrong effect on serious crime – increasing it, rather than decreasing it.... [New York City's] experiment with misdemeanor [marijuana in public view] arrests – along with all the associated detentions, convictions, and additional incarcerations – represents a tremendously expensive policing intervention....

[The marijuana arrest policy] had a significant disparate impact on African American and Hispanic residents. Our study further shows that there is no good evidence that it contributed to combating serious crime in the city. If anything, it has had the reverse effect. As a result, *the NYPD policy of misdemeanor MPV arrests represents an extremely poor trade-off of scarce law enforcement resources.*"

– Harry G. Levine and Deborah Peterson Small, *Marijuana Arrest Crusade, NYCLU, April 2008*⁴

Harcourt and Ludwig's study is in accord with the observations of patrol officers we interviewed in New York and other cities. These experienced police officers point out that when officers spend several hours arresting and booking teenagers and young adults simply for possessing marijuana, they are off the street unable to engage in other police work. Likewise, narcotics squads searching for and arresting people possessing small amounts of marijuana are not available for other crime-fighting work. *In describing these marijuana arrests, a number of police officers used exactly the same phrase, calling them "a waste of time"....*

In this report we refer to what is happening in New York City as a "marijuana arrest crusade" to highlight the massive, organized, even relentless pursuit of these arrests under two mayors and three police commissioners for over ten years. But the term crusade does not capture other important characteristics of these marijuana possession arrests – including their racial bias, gender bias, costliness, and other harmful effects to New York City and especially to Black and Latino young people and their families.

It is long past time for the people of New York City to know about and address what its police department and criminal justice system have been doing in this and other matters. And other cities and counties in the U.S. can learn much from New York's marijuana possession arrest policy about what not to do.

– Anthony V. Bouza, *Former Chief Of Police Of Minneapolis, Former NYPD Commander In The Bronx, Author Of The Police Mystique, May 2008*⁵

New York City's current marijuana arrests are exactly analogous to the roundup of gays in the 1950s and 1960s that Mayor Lindsay stopped. And the offenses represent exactly the same level of risk to the public. Making marijuana arrests a priority is a waste of police resources and does not reduce street violence. Illegal, trivial, meaningless arrests undermine confidence in the justice system and corrupt the enforcers. New York's marijuana arrests are counterproductive, a classic misapplication of police resources.

– *New York Magazine, Marc Jacobson, "The Splitting Image of Pot," Sept 21, 2009*⁶

On the one hand, marijuana is practically legal - more mainstream, accessorized, and taken for granted than ever before. On the other, kids are getting busted in the city in record numbers. Guess which kids.

– *Jim Dwyer, NY Times, "Whites Smoke Pot, but Blacks Are Arrested," December 22, 2009*⁷

Outside a music club on Greenwich Street in SoHo, the bouncers smoke joints as they check in the arriving customers. A young graphic artist routinely strolls through Chelsea, joint in hand.... But the SoHo bouncers and the Chelsea graphic artist don't have much to worry about, at least from the police: they are white. *Even though surveys show they are part of the demographic group that makes the heaviest use of pot, white people in New York are the least likely to be arrested for it.* Last year, black New Yorkers were seven times more likely than whites to be arrested for marijuana possession and no more serious crime. Latinos were four times more likely....

The handful of white pot smokers who do get arrested can be found in court on Mondays and Tuesdays, when they must answer tickets typically issued for smoking pot in a park. The rest of the week is taken up with blacks and Latinos, who are more likely to have spent a night in jail before court, said Edward McCarthy, a lawyer for the Legal Aid Society.

"Some of the police officers, who are at the start of their careers, are apologetic when they make these arrests," Mr. McCarthy said. "They say, 'if my lieutenant or sergeant weren't here, I'd let you go.'"

– *Charles Blow, "Smoke and Horrors," NY Times Columnist, Oct. 22, 2010*⁸

The war on drugs in this country has become a war focused on marijuana, one being waged primarily against minorities and promoted, fueled and financed primarily by Democratic politicians....

Young police officers are funneled into low-income black and Hispanic neighborhoods where they are encouraged to aggressively stop and frisk young men. And if you look for something, you'll find it. So they find some of these young people with small amounts of drugs. Then these young people are arrested. The officers will get experience processing arrests and will likely get to file overtime ... and the police chiefs will get a measure of productivity from their officers. The young men who were arrested are simply pawns.

Why would Democrats support a program that has such a deleterious effect on their most loyal constituencies? It is, in part, callous political calculus. It's an easy and relatively cheap way for them to buy a tough-on-crime badge while simultaneously pleasing police unions. The fact that they are ruining the lives of hundreds of thousands of black and Hispanic men and, by extension, the communities they belong to barely seems to register.

This is outrageous and immoral and the Democrats' complicity is unconscionable, particularly for a party that likes to promote its social justice bona fides. No one knows all the repercussions of legalizing marijuana, but it is clear that criminalizing it has made it a life-ruining racial weapon. When will politicians have the courage to stand up, acknowledge this fact and stop allowing young minority men to be collateral damage.

– *Jesse Levine, Huffington Post, "Bloomberg's Reefer Madness," March 15, 2011*⁹

In 2010 New York City spent \$75 million arresting people for possessing small amounts of marijuana.... Each arrest costs at least \$1,000 to \$2,000 (conservatively estimated), and in 2010 the NYPD made nearly 1,000 arrests a week. The 50,383 people arrested for marijuana in 2010 were all fingerprinted, photographed, and most spent 24 hours or more in jail. In all cases, marijuana possession was the highest charge or the only charge.

Mayor Bloomberg has famously admitted to smoking marijuana and enjoying it. Yet on Bloomberg's watch the police have arrested more people for possessing marijuana than the last three mayors combined. Since Bloomberg was elected in 2002, the NYPD has arrested 350,000 people for possessing less than 7/8 of an ounce of marijuana at a cost to taxpayers of \$500 million to \$1 billion or more.

The NYPD arrests 50,000 people a year to confiscate 50,000 joints or small bags and spends \$75 million to do it. It seems fair to say that Michael Bloomberg has created his very own Reefer Madness.

– *Ailsa Chang, WNYC News, "Alleged Illegal Searches by NYPD May Be Increasing Marijuana Arrests," April 26, 2011* ¹⁰

Police arrest 140 people every day in New York City for possessing small amounts of marijuana. It's now by far the most common misdemeanor charge in the city, and thousands of these arrests take place when police stop-and-frisk young men in the poorest neighborhoods. While police say these stop-and-frisks are a way to find guns, what they find more often is a bag of marijuana.

An investigation by WNYC suggests that some police officers may be violating people's constitutional rights when they are making marijuana arrests. Current and former cops, defense lawyers and more than a dozen men arrested for the lowest-level marijuana possession say illegal searches take place during stop-and-frisks, which are street encounters carried out overwhelmingly on blacks and Latinos.

[Ailsa Chang won a Dupont Award for her investigative reporting on the illegal searches in the marijuana possession arrests]

– *New York Observer, By Azi Paybarah, "Critics of Marijuana Arrests Make an Economics Argument," May 5, 2011* ¹¹

New York City Council members Letitia James, Melissa Mark Viverito and Jumaane Williams joined protesters this morning who gathered on 5th Avenue and 79th Street — the corner where Mayor Bloomberg's town house is located — to protest the city's record of arresting mostly African-American and Latino people for minor drug offenses. They tried connecting the city's worsening economy with the expenses the city is paying to bust people for relatively low-level criminality.

Melissa Mark-Viverito: "During these tough economic times, when we are contemplating severe cuts to basic municipal and human services the \$75 million we spend on marijuana arrests each year should be among the first places we look for savings."

Jumaane Williams: "We wasted between \$50-\$100 million alone last year arresting individuals for low-level marijuana violations, all at a time where the Mayor proposes cutting essential services to our children and seniors."

Letitia James: "Our youth already have to worry about the lack of available jobs, which is difficult enough, the last thing they need is to be victims of illegal searches."

– *Kristen Gwynne, "Is NYC the Marijuana Arrest Capital of the World? Alternet, May 27, 2011* ¹²

Michael Bloomberg has made New York City "The Marijuana Arrest Capitol of the World" through his support of illegal tactics which allow cops to stop and frisk anyone they see fit. On Wednesday, May 25, a broad coalition of social advocacy groups, supporters and City Council members congregated around the corner from the Mayor's Upper East Side to deliver him a mock award for his efforts....

Organizers called out Bloomberg's hypocrisy, noting that when Bloomberg ran for Mayor in 2001, he admitted to having smoked and enjoyed marijuana, but continues to support using loopholes in the stop-and-frisk law to orchestrate mass arrests of young people of color for small amounts of marijuana.

Under Mayor Bloomberg, marijuana arrests have surpassed those under Mayors Koch, Dinkins, and Giuliani combined. Despite a tight budget and the stripping of federally funded social programs and education, the city pumped \$75 million into arresting more than 50,000 people for small amounts of marijuana last year.

Spokesman for the Drug Policy Alliance Tony Newman called the arrests "a numbers game" that allows officers to clock in overtime and make easy, low-level arrests to add to the war on drug statistics.

– Jim Dwyer, *"Side Effects of Arrests for Marijuana," NY Times, June 16, 2011*¹³

On average last year, someone was arrested every 10 minutes in New York City for possessing a few pinches of marijuana — less than 25 grams — and no other crime. More arrests, 50,383, were made in 2010 on this charge than on any other, and arrests are being made at an even faster pace this year.

"They're clogging the courts and ruining people's lives, in terms of potential collateral consequences for housing, employment, immigration," said Steven Banks, the attorney in chief of the Legal Aid Society, which represented 30,000 people in minor marijuana cases last year....

Testing often showed marijuana in the urine of people arrested in New York City, [an aid to Mayor Bloomberg] said: "The data shows an inextricable link between drugs and crime, and marijuana is the most prevalent drug used by criminals." *Wouldn't those same urine tests, conducted not in jails but in better-off neighborhoods, show "inextricable" links between pot and banking — or the law or academia? Or even politics.*

– *New York Daily News Editorial, Sept. 29, 2011*¹⁴

In an all-too-typical situation, cops stop a young man for questioning and possibly subject him to a frisk. When they ask him to empty his pockets, he produces a small bag of marijuana. Cops bust him for the misdemeanor offense of possessing less than 25 grams of the drug in public view. The injustice is obvious. The subject in question brought the pot into public view, committing the misdemeanor, only because he had been ordered to do so by the police. Otherwise, he would have been guilty only of a noncriminal possession violation, meriting the equivalent of a traffic ticket.... The department makes some 50,000 arrests for pot possession annually, an unknown number of which happen after police order people to reveal what they are carrying on their persons.

– *Steven Thrasher, The Village Voice, Sept 21, 2011*¹⁵

The prospect that "young men of color, who are hyper-policed in this city" are actually walking around in large groups smoking pot in open view is absurd. So is the notion that poor black males smoke pot more than richer, paler men and women. But still, they get disproportionately arrested because, under Mayor Bloomberg and Police Commissioner Ray Kelly, the NYPD uses controversial UF-250s—"stop-and-frisks"—on them at a record-setting pace....

"I'm a police officer, I come up to you," [Cassandra] Frederique explains as if she were a cop approaching a young man in East New York. "'What are you doing? What's in your pockets? Pull it out.' Once you pull it out, it becomes 'marijuana in plain view.' And that's when they arrest you."

– *Steven Wishnia, Alternet, Dec 30, 2011*¹⁶

To be prosecuted for marijuana in public view, explains Odalys Alonzo, chief assistant to Bronx District Attorney Robert Johnson, the defendant has to be observed either smoking in public or displaying a glassine or plastic package that police recognize as marijuana. "Sometimes, we see three people charged for one joint, because we've seen them passing a joint," she says....

The biggest change since Kelly's announcement, [Scott] Levy [of the Bronx Defenders] suspects, may be in how complaints are phrased. Police, he says, are increasingly reporting that they saw a defendant "take an object and put it in their pocket" and then found it to be marijuana when they searched them, but "our clients are saying that they never had it out."

Joshua Saunders, a staff attorney at the Brooklyn Defenders Society, another public-defender group, says he's seen a lot of "dropsy" cases, in which police say they saw the defendant drop the marijuana on the ground. He points out the police report of a man busted for three bags of pot in the Brownsville neighborhood in November. It says the officer observed the man on the sidewalk in front of a bodega "in possession of a quantity of marihuana which was open to public view and which informant recovered from defendant's pants pocket." Saunders wonders if the man had "transparent pants."

– Jennifer Peltz, *Associated Press*, Feb. 1, 2012¹⁷

"Our clients are still regularly stopped, searched, and marijuana is recovered from their pocket, but at no point where they having it out, smoking it," [Scott D. Levy of the Bronx Defenders] said. But most take a dismissal deal or plead guilty to a violation, rather than demand a hearing that generally comes after months of court dates and prolongs a case that can compromise job prospects, he said. "So the vast majority of cases are pleading out before a hearing is ever held and these issues are really aired," Levy said....

"New York remains in a fiscal crisis, and we simply cannot afford to arrest tens of thousands of otherwise law-abiding citizens for possessing small amounts of marijuana - especially when so many of these arrests are the result of illegal searches or false charges," Sen. Mark Grisanti said in a statement Wednesday. The Republican, who's a criminal defense lawyer, is sponsoring the proposal with Democratic Assemblyman Hakeem Jeffries.

It's difficult to put a price tag on the city's arrests, but Levine has estimated it cost an estimated \$75 million in 2011 to process, jail and prosecute the low-level arrests in New York. That figure was a compilation of estimated court costs, police manpower and jail time, averaging about \$1,500 per arrest — a cost shared by the state and city.

– gabriel sayegh, *Alternet*. Feb. 4, 2012¹⁸

Since Michael Bloomberg became mayor a decade ago, the NYPD has made more than 400,000 lowest-level marijuana possession arrests at a cost of \$600 million dollars. Nearly 350,000 of those arrested for marijuana possession under Bloomberg are young Black and Latino men – even though young whites use marijuana at higher rates.

"It is worth remembering and pointing out that U.S. government studies consistently find that young whites use marijuana at higher rates than young Blacks and Latinos," said Queens College professor Harry Levine. "But the police patrols, stop and frisks, and arrest quotas are highest in Black and Latino neighborhoods, and that is where the NYPD makes most marijuana possession arrests. Mayor Bloomberg is like the Energizer bunny of marijuana arrests – he just keeps going and going and going."

– Alice Brennan and Michael Keller, *New York World* March 30, 2012¹⁹

Six months after New York City Police Commissioner Ray Kelly ordered all police officers under his command to cease arresting people carrying marijuana, many are still being handcuffed and sent to jail after officers coerce or trick them into displaying the drug. That's the conclusion of a close review of 517 cases by Bronx Defenders, a criminal defense and legal advocacy organization, which found that nearly half of those picked up for small amounts of marijuana possession in recent months were not displaying the drug before they were stopped. Scott Levy, an attorney at the Bronx Defenders, the legal and advocacy organization that led the survey, said: "This is clearly an illegal practice"....

– Brent Staples, *NY Times Editorial Board*, "The Human Cost of Zero Tolerance," April 18, 2012²⁰

Millions of people have been arrested under the policy for minor violations, like possession of small amounts of marijuana. And one thing is beyond dispute: this arrest-first policy has filled the courts to bursting with first-time, minor offenders who do not belong there and wreaked havoc with people's lives. Even when cases are dismissed, people can be shadowed for years by error-ridden criminal records....

New York City's overly zealous marijuana arrests, coupled with the unreliability and porousness of record-keeping, damage the lives of tens of thousands of people a year. The Legislature needs to fix this. It must drop the public-display distinction for marijuana, which invites far too many abuses. It should also press law enforcement officials and the court system to make sure that criminal records are more accurate to start with and that people who are victimized by errors have a plausible way of getting them corrected. Employers and government agencies also have a responsibility here. They must not rush to their own judgment about minor offenders....

The police need to spend more time tracking down serious crime and less on minor offenses. There is nothing minor about a record that can follow people for the rest of their lives.

– *Sheldon Silver, Speaker, NY State Assembly, Governor Cuomo Press Conference, June 4, 2012*
What the Governor is proposing this afternoon is a logical and unfortunately necessary clarification of the law as it exists today. *It is and has always been the intent of the legislature to make possession of less than 25 grams of marijuana a violation and not a crime...*

– *Hakeem Jeffries, NY Assembly Member and now Congressman, Governor Cuomo's Press Conference, Albany, June 4, 2012*

The overwhelming majority of people who have been arrested as a result of the way the statute is currently written come from the black and Latino community. Even though statistics and studies consistently show that marijuana possession and use is far more racially diverse. *In fact some studies that have shown that affluent younger whites use marijuana in equal if not greater numbers....*

The possession of small quantities of marijuana is either a crime or it's not but it cannot be criminal behavior for one group of people and socially acceptable behavior for another group of people when the dividing line is race.

– *Manhattan District Attorney Cyrus Vance, Marijuana Law Reform Testimony, June 4, 2012*²¹

Half of these individuals [charged with open to public view criminal possession of marijuana in Manhattan] had never been arrested before, and approximately 46 percent were 16 to 24 years of age. Many of these defendants were held in jail before they were arraigned before a judge, a cold introduction to the criminal justice system....

The human costs to each one of those people and their families is serious, and it is real. It could affect an individual's ability to secure a job or receive admission into an academic or training program. The consequences of this can be devastating for a young man or woman starting out in life. It can also impose a financial burden on someone forced to miss days of work to appear in court.

Furthermore, the drain of resources in our office and the NYPD to process those ...cases is significant. The proposed law will allow us to redirect resources away from processing people charged with simple low-level possession of marijuana and use those valuable resources to fight violent crimes, to make all of our communities safer. This is just an application of common sense and fundamental fairness.

– *Governor Cuomo, Press Conference, Albany, June 4, 2012*

Speaker Silver and the Assembly that orchestrated a conversation and the roundtables to heighten the attention on this issue. *The District Attorneys, Cy Vance and all the New York City district attorneys ... Richard Brown, Joe Hines, Dan Donovan couldn't be with us today but they also support this proposal. I want to thank Mayor Bloomberg for his support; PBA president Pat Lynch also supports it, as well as the Drug Policy Alliance, NYCLU, Legal Action Center, Bar Association and Bronx Defenders. I am hopeful for passage.*

– *New York Times Editorial, June 4, 2012*²²

Public defenders have repeatedly charged that the police are entrapping young people, stopping them for no cause and then requiring them to empty their pockets to bring their marijuana into public view. And former police officers now speak openly of being pressured to drive up their arrest rates....

The Legislature should take up Mr. Cuomo's proposal and pass it swiftly. People with minor convictions can be denied public housing and federal student aid and written off by prospective employers. The numbers for the stop-and-frisk program are even more disturbing — 700,000 last year, about 85 percent of those involving blacks and Hispanics, who make up about half the city's population. Decriminalizing public possession of small amounts of marijuana will address only part of that problem. For the sake of fairness and public safety, the stop-and-frisk program, which breeds fear and distrust of the police in minority neighborhoods, must be reformed.

– *Ailsa Chang, Police Desk, WNYC, June 5, 2012*²³

The WNYC investigation found the problem wasn't that marijuana was against the law — it was how the police were allegedly carrying out the law. More than a dozen men from the most heavily policed precincts told WNYC they were arrested for displaying marijuana in public view when their marijuana was actually hidden in their clothes. They claimed during a stop and frisk, police either ordered them to empty their pockets or pulled the marijuana out themselves before arresting them.

Cuomo touched on the issue at Monday's announcement. "If you possess marijuana privately it's a violation, if you show it in public it's a crime," Cuomo said. "It's incongruous, it's inconsistent the way it's been enforced."

– *Bill Hammond, New York Daily News Columnist, June 5, 2012*²⁴

Cuomo's plan to decriminalize public possession of small amounts of pot is the opposite of dopey. It's smart policy and smart politics at the same time. The fact that the NYPD arrests more than 50,000 people a year for doing something that practically everyone under the age of 60 has at least tried — and knows full well to be no more dangerous than alcohol, and probably less so — is beyond ridiculous....

Cuomo himself has acknowledged smoking marijuana 'in my youth.' When asked during his first mayoral campaign if he had tried pot, Bloomberg said: 'You bet I did. And I enjoyed it.' According to a new biography of President Obama by David Maraniss, the future leader of the free world and his friends made a point of closing the car windows when they toked up, so they could tilt their heads back and take 'roof hits' when the joint was finished. Yet none of these lawbreakers was caught. So none got turned down for a job or forfeited a student loan or, most tragically of all, lost custody of their children — all of which can and do happen to the mostly young, mostly black and brown New Yorkers swept up in the city's modern-day reefer madness.

Compounding the injustice is the fact that New York supposedly decriminalized marijuana 35 years ago — when the Legislature downgraded private possession of up to 25 grams, or 7/8 of an ounce, to a mere violation, the equivalent of a traffic ticket. Arresting people over pot 'needlessly scars thousands of lives and wastes millions of dollars in law enforcement resources, while detracting from the prosecution of serious crime,' lawmakers declared at the time.... Cuomo is achieving a progressive goal in a way that gets government out of people's lives. Our calorie-counting mayor could learn a thing or two."

– *Heather Mac Donald, Manhattan Institute and City Journal, June 7, 2012*²⁵

Losing the opportunity to make arrests for public possession of small amounts of marijuana is worth the demolition of one of the more ubiquitous canards against the stop-and-frisk program—that it is being deliberately abused to arrest minorities. *And the decriminalization law may even improve the NYPD's ability to police high-crime areas.... The time officers save by not having to go to court for an arrest could increase patrol presence on the street and free them up for additional enforcement activity.*

–*Wendy Ruderman & Joseph Goldstein, Police Reporters, New York Times, June 22, 2012*²⁶

Legal Aid lawyers brought the suit on behalf of five New Yorkers who, they say, were victims of "gotcha" police tactics. The five men were all arrested since mid-April, four in Brooklyn and one on Staten Island; they were charged with misdemeanor possession after small amounts of marijuana were found on them during police stops. In each case, the marijuana became visible only after officers searched the men or asked them to empty their pockets, the suit says. "These five individuals are New Yorkers who were essentially victimized by unlawful police practices,"

Mr. Banks said. *"The lawsuit is aimed at stopping a pernicious police practice, which is harming thousands of New Yorkers a year and clogging up the court system with one out of seven criminal cases and diverting resources and attention from more serious criminal matters."*

– *Former Mayor Ed Koch, Huffington Post, June 26, 2012*²⁷

A great injustice is being perpetrated by members of the New York City Police Department on the people of this city.... *I urge all five district attorneys to publicly state that they will not prosecute anyone charged with marijuana possession for personal use – other than for a violation.*

The hideous part of all of this is that studies show that whites are the greater users of marijuana, not blacks or Hispanics. It is black and Hispanic youths who are being arrested and end up with criminal records, destroying many of their already limited opportunities for getting jobs and achieving a better life. This is unacceptable in a society that believes it is devoted to justice and fairness.

– *Eduard Porter, Economics and Business Columnist, New York Times, July 3, 2012*²⁸

Processing each of the roughly 85,000 arrests for drug misdemeanors in New York City last year cost the city \$1,500 to \$2,000. And that is just the cost to the budget. Hundreds of thousands of Americans, mostly black and poor, are unable to get a job, a credit card or even an apartment to rent because of the lasting stigma of a criminal record for carrying an ounce of marijuana.

– *New York Times Editorial, "An Ineffective Way To Fight Crime," Nov. 22, 2012*²⁹

A lawsuit filed by the Legal Aid Society in June and pending in state court makes the case that the police are still arresting people illegally in clear violation of both the commissioner's directive and the state law. More than 50,000 possession arrests were made last year....

Now a new study by Human Rights Watch further debunks the main premise of New York City's "broken windows" law enforcement campaign, which holds that clamping down on small offenses like simple marijuana possession prevents serious crime and gets hard-core criminals off the streets. The study tracked about 30,000 people arrested for marijuana possession in 2003-4 — none of whom had prior convictions — for periods of six-and-a-half to eight-and-a-half years. The study found that about only 1,000 of them had a subsequent violent felony conviction. Some had misdemeanor or felony drug convictions, but more than 90 percent of the study group had no felony convictions whatsoever.

The report concluded that the Police Department was sweeping "large numbers of people into New York City's criminal justice system — particularly young people of color — who do not subsequently engage in violent crime." This wastes millions of dollars and unfairly puts people through the criminal system.... The Legislature could go a long way toward ending unfair prosecutions by adopting Gov. Andrew Cuomo's proposal to make public display of a small amount of marijuana a violation."

– *Bob Gangi, "The NYPD's quota system forces officers to crack down on the very people they are supposed to serve and protect," Alternet, Nov. 30, 2012*³⁰

While the harmful effects of the NYPD's stop and frisk tactic have received the most public attention, this practice does not represent the most serious problem with current policing policy in NYC. It is not the true dark heart of the beast. That honor goes to an agency wide quota system that police brass use to evaluate the performances of officers on the street and that drives a harsh, aggressive approach to law enforcement.... Every day the City's police engage in objectionable practices that waste government resources and that result in more, rather than less, social disorder.

NYPD officials use the term "productivity goals" as a poorly veiled euphemism for the Department's quota system, as a thin cover for the pressure placed on street officers to make an expected number of arrests, or to issue a sufficient number of summonses. The department denies its use of such measures because they are illegal under state law, a law which, over six years ago, a state arbitrator concluded that the NYPD had violated....

"If I break up a fight between two boys and send them home, I don't get credit. If I help deliver a baby in an emergency, I get no credit. But I score points if I issue a seat belt summons or record two stop and frisks" [said one officer]....

When a NYPD representative, a precinct captain or lieutenant, directs officers to satisfy specific numerical goals regarding arrests and summonses, then deploys the officers in particular neighborhoods ... the

subsequent indiscriminate ticketing, false arrests, illegal stop and frisks, and other harassment techniques undermine officers' relationship with communities and result in policing that is unfair and unsuccessful. As a consequence, our city's citizens do not feel safe in their own neighborhoods, on their own streets, or in their own apartment buildings.....

PBA President Patrick Lynch stated recently that quotas are "ineffective in fighting crime and serve as a tremendous source of friction with the communities that our members are sworn to protect. Eliminating unnecessary and counterproductive quotas will allow police officers to keep New York City safe while winning back the support of its citizens."

– Issa Kohler-Hausmann, New York Daily News, "Pot Arrests Are All About The Numbers." Dec. 10, 2012 ³¹

New York City's marijuana exceptionalism has little to do with contributing to public safety.... A study by University of Chicago law professors showed marijuana arrests were not associated with declines in violent crime.... Nor do these arrests target serious criminals.... A new Human Rights Watch report shows the majority of the city's first-time marijuana arrestees in 2003 and 2004 were not convicted of any crime by the summer of 2011. Less than 3.5% went on to violent felony convictions....

If there is no evidence these arrests enhance public safety and top city officials publicly disavow supporting mass marijuana arrests, then what could possibly drive marijuana to be the No. 1 arrest charge in the city over recent years?....

There is mounting evidence that patrol officers feel pressure to issue summonses and make misdemeanor arrests just to hit targets, irrespective of public safety goals.... With more than 600,000 street stops a year, marijuana possession is a fairly easy misdemeanor arrest to turn up, which is why there are so many such arrests. They serve only to burnish officers' numbers, and little else. The pressures of quantitative management can push good cops to do bad things, like making constitutionally questionable arrests or concentrating arrest activity on crimes that do not reflect our public safety priorities.

– Governor Andrew Cuomo, State of the State Address, Jan. 9, 2013 ³²
These arrests stigmatize, they criminalize, they create a permanent record. It's not fair, it's not right, it must end, and it must end now.

– NY RISING: 2013 NY State of the State Report, Governor Andrew M. Cuomo, p.103-104 ³³

The numbers tell a story: overwhelmingly, young people of color are arrested, processed and then released. But, arrest has consequences that persist after release. There is the humiliation of arrest and, in some cases, detention during processing. More enduring is the stigma of the criminal records that can have lasting and deleterious effects on the young person's future. A "drug" arrest can have a significant impact on a person's life and key decisions made by employers, landlords, licensing boards and banks.

The mounting number of arrests without convictions in this area is not cost-free for law enforcement or the public either. A cost-benefit analysis ... examined the costs to the police and courts of each arrest—approximately \$764 in police and \$336 in court costs. Based on the number of arrests, the analysis concluded that it costs approximately \$75 million a year to support the current practice.

Is it worth the price? Overwhelmingly, the answer is no: not worth it in dollars, in stigma or in impact.

– Edith Honan, Reuters News Service, Feb. 14, 2013 ³⁴

New York City police will no longer hold people overnight for possessing small amounts of marijuana, and the city will back a state effort to treat those cases as violations instead of misdemeanors, Mayor Michael Bloomberg said on Thursday in his final State of the City address.... Bloomberg said he acted now so that fewer young men will be saddled with a criminal record. He also said it would allow police to better use resources.... Even so, the New York Civil Liberties Union said New York City conducts more marijuana arrests than any other city.

– *Wall Street Journal / Associated Press, February 16, 2013*³⁵

Critics have long said the [marijuana possession] arrests do little for public safety but inflict a lot of personal harm. Now some of the state's most powerful politicians are saying so, too.

Mayor Michael Bloomberg announced in his State of the City address Thursday that the city would change how it handles the arrests to save police time and spare many people the lengthy process of being booked and held for arraignment.... *"You're just clogging the jails, you're clogging the courts, you're clogging the police schedules," [Mayor Bloomberg] added on his WOR-AM radio show Friday....*

Bloomberg and Kelly are backing Cuomo's proposal to decriminalize possession of up to 15 grams of marijuana even if it's publicly visible, as long as it's not being smoked. "These arrests stigmatize," Cuomo said in his State of the State address, noting that they can hurt people's chances of getting into college or landing jobs. "It's not fair. It's not right".... Nearly three-fifths of New York City voters favor the concept, according to a Quinnipiac University poll last June.

– *NY Daily News Editorial / February 18, 2013*³⁶

File this under sensible and not inevitable: Mayor Bloomberg announced reforms to speed misdemeanor pot busts through the criminal justice system. Effective next month, the mayor said, cops will no longer subject someone arrested for open possession of marijuana to the full indignities of 24 to 48 hours in a holding cell before arraignment in Criminal Court.... Meaning: Less hassle for the person arrested and less burden on cops and courts.

New York State is in the process of acknowledging that marijuana, on its own, is not a pressing public safety menace but a public health problem. As part of that shift, Gov. Cuomo moved to decriminalize the act of holding small amounts in public view. While that isn't yet state law, it makes no sense to put every last misdemeanor marijuana arrestee — mostly young black and Latino men — through the ringer.

– *Harry G. Levine, "Buzz About NYC Mayor's Move to Reduce Marijuana Arrests Is Overblown," Alternet, Feb 15, 2013*³⁷

The obvious question is: why are these people being arrested and detained at all?... [Not arresting them] would save far more police time and public resources, and save the targeted young people from a stigmatizing criminal arrest record for drug possession. As New York Governor Andrew Cuomo put it in his State of the State address in January, "These arrests stigmatize, they criminalize, they create a permanent record. It's not fair, it's not right, it must end"....

Most of Bloomberg's hundreds of thousands of marijuana possession arrests over the last 10 years were the result of stop-and-frisks in which police either illegally searched people by reaching into their pockets and belongings, or ordered them to empty their pockets (which is probably also illegal). Middle-class and upper-class whites in New York City are rarely stopped and searched by the police, and therefore rarely arrested or even ticketed for marijuana possession. Yet young whites use marijuana at higher rates than young blacks and Latinos.

It is time for everyone in the city to be covered by the same marijuana possession policy long enjoyed by middle- and upper-class white New Yorkers: no arrests, no tickets and no fines.

– *Albany Times Union, by Jimmy Vielkind, Capitol bureau, March 12, 2013*³⁸

Albany County District Attorney P. David Soares joined a press conference held by members of the Black, Puerto Rican, Hispanic and Asian Legislative Caucus to change the state's marijuana laws in order to close a "loophole" that has led to the arrest of thousands of mostly young, mostly black and Hispanic, New York City men....

These arrests have have collateral damage on youth," he said. "There's also the issue of resources that are being used in law enforcement in enforcing these laws. These are resources that could be better

applied to address issues like gun violence and domestic violence that we believe should always be a priority for law enforcement."

– *Albany Times Union, By Jimmy Vielkind, March 13, 2013*³⁹

A bid to decriminalize small amounts of marijuana is among the non-fiscal items that could work their way into the state budget as negotiations draw to a close.... Critics of the New York City Police Department's stop-and-frisk program say some targets are told to take marijuana out of their pockets, where it would only prompt a ticket, and into "public view," where they can be arrested and charged with a misdemeanor.

The result, according to Assemblyman Karim Camara, a Brooklyn Democrat who chairs the Black, Puerto Rican, Hispanic and Asian Legislative Caucus, is that black and Hispanic youth are unjustly and disproportionately saddled with criminal records, even though studies show marijuana use is more prevalent among whites.

"We're not only punishing the individual; we're punishing society," said Camara, noting the high costs of enforcement and the difficulty people with arrest records face getting into college. "These arrests have collateral damage on youth," agreed Albany County District Attorney David Soares, who joined Camara at a news conference organized by the Drug Policy Alliance.

END NOTES

- ¹ The reports of the Marijuana Arrest Research Project, and much other information, can be found at: <http://marijuana-arrests.com/> The NYPD, of course, does not make information available about the hours officers spend on particular police work. Therefore, in our ongoing research at national police conferences, in academic settings and private meetings we have talked with many police officers from New York and other big cities about everything they do, and in particular about the time they spend arresting people for simple misdemeanors, especially for possession of a small amount of marijuana. We have also learned much from former prosecutors and judges, and for this report from Max Gross, a former researcher for the NY Civilian Complaint Review Board. For a discussion of the research and its methods see: Harry Levine and Deborah Small, *Marijuana Arrest Crusade: Racial Bias and Police Policy in New York City*, NYCLU: <http://marijuana-arrests.com/docs/MARIJUANA-ARREST-CRUSADE.pdf>
- ² Harry Levine and Loren Siegel, "\$75 Million A Year: The Cost of New York City's Marijuana Possession Arrests," Drug Policy Alliance, March 2011: <http://marijuana-arrests.com/docs/75-Million-A-Year.pdf>
- ³ "Reefer Madness: Broken Windows Policing and Misdemeanor Marijuana Arrests in New York City, 1989-2000", *Criminology and Public Policy* 2007: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=948753
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- ⁵ Anthony Bouza, quoted on page 103 of: <http://marijuana-arrests.com/docs/MARIJUANA-ARREST-CRUSADE.pdf>
- ⁶ Marc Jacobson, NY Magazine: <http://dragon.soc.qc.cuny.edu/Staff/levine/NYPotArrests/NYMag-The-Splitting-Image-of-Pot--Sept-2009.pdf>
- ⁷ Jim Dwyer: http://www.nytimes.com/2009/12/23/nyregion/23about.html?_r=0
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- ¹² Kristin Gwynne: www.alternet.org/newsandviews/article/600637/is_nyc_the_marijuana_arrest_capital_of_the_world
- ¹³ Jim Dwyer: <http://www.nytimes.com/2011/06/17/nyregion/push-for-marijuana-arrests-in-ny-has-side-effects.html>
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- ¹⁶ Steven Wishnia: http://www.alternet.org/print/story/153617/hypocritical_nypd_continues_racist_pot_arrest_crusade
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- ¹⁸ Gabriel Sayegh: http://www.alternet.org/print/story/154012/how_the_nypd%27s_ongoing_petty_pot_arrest_crusade_hurts_the_black_and_latino_community
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- ²¹ District Attorney Cyrus Vance: <http://manhattanda.org/da-vance-testimony-marijuana-law-reform>
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<http://www.governor.ny.gov/sites/default/themes/governor/sos2013/2013SOSBook.pdf>
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<http://marijuana-arrests.com>