

NYC's Costly Drug Enforcement & Broken Windows Policing



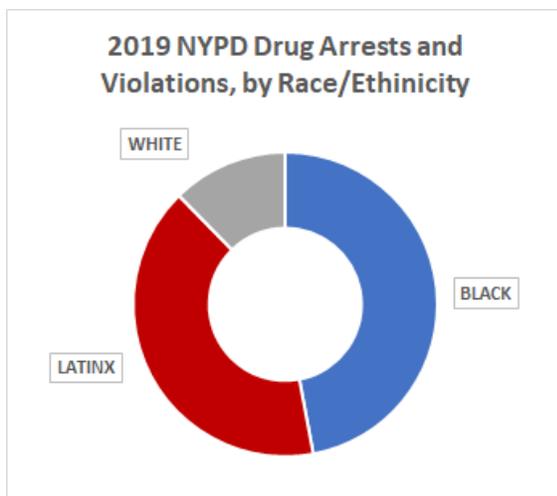
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New York City criminalizes drugs and low-level broken windows offenses at a startling rate, with enforcement in these areas accounting for a vast proportion of the NYPD's policing activities and the city's budget.

NYC's Costly Drug Enforcement Disproportionately Impacts Black and Latinx People

In 2019, there were more than 21,000 drug enforcement arrests and violations in New York City alone, with two-thirds being for only possession of marijuana, a controlled substance, or paraphernalia.¹ Further, nearly 15,000 summonses were issued by the NYPD for marijuana in 2019, accounting for 17% of all criminal summonses issued citywide that year.²

The estimated cost of just the police hours associated with drug arrests and violations alone in 2019 in NYC is \$32.2 million.³ However, *the true cost associated with NYPD drug arrests and violations in 2019 is likely closer to \$96 million*, or 6% of the NYPD patrol services expense budget.⁴



Stark racial disparities persist among these drug arrests and violations, despite data showing similar rates of use across populations. In 2019, more than 45% of people arrested or cited for drug offenses in NYC were Black,⁵ despite Black New Yorkers making up under 25% of the city's total population.⁶ A further 38.8% were Latinx, with Latinx people making up less than 30% of the city's total population. Only 11.7% of people arrested or cited for drug violations were white, yet white people comprise 47.2% of the city's population.

Broken Windows Enforcement in NYC Targets Communities of Color

The trends in drug enforcement in NYC mirror enforcement of other low-level offenses, often referred to as broken windows policing. Because broken windows policing focuses on the lowest level offenses to theoretically prevent more serious offenses—an assumption that has been repeatedly disproven⁷—low-level marijuana possession and sale are consistently among the most common offenses charged under broken windows policing.⁸

In 2019 arrests and violations for low-level broken windows offenses⁹ accounted for 28.5% of *all* NYPD arrests and violations issued for the year¹⁰ -- resulting in a tremendous negative impact on individuals and communities and wasting vast city resources.

The estimated cost of just the policing hours associated with low-level broken windows arrests and violations in 2019 in NYC is 91.7 million.¹¹

However, the true cost of enforcement for low-level broken windows offenses in 2019 is likely closer to \$456 million, or 28.5% of the NYPD patrol services expense budget.¹²

Extreme racial disparities exist in broken windows enforcement as well: more than 45% of people arrested or cited for broken windows offenses in NYC were Black, 33% were Latinx, and only 15% of people were white. This is nearly an inversion of the proportion of each group within the city's population -- and reflects racialized targeting of communities of color for broken windows enforcement.

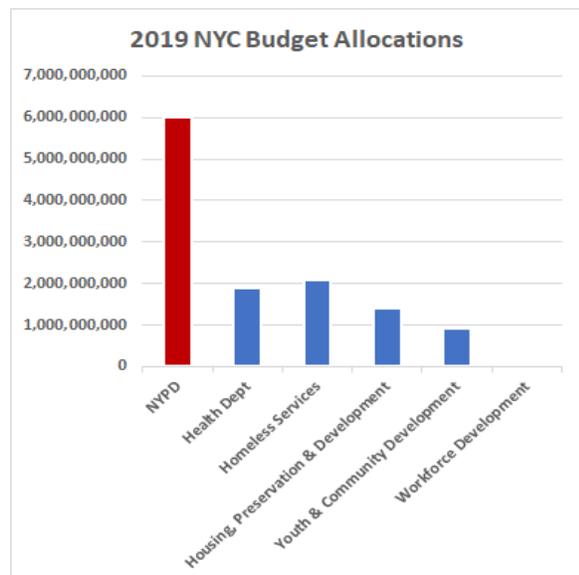
It is inappropriate and ineffective to use law enforcement as front-line healthcare providers-- those resources should instead be allocated to health-serving agencies and entities immediately.

Even a low-level arrest is no small matter. It involves being handcuffed, placed in a police car, taken to a police station, fingerprinted, photographed, possibly being held in jail for up to 24 hours while awaiting arraignment before a judge, appearing in court several times over the course of months, and can conclude with the imposition of a permanent criminal record that can easily be found on the internet by employers, landlords, schools, credit agencies, and banks.¹³

People arrested or ticketed for low-level offenses can face a range of additional impacts with long-term damaging effects that can make it difficult to get and keep a job, maintain a professional license, obtain educational loans, secure housing, keep custody of a child, or even adopt.¹⁴ Those who do not appear in court for a summons or who lack the means to pay the fine have a warrant issued for their arrest.

Budget Impacts of Over-Reliance on NYPD

NYC's budget for policing far outstrips that for important health and social services. Policing receives a larger share of the city's budget than public health, homeless services, youth services and other vital agencies – *combined*. Funds that should be used for social services are instead being used to criminalize New Yorkers and



harm communities mostly for minor infractions that harm no one, such as marijuana possession.

Although arrest rates now represent a decline from the peak of New York's drug war crusade, the current health and economic crises should force lawmakers to reckon with the impact of criminalization on access to healthcare, housing, employment and other social determinants of health that have an effect on substance use disorder.¹⁵

Even programs that are ostensibly focused on health and community-based responses to the overdose crisis, such as the Healing NYC initiative established in 2017, have included significant funding allocations for law enforcement.

Of the total original funding for the Healing NYC initiative, 47% was devoted to the NYPD. In comparison, the program allocates a miniscule portion of the budget for homeless services and non-corrections-based NYC Health + Hospitals services. Although some of this Healing NYC funding for the NYPD was used for naloxone training and distribution, a significant portion was used for fatal and non-fatal overdose scene investigations in an effort to arrest people who sell drugs – a supply-side intervention with a failed track record.

This is a significant waste in resources at a moment when the overdose crisis continues to claim a life every 6 hours in NYC, and will do little to reduce fatal overdose deaths.

Health Impacts of Existing Policy

Even low-level contact with law enforcement has lasting negative physical and mental health consequences.¹⁶ In 2019, the NYC Dept of Health and Mental Hygiene released a research brief summarizing findings that the criminal justice system and policing negatively impact New Yorkers' physical and mental health, warning the public that contact with the criminal justice system — everything from police stops or searches to incarceration — poses a public health risk.¹⁷

**“Even brief contact with the police or indirect exposure is associated with lasting harm.”
-- Oxiris Barbot, New York City Health Commissioner**

Poor physical health was reported almost twice as often by people ever stopped, searched, or questioned by police compared with those who never were (18% vs. 11%) and more than twice as often by people physically abused or threatened by police (29% vs. 12%).¹⁸ This health impact extends to family members as well, with people who had an immediate family member incarcerated or under community supervision in the past five years more likely to report fair or poor health than those who did not (29% vs. 19%).¹⁹

For those who are incarcerated, time in correctional facilities in and of itself negatively impacts an individual's health. NYC adults who were ever incarcerated or under community supervision were more likely than those who were not to report fair or poor health (28% vs. 18%).²⁰

For people experiencing opioid dependency the cycle of release and reentry contributes to increases in morbidity and mortality. People exiting incarceration are at extremely high risk of overdose compared to the general population.^{21 22 23} Research indicates that drug-dependent reentrants' risk of death in the first two weeks following release from prison is estimated to be 12.7 to 40 times greater than that of the general population; 90% of those deaths are due to drug overdose.^{24 25,26}

Judicial diversion, jail-based treatment, or other coercive forms of treatment should not be the driver connecting people to healthcare systems.

Keeping people out of the criminal legal system improves individual and community health. Since Portugal ceased criminalizing drug use, the results have been dramatic. The number of people voluntarily entering treatment has increased significantly, while overdose deaths, HIV infections, problematic drug use, and incarceration for drug-related offenses have plummeted.^{27 28,29} Drug decriminalization has had a remarkable impact on overdose death rate. In 1999, Portugal recorded 369 drug overdose deaths, by 2015 that number had fallen to 54.³⁰

Limitations of Reforms Treatment and Drug Enforcement

In 2009, Rockefeller Drug Law reforms expanded treatment alternatives to incarceration and ended mandatory prison sentencing for some drug-related charges. Although drug arrests across the state and in New York City decreased following Rockefeller Drug Law reform, tens of thousands of New York City residents are still arrested for drug offenses each year and criminalization has continued to be prioritized over care for people who use drugs.

Following the Rockefeller Drug Law reforms, both the campaign to end New York's marijuana arrest crusade and the ongoing overdose crisis have led to some procedural and rhetorical shifts around drug policy in NYC, including a recognition of the need to improve access to treatment and the enactment of limited diversion programs with mixed results.

However, even after these reforms were instituted, 82% of community-based drug treatment providers reported that their relationship with law enforcement was less than adequate;³¹ providers said that criminal justice rather than clinical concerns continues to drive assessment and treatment of their clients. Moreover, too often prosecutors, not clinical experts, are determining who should be diverted into a treatment

program and the parameters of treatment.

Alternatives to NYPD Funding

Instead of fueling the criminalization of people who use drugs and low-level broken windows offenses, funding currently allocated to the NYPD should be shifted toward providing NYC residents with resources that save lives and make the city safer for all, such as evidence-based drug treatment³² and quality healthcare and mental health services.

Such programs should be built on sound research and evidence, trauma-informed, culturally and gender competent, and focus on a comprehensive continuum of care including:

- Overdose prevention
- Peer navigators
- Screening and assessment (substance use disorder as well as mental health)
- Early intervention and active treatment
- Case management
- Prevention of communicable diseases related to substance use
- Relapse management for substance use and other co-occurring behavioral health disorders
- Vocational and literacy services
- Family involvement
- Parenting classes, family therapy and counseling services
- A full spectrum of medication-assisted treatments, psychiatric medication, and psychotherapy

In addition, the Council should support:

- Overdose prevention sites, syringe exchanges, low- or no-threshold medication maintenance and supportive housing, which are all effective interventions. If New York State commits to sustained investment in developing a harm reduction infrastructure, lives can and will be saved.
- Removing drug use from the purview of the criminal legal system and instead centering other avenues for engaging with people who use drugs in a way that reinforces their humanity and individual needs.
- Expanding pre-arrest diversion programs; people should not have to enter a guilty plea to access diversion.
- Including access to all forms of evidence-based treatment and harm reduction resources in any mandated treatment.
- Offer community-based treatment spaces in lieu of criminal court.
- Checking judges' judicial discretion so that individual biases do not influence treatment decisions.
- Making more offenses eligible for diversion (including violent offenses).

The NYC City Council should invest in evidence-based resources for people who use drugs instead of investing in law enforcement that often harms these communities.

For more information, contact Melissa Moore at mmoore@drugpolicy.org.

¹Data from: NYC Open Data, "NYPD Arrest Data,(Year to Date)," <https://data.cityofnewyork.us/Public-Safety/NYPD-Arrest-Data-Year-to-Date-/uip8-fykc>, and "Criminal Justice Statistical Report," New York State Division of Criminal Justice Services, November 2019. <https://www.criminaljustice.ny.gov/crimnet/ojsa/FINAL-2017-2018-DLR%20Update.pdf>.

² NYPD, "Marijuana Arrests and Summonses," <https://www1.nyc.gov/site/nypd/stats/reports-analysis/marijuana.page>

³ Based on methodology from the Marijuana Arrest Research Project, which estimated the cost of a single arrest including booking and police hours for processing at \$1,000 - \$2,000 per arrest; this fact sheet uses the midway point of \$1,500 per instance. This cost does not factor in overtime costs, which are significant, and other personnel costs for officers.

⁴ The total 2019 budget for NYPD patrol services was \$1.6 billion to make 214,459 total arrests and violations; drug offenses accounted for 13,050 arrests and violations, or 6% of all NYPD enforcement in 2019.

⁵Data from: NYC Open Data, "NYPD Arrest Data,(Year to Date)," <https://data.cityofnewyork.us/Public-Safety/NYPD-Arrest-Data-Year-to-Date-/uip8-fykc>, and "Criminal Justice Statistical Report," New York State Division of Criminal Justice Services, November 2019. <https://www.criminaljustice.ny.gov/crimnet/ojsa/FINAL-2017-2018-DLR%20Update.pdf>.

⁶ Data from: "New York City, NY Quick Facts," US Census Bureau, June 2020, <https://www.census.gov/quickfacts/newyorkcitynewyork>

⁷ Bernard E. Harcourt and Jens Ludwig, "Reefer Madness: Broken Windows Policing and Misdemeanor Marijuana Arrests in New York City, 1989-2000," *Criminology and Public Policy* 6:1 (2007), pp. 165-182.

⁸ Levine, Harry G. "NYC's 1.5 Million Arrest Warrants for Non-Criminal Offences." Testimony to the U.S. Commission on Civil Rights, New York State Board Public Briefing, March 21, 2017.

⁹ These arrests include petit larceny (shoplifting), drug possession, theft of services (turnstile jumping), certain bicycle offenses, and other low-level misdemeanors and violations.

¹⁰Data from: NYC Open Data, "NYPD Arrest Data,(Year to Date)," <https://data.cityofnewyork.us/Public-Safety/NYPD-Arrest-Data-Year-to-Date-/uip8-fykc>, and "Criminal Justice Statistical Report," New York State Division of Criminal Justice Services, November 2019. <https://www.criminaljustice.ny.gov/crimnet/ojsa/FINAL-2017-2018-DLR%20Update.pdf>.

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¹² The total 2019 budget for NYPD patrol services was \$1.6 billion to make 214,459 total arrests and violations; broken windows offenses accounted for 61,137 arrests and violations, or 28.5% of all NYPD enforcement in 2019.

¹³ See Jenny Roberts, "Why Misdemeanors Matter: Defining Effective Advocacy in the Lower Criminal Courts," *UC Davis Law Review* 45(2011); Alexandra Natapoff, "Misdemeanors," *Southern California Law Review* 85(2012).

¹⁴ Babe Howell, "Broken Lives from Broken Windows: The Hidden Costs of Aggressive Order-Maintenance Policing," *New York University Review*

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¹⁵ "Social Determinants and the Health of Drug Users: Socioeconomic Status, Homelessness, and Incarceration on JSTOR." 2019, Accessed 21 Oct. 2019.

¹⁶Fernandes, April D. "How Far Up the River? Criminal Justice Contact and Health Outcomes." *Social Currents* 7, no. 1 (2020): 29-45.

¹⁷ NYC Health. "Criminal Justice System Involvement and Measures of Health among New York City Residents, 2017" Epi Data Brief 109, June 19, 2019, <https://assets.documentcloud.org/documents/6236491/databrief109-2.pdf>.

¹⁸ NYC Health. "Criminal Justice System Involvement and Measures of Health among New York City Residents, 2017" Epi Data Brief 109, June 19, 2019, <https://assets.documentcloud.org/documents/6236491/databrief109-2.pdf>.

¹⁹ NYC Health. "Criminal Justice System Involvement and Measures of Health among New York City Residents, 2017" Epi Data Brief 109, June 19, 2019, <https://assets.documentcloud.org/documents/6236491/databrief109-2.pdf>.

²⁰ NYC Health. "Criminal Justice System Involvement and Measures of Health among New York City Residents, 2017" Epi Data Brief 109, June 19, 2019, <https://assets.documentcloud.org/documents/6236491/databrief109-2.pdf>.

²¹ Binswanger IA, Blatchford PJ, Mueller SR, Stern MF. Mortality After Prison Release: Opioid Overdose and Other Causes of Death, Risk Factors, and Time Trends From 1999 to 2009. *Ann Intern Med*. 2013;159:592-600. doi: 10.7326/0003-4819-159-9-201311050-00005.

²² H. Stover & I. Michels, Drug Use and Opioid Substitution Treatment for Prisoners, *7 Harm Reduction Journal* 17 (2010).

²³ I.A. Binswanger et al., Release From Prison a High Risk of Death for Former Inmates, *376 New England Journal of* 157-165 (2007)

²⁴S.M. Bird & S.J. Hutchinson, Male Drugs-Related Deaths in the Fortnight After Release From Prison: Scotland, 1996-99, *98(2) Addiction* 185-190 (February 2003)

²⁵ M. Farrell & J. Marsden, Acute Risk of Drug-Related Death Among Newly Released Prisoners in England and Wales, *103(2) Addiction* 251-255 (2008)

²⁶ L.M. Stewart et al., Risk of Death in Prisoners After Release From Jail, *28(1) Journal of Public Health* 32-36 (2004)

²⁷ Drug Policy Alliance, "It's Time for the U.S. to Decriminalize Drug Use and Possession," (2017), Available at: <http://www.drugpolicy.org/resource/its-time-us-decriminalize-drug-use-and-possession>

²⁸ Caitlin Hughes and Alex Stevens, A Resounding Success or a Disastrous Failure: Re-Examining the Interpretation of Evidence on the Portuguese Decriminalization of Illicit Drugs, *Drug and Alcohol Review*. 33, 1. (2012)

²⁹ Pippa Grenfell et al, Accessibility and Integration of HIV, Tb and Harm Reduction Services for People Who Inject Drugs in Portugal: A Rapid Assessment, *World Health Organization* (2012) 3

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³² Drug Policy Alliance. "DPA's Principles of Substance Use Disorder Treatment." <https://www.drugpolicy.org/issues/principles-sud-treatment>. (2020)