

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PUBLIC SAFETY JOINTLY WITH THE
COMMITTEE ON JUSTICE SYSTEM

----- X

February 26, 2018
Start: 10:11 a.m.
Recess: 1:30 p.m.

HELD AT: Committee Room - City Hall

B E F O R E: DONOVAN J. RICHARDS

RORY I. LANCMAN

COUNCIL MEMBERS: Justin L. Brannan
Fernando Cabrera
Andrew Cohen
Chaim M. Deutsch
Vanessa L. Gibson
Carlos Menchaca
I. Daneek Miller
Keith Powers
Ydanis A. Rodriguez
Paul A. Vallone
Jumaane D. Williams
Alan N. Maisel
Deborah L. Rose
Eric A. Ulrich

A P P E A R A N C E S (CONTINUED)

Chief Dermot Shea, Chief
Crime Control Strategies
New York City Police Department, NYPD

Susan Herman, Deputy Commissioner
Collaborative Policing
New York City Police Department, NYPD

Oleg Chernyavsky, Director
Legislative Affairs
New York City Police Department, NYPD

Joanne Norton, Retired NYPD Lieutenant
Member, Law Enforcement Action Partnership, LEAP

Corey Cochese (sp?) Retired Commander and Officer
67th Precinct in Brooklyn
Member, Law Enforcement Action Partnership, LEAP

Kassandra Frederique, NY State Director
Drug Policy Alliance

Chris Alexander, Drug Policy Alliance.

Catherine Gonzales, Staff Attorney
Criminal Defense Division, Brooklyn Defender Services

Anthony Posada, Co-Supervising Attorney
Community Justice Unit, Legal Aid Society

Marsha Jonsal (sp?), Brotherhood/Sister Sol

Charlotte Poppin, Children's Defense Fund New York

Darian Agostini, Make the Road New York

Kelly Grace Price, NYC Jails Action Coalition

Natasha Lope, Youth Leader, Make the Road New York

Darian Agostini, Youth Organizer

Police Accountability, Make the Road New York

Kelly Grace Price, Communications Co-Chair

Jails Action Coalition

1 COMMITTEE ON PUBLIC SAFETY JOINTLY WITH THE
2 COMMITTEE ON JUSTICE SYSTEM

4

3 [sound check, pause] [background
4 comments] [gavel]

5 CHAIRPERSON RICHARDS: Alright, good
6 morning, good morning. I am Council Member Donovan
7 Richards of the 31st District in Queens and I'm proud
8 to Chair the Committee on Public Safety. I want to
9 thank Council Member Rory Lancman for co-chairing
10 this important hearing to day as well. I also want
11 to thank the members of the Public Safety Committee
12 who are here. We've been joined by Council Members
13 Powers, Brannan, Rose and Lancman can acknowledge his
14 as they come in and Cohen as well. Today, we will be
15 examining the city's enforcement of marijuana laws.
16 We all know that the possession and use of
17 recreational marijuana is illegal in New York
18 pursuant to state law, but as laws continue to change
19 across the country, we must ask ourselves what the
20 value is of our local policy, and weigh that value
21 against the impact it has on our communities.
22 Unfortunately, the most recent numbers show that in
23 our city the enforcement of marijuana laws continue
24 to be social and racial justice issue. Last year
25 only 9% of the low-level marijuana arrests were of
white individuals. While over 86% of those arrested

1 were Black and Hispanic. Though the overall number
2 of arrests for marijuana have gone down, the racial
3 disparities have not changed one bit, and arrests are
4 still too common in communities of color. Marijuana
5 arrests can have serious consequences on a person's
6 job, living situation and child care arrangements not
7 to mention immigration consequences. Today, I hope
8 to have a critical conversation about our current
9 enforcement policy and the ways it has been effective
10 as well as the ways in which it needs to be improved.
11 The Public Safety Committee is also hearing two
12 pieces of legislation today: Intro No. 605 sponsored
13 by Council Member Levin, which would require the
14 police department to submit reports on the
15 enforcement of marijuana possession, and Resolution
16 No. 177, which calls upon the New York State
17 Legislature to amend to penal law to include
18 individuals in police custody as being categorically
19 incapable of consenting to sexual conduct with a
20 police officer. Thank you all for being here today.
21 I'll now turn the mic over to my co-chair, Council
22 Member Rory Lancman. Thank you, Council Member
23 Lancman, and your turn as well. Thank you.
24
25

1
2 CHAIRPERSON LANCMAN: Thank you. Good
3 morning, I'm Council Member Rory Lancman, Chair of
4 the Committee on the Justice System, and I'm happy to
5 be co-hosting this hearing with the Public Safety
6 Committee and Chair Donovan Richards. We are joined
7 by Committee members Council Member Debi Rose, and
8 Council Member Andy Cohen, and as more council
9 members from the committee come in I will recognize
10 them. My committee's particular interest in the
11 Mayor's 2014 marijuana arrest policy is its impact on
12 the prosecution of such cases by our district
13 attorneys, the handling of drug possession cases by
14 our public defenders, and its overall impact on the
15 functioning of the judicial system. As Chairman
16 Richards may have described, in 2014, the Mayor
17 pledged to fundamentally change the city's approach
18 to low-level Marijuana possession by treating such
19 offences as a violation rather than as a misdemeanor.
20 Instead of prosecuting individuals for criminal
21 possession of marijuana in the fifth degree under
22 Penal Law Section 221.10, they would receive a
23 criminal summons for unlawful possession of
24 marijuana, a violation under Penal Law 221.05, and
25 appear in Summons Court. The overwhelming majority

1
2 of New Yorkers bemoan the over-criminalization of
3 simple Marijuana possession and the racial
4 disparities in Marijuana enforcement were
5 unconscionable. More than 90% of all charges were
6 brought against people of color. Since the
7 announcement of this new policy, the number of
8 misdemeanor arrests decreased from 26,000 in 2014 to
9 16,500 about in 2015, but have climbed back to around
10 18,000 in 2016 and 2017. Fewer marijuana misdemeanor
11 arrests mean fewer arraignments, mean fewer
12 defendants spending time at Rikers Island for want of
13 small amounts of bail, mean lower caseloads for both
14 assistant district attorneys and public defenders,
15 and mean lower dockets across the court system. So,
16 why have the declines stalled, and our—are our
17 district attorneys' prosecution policies in sync with
18 the Mayor's? Do some of them even exceed the
19 Mayor's, and if so, should more follow their lead,
20 and why are 91% of those showing up in our courts for
21 low-level marijuana possession still people of color,
22 and how do our DA's address this disparity? I look
23 forward to finding answers to these questions at
24 today's hearing, and perhaps defining some consensus
25 on how to move forward so that the Criminal Justice

System, our police, prosecutors, defenders and courts can better realize both the letter and spirit of the Mayor's 2014 Marijuana Policy. Thank you.

CHAIRPERSON RICHARDS: Thank you.

Alrighty, we'll now hear from—we've been joined by Council Member Cabrera, and we will now hear from our first panel. Are any of the sponsors there?

[background comments]

LEGAL COUNSEL: Please raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth and answer honestly to Council Member questions today?

CHIEF SHEA: Yes, I do.

LEGAL COUNSEL: You may begin.

CHIEF SHEA: Good morning, Chair Richards, Chair Lancman and members of the Council. I'm Chief Dermot Shea, Chief of Crime Control Strategies for the New York City Police Department. I'm here today accompanied with. Susan Herman of NYPD's Deputy Commissioner of Collaborative Policing; Oleg—Oleg Chernyavsky, the NYPD's Director of Legislative Affairs. On behalf of Police Commissioner James O'Neal, I want to thank the City Council for the opportunity to speak with you today about the

1 NYPD's enforcement of marijuana laws. The crime
2 reductions that New York City achieves in 2017 were
3 categorically historic. The lowest per capital
4 murder rates since 1951, the fewest shootings ever
5 recorded in the modern era, robberies, burglaries and
6 auto thefts also at the lowest levels. The gains the
7 department made may seem incredible, but there are
8 very credible reasons why the crime context in New
9 York City is different from the experience of many
10 other parts of this country. They include the
11 dedicated NYPD officers who work in the streets every
12 day; committed community residents in each borough,
13 our local community leaders including members of the
14 Council. They also include relationships the
15 department has been forging and strengthening over
16 the past several years as we extend our neighborhood
17 policing philosophy to all aspects of the departments
18 work. Declining crime has been matched by similar
19 declines in enforcement actions specifically low-
20 level enforcement. The department made 100,000-over
21 100,000 fewer arrests in 2017 than it did just four
22 years ago, made roughly 180,000 fewer stops and
23 issued far fewer summonses overall. Over the last
24 several years, New York City has demonstrated that it
25

1
2 can enhance fairness without sacrificing safety or
3 responsiveness to community concerns. Turning to the
4 topic of today's hearing, the Police Department's
5 current marijuana policy was instituted in 2014.
6 Under the policy officers are instructed to charge
7 the Penal Law violation of unlawful possession of
8 marijuana when he or she observes a person in
9 possession of 25 grams or less of marijuana in public
10 view instead of charging criminal possession of
11 marijuana in the fifth degree, 221.10 it be a
12 misdemeanor. In essence, our criminal—a Criminal
13 Court summons is issues for possession of small
14 amounts of marijuana. Nonetheless, there are
15 exceptions to the policy. A summons will not be
16 issued for possession where the individual has an
17 active warrant; the person is arrested for another
18 unrelated offense; where there is evidence of intent
19 to sell. Moreover, a person can only be issued a
20 summons if they have a valid form of government ID.
21 In the event that a person does not have ID, officers
22 will support efforts to positively identify the
23 person including allowing the person to contact a
24 third party to obtain that ID. Officers will make an
25 arrest, however, and charge the B misdemeanor 221.10

1 of the Penal Law for possession of 25 grams or less
2 or marijuana if it is burning in public. When an
3 arrest occurs, it is important to note that the
4 arrestee may be eligible still for a desk appearance
5 at the local precinct. The issuance of a desk
6 appearance ticket permits the arrestee to be—to be
7 released from the department's custody within hours,
8 provides a future court appearance date and avoids
9 processing through central booking. Since this
10 policy was established, there has been a 40% decline
11 in marijuana misdemeanor arrests. That's from 2013
12 to 2017. In addition to making fewer arrests, the
13 department is having more summonses—is issuing more
14 summonses for marijuana possession allowing New
15 Yorkers to avoid arrest and jail time. Criminal
16 summonses for marijuana possession were up 58% in
17 2017 when compared to 2013. It would be presumptuous
18 to not acknowledge that the enforcement of marijuana
19 laws is a charged issue, that there is a robust
20 public debate among public safety professionals,
21 scholars, advocates and elected officials on
22 calibrating the appropriate law enforcement response
23 to the seriousness of the particular incident. The
24 overwhelming majority of arrests or summonses for
25

1 marijuana come community complaints. Public marijuana
2 use remains a concern for New Yorkers. In 2017,
3 there were nearly 26,000 9/11 calls complaining about
4 the use of marijuana, an increase of 12% from 2016.
5 311 calls complaining about marijuana use also
6 significantly increased in 2017. The NYPD has an
7 obligation to be responsive to community concerns.
8 This also must be acknowledged within the public
9 debate. Our policy seeks to balance enforcing the
10 law in a fair and rational manner while also
11 recognizing that New Yorkers continue to regularly
12 contact the NYPD about illegal conditions involving
13 marijuana. The Police Department remains committed
14 to keeping New Yorkers safe, reducing crime and
15 ensuring the fair enforcement of the law including
16 the marijuana laws. Before concluding my testimony,
17 I will address Intro 605. Intro 605 would require
18 the department to quarterly report on arrests and
19 criminal summonses for marijuana possession,
20 disaggregated by demographics, borough and precinct.
21 Over the last several years, the department has
22 collaborated with the Council on a number of
23 reporting bills in order to provide valuable data to
24 the public and increase transparency, and we look
25

1 forward to working with the Council on this
2 particular bill. Thank you for the opportunity to
3 testify today. My colleagues and I would be happy to
4 answer any questions that you may have.
5

6 CHAIRPERSON RICHARDS: Thank you, and
7 I'll go to my colleague Council Member Treyger, who's
8 sponsoring the Intro today, the Resolution today,
9 for a statement.

10 COUNCIL MEMBER TREYGER: Thank you so
11 much, Mr. Chairman for—for your time and for your
12 support on an issue that is very critical to this
13 Council and to me personally. Again, first thank you
14 to Chair Richards who is a co-sponsor of my
15 resolution as well as to Rory Lancman, Council Member
16 Rory Lancman for giving me the opportunity to speak
17 about Resolution 177. As many of you are aware, a
18 teenage girl was raped by two Brooklyn South
19 narcotics detectives in my district in September
20 2017. The detectives tried to mount a defense by
21 claiming it was consensual. They have since
22 resigned, but we need strong laws in place to make
23 sure this never happens again. My resolution 177
24 calls on the New York State Legislature to amend the
25 Penal Law Section 130.05 to include police custody as

1
2 being categorically incapable of consenting to sexual
3 conduct with a police officer. The New York State
4 Assembly recently passed the bill of Assembly Member
5 Ed Bronstein, who I've been working with, and whose
6 bill is based on my resolution and is now up to the
7 Senate to act. I also have a bill, Intro 571, which
8 prohibits sexual contact between police and peace
9 officers and individuals in their custody. But my
10 resolution we're hearing today actually addressed the
11 root of the problem, which is the loophole in the
12 State Penal Code. New York State Law wisely takes
13 into account the impact that involvement with the
14 Criminal Justice System has on the ability of
15 individuals to give sexual consent. By law, those
16 incarcerated are incapable of giving consent to
17 corrections officers and those under community
18 supervision are incapable of giving consent to their
19 parole officers. The power dynamics between a
20 trusted agent of our Criminal Justice System and an
21 individual under supervision mean that no sexual
22 consent can be given entirely free from coercion.
23 Unfortunately, state law does not currently apply the
24 same rigorous standard of consent to incidents of
25 sexual conduct—contact between a police officer and

1 someone under arrest, temporarily detained or
2 otherwise subject to law enforcement activity. There
3 can be no meaningful consent when you are in the
4 custody of a law enforcement officer and all law
5 enforcement must be held to this same standard. It
6 is our duty as elected officials to make sure our
7 laws protect survivors of sexual assault, and it's
8 imperative that the City Council has more
9 conversation about the nature of consent and power
10 dynamics. And again, as we gather here, the survivor
11 of that sexual assault in my district now has to
12 relive the entire trauma all over again with a public
13 trial. So, it is of the utmost urgency that we act
14 and I appreciate the support of the Chair and my
15 colleagues in the City Council and we call upon
16 Albany to immediately amend the law to make sure that
17 this never happens again. Thank you, Chair.

19 CHAIRPERSON RICHARDS: Thank you, Council
20 Member Treyger and we're also joined by Council
21 Member Vallone as well. Alrighty, so we'll hop right
22 in. So, thank you Chief Shea for—for your testimony.
23 So I want to just read through a few facts on
24 marijuana arrests under the de Blasio Administration
25 in his first three years. So—so I'm going to go

1 through these stats. So, under Koch in his first
2 three years as Mayor he had 6,000 pot arrests, on
3 average 2,000 yearly. Under Dinkins 3,000 with 1,000
4 arrests yearly. Under Giuliani 18,000 arrests in his
5 first three years with 6,000 yearly. Under Bloomberg
6 a 112,000 arrests for marijuana in his first three
7 years as mayor with 37,000 annually, and now under
8 the current mayor in his first three years, 61,000
9 arrests in his first three years with an average of
10 20,000. So, when you look at the comparisons even
11 looking at the Giuliani years where he average 6,000
12 a year to see 20,000 under an administration that has
13 certainly come in and said they are going to correct
14 the wrong from the past, do you find these numbers to
15 be astounding, and I know we've made some changes.
16 So, I just want to hear a little bit more on where
17 we're headed being that we're still seeing 20,000
18 arrests per year under marijuana.

19
20 CHIEF SHEA: Thank you. So, I think it's
21 important to see the context there of—of that quite
22 a—quite a length of time from the '80s to literally
23 30 years later. New York City peaked in the number
24 of arrests they make overall in 2010 to 2011, and
25 that was not that—that long ago. From 2010-2011,

1 we're down about 30--over 30% in arrests. If you want
2 to go closer to the recent timeframe, 2013 to now,
3 we're down close to 27% overall in arrests. That's
4 overall. When you look at marijuana related--

5 CHAIRPERSON RICHARDS: [interposing]

6 Yeah, the 2013 to now. What's that's point.

7 CHIEF SHEA: From 2013 to 2017, which
8 wasn't that long ago, we've cut nearly 30% of the
9 arrests, and--and managed to do that at a time when
10 we're balancing all the other issues that we deal
11 with and face, and--and dealing quite successfully by
12 almost any measure in terms of crime, overall index
13 crime and violence. When you look at marijuana
14 related arrests, since 2013, we're down nearly 40%,
15 38% of my numbers, and from its peak in 2011, in a
16 six-year period we've--we've cut 65% of the marijuana
17 arrests. So, I--I hear the numbers you quoted and--and
18 the first three years of different mayors, but I just
19 wan to say that a 65% arrest is significant. We
20 continue to look for other ways where appropriate,
21 and in the balance of public safety where we can
22 further reduce not just marijuana arrests, but any
23 type of arrest, but it will always be under the
24

1 umbrella of public safety and responsiveness to
2 complaints.

3
4 CHAIRPERSON RICHARDS: Now, do-do you
5 perceive there being a correlation between marijuana
6 and violent crimes? Is there a correlation between
7 the two would you say?

8 CHIEF SHEA: At times there certainly is.
9 It's not the only factor in violence. I would-I
10 would put-- You know, there are--there are a number of
11 factors citywide that we see involved in violence.
12 Gangs at the top. I put money up right near the top.
13 So, when you speak about violence wherever and
14 marijuana, wherever there is money to be made, we
15 often see whether it's home invasions, whether it's
16 robberies, it's not specifically unique to marijuana.
17 It could be credit cards. It could be a variety of
18 issues, marijuana being one of them.

19 CHAIRPERSON RICHARDS: And so, have you
20 reviewed the Department of Investigation's report on
21 the correlation between marijuana and low-level
22 offenses in violent crimes? And--and--and I think the
23 department--Mark Peters' report certainly state that
24 there is really no correlation. There may be some
25 parts, you know, related, but marijuana arrests have

1 very little to do with violent crime. So, I just
2 want to hear you thoughts a little bit more on that.
3 Have you reviewed that particular report as well?
4

5 CHIEF SHEA: I am not positive if I've
6 reviewed that.

7 DEPUTY COMMISSIONER HERMAN: Are you
8 talking about the monthly thee years ago?

9 CHAIRPERSON RICHARDS: Say that again?

10 DEPUTY COMMISSIONER HERMAN: Three years
11 ago?

12 CHAIRPERSON RICHARDS: Yes.

13 CHIEF SHEA: Yeah, I've certainly read a
14 lot of literature from various reports, but I don't
15 want to give you a false answer that that particular
16 report I've read. My-my comments on it would be
17 respectfully there are times that there is somewhat
18 of a-a correlation, and that's not to say that I
19 disagree with the overall premise of the report, but
20 there are-there are times where marijuana use is
21 linked to individual cases where we have seen
22 violence.

23 CHAIRPERSON RICHARDS: So, can you go
24 through-and so this is really why we're here today.

1 So, how many arrests were there last year, and or you
2 want to combine all three years related to marijuana.

3 CHIEF SHEA: Marijuana related?

4 CHAIRPERSON RICHARDS: Yes. So, or can
5 you lay out between '14, '15, '16 and '17?

6 CHIEF SHEA: So, '14 misdemeanor service
7 would categorize the 221.10 arrests roughly 26,000
8 dropping in '15 to 16,000. In '16 it's up to 17,000
9 and then in '17, 17,000.

10 CHAIRPERSON RICHARDS: 17,000 arrests.

11 CHIEF SHEA: 17,500. I-I-if you-if
12 we're--some are--

13 CHAIRPERSON RICHARDS: [interposing] So,
14 the number went up.

15 CHIEF SHEA: It went up from '15 to '16
16 by about 1,100 and in '17 it went down about 100.
17 It's-it's--when you look at the--when you look at a
18 longer period of time, you could make the argument
19 that the last couple of years have somewhat, you
20 know--

21 CHAIRPERSON RICHARDS: So, the
22 administration did commit to minimizing or--or
23 decreasing the amount of arrests related to
24 marijuana, correct?
25

1
2 CHIEF SHEA: That's correct, and--and so
3 when you look at 2013, which is just four years ago,
4 29,000 arrests. When we go to 2014, it's reduced to
5 26,000.

6 CHAIRPERSON RICHARDS: Okay.,

7 CHIEF SHEA: When you go to 2015, it's
8 down another 10,000 to 16,000, but the last three
9 years and the beginning of this year to start it has
10 somewhat leveled off.

11 CHAIRPERSON RICHARDS: And where are most
12 of these arrests occurring, and can you go through
13 any demographic information you have on where a
14 majority of these marijuana arrests are occurring?

15 CHIEF SHEA: In terms of demographics, I
16 don't have it in front of me by boroughs. I can give
17 you the top 15 commands. The 25 Precinct, which is
18 in East Harlem, the 40th Precinct, which is in the
19 South Bronx. The 23 again East Harlem, the 43
20 Precinct in the Bronx, the, the 44 in the Bronx, the
21 49 in the Bronx, and you get Coney Island in the 60,
22 the 70 I Brooklyn. In Washington Heights the 34. The
23 102 in Queens, Bed-Stuy is--

24 CHAIRPERSON RICHARDS: [interposing] What
25 is that? What neighborhood in Queens?

1
2 CHIEF SHEA: I'm sorry.

3 CHAIRPERSON RICHARDS: What--which
4 neighborhood is that in?

5 CHIEF SHEA: The 102 Precinct.

6 CHAIRPERSON RICHARDS: Which--which area
7 is that? It's okay. You could always get that and
8 get that back to me.

9 CHIEF SHEA: 73 in Bed-Stuy, the 52, the
10 114, which is a Astoria, Queens, and the fifth, which
11 is essentially right here.

12 CHAIRPERSON RICHARDS: Okay, and--

13 CHIEF SHEA: [interposing] that's the top
14 to a T. (sic)

15 CHAIRPERSON RICHARDS: And so if there--
16 so, we're very grateful for you reading off the--the
17 precincts. Where do all those precincts have in
18 common?

19 CHIEF SHEA: Well, I could tell you that
20 what we see in terms of where we make the majority of
21 our arrests are where we get--we tend to get the most
22 complaints, and I'm basing that on both 911
23 complaints, 311 complaints and then complaints that
24 are not memorialized, but also we are getting
25 complaints, too, from community meetings.

1
2 CHAIRPERSON RICHARDS: So, the—so if I'm
3 hearing you right, you're receiving and so we did
4 actually just sort of disaggregate this information
5 to the committee sometime last week. So, I'm
6 interested in sort of do you have a breakdown in
7 particular where these 911 and 311 calls are being
8 made from?

9 CHIEF SHEA: Yeah, well we—

10 CHAIRPERSON RICHARDS: --and can you do
11 it, break it down by commands or a neighborhood?

12 CHIEF SHEA: So, when—when you look at
13 the marijuana arrests that we make—

14 CHAIRPERSON RICHARDS: [interposing] Not
15 arrests. I just—I want you to focus on the calls.

16 CHIEF SHEA: There is—there is a
17 correlation.

18 CHAIRPERSON RICHARDS: [interposing]
19 Okay.

20 CHIEF SHEA: So, we make the arrests.
21 When you look at the top commands where the arrests
22 are made and you overlay that with the top commands
23 where either we get the most complaints or we have a
24 spike in recent activity and complaints. They
25

1
2 overlay. That's-that's where we tend to make and
3 deploy officers.

4 CHAIRPERSON RICHARDS: But I don't have
5 that information in front of me. So-so I hear what
6 you're saying, but that information should have been
7 given to the committee, to the respective committees
8 on the 911 data specifically broken down in a way
9 that we can dissect it and make that correlation, but
10 I-I'm not saying I don't trust your word, but it
11 would have been good to have that information today.

12 CHIEF SHEA: So, so the issue with-and-
13 and where the arrests are made I believe are where
14 the complaints are, but what you run into is an
15 imperfect science in trying to determine the calls
16 that are specifically related to marijuana, and-and
17 I'll elaborate with--

18 CHAIRPERSON RICHARDS: [interposing] So,
19 let's go through-sorry to cut you off here, but let's
20 go through marijuana use, and these are stats that
21 have been based on-from 2002 to '15. So, if you ever
22 used marijuana in your life? So, I'll start with
23 2011 around 33% of whites have acknowledged they've
24 used marijuana in the past. Around 32% blacks have
25 acknowledged the use of marijuana within the past

1 year or there. Latinos around 27% have acknowledged
2 they've used marijuana at least prior in a year. So,
3 when we break down the use of marijuana, are we just--
4 did the--are blacks the only ones smoking marijuana
5 and Latinos in New York City is the question. And,
6 if we look at the use of marijuana, it's pretty even
7 when you look at across the spectrum of marijuana use
8 in our city. So, the question is why is so much of
9 the enforcement in communities of color?
10

11 CHIEF SHEA: Sorry. When you first
12 started quoting the statistics about use, I think it
13 was 33% white. I think we need to concentrate for a
14 second on the word 'use'. I'm not disputing those
15 numbers. In 2014, when we revisited our policy most
16 recently and--and we made a significant allowance or
17 differentiated between use and burning. I don't know
18 the numbers. I have no reason to dispute those
19 numbers that I just heard.

20 CHAIRPERSON RICHARDS: [interposing]
21 Right, and--and--and--

22 CHIEF SHEA: [interposing] But--but when
23 we are making arrests for marijuana 221.10 in New
24 York City it's--90% of those arrests that we are
25 making and we made the attempt and we did cut the

1 arrests, and we saw an increase in summonses to try
2 to--
3

4 CHAIRPERSON RICHARDS: [interposing]
5 Right, and I--and I--

6 CHIEF SHEA: --do that and we
7 accomplished that.

8 CHAIRPERSON RICHARDS: -- definitely
9 understand that, but when we look at---

10 CHIEF SHEA: [interposing] But 90% of the
11 arrests that we make are for burning, and that's what
12 the differentiation is.

13 CHAIRPERSON RICHARDS: But to use the
14 color, not the only ones burning. So, when you look
15 at the--

16 CHIEF SHEA: [interposing] In public if
17 a--

18 CHAIRPERSON RICHARDS: --percentage of
19 marijuana arrests between Blacks and Latinos, when in
20 2016 85% of arrests were of Black and Latino people
21 of the city, 15% o White and all others. When you
22 look at 2011, under the Bloomberg Administration, 84%
23 of people targeted for marijuana arrests were Black
24 and Latinos, 16% were White and others. So, if the
25

1 administration is serious about changing this
2 disparity, we're not seeing it.

3
4 CHIEF SHEA: Well, it's twofold we've--
5 we've since 2011--

6 CHAIRPERSON RICHARDS: [interposing]
7 Would you disagree that there's still disparities,
8 huge disparities that exist when it come to marijuana
9 arrests in the city?

10 CHIEF SHEA: No, I would not disagree,
11 and the--when you look at 2011, we have cut 65% of the
12 arrests that we've made. The remaining arrests that
13 we make now again are overlaid exactly in the parts
14 of the city where we are receiving complaints from
15 the public about specifically and--and it's not
16 marijuana use. It's--it's marijuana burning, and it's
17 marijuana burning in public view, and that's the
18 distinction.

19 CHAIRPERSON RICHARDS: And let me--so, we
20 have this opioid issue going on now. How many
21 arrests have occurred over the opioid issue?

22 CHIEF SHEA: So, I--

23 CHAIRPERSON RICHARDS: [interposing] So,
24 can you go through 2016 and 2017 and 2015?

1
2 CHIEF SHEA: Yeah. I cannot. I can
3 certainly get you those numbers. For the opioids
4 low-level possessions we'd be talking about Penal Law
5 Section 220.03.

6 CHAIRPERSON RICHARDS: Uh-hm.

7 CHIEF SHEA: And when you talk about the
8 opioid issue, specifically the last couple of years
9 where we have seen at times 50% increase in non-fatal
10 overdoses. We have also seen opioid significant cuts
11 in the arrests being made by the New York City Police
12 Department for those types of offenses.

13 CHAIRPERSON RICHARDS: Right, but I'm
14 interested, and you don't have those numbers. Is
15 there no way to get those numbers while you're here?
16 So, I'm interested in know how many people were
17 arrested over that—over opioids compared to marijuana
18 and where is—are—where's the breakdown there as well?

19 CHIEF SHEA: I'm not sure I understand
20 the question.

21 CHAIRPERSON RICHARDS: So, I'm trying to
22 make a comparison.

23 CHIEF SHEA: Yes.
24
25

1
2 CHAIRPERSON RICHARDS: I want to know how
3 many people because that's a huge crisis, 1,600
4 deaths due to opioids last year, correct?

5 CHIEF SHEA: Yes.

6 CHAIRPERSON RICHARDS: And how many
7 deaths related to marijuana?

8 CHIEF SHEA: So, when you--when you
9 compare the opioids to the marijuana, I don't--

10 CHAIRPERSON RICHARDS: But you get where
11 I'm going? I'm trying to make a correlation.

12 CHIEF SHEA: I understand the point
13 you're trying to make.

14 CHAIRPERSON RICHARDS: I'm interested in
15 what--

16 CHIEF SHEA: [interposing] We--we have
17 done--

18 CHAIRPERSON RICHARDS: --enforcement
19 looks like there as well.

20 CHIEF SHEA: Well, we have enforcement,
21 but we're talking about two completely separate
22 issues. With the opioids it's probably, you know, I
23 have 27 years with the New York City Police
24 Department in a couple months. It's probably the
25 most complicated issue that I have seen. What we are

1
2 doing in terms of opioids in trying to at the same
3 time enter that—at the same time also trying to
4 branch out and go further than we ever have before in
5 trying to identify people with substance abuse, try
6 to get them in treatment that works, work with our
7 partners in the Criminal Justice System, and outside
8 the Criminal Justice System. And we are far from
9 succeeding in this area, but I would not draw
10 comparisons personally between the opioid problem and
11 the marijuana problem.

12 CHAIRPERSON RICHARDS: And how many
13 marijuana arrests have led to violation of probation,
14 and currently how many people are on Rikers due to
15 marijuana arrests?

16 CHIEF SHEA: I don't have that data, but I
17 would suspect it is—if you're talking 221.10, the—a
18 misdemeanor, I would suspect that that number would
19 be near zero absent other factors, and when I say
20 other factors, perhaps a parole violation or wanted
21 for other crimes--

22 CHAIRPERSON RICHARDS: Right, but I'm
23 interested in that.

24 CHIEF SHEA: Yes.

25

1
2 CHAIRPERSON RICHARDS: So, I'm interested
3 in how many people have—are back on the island due to
4 marijuana arrests that may—that maybe revolve around
5 parole or probation.

6 CHIEF SHEA: Yea, I—I wouldn't have that
7 information, but strictly for a marijuana arrest,
8 again, I would say that it's near zero. A marijuana
9 arrest does not generally result in somebody being
10 sent to Rikers Island.

11 CHAIRPERSON RICHARDS: Are marijuana
12 arrests tied to any federal grants such as the Edward
13 Byrne Grant? So, marijuana is not tied to any
14 federal dollars that come in?

15 CHIEF SHEA: Not that I'm aware of.

16 CHAIRPERSON RICHARDS: Do you support the
17 current bill that Council Member has introduced?

18 OLEG CHERNYAVASKY: Sure, Council member.
19 We—we look forward to working with Council Member
20 Levin as we did with the Council during the last term
21 on dozens of reporting bills in furtherance of
22 transparency, and I'm sure we'll find the right
23 recipe for the bill, but we don't opposed the bill.

24 CHAIRPERSON RICHARDS: And, you do
25 understand why we have to pass such legislation?

1
2 OLEG CHERNYAVASKY: Well, I think—I mean
3 I understand. I also want to highlight that during
4 the last Council term, during the last 4-year term
5 together we've worked on dozens of reporting bills in
6 furtherance of transparency. The department on its
7 initiative posts public data in the form of Compstat
8 2.0 Traffic Stat and the like. So, we've—we're
9 probably the most transparent we've ever been as a
10 department, as an administration, and we look forward
11 to working with you in furtherance, in furtherance of
12 transparency moving forward.

13 CHAIRPERSON RICHARDS: So, I'm going to
14 go to my colleague for questions, but let me just say
15 this: These numbers don't show we're making
16 progress, and I do want to say yes, arrests have gone
17 down, and obviously there's been progress on the
18 summonses. However, the disparity of where these
19 summonses and arrests are still occurring is not
20 transformational. It doesn't show that the
21 department is really serious about address
22 disparities in communities of color. Marijuana
23 should not be a life sentence for anyone, many of our
24 young black and brown men and women who are still
25 being accosted and still given these summonses over

1
2 petty marijuana summonses when other cities are
3 looking to legalize marijuana at this point, is a
4 disgrace, and we have a long way to go to ensure that
5 we correct this. So, this is the reason we want to
6 see the data. I don't think you really came here
7 specifically with some of the information that we
8 requested. We will be following up especially on the
9 911 calls because I refuse to believe that in New
10 York City a city of 8 million—8.5 million that the
11 only individuals calling 911 or 311 around this issue
12 are people in communities of color. You can walk
13 around City Hall some days and walk through the park
14 and you will smell marijuana being burned. So,
15 there's a bigger question here, and a bigger
16 systematic issue that we have to address because our
17 young people deserve better. It should not be a life
18 sentence for them especially when marijuana use is
19 common amongst everyone. I will go to Council Member
20 Lancman for questions.

21 CHAIRPERSON LANCMAN: Thank you, Mr.
22 Chairman. The Chairman of the Public Safety
23 Committee is maybe more of a gentleman or—or kinder
24 than I am. I find your testimony and the entire
25 performance this morning to be deeply troubling, and

1
2 it starts with the fact that rooted in your defense
3 of the grotesque disparities that exist between
4 marijuana enforcement of people of color and white
5 people is the—the belief, the statement that
6 marijuana enforcement in the city is driven by 311
7 calls, or at least the 311 calls will demonstrate
8 that the communities of color where marijuana
9 enforcement is prevalent are calling the city saying
10 come and help us with our drug problem, and this is
11 what's driving the enforcement in community of—
12 communities of color verse other communities. In and
13 of itself that the department has not looked at those
14 disparities something like—to—to be generous maybe
15 85% of the people who are arrested for marijuana
16 possession are—are Black and Latino. Even just
17 relying on the 311 data, when confronted with such an
18 extraordinary disparity is troubling. But we asked
19 the department to produce that information, that 311
20 data. The data that we've heard Commissioner Bratton
21 talk about, the data that you yourself this morning
22 testified to, and did not receive it either before
23 the hearing or—or at the hearing. We have emails to
24 the department from the beginning—from the middle of
25 February asking for this information because we know

1 that this is how the department justifies tis
2 otherwise seemingly unjustifiable disparity, and—and
3 the enforcement throughout the city is wildly uneven.
4 I'll give you an example, and this is from a story by
5 a reporter last February: The Toughest place to
6 smoke weed in New York City, the Councilman's
7 district. It's the toughest place to take in New
8 York City, a cluster of neighborhoods on the
9 Queens/Nassau border have received the most pot
10 summonses in the Big Apple for 9 of the past 10
11 years, NYPD records show, and it's thanks largely to
12 Lieutenant so and so, the boss of the narcotics and
13 anti-crime teams for the last 9 years at the 105th
14 Precinct. He's been offering incentives to ticket
15 pot smokers and other quality of life scoffer,
16 sources told the Post. It's clearly working. Cops
17 in the 105th Precinct, which covers parts of Queens
18 Village, Cambria Heights, Laurelton, Rosedale and
19 Springfield Gardens wrote 1851 tickets for pot
20 possession last year. That would have been 2016, the
21 most among the city's 77 precincts, and a hefty 9% of
22 the citywide total. Now, those are not poor
23 neighborhoods. They are not euphemistically speaking
24 challenging neighborhoods. These are solid middle-

1 class communities, and your response essentially for
2 why communities like those in South Queens, and—and
3 others largely of color are so heavily targeted for
4 marijuana enforcement is because while those
5 communities are calling 311 and complaining about
6 marijuana use or drug use. And then you can't
7 produce at this hearing any documentation to support
8 that assertion. Now, you clearly have that
9 documentation. I assume that you're not pulling it
10 out of thin air. I hope, but you're not producing it
11 to the Council. I recall being at the Police Academy
12 for some big briefing that Commissioner Bratton was
13 giving. It had to do with broken windows
14 enforcement, and he had put up on a map a—a—a like
15 circles around neighborhoods where 311—311 calls came
16 in, and where arrests were made, the map clearly
17 showed that there was not a correlation. I recall,
18 not to single out any of my colleagues' districts,
19 but the Upper East Side, the Financial District,
20 Bayridge. Sorry. [laughter] There were plenty of
21 311 calls, but there were the similar number of
22 arrests. So, forgive me if I'm a little more direct
23 than my colleague. Until you show me the
24 information, until you produce the data that we
25

1 requested that shows, in fact, that there is a
2 correlation between 311 calls, whether is a 311 call
3 for marijuana specifically or a 311 call because
4 there's—there's drug use on my corner, I just cannot
5 accept that that is the justification for this
6 incredible disparity. It's obvious that on a
7 precinct by precinct basis, commanders are making
8 decisions about what to enforce more strictly, and—
9 and—and how to do that. And, I'm going to ask the
10 Chair at the conclusion of this hearing when you bang
11 the gavel down, rather than to include—conclude the
12 hearing, how about we adjourn it, we get the
13 information that we know exists because you're
14 relying on it, and then we consider reconvening so we
15 can have a real conversation based on the data and
16 the justifications that you are providing to us.
17 With that said, are there any other policing reasons
18 that there would be such an extraordinary impact on
19 communities of color, why 85%, 90% of the people
20 arrested for marijuana possession are Black and
21 Latino. That might be explained by something other
22 than where the 311 calls are coming.

24 CHIEF SHEA: So, a couple of things. I agree
25 with everything that you just said when you spoke

1 about Commissioner Bratton putting up charts. I
2 don't remember those particular charts, but I would
3 have been involved in that process, but that would
4 probably have been 2014 or '15, and then talking
5 about data from a year ago. I will remind that the
6 numbers since 2013, we've cut almost 40% of the
7 number of arrests that we've made. So, if the 311
8 calls that you recall did not match up at that time,
9 I'm not disputing that. But what I did start out
10 today and say when we look at—and it's much more 911
11 calls than 311 calls because the 311 calls are
12 dwarfed in comparison to the number of 911 calls.

14 CHAIRPERSON LANCMAN: [interposing] Just—
15 just for the record, either way, you've provided us
16 with neither 311 nor 911 data.

17 CHIEF SHEA: Agreed. No one is more
18 frustrated than me and that is continuing to this day
19 when you talk about analyzing these calls, and let me
20 just—I'll try to do it briefly and show you what we
21 are up against, but there is no magic button for the
22 NYPD to push to say give me a report, which gives you
23 what you want. Marijuana spelled 15 different ways:
24 Weed, pot, the calls about kids smoking in front of
25 my building. Are they smoking or are they smoking

1 marijuana? We have to infer from that, and we do not
2 like to give data that we cannot stand by.
3

4 CHAIRPERSON LANCMAN: [interposing] I
5 understand that. I do, and--

6 CHIEF SHEA: [interposing] So the numbers
7 I'm quoting to you I'm going to tell you that I am
8 troubled by what I see, and we have seen significant
9 jumps in then number of calls regarding marijuana
10 use, and it coincides wit the drop in arrests that we
11 have made, and that is something that we constantly
12 need to balance out when we look at the totality of
13 New York City conditions. I also have the
14 responsibility to be responsive to the woman walking
15 into her building with her kids that has to walk by
16 sometimes three people smoking marijuana and/or
17 shooting dice or a number of the things. The--the
18 numbers that you quoted the 85% or the 90%, clearly
19 that's troubling and it should be troubling to anyone
20 including me. But it's in the--under the umbrella of
21 we have worked significantly the last four years to
22 where responsible and carefully cut arrests while
23 balancing out the overall public safety of New York
24 City, and I think we've done very well.

25 CHAIRPERSON LANCMAN: Yeah.

1

CHIEF SHEA: We are not done.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CHAIRPERSON LANCMAN: No, no, listen, I-I

get the challenges and all different ways that
marijuana is spelled and--and all of that and I don't--
I'm not trivializing--trivializing it. It's just that
it's you, you and your testimony today, you as the
NYPD that's telling us well, here's why we're making
all these arrests in these communities because we're
getting 311 and 911 calls in those communities. I
assume again that--that you're not, you know, just
pulling that out of thin air. I'm assuming you're
relying on--on data. So, the data is there. We want
to see it.

CHIEF SHEA: But the data is far from

perfect, and that's where there--there are
reservations about if you ask three different people,
you could have three different interpretations, and
neither of them are wrong, but neither of them are
100%--

CHAIRPERSON LANCMAN: [interposing] Got

it.

CHIEF SHEA: Yeah.

CHAIRPERSON LANCMAN: So--so the data may
be shaky. So, that's why I asked is there a reason,

1 as policing professional, is it 27 years on the
2 force?
3

4 CHIEF SHEA: Yes, sir.

5 CHAIRPERSON LANCMAN: Yeah, three stars
6 on each shoulder. That's--that's like pretty
7 impressive, right. You are the--[makes stuttering
8 sound] Chief of Crime Control Strategies for the
9 NYPD, right. You're a pretty important guy. Can you
10 tell us what reason there might be for this
11 extraordinary disparity other than the 311--where the
12 311 and the 911 calls are coming from because that--
13 that information, as you said, you know may be shaky,
14 and you may get three different people looking at it,
15 and giving you three different answers. Are there
16 any other reasons that--?

17 CHIEF SHEA: [interposing] Yeah, the--the
18 main reason is the responsiveness to complaints that
19 are coming in and that's categorized by what you just
20 hit on: 311 and 911. It's also community
21 complaints. We're in the midst of the last couple of
22 years trying to, and quite successfully initially,
23 revolutionized how we police New York City. The
24 neighborhood policing effort that's well underway--
25

1
2 CHAIRPERSON LANCMAN: [interposing] Let
3 me--let me ask you--

4 CHIEF SHEA: --and it's a Buildablock
5 meeting. So, a variety of ways people are coming.
6 We are being responsive to complaints that coming to
7 us, and it would be negligent for us to ignore those
8 complaints. You mentioned--

9 CHAIRPERSON LANCMAN: [interposing] Have
10 you given any consideration--if I were in your shoes,
11 and I see this 85, 90%, you know, peopled of color
12 and as the Chairman indicated and we all have seen,
13 it's accepted--

14 CHIEF SHEA: [interposing] Yes.

15 CHAIRPERSON LANCMAN: --Commissioner
16 within the blacks and whites smoke marijuana or
17 possess marijuana at similar rates. If--if I--if I saw
18 that, I would ask are there any other factors that
19 might be involved. For example, we know that--that
20 inequality permeates the Criminal Justice System. I
21 don't think there's any dispute about that, and I
22 give the Administration and the Mayor credit for
23 acknowledging that and trying to work with the
24 Council on a whole host of measures relating to the
25 Criminal Justice System, and--and I know that the--that

1 the department I think is finally starting its
2 implicit bias training.

3
4 CHIEF SHEA: Uh-hm.

5 CHAIRPERSON LANCMAN: Have you given
6 consideration to the fact that—that there may be bias
7 in the department as to where it is enforcing the
8 marijuana—what marijuana laws like separate from
9 where it's getting those—those calls. Is—is this
10 aspect of—of the Criminal Justice System the only one
11 that is any—that is free from—from the kind of bias
12 and discrimination that we see in other aspects of
13 the Criminal Justice System, and if it's not, like
14 what are we doing about that?

15 CHIEF SHEA: So, we went to great lengths
16 in 2014, when we revised our policy. I believe this
17 was done—I—I have Susan sitting next to me—in 2014 to
18 try to advertise what we were doing giving out to the
19 public, posted on social media, and—and on the front
20 it's self-explanatory, but then it goes into great
21 detail on the back different ways that you can
22 possess marijuana, and differentiating it with
23 burning and smoking in public view and telling people
24 it's not a license to smoke outside. If you do the
25 following, you would still be subject to arrest.

1
2 Outside of that, sir, when--when you--you also have to
3 be aware, as I know you are, that deployment issues
4 come into effect here.

5 CHAIRPERSON LANCMAN: What issues?

6 CHIEF SHEA: Deployment issues.

7 CHAIRPERSON LANCMAN: Uh-hm.

8 CHIEF SHEA: Who uses marijuana more, who
9 uses marijuana and smokes outside. I don't have the
10 answers to those questions demographically or
11 racially broken down, but could it be a factor that
12 individuals of whatever race in a particular part of
13 the city are--are smoking marijuana? If--if there's
14 not an officer there, I--let me be clear, it--when we
15 deploy our officers and the officers are there, no
16 matter what race that person is if the people are
17 smoking marijuana outside, we expect them to enforce
18 the existing law.

19 CHAIRPERSON LANCMAN: Are confident
20 sitting here today that officers in white
21 neighborhoods are, in fact, enforcing the law with
22 the same vigor and zeal as they are in communities of
23 color that--that--that--that--that that is why? That the
24 reason that there's such a disproportionate amount of
25 enforcement in communities of color verse white

1 communities is, in fact, because of the neutral
2 application of the law and that officers in white
3 communities aren't a little more forgiving in giving
4 a warning or--or looking the other way.

5
6 CHIEF SHEA: I--I have no evidence to
7 suggest that officers in white communities are
8 enforcing the law any differently than they are in-in
9 neighborhoods of color.

10 CHAIRPERSON LANCMAN: Alright, let me--
11 just two more questions. [coughs] One is at the--the
12 Compstat meetings, when you see a precinct like the
13 105th, we now want our arrests, it kind of off the
14 charts or a significant deviation from the norm. Is
15 it part of the Comp--Compstat conversation in addition
16 to hey, how come there are more burglaries and how
17 come there are more rapes? Why are your marijuana
18 arrest so unusually high? Forgive the pun.

19 CHIEF SHEA: So, so, hypothetically and--
20 and the 105 as I look is not in the top 15 of arrests
21 made. So, that--that might have been last year. It
22 might have been summonses perhaps like our--

23 CHAIRPERSON LANCMAN: [interposing] I
24 think it was referring to 2016 data.

25 CHIEF SHEA: Okay.

3 DEPUTY COMMISSIONER HERMAN: That was
4 arrest summonses. Not arrests.

5 CHAIRPERSON RICHARDS: Still, this is a
6 black middle-class neighborhood that shouldn't even
7 be on the list technically.

8 CHIEF SHEA: So--so when--is that something
9 that could be looked at? Absolutely during the
10 Compstat process.

11 CHAIRPERSON LANCMAN: Right. No, but is
12 it? Is it? Like in Comp--like in Compstat, you're
13 going through--I understand primarily, you're going
14 through okay you're having more burglaries, rapes
15 whatever the case might be in the first precinct.
16 Are you also measuring each command's performance in
17 terms of its adherence to the Mayor's 2014 policy and
18 flagging numbers that may--may indicate that this
19 particular command is not adhering to that--that
20 policy, or is really unusually and over-zealously
21 enforcing marijuana possession. Like--like is there
22 anything in that Compstat meeting where--where--where
23 this--this CO would have showed up, and somebody would
24 have said why are your marijuana arrests of
25 summonses, why is your marijuana enforcement just
like off the charts?

1
2 CHIEF SHEA: Yeah, that's—that's
3 absolutely something that could be discussed at a
4 particular Compstat meeting, and very likely would be
5 looked at well before any Compstat meeting by a
6 number of units within the New York City Police
7 Department. The Compstat meetings tend to focus on
8 current crime conditions that are going on in a
9 particular area, and how the precinct commanders and
10 the borough commanders in the different units are
11 utilizing the resources available to them, to address
12 those conditions. Arrests are one part of what would
13 be analyzed, looked at and discussed, but again, it
14 would not only be looked at during the Compstat
15 process.

16 CHAIRPERSON LANCMAN: Alright, and my
17 last question relates to the direction between the PD
18 and the district attorneys. As I think you know,
19 both the Manhattan District Attorney and the Brooklyn
20 District Attorney have announced their own, you know,
21 say marijuana policies. At that time that I think it
22 was Manhattan that announced it's office—that
23 office's policies, there was some—some disconnect
24 that the NYPD seemed to be saying: Well, you may not
25 be choosing to prosecute certain of these cases, but

1 we're going to bring them to you--them to you anyway.
2 Can you tell us a little bit about the
3 synchronization between the NYPD, the arrests that
4 you're making, the peoples and cases that you're
5 bringing to the DAs particularly in Manhattan and
6 Brooklyn, with--with their--their own policies or are
7 you just doing your thing dropping the people off
8 with the DA's office, technically speaking and then
9 from there it's up to them?
10

11 CHIEF SHEA: So--so we're in a unique
12 position in New York that we have five local elected
13 district attorneys. We have the Southern District,
14 the Eastern District. We have the Citywide Special
15 Narcotics Board. So, that's part. So, that's up to
16 eight separate prosecutors offices. I could tell you
17 that we collaborate closely with all eight on a
18 variety of issues and we would not be where we are
19 today in New York City with the success--success of
20 pushing crime down without that collaboration. Do we
21 see eye-to-eye on every single issue? I would be
22 lying if I told you yes, but I think that on the vast
23 majority and the vast, vast majority of issues, we
24 are in agreement. We are always looking to improve
25 the process of law enforcement and public safety in

1 New York City, but we don't hold as a unique metric
2 what is going to happen to an arrest as a deciding
3 factor in-on all these issues of whether or not we
4 are going to make that arrest. So, it's a-it's a-a
5 balance, if you will of individual. Every crime type
6 is probably unique in this matter, but again overall,
7 I think the-the relationship between the New York
8 City Police Department and the different prosecutors
9 of New York City I would describe it as very healthy.

11 CHAIRPERSON LANCMAN: I appreciate that,
12 and that's a general response to my question. So,
13 perhaps I wasn't specific enough. So, let me do it
14 again. Both the Manhattan DA's Office and the
15 Brooklyn DA's Office have their own unique marijuana
16 prosecution policies. Is there any policy or
17 practice with the NYPD in terms of the arrests for
18 marijuana possession that you make in those
19 jurisdictions that tries to-to synchronize with the
20 prosecution polices of those district attorneys
21 office--

22 CHIEF SHEA: [interposing] I-I--

23 CHAIRPERSON LANCMAN: --or-or are you
24 just, you know, it's one citywide policy from the
25 NYPD's perspective and-and you're arresting people

1 and bringing them to the DA's Office despite the fact
2 that on the fact of the DA's policy, they're not
3 prosecuting that case.
4

5 CHIEF SHEA: I think they are prosecuting
6 the case. They may be deciding—making a strategic
7 decision to offer for example and ACD, an adjournment
8 but that is, in effect a prosecution. I think we are
9 in agreement with the prosecutors. When we—when—and
10 I can recall sitting around a table with prosecutors
11 in 2014, and having give and take and discussions
12 about when we crafted that marijuana policy that the
13 NYPD employs right now. So, if I'm mistaken about a
14 point, I'm sure that you'll bring it to my attention,
15 but the—the arrests that we make are—are prosecuted.
16 Again, we--we are not always lock-step, but I think
17 that we have a very healthy relationship. We've also
18 at the same time pushed crime down, and cut about
19 100—close to 140,000 arrests since 2010. We're also
20 at the same time diverting many and that's done with
21 collaboration with the different prosecutors whether
22 it's adults or juveniles, and we look forward to the
23 Change the Age, which is also going to divert even
24 more arrests of 16, 17-year-olds coming out to Family
25 Court. So, again, all of this is done not in a

1 vacuum, but in a balance of public safety and how to
2 keep New York City citizens safer, and make it even
3 safer as we go forward and it's challenging, but we
4 look forward to, you know, continuing our good
5 collaboration with the prosecutors.
6

7 CHAIRPERSON LANCMAN: Thank you. I think
8 that there is a disconnect between the NYPD and the
9 prosecution practices of those offices. We'll maybe
10 get an opioid to have that fleshed out when the
11 public defenders testify. If you want to whisper to
12 him, and he wants to say something I'd be happy to
13 hear it. [laughter] [background comments, pause]

14 CHIEF SHEA: I'm—I'm just still not clear
15 on what—what you believe the disconnect is.

16 DEPUTY COMMISSIONER HERMAN: Yeah, can
17 you—can you say what you think it is?

18 CHAIRPERSON LANCMAN: Well, the DA's
19 offices have said that they're not going to prosecute
20 in certain circumstances, and the PD is still sending
21 defendants their way even though the PD knows that
22 based on the articulated bills--

23 CHIEF SHEA: Marijuana.

24 CHAIRPERSON LANCMAN: What's that?
25

1 CHIEF SHEA: Are—are you referring to the

2 -

3
4 CHAIRPERSON LANCMAN: [interposing] Yeah,
5 marijuana.

6 CHIEF SHEA: --the turnstile issue.

7 CHAIRPERSON LANCMAN: No, no, not
8 turnstile. That's—that's another day.

9 CHIEF SHEA: Yeah.

10 CHAIRPERSON LANCMAN: Marijuana, you
11 know.

12 CHIEF SHEA: So, so I mean when we—when
13 we crafted our policy in 2014, I can thin, you know,
14 off the top of my head with, you know, discussions
15 back and forth with Brooklyn, the Brooklyn prosecutor
16 at the time and, you know, discussions about is it
17 around a school? Is it at a park? Is it burning
18 and—and this was done in collaboration. Again,
19 arrests that are made when the law is enforced in New
20 York City, now we're not turning a blind eye and
21 saying we don't care what happens once it hits the
22 prosecutor, but there's reasonable expectations, too.
23 Individuals are not going to Rikers Island for being
24 arrested for 221.10. It may be that there are other
25 extraneous circumstances. They're wanted for a rape,

1 they are currently on probation. They're not
2 complying with a variety of things. They're—that is
3 all certainly possible, but, you know, the NYPD does
4 not have an expectation, for example, that somebody
5 arrested for smoking a marijuana cigarette is—is
6 going to receive X sentence. That's just
7 unrealistic, and I think we're—we're very much so in
8 locked step with the prosecutors.
9

10 CHAIRPERSON LANCMAN: Well, we'll--

11 CHIEF SHEA: We can expand on that.

12 CHAIRPERSON LANCMAN: You'll expand on
13 that. Thank you.

14 CHAIRPERSON RICHARDS: Thank you. Just a
15 few more questions and then I'm going to go to my
16 colleagues. What is the NYPD's position on the
17 legalization of marijuana? Do you have one?

18 CHIEF SHEA: I—I do not have a position
19 on—on the legalization of marijuana. You know, we
20 will enforce, we'll continue to enforce the laws that
21 are active and on the books, and anything—anything
22 that comes past that we will deal with.

23 CHAIRPERSON RICHARDS: And you are
24 familiar that the Governor I believe has convened a
25 task force to look at legalization of marijuana?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DERMOT SHEA: Yes, sir.

CHAIRPERSON RICHARDS: Okay, and have you looked at other cities that have legalized marijuana? Have you seen—have you looked at their crime trends, and can you speak to that? Have they seen big upticks in crime?

DERMOT SHEA: As—as recently as last month, I was at a conference and that is a topic that comes up quite often.

CHAIRPERSON RICHARDS: Marijuana does?

DERMOT SHEA: The—the legalization of marijuana and the impact that that it has positively or negatively or not at all on crime rates. I don't believe there is enough data yet. I know that there are a number of studies, but I could tell you first hand that from police chiefs in Colorado that I've spoken to, police chiefs in different cities in California there are still to this day concerns. I'll give you some examples: The impact it may have on individuals driving or believing that it's safer to drive after consuming marijuana. That—that—that does worry me. It may be something that's legal, but think of alcohol, it's still not legal to drink under

1 the influence of alcohol and is that going to have an
2 influence--
3

4 CHAIRPERSON RICHARDS: [interposing] And
5 have they seen upticks in deaths into marijuana?

6 DERMOT SHEA: I believe there are
7 articles citing that, yes.

8 CHAIRPERSON RICHARDS: Articles or facts?

9 DERMOT SHEA: Articles and--and--

10 CHAIRPERSON RICHARDS: Okay.

11 DERMOT SHEA: --I like you, am very
12 suspect of things I read.

13 CHAIRPERSON RICHARDS: I--I don't--I don't
14 agree with Reagan on much of the no's (sic) but we
15 like to trust and verify.

16 DERMOT SHEA: I think there's also--

17 CHAIRPERSON RICHARDS: [interposing] I
18 couldn't agree with him on that.

19 DERMOT SHEA: It is also--

20 CHAIRPERSON RICHARDS: I'll just go and--
21 and then just these last facts because it's--we'll put
22 it all in perspective, and I know we've beat the drum
23 a lot on this, and rightfully so. So I'm just going
24 to read through these, and then we're going to get to
25 questions. In Queens--no offense to any of my

1 colleagues. Please don't hold it against me. In
2 Bayside, Blacks and Latinos are 12% of the
3 population, and 525 of the arrests for marijuana
4 possession. In Forest Hills they are 16% of
5 residents and 80% of the marijuana arrests. In
6 Flushing they are 19% of residents, but 71% of those
7 that are arrested for marijuana. In Ridgewood the
8 Blacks and Latinos are 30%--36% of the population,
9 but 83% of the arrests. Let's go to Brooklyn. In
10 Sheepshead Bay, Blacks and Latinos are 12% of
11 the population and make up 50% of the Marijuana
12 arrests. In Borough Park they are 15% of residents
13 and 57% of people arrested for marijuana. In
14 Greenpoint they are 19% of the population and 70% of
15 the arrests. In Park Slope—you know who lives—is
16 from Park Slope, Blacks and Latinos are 24% of the
17 residents, and 73% of the people are arrested for
18 marijuana, and in Williamsburg, Blacks and Latinos
19 are 37% of the residents, but make up 83% of arrests
20 doing marijuana. I rest my case. We will go to
21 questions. Alright, and I will acknowledge Council
22 Members Maisel, Rodriguez, Barron, Chaim Deutsch, and
23 Miller, and we will go to questions now. We'll go—
24 start with Council Member Cohen followed by him,
25

1
2 Cabrera and then Vallone. Council Member Cohen for
3 questions.

4 COUNCIL MEMBER COHEN: Thank you, Chair.
5 I appreciated it, you know, the truth is that as the
6 hearing went on, my questions I think were resolved.
7 I think that it's really a very, very poor use of
8 NYPD resources. It's divisive to—for these—to make
9 these arrests and. I'm not even sure about the
10 summonses. I don't, you know, and I'm not convinced
11 that there's any correlation between burning and
12 crime or, you know, other crimes. So, I really—I
13 think that that this is, you know, it's wrong headed.
14 I think the—the statistics cited by the Chair, you
15 know, whether it's discriminatory in intent. It's
16 certainly discriminatory in effect, the enforcement
17 if it were— If this was the State Legislature as
18 opposed to the City Council I would be very eager to
19 do something to change the laws to make this not be
20 the law of the state of New York. So, I don't have
21 any questions. Thank you, Mr. Chair.

22 CHAIRPERSON RICHARDS: Thank you. We're
23 now going to go to Council Member Cabrera.

24 COUNCIL MEMBER CABRERA: Thank you so
25 much to both of the Chairs. Chief, welcome and thank

1 you for all you do. I'm going to take a different-
2 different position here. People in my community when
3 they call 311 and 911, they want a response. They
4 want—they want the NYPD to show up. When I first
5 came back to New York, I was born in New York. I
6 came back when I was 25. You know, I had somebody
7 who decided to smoke pot every single day. I had
8 little children and that was disturbing to me. Many
9 people in my community, they're disturbed. They'll
10 be outside and hanging out and they're smoking pot
11 outside, and they don't want to, you know, don't want
12 to be smelling what's going on. So, I—I can't speak
13 for the other neighborhood. I understand that
14 there's big disparity on the numbers. My
15 neighborhood is 99% minority. So, I—I don't have
16 that disparity in numbers. I, and we do need to look
17 at that, but I—I—the law is the law, and when you're
18 called upon to enforce the law, you know, that's what
19 it is. So, for my neighborhood I would say I keep
20 doing the work. I'm not for legalizing marijuana.
21 The numbers are clear in Colorado and the other
22 states we do have more accidents. As a result,
23 people smoking marijuana I don't want to be driving.
24 It's bad enough that we're dealing with people who
25

1 are under the influence of alcohol. I don't want
2 anybody I know to be part of this—a higher statistic
3 of-of vehicular accidents as the result of another
4 influence taking place. I meant to ask you, though,
5 because the question was brought about the opiates.
6 Is it that we see lower numbers because it's—it's
7 less visible. I mean we're talking mostly pills so
8 it's harder—it's easier to conceal, and even to, you
9 know, it's not as visible. It—it would you accrue
10 that to the disparity in numbers in comparison to
11 marijuana arrests?
12

13 DERMOT SHEA: Yeah, I apologize. I
14 wasn't told that opioids were a topic. So, that's
15 why I didn't have those numbers. Very, very
16 different on many levels. That's a great point that,
17 you know, again when—when we talk of the disparity in
18 marijuana possessions, we used the word possession
19 because that's the title of the criminal procedure
20 law 221.10 Criminal Possession of Marijuana, but
21 within that, there is a subdivision of burning, and
22 burning in open view. So, that—that seems to be at
23 the crux of why the majority of these arrests are
24 made. The most recent data that I have [bell] it's—
25 it's almost 90% of the arrests for criminal

1 possession of marijuana actually is burning in
2 public. So, that is at the heart of what we are
3 talking about here, and you're right. We just don't
4 see, thankfully, 220.03, which is the Criminal
5 Possession of a Controlled Substance with the same,
6 with the same fact pattern. People are not shooting
7 up in a park [bell] on a corner with the same
8 frequency.

9
10 COUNCIL MEMBER CABRERA: Sorry, Chief
11 I've run out of time, but I have more questions, but
12 maybe later on. Thank you.

13 CHAIRPERSON RICHARDS: Vallone. Followed
14 by Vallone will be Council Member Rose and then
15 Barron.

16 COUNCIL MEMBER VALLONE: Thank you to
17 both, thank you to the Chairs. Thank you to the
18 department. So, in 2018, how does somebody get
19 arrested today for a marijuana offense? What is—what
20 is the policy today for the NYPD?

21 DERMOT SHEA: It's the same that it's
22 been since I would say mid-2014. Criminal Possession
23 of Marijuana 221.10. If you—if you have marijuana
24 and you are smoking a marijuana cigarette outside in
25 public, you are going to be arrested. That's the—

1 that's nearly 9 of 10 arrests that we make. When you
2 segregate out now, and you look at the remaining 10%
3 of the arrests, those are not the smoking. They're
4 in a small amount of marijuana, but then you have to
5 remember that you have people that are wanted for
6 other crimes that may not have identification on the,
7 et cetera.

9 COUNCIL MEMBER VALLONE: So, sticking to
10 that. So, you said there was a 65% drop since 2014.

11 DERMOT SHEA: Since the end of 2013.

12 COUNCIL MEMBER VALLONE: So that's the
13 new policy and now 9 out of 10 of those arrests since
14 then of that 65% fall in the burning of the
15 marijuana.

16 DERMOT SHEA: We didn't have the ability
17 to answer that question prior—we went to last year.
18 221.10 became a law Criminal Possession of Marijuana.
19 You can—it's—there's a couple subdivisions, and it's
20 possess marijuana in public, and then there's one
21 with the burning and--

22 COUNCIL MEMBER VALLONE: [interposing]
23 Alright, since—since we're on the clock--

24 DERMOT SHEA: [interposing] It's ours.

1
2 COUNCIL MEMBER VALLONE: --after
3 listening to all day.

4 DERMOT SHEA: It's my time not yours.

5 COUNCIL MEMBER VALLONE: So, of that,
6 there's another policy that where if there's an
7 intent to sell or the individual has an outstanding
8 warrant or the burning is by a school. So, do you
9 have classifications on where if someone is smoking
10 or burning marijuana, where those arrests are made or
11 is just that it could be on a stoop? Is there a
12 breakdown of like if there's because most of the--

13 DERMOT SHEA: [interposing] There is not
14 a breakdown.

15 COUNCIL MEMBER VALLONE: Well, that
16 should be part of it because if the calls are coming
17 for around a school--

18 DERMOT SHEA: [interposing] That's the
19 Penal Law, though, that's not policy. The Penal Law
20 states: Burning in public.

21 COUNCIL MEMBER VALLONE: But then the
22 Administration policy added that clause in 2014 that
23 the NYPD has been following. So, part of the
24 breakdown in the reduction and the 65% is including
25 these very few remaining classifications. So, I

1 think that's important that there are--the--the--the
2 amount of arrests that are being made or it's being
3 used for very limited purposes not just for the
4 burning, but also for intent to sell, and by the
5 schools.
6

7 DERMOT SHEA: That's a very small number
8 of the totality. Nine of ten arrests that we make
9 are for burning, and that was a conscious decision
10 that we crafted in 2014 that we--

11 COUNCIL MEMBER VALLONE: [interposing] Of
12 the--of the arrests that are made, how many determine
13 or show outstanding warrants?

14 DERMOT SHEA: I don't have that number in
15 front of me.

16 COUNCIL MEMBER VALLONE: Do you have an
17 idea if it's less than 50%, more than 50%?

18 DERMOT SHEA: I would say it's definitely
19 less than 50%.

20 COUNCIL MEMBER VALLONE: Well, that's
21 part of the tools that we try to determine whether a
22 crime and keeping the safety of New York City is
23 whether can put--to get behind bars those that have an
24 outstanding warrant whether it's jumping a turnstile,
25 or it's smoking marijuana, something of the lesser

1 quality of life. [bell] If we remove those crimes
2 what will that do for the remainder of the public--

3
4 DERMOT SHEA: [interposing] Understood
5 but we're balancing that out with--what Councilman
6 Cabrera mentioned and other states that have
7 legalized it is struggling with this now. What do we
8 do when people are complaining to the Police
9 Department about the people on their block with the--
10 when they're bringing their kids to the park, and
11 there's people smoking marijuana, and this is not an
12 easy--not an easy problem, but that is a real problem.
13 I can tell you that I would be--I would be negligent
14 if I didn't--wasn't critical of our offices during the
15 Compstat process and beyond that we are not being
16 responsive to people. We have situations where
17 people are calling up and--and you feel very bad for
18 them because they're saying this is the fifth time
19 I've called. This is the tenth time I've called.

20 Please do something, NYPD. Why are you not
21 addressing our concerns? So that's the totality.

22 COUNCIL MEMBER VALLONE: [interposing]
23 Right, you're joined on it just by saying I join. I
24 think that data would be very important for all of

1 us. If-if what you're saying is true it really
2 changes--
3

4 DERMOT SHEA: [interposing] It is true.

5 COUNCIL MEMBER VALLONE: --it really
6 changes the context of the hearing. If we don't have
7 the data to back that up, then it changes the
8 following questions for that because if there are
9 calls being made in by neighborhoods that are not
10 being followed up. Why? And if there is just one
11 call being made in a particular neighborhood and the
12 cops are being sent out, why is that happening? So,
13 I think in-in fairness to that--

14 DERMOT SHEA: [interposing] Understood.

15 COUNCIL MEMBER VALLONE: --I-I would like
16 to see that data, too, because it would change. It
17 would actually help or hurt base on what's happening,
18 but thank you chairs for the hearing.

19 CHAIRPERSON RICHARDS: I want to thank
20 the Council Member. Thank you, thank you for those
21 points and Council Member Lancman just raised a good
22 point. In the 105 over 1,800 summonses in 2016,
23 right? You would think people were just home all day
24 just calling 311 and 911 about marijuana, and this is
25 a working class neighborhood. So, we refused to

1 believe people are just home all day just we smell
2 marijuana. You know, middle-class homeowners. We're
3 not even talking about developments, a stronghold
4 middle-class neighborhood. So, the barriers are not
5 adding up.

7 DERMOT SHEA: There's--there's always--
8 there's always--there are always outliers and--

9 CHAIRPERSON RICHARDS: Right.

10 DERMOT SHEA: --and there is chronic
11 conditions that have to be revisited and complaints.
12 I'll tell you that when you go to a complaint, when
13 you go, excuse me, to a community meeting, and--and
14 I've commended several precincts in my time, it's--
15 it's generally what you hear is we want more police.
16 We want to address--

17 CHAIRPERSON RICHARDS: [interposing] But--

18 -

19 DERMOT SHEA: --these conditions whether
20 it's noise, double parking or sometimes like that.

21 CHAIRPERSON RICHARDS: But in all
22 fairness, and I'll just say this, if you went to the
23 105 today, and you walked down the block, you're not
24 seeing gangs of people just walking up and down
25 blocks smoking marijuana. It's just--it's not a

1 reality. So, it's not adding up. We'll go to Council
2 Member Rose followed by Rose Barron.
3

4 DEPUTY COMMISSIONER HERMAN: Can I just
5 add one thing. They're not getting summonses for
6 public burning. Nobody is getting a summons for
7 public burning.

8 CHAIRPERSON RICHARDS: Yeah, we'll put
9 you—so you're going to—yeah, we'll just swear her in.

10 LEGAL COUNSEL: Do you swear to tell the
11 truth, the whole truth and nothing but the truth and
12 answer honestly to Council Member questions?

13 DEPUTY COMMISSIONER HERMAN: I do.

14 CHAIRPERSON RICHARDS: Yes, ma'am.

15 DEPUTY COMMISSIONER HERMAN: So, if
16 they're getting summonses in the 105, it's not for
17 public burning. Nobody is getting a summons for
18 public burning. They're getting arrested for public
19 burning.

20 CHAIRPERSON RICHARDS: Right.

21 DEPUTY COMMISSIONER HERMAN: [interposing]
22 So, you see that—

23 CHAIRPERSON RICHARDS: [interposing] So,
24 let's—let's since we're onto 105, can you go through
25 the 105's numbers?

DEPUTY COMMISSIONER HERMAN: Oh, well, do
I have the summonses or--?

DERMOT SHEA: If you'd just give me one
second, I'll--okay, 105.

CHAIRPERSON RICHARDS: Arrest for a
Summonses. [background comments, pause]

DERMOT SHEA: 61 arrests.

CHAIRPERSON RICHARDS: This year?

DERMOT SHEA: 2016.

CHAIRPERSON RICHARDS: 61 arrests.

DERMOT SHEA: In 2017 50 arrests.

CHAIRPERSON RICHARDS: Okay, and on
summonses?

DERMOT SHEA: And that's summonses the
105, 1,851 in 2016 and that's in 2017, 2,199.

CHAIRPERSON RICHARDS: They're killing
us.

DERMOT SHEA: An increase of 18.8%.

CHAIRPERSON RICHARDS: So, you get our
point now?

DEPUTY COMMISSIONER HERMAN: Not for
public burning. That's another one.

CHAIRPERSON RICHARDS: It doesn't matter.

DERMOT SHEA: I'd say--

1
2 CHAIRPERSON RICHARDS: [interposing] It
3 doesn't matter whether they're burning or not.

4 DEPUTY COMMISSIONER HERMAN: [interposing]
5 The image that you're creating of people walking down
6 the street-

7 CHAIRPERSON RICHARDS: [interposing]
8 Right, but you're-but he's saying he's getting a 311
9 and a 911 report based on people burning. So I'm
10 going off of what he said.

11 OLEG CHERNYAVASKY: So the 911 calls--

12 CHAIRPERSON RICHARDS: [interposing]
13 Otherwise, why are there 18,051 summonses and 2,100
14 in 2017?

15 OLEG CHERNYAVASKY: No one is calling and
16 saying, hey, there's someone outside my house with a
17 marijuana joint [coughing] in their pocket, which I
18 can't see or smell-

19 CHAIRPERSON RICHARDS: [interposing] This
20 is not a--

21 OLEG CHERNYAVASKY: --but I know it's
22 there.

23 CHIEF SHEA: The 911 calls-

2 CHAIRPERSON RICHARDS: [interposing]
3 Unless they're just a person sitting home all day
4 making these calls, it's just-it shows--

5 CHIEF SHEA: The-and--

6 CHAIRPERSON RICHARDS: --the enforcement
7 is uneven.

8 DERMOT SHEA: The 911 calls in the 105
9 Precinct are up 18% year over year.

10 CHAIRPERSON RICHARDS: And why is that?

11 CHIEF SHEA: And the 311 calls are up
12 very small numbers but 169%.

13 CHAIRPERSON RICHARDS: The 105 is a very
14 big precinct.

15 CHIEF SHEA: yes, it is.

16 CHAIRPERSON RICHARDS: So, without
17 disaggregating the information, it's hard to make a
18 calculation. The 105 covers the same lane mileage
19 as you know from here to Boston.

20 CHIEF SHEA: Yeah.

21 CHAIRPERSON RICHARDS: It's a very big
22 place. So, without this disaggregation the
23 information we requested, it's impossible to know
24 where these calls are being made. And once again,
25 this is a working class neighborhood. I refuse to

1
2 believe people are just home all day calling 911 and
3 311. I'm going to go to Council Member Rose.

4 COUNCIL MEMBER ROSE: Thank you. You
5 now, the racial disparity is that you—we've heard of
6 today are reminiscent of the disparities that we saw
7 as a result of Broken Windows and Stop, Question and
8 Frisk policing. You know, the racial disparity
9 you're saying is being driven by 311 calls. So, I'd
10 like to know what is the process when a 311 calls
11 comes in? Is a car immediately dispatched to that
12 location, which I highly find, you know, improbable
13 because of just the response 311 gets for other types
14 of calls, or are these calls taken and discussed that
15 the meeting during the squad and the squad is given
16 these locations to target looking for these
17 perpetrators, and does—doesn't this reek of or
18 promote racial profiling, you know, that we worked so
19 very hard under the Community Safety Act to dispel
20 and to undo?

21 CHIEF SHEA: The last—I'll need
22 clarification on the last point about what you were
23 inferring is promoting racial profiling. I didn't
24 understand that part.

1
2 COUNCIL MEMBER ROSE: So, if you're
3 getting a-a call to-it seems like only certain
4 precincts where these 311 calls are coming in and if
5 you're not dispatching a car immediately to find
6 these perpetrators that's out there burning, then how
7 are you getting these numbers that's generated by
8 311? Are you then giving them to the precinct and
9 saying, oh, the-we have these 311 calls. You need to
10 go out and find these perpetrators--

11 CHIEF SHEA: No.

12 COUNCIL MEMBER ROSE: --and in so doing--

13 CHIEF SHEA: [interposing] I understand.
14 Okay.

15 COUNCIL MEMBER ROSE: --I'm sure there's
16 not a description that comes with the 311 or a name
17 and an address. Now, you're out there looking for
18 these perpetrators that are burning, and that leads
19 to profiling, and the same situation that we had
20 before with Stop, Question and Frisk because now
21 you're looking for someone who fits the description.

22 CHIEF SHEA: I understand.

23 COUNCIL MEMBER ROSE: Tell me what this
24 process--

25 CHIEF SHEA: Okay.

1
2 COUNCIL MEMBER ROSE: --311, specifically
3 this 311.

4 CHIEF SHEA: Yep. So, I will say no to
5 start out. You'd have to understand and hopefully I
6 can be quick and explain it, the process when you
7 differentiate between 911 and 311. Either one is
8 coming into a precinct and--and units are being
9 dispatched, but they're being dispatched at different
10 rates. Obviously, [bell] 911 more priority.

11 COUNCIL MEMBER ROSE: Of course.

12 CHIEF SHEA: Quicker. 311, I would like
13 to have it that officers are being dispatched
14 immediately to that, too, but the reality is often
15 times it's not.

16 COUNCIL MEMBER ROSE: We don't even get
17 and officer dispatched lots of time, too. For the
18 more extreme they do.

19 CHIEF SHEA: [interposing] But officers--
20 for these types of calls, the reason I said no is for
21 these types of calls in the priority of what we deal
22 with, officers are not going to a location after
23 receiving a call of somebody smoking in front of my
24 stoop, and finding on one, and then spending an
25 inordinate amount of time looking for that person.

1
2 In my opinion, that is not happening. It's—it's very
3 different from any robbery or something of that
4 nature where they would they would canvass for that
5 person. 311 calls come into the precinct. Officers
6 get dispatched. Depending on the call volume or what
7 else is going on, they may be dispatched—dispatched
8 immediately or it could be with some delay
9 unfortunately. The conditions as you said correctly
10 may be over by the time they get there, but that's
11 not to say that we're going to ignore that location
12 because who's calling today is going to be calling
13 about the exact same location tomorrow, and should
14 be—they're entitled to and deserve to have an
15 appropriate response from the New York City Police
16 Department. So, we expect our officers to reach out
17 to that person when we can, find out what was going
18 on, get the total breadth of the scenario of what's
19 happening here. Is this an isolated incident? Is it
20 something that happens all the time? There are—there
21 are—when it's compared 311 calls to 911 calls, there
22 is—it circles back to what you started with, sir,
23 when you talked about violence and is there a link.

24 COUNCIL MEMBER ROSE: Okay, um, but I'm—
25 I'm still—I'm having a really hard time

1
2 conceptualizing how 311 is driving these numbers,
3 this percentage of numbers because by the time you
4 get there unless it's an extra long burning blunt
5 that[laughter] that it-it-it would-they would not
6 longer be burning. [background comments] I-I'm-so,
7 I'm really perplexed to see how you're making this-
8 this argument that 311 is the driver of these
9 disproportionate numbers.

10 CHIEF SHEA: [interposing] It is 311 and
11 it is 911, and whether it was a 5-foot long blunt as
12 you said, or a traditional one, the individuals are
13 going to be there regardless.

14 COUNCIL MEMBER ROSE: The person is going
15 to still be there?

16 CHIEF SHEA: And what we--

17 COUNCIL MEMBER ROSE: [interposing] Based
18 on the response time--

19 CHIEF SHEA: [interposing] What we see is
20 the-the hanging out turns to sometimes drinking and
21 alcohol, and then turns into a fight or it's
22 accompanied by shooting dice, and this is the reality
23 of what unfortunately some individuals have to deal
24 with to try to get into the house everyday.

1
2 CHAIRPERSON RICHARDS: [interposing] I'm
3 going to stop you there, though--

4 COUNCIL MEMBER ROSE: [interposing] I'm--
5 I'm really--

6 CHAIRPERSON RICHARDS: --because you're
7 giving a depiction that, you know--I refuse to believe
8 in the 105. We--we don't see that.

9 CHIEF SHEA: I didn't that was offending
10 anyone.

11 CHAIRPERSON RICHARDS: Yes, people
12 associate dice I know here.

13 CHIEF SHEA: [interposing] You do see
14 that in some parts of 105.

15 CHAIRPERSON RICHARDS: They're a little
16 older than me, but--but, we refuse to believe that
17 with all of these summonses and arrests that these
18 are just groups of people hanging out. And then if
19 you told me this was the '80s, maybe it's different.
20 In 2017, we're not seeing that.

21 CHIEF SHEA: Sir, you definitely--

22 CHAIRPERSON RICHARDS: [interposing] and
23 we credit the NYPD with that, and you're doing too
24 police work, but--

25 CHIEF SHEA: [interposing] Thank you.

1
2 CHAIRPERSON RICHARDS: But-but -

3 CHIEF SHEA: [interposing] Unfortunately,
4 it does still take place.

5 CHAIRPERSON RICHARDS: Please don't give
6 that-I-I don't want you to keep beating that
7 depiction of like this is what's going on in all of
8 these neighborhoods because it's not. You know, so--

9 COUNCIL MEMBER ROSE: [interposing] Mr.
10 Chair, I hope to get some of my time back. I-I have
11 two things that I really want to get to. Are-are-are
12 officers still held to productivity goals and how
13 then if they are, how then are these arrests weighed,
14 and is there any incentivization for-for these types
15 of arrests?

16 CHIEF SHEA: So, since January of 2014,
17 I've chaired with several different chief of
18 departments the weekly Compstat meetings, and does
19 activity come up at Compstat meetings? It does
20 occasionally, but I'm-I'm quite proud of what we've
21 been able to accomplish in transforming the Police
22 Department from one that critics would say was
23 numbers driven to one that is results driven, and
24 when you look at what is discussed at Compstat in
25 2014 ,and '15, '16 and '17 and currently in 2018,

1
2 ?what is going on in a particular area? What are
3 your resources? What is your plan to combat it and
4 make New York City safer? Arrests and summonses at
5 time they may come up, but there is no push for
6 numbers for numbers sake. There is no push for a
7 particular number of numbers, and this is exactly how
8 and why we have transformed 422,000 arrests to
9 286,000 arrests, and now down already 7% this year.
10 That-that is in a four-year period, and when we have
11 now days where we don't record a shooting in New York
12 City, and we have index crimes at levels that we've
13 never seen before in New York City. This why police
14 departments all over the country are coming to New
15 York City to see what we are doing. We are not
16 perfect. We are currently moving in the right
17 direction.

18 COUNCIL MEMBER ROSE: [interposing] So,
19 we're no—we're no longer doing the production quota,
20 goals?

21 CHIEF SHEA: I'm sorry.

22 COUNCIL MEMBER ROSE: Officers no longer
23 have production—productivity—I'm sorry—productivity
24 goals?

25

1
2 CHIEF SHEA: There is no expectation that
3 officers have to come with number X of whether it's
4 summonses, stops or arrests.

5 COUNCIL MEMBER ROSE: Thank you and my
6 last question is paired with a comment. Staten
7 Island. [laughter/background comments]

8 CHAIRPERSON RICHARDS: You can continue.
9 I'm giving you six minutes because—

10 COUNCIL MEMBER ROSE: Oh, see.

11 CHAIRPERSON RICHARDS: --Staten Island,
12 because of that we did.

13 COUNCIL MEMBER ROSE: Oh, because we're
14 Staten Island, and, um, and I did not hear any
15 numbers for—for Staten Island. So, I guess we—we are
16 not smoking marijuana in Staten Island?

17 CHIEF SHEA: I can—I can guarantee you
18 that there are marijuana arrests made in Staten
19 Island, but not in the top 50--

20 COUNCIL MEMBER ROSE: [interposing] And
21 they are

22 CHIEF SHEA: -- out of 77 precincts

23 COUNCIL MEMBER ROSE: And I'm sure
24 they're [bell] disproportionately in the North Shore
25 of Staten Island? That would be the 120, the 121?

1
2 CHIEF SHEA: As a matter of fact, I could
3 tell you in one second. 120 Precinct. [pause] 13%
4 increase in marijuana arrests last year, 251 to 285,
5 and then significantly less in the remaining
6 precincts in Staten Island. Marijuana summonses,
7 which coincides unfortunately with the violent crime.
8 Unlawful possession of marijuana, 221.05, very few
9 summons—summonses if I'm reading this correctly.

10 COUNCIL MEMBER ROSE: And what are those
11 numbers for the 122 and the 123?

12 CHIEF SHEA: Arrests?

13 COUNCIL MEMBER ROSE: Arrests.

14 CHIEF SHEA: 121,53.

15 COUNCIL MEMBER ROSE: Okay, I—okay.

16 CHAIRPERSON RICHARDS: Say the number
17 again. I'm sorry.

18 CHIEF SHEA: 122, 5; 123, 57.

19 COUNCIL MEMBER ROSE: Okay, you don't
20 have to go any further. I think I made my point. I
21 just want to because I have time--

22 CHIEF SHEA: [interposing] That was
23 2016. I'm sorry.

24 CHAIRPERSON RICHARDS: We've got to move
25 on, Council Member Rose.

2 COUNCIL MEMBER ROSE: Um-um--

3 CHAIRPERSON RICHARDS: Council Member,
4 we've got to go to Barron, but I'm going to let you
5 give your--

6 COUNCIL MEMBER ROSE: Okay, I'm just
7 finishing.

8 CHAIRPERSON RICHARDS: Okay.

9 COUNCIL MEMBER ROSE: I'm not asking no
10 questions.

11 CHAIRPERSON RICHARDS: Okay.

12 COUNCIL MEMBER ROSE: Well, a yes or no
13 question. I think it's egregious that my colleague
14 had to ask to have a resolution passed her because a
15 woman raped and violated in the custody of NYPD, and
16 so I'd like to know if NYPD is supporting the
17 Resolution-Resolution 177, which I'm sure you know is
18 to include in the Penal Law 130.05 to include
19 individuals in police custody as being categorically
20 incapable of consenting to sexual conduct with a
21 police officer?

22 OLEG CHERNYAVASKY: Yes, Council Member.
23 So, I-part of department policy that is always been
24 longstanding department policy that this is
25 completely unacceptable and wrong, and the

2 legislation being proposed essentially brings the law
3 into alignment with what our policy has been.

4 COUNCIL MEMBER ROSE: So, NYPD will be
5 supporting this resolution?

6 OLEG CHERNYAVASKY: Yeah, where—I mean
7 the law is—the law is in line with our policy.
8 There—there's, right, there's no daylight.

9 COUNCIL MEMBER ROSE: Thank you very
10 much. Thank you.

11 CHAIRPERSON RICHARDS: Thank you, Council
12 Member Rose. Going to Council Member Barron followed
13 by Barron—Council Member Deutsch.

14 COUNCIL MEMBER BARRON: Thank you to the
15 Chairs and thank you to—thank you to the panel.
16 Chief Shea, you are the crime control statis-
17 strategies person for the Police Department? Chief
18 of Crime Control Strategies?

19 CHIEF SHEA: I am.

20 COUNCIL MEMBER BARRON: Okay, for you to
21 say that you have no reason to believe that officers
22 differentiate in their treatment of Black and Latino
23 communities and how they treat white communities is
24 quite telling of how people in power don't understand
25 the systemic embedded practices of racism that still

1 exist in this country today. So, if you don't
2 believe that there's any differentiation on how
3 officers treat Black and White communities, why do we
4 need implicit bias training? It would say to me
5 that if you're coming from the position that they
6 don't treat communities differently, then this
7 implicit bias training really is superfluous and
8 unneeded. That's just a statement for the record.
9 In terms of the broad discretion that officers have,
10 which result in these racial disparities for our
11 communities, and for you to come before this body
12 with no data supporting what you say are the 311
13 calls that generate this, is insulting. If you're
14 Compstat, and you have these strategies, and if
15 you're saying these are the results of calls made to
16 our precincts, you should be able to present the
17 stats of the calls that generated these results. If
18 people are only arrested for smoking marijuana or
19 burning, as the phrase goes, if a person puts in a
20 call, as my colleague has said, oh, I smell marijuana
21 or there are people in the base—in the lobby and
22 marijuana and a police comes there, is no one at that
23 moment smoking marijuana, how does an officer then
24 get to issue a summons to a person? Are they asking
25

1
2 them to empty their pockets? Are they asking them to
3 go through their pockets? Are they subject to stop
4 and frisk simply because they're there and someone
5 issued a complaint without any description, is that
6 person subject to being frisked? That's a question.
7 Is that person subject to being frisked?

8 CHIEF SHEA: No, they're not.

9 COUNCIL MEMBER BARRON: Okay, so then how
10 does the person get a summons if they're in the
11 presence of where marijuana had been smoked but
12 they're not smoking it? How do people get these
13 summons if they're not smoking, which would result in
14 an arrest?

15 CHIEF SHEA: Well, there's a multitude of
16 ways that and officers. So, that's a hypothetical
17 question. I'd have to have--every fact patent is
18 unique. You know, so, I wouldn't want to comment on
19 a hypothetical situation, but there are a number that
20 officers come into contact with individuals--

21 COUNCIL MEMBER BARRON: [interposing] Can
22 you share them with us? Let's not do hypothetical.
23 From your records, from your data what are those
24 situations?

1
2 CHIEF SHEA: Sure, the officer walks into
3 the lobby of a building or walks in through a park
4 or—or is anywhere else within his or her area of
5 assignment, and sees an individuals with marijuana in
6 their hand getting ready to roll up a cigarette.
7 That would be a situation where it's in plan view to
8 the officers. It's a situation which would have
9 subjected the individual to an arrest pre our policy
10 change, and currently because of the policy change
11 would currently subject that person to a summons.

12 COUNCIL MEMBER BARRON: Thank you. Mr.
13 Chair, thank you, and I agree that we need to not
14 conclude this hearing, but adjourn it—or postpone it
15 so that we can get the answers so that we can have
16 him come back and explain the data, and how they say
17 they use this data for their results. Thank you so
18 much.

19 CHAIRPERSON RICHARDS: Thank you Council
20 Member Barron. We've been joined by Council Members
21 Ulrich, Williams, and Reynoso. We'll now go to
22 Council Member Deutsch for questions followed by him,
23 Miller and Rodriguez.

24 COUNCIL MEMBER DEUTSCH: Thank you,
25 Chair. Good afternoon. So, I just want to say that

1 just a few years ago, I got several complaints about
2 marijuana use in one of my parks in my district who
3 is Homecrest Playground, and I notified the local
4 Precinct, 61st Precinct who in turn notified
5 Narcotics, and they came down. They had an operation
6 day where they just sat there, and they did find
7 seven individuals who were—had marijuana in the park.
8 They were smoking in the park. In the interim, they
9 followed the vehicle, and stopped the vehicle, and
10 they had in the vehicle about \$50,000 worth of pills.
11 So, which is I think—which is right that they took
12 all these narcotics off the streets because you can
13 imagine how many people could overdose from that
14 amount of pills. So, my first question is: Is that
15 first of all, how many marijuana arrests are there
16 throughout the city in 2017?

18 CHIEF SHEA: So, '17 there was
19 approximately 17,500.

20 COUNCIL MEMBER DEUTSCH: So, from this—
21 that's arrests of summonses?

22 CHIEF SHEA: Those are arrests.

23 COUNCIL MEMBER DEUTSCH: Arrests. So,
24 from this 17,500 I'm just curious, and how many of
25 those arrests were found let's say maybe a hand gun

1 on that individual or other narcotics? Do you have a
2 number on that?
3

4 CHIEF SHEA: I do not in front of me.
5 No.

6 COUNCIL MEMBER DEUTSCH: Yeah, if you
7 could get it, if you could get it for me.

8 CHIEF SHEA: I—I will tell you that the
9 hand gun is not going to be—it's not—an insignificant
10 number, but it's not going to be the majority
11 certainly. So, we can work on getting numbers in
12 terms of 221.10 charged as a top charge verse an
13 ancillary charge, and hopefully that will provide
14 some of those answers.

15 COUNCIL MEMBER DEUTSCH: Okay, well, if
16 the person—that individual had other types of
17 narcotics on them, in their possession, I'd be
18 curious to know that. And see, what disturbs me is
19 that if someone is driving under the influence of
20 alcohol, so the alcohol I think the longest period of
21 time that the alcohol stays in the system is probably
22 10 hours. So, if you do pull someone over who is
23 driving—a DWI, you'd be able to check them within the
24 first few hours to see if they're above that alcohol
25 level, and then make an arrest based on that, or-or

1 let them go. But, you mentioned before the marijuana
2 use that—that impairs your driving ability? Is that—
3 is that correct?
4

5 CHIEF SHEA: Yes. Not just marijuana,
6 other drugs as well.

7 COUNCIL MEMBER DEUTSCH: So, and now I'm
8 talking specifically about marijuana. So, if someone
9 has marijuana, which I'm--[bell]--I'm—I'm kind of
10 confused about this. So, if someone has marijuana in
11 their possession, either he's trying to sell it or he
12 would use it. So, if you would pull someone over
13 who's under the influence, and marijuana could say in
14 your system from when you initially use it for weeks
15 or days or weeks. So, how would you—how would NYPD
16 determine if they pulled someone over who has
17 marijuana in their system if that person—if—if it's
18 arrestable or not?

19 CHIEF SHEA: That's—that's a great
20 question, and it's something that I am struggling
21 with currently. When you look at the topic of drugs
22 and specifically marijuana and operating a motor
23 vehicle, essentially the law prohibits anyone from
24 operating a motor vehicle while their ability to
25 operate that vehicle is impaired. So, you've

1 ingested marijuana, you're driving right now, and you
2 are impaired. The impaired part is the difficult
3 part. How the NYPD and other agencies deal with this
4 is drug recognition experts. So, individuals that
5 are trained because the tests are not—they are very
6 different than the alcohol testing tests. So, drug
7 recognition experts are trained to look at things
8 such as the pupils of the eyes, the—the motion how
9 the individual responds to stimulus and things of
10 that nature. But somebody operating a motor vehicle
11 that has ingested marijuana and their ability
12 impaired will be subject to arrest for DWI laws.

14 COUNCIL MEMBER DEUTSCH: So, if someone
15 jumps a turnstile— This is what I understand. If
16 someone jumps a turnstile, you're not harming others.
17 So, I understand when you don't make an arrest or you
18 don't—maybe you don't issue a summons for that. You
19 give someone a warn—a warning, but if we allow people
20 to continue, I mean I have a lot of 311 calls and
21 people calling my office about marijuana use in my
22 district. So, I welcome the calls to come in, and I
23 have to be very honest [bell] but—but if someone—if
24 we are allowing people to smoke marijuana, how does
25 the NYPD—how do we look at that—that person who's now

1 smoking that marijuana, and God forbid kills someone
2 on the streets, it could be a family member, a
3 friend, a neighbor, anyone, how do we control that?
4

5 CHIEF SHEA: That's--that--what you're
6 describing is very difficult to control. What's less
7 difficult to control is when you have an controlled
8 environment, and you are pulling somebody over for
9 operating motor vehicle whether they run a stop sign,
10 a red light, or a swerving or driving too fast, and
11 then based on the scenario in front of you, that you
12 encounter, you have evidence that leads you to
13 believe that they've recently smoked marijuana.

14 That--that is the area that, you know, needs to be
15 looked at in my opinion a little closer to make sure
16 that we're doing everything we can to keep the people
17 in New York City safe. And it is something that I
18 have been for some time now looking at--and--and plan
19 to continue because I think this probably scenarios
20 of improvement that we can make on our side.

21 COUNCIL MEMBER DEUTSCH: So, I think
22 that's along--along the conversation just in that
23 issue alone because we're talking about everything
24 else when it comes to marijuana and--
25

1
2 CHIEF SHEA: [interposing] And there's a
3 side to this to educate, too, the public because we--
4 we clearly do not want people operating a motor
5 vehicle of anything less than their 100% attention to
6 the road.

7 COUNCIL MEMBER DEUTSCH: But you would
8 not necessarily know that the person just finished
9 smoking a joint?

10 CHIEF SHEA: Well, you'll smell
11 certainly, and--and you will have people making
12 statements about it happened to me numerous times.

13 COUNCIL MEMBER DEUTSCH: Only through
14 statements?

15 CHIEF SHEA: A combination. You'll have
16 a combination and this is where perhaps, you know,
17 additional training is necessary for our officers,
18 but how do you--how do you spot somebody operating a
19 vehicle under the influence. And again, you want to
20 pull it to marijuana. I'm--I'm thinking of other
21 drugs. We have significant opiate problems right now
22 in New York City. So, in--in South Brooklyn, for
23 example, in Staten Island. We do not want anyone
24 operating a motor vehicle in New York City with
25 anything other than a sound mind and all their

2 faculties paying attention to the road. So, whether
3 it's cocaine, heroin, methamphetamines or marijuana,
4 you should not be operating a vehicle, a motor
5 vehicle and we plan on doing a public awareness on
6 this topic.

7 CHAIRPERSON RICHARDS: Thank—thank you.
8 We're going to go to Council Member Miller. Followed
9 by Miller will be Williams and the Reynoso.

10 COUNCIL MEMBER MILLER: Thank you, Mr.
11 Chair for holding this very, very important relevant
12 hearing on this topic here. So, we've been having a
13 discussion with the Administration—the Administration
14 over the past four years about the disparities in
15 marijuana arrests and summonses. The Mayor himself
16 was clearly articulate in what his policy was, and—
17 and that policy was consistent with what we see not
18 just nationwide, and—in—in other local municipalities
19 around the decriminalization of marijuana and—and the
20 reduction in those arrests, but yet we see
21 disproportionately arrests, and summonses being
22 issued. I happen to, as my colleagues here in
23 Southeast Queens, represent 105 Precinct as well.
24 1651 absolutely ridiculous, and so whoever is
25 responsible for evaluating and assessing, aggregating

1 this data, we should have a real conversation here
2 about what it is. Last year, since 2016, when the
3 1,651 summonses was brought to my attention, I spoke
4 to the local precinct commander. The fact of the
5 matter is we spoke to Chief O'Neill when he was in
6 Rosedale, and we were supposed to have further
7 conversation about it. At that moment, the local
8 commander was charged with discussing those numbers
9 with the Council member and myself. To this day, we
10 have not had that conversation. Contrarily, as has
11 been mentioned before that there is obviously direct
12 correlation between those summonses, and Broken
13 Windows. The fact of the matter is that when we
14 mentioned that correlation between the two, they said
15 absolutely we believe in Broken Windows. That's the
16 reason why we make these marijuana arrests, and-and-
17 and so, and if you look at the corresponding numbers
18 of less than 2%, less than 1% of those summonses you
19 come and arrest, the arrests make up less than 1% of
20 the summonses, is it justified. And-and, you know,
21 how-how do we justify that, and what would be your
22 response to someone or a policy that is clearly not
23 the policy that you articulated, policy that the
24 Administration has said time and time again that they
25

3 was not in favor of [bell] how do we justify that
4 happening and what would be your response?

5 CHIEF SHEA: Okay, I'm sorry. Can you
6 repeat the last part again?

7 COUNCIL MEMBER MILLER: What would be
8 your response to a Broken Windows policy being
9 implemented around the marijuana arrests.

10 CHIEF SHEA: So-so, I would listen. My
11 response would be I would listen to all of their
12 complaints because I think that's our job to hear
13 complaints such as this, and to honestly evaluate how
14 we police New York City, you know.

15 COUNCIL MEMBER MILLER: So-so-so-so are
16 you saying now that the policy around policing in New
17 York City is Broken Windows?

18 CHIEF SHEA: I think that we have to be
19 responsive to community complaints.

20 COUNCIL MEMBER MILLER: So, you're
21 talking to 311 (sic). Do you have a piece of 105 as
22 well?

23 CHIEF SHEA: No.

24 COUNCIL MEMBER MILLER: Barry is just in
25 here and-and-and here, and-and-and the community is-
is-is-is quite diverse in-in-in demographics, and I'm

1
2 sure that the Glenoaks, Bellerose are don't have the
3 number of marijuana summonses that Cambria Heights
4 and Rosedale, and-and other areas there, but-and-and-
5 and while we had this conversation, and never got an
6 opportunity to aggregate the data, the very next
7 year, we are increased by another 200 arrests. This
8 is-there are precincts in the city that don't have a
9 100. How do you have 2,000? The crime does it-and-
10 and-and-and the 105 has some of the lowest crime in
11 the city outside of marijuana arrests. How do you
12 justify this?

13 CHIEF SHEA: So, when you-when you speak
14 to it and 105 is a beautiful command, and it is a big
15 command spanning north to south on the Nassau border,
16 but when they speak to the crime rates and the place
17 New York City is in right now, we often call it the
18 seven major index crimes, and-and-and the shooting
19 and the homicide numbers and there is a lot of
20 positive news. But-but there are other categories of
21 crime and-and thankfully most of them are down, but
22 there is the balance of certain types of crimes in
23 particular areas, certain type of complaints coming
24 in that have to be addressed by the police.

1
2 COUNCIL MEMBER MILLER: [interposing]
3 What are the correlations between those certain type
4 of crimes? What are they? Robberies? Are they
5 burglaries? What are they and what are they—what are
6 the correlation between that and marijuana arrests?

7 CHIEF SHEA: I—I would pose the question,
8 and I would say it several times today: What would
9 you have the police do when people are calling? We
10 would be criticized rightfully so if we were just
11 ignoring community complaints.

12 COUNCIL MEMBER MILLER: [interposing] So,
13 so here's what I'm saying, what I'm saying to you on
14 that: We're in community board meetings that when
15 we're in civic meetings that we're in precinct
16 counter meetings—Council meetings. The community is
17 opposed to over-policing or young black and brown men
18 of color. They are vehemently, adamantly opposed to
19 that, and so on one is calling. There is not this—
20 this abundance of 311 calls that will justify that,
21 and there is produce the numbers.

22 CHIEF SHEA: I—I agree with your
23 statement that the community is opposed to over-
24 policing people of color. I agree with that 100%. I
25 also submit that at the same time, and not in

3 conflict, that many of the same people will say I
4 don't want certain conditions on my block where my
5 kids are walking by or the playground or walking into
6 the store.

7 COUNCIL MEMBER MILLER: [interposing] It
8 don't exist. It does not exist, and the Council
9 member said it and if you--

10 CHIEF SHEA: [interposing] There are the
11 complaints. It's very--

12 COUNCIL MEMBER MILLER: [interposing] I
13 would--I would submit that you should take a ride out.
14 You should take a ride with your commander, your
15 precinct commander, any of your subordinates. I
16 would--I would suggest that everybody on the day it's
17 there take a tour through the district and--and see
18 that certainly there is absolutely no justification,
19 and then if there is, then there is an--an abdication
20 of responsibility on the part of the NYPD if, in
21 fact, this has been going on for the last decade in
22 that particular precinct every year. Don't you want
23 to know why this precinct has these numbers every
24 year, and how do we fix it? How is that possible?
25 How was it that every year this problem exists, and
on one has looked at this number? There is someone

1 at that--on that desk that is charged and responsible.
2 We're looking at these numbers, and say, hey we have
3 a problem. How do we address this problem? Ten
4 years later? I believe it's nearly ten years. I
5 know for a fact it's six years running now that the
6 105 is--is light years ahead of any other precinct in
7 that. Just the fact that when you look at these
8 numbers 1,851 and then it's increased by 200, and the
9 next--what is second highest in the precinct? For in--
10 in the city? 400? They make up less than--than--
11 they're making up nearly 15% of all marijuana
12 summonses in the entire city. Somebody is being
13 promoted on the backs of black and brown. I can't
14 believe that--that we're having a conversation here
15 that doesn't--that--that this didn't say that these
16 numbers--this is an atrocity and we have to figure
17 this out. But to sit there and try to justify it--
18 Thank you.

19
20 CHAIRPERSON RICHARDS: Thank you.
21 Alrighty, going to go to Council Member Williams.
22 Followed by Williams will be Reynoso.

23 COUNCIL MEMBER WILLIAMS: Thank you, Mr.
24 Chair and Mr. Chair. Thank you to the panel. I
25 actually wasn't planning on asking questions, but I

1 was disturbed by a few things. The first one,
2 Council Member Barron, I wasn't here. So, I don't
3 want to repeat too many questions, but she—she
4 alluded that somebody mentioned that they think there
5 was different treatment in the black and brown
6 community than in the white community. So, I just
7 want to—I wanted to confirm that that was the belief
8 of the Police Department.
9

10 CHIEF SHEA: No, but if you could—I
11 apologize. Can you repeat that, sir, and then—
12 Council Member--

13 COUNCIL MEMBER MILLER: [interposing]
14 Council Member Barron--

15 CHIEF SHEA: Yep.

16 COUNCIL MEMBER WILLIAMS: --said that
17 someone alluded to the fact--

18 COUNCIL MEMBER BARRON: [interposing] No,
19 Chief Shea. Not someone. Chief Shea.

20 COUNCIL MEMBER WILLIAMS: Okay.

21 COUNCIL MEMBER BARRON: -The panelist.

22 COUNCIL MEMBER WILLIAMS: Oh, Chief Shea
23 that you believe that was not a different, you know,
24 there was no different policing in the black
25 community and brown community, and as in the white

1
2 community. Can you just confirm? Is that the belief
3 of the Police Department?

4 CHIEF SHEA: There was a question
5 earlier, and I don't remember. I'd have to see the
6 exact question and the exact phrasing, and it was
7 alluding to what we're speaking of today of disparate
8 racial data in who was being arrest, and that was the
9 backdrop of the question, and I forget what exact
10 precinct we were referring to, and I would have to
11 see the question, but the question was essentially,
12 to my recollection, is that a result of people being
13 treated differently.

14 COUNCIL MEMBER WILLIAMS: Uh-hm.

15 CHIEF SHEA: Are people treated
16 differently? A white officer-a white officer wasn't
17 said, a black individual versus a Hispanic individual
18 versus a white individual, and as New York City
19 police officer coming upon that scene, and treating
20 them differently.

21 COUNCIL MEMBER WILLIAMS: [interposing] I
22 see. So, let me just-I-I--

23 CHIEF SHEA: [interposing] What I said
24 was no.

1
2 COUNCIL MEMBER WILLIAMS: Alright, I
3 can't speak for individual officers. So, I-I really
4 can't.

5 CHIEF SHEA: Correct.

6 COUNCIL MEMBER WILLIAMS: But what I can
7 say is that people are policed differently based on
8 where they live and based on what they look like,
9 period whether it's an individual officer of a
10 systemic issue, and so if-if you don't-if that's not
11 a belief, I'm very concerned because I think we've
12 been working to try to better that, and I think we've
13 had some success, but that's not even a belief. I'm-
14 I'm just extremely concerned. So, I just want to--

15 CHIEF SHEA: What--what I was saying
16 earlier, and I will say again is that I believe New
17 York City police officers enforce the law
18 impartially.

19 COUNCIL MEMBER WILLIAMS: Okay. That's
20 not true.

21 CHIEF SHEA: Okay.

22 COUNCIL MEMBER WILLIAMS: I just want to
23 make sure we're-we're clear about that, and I want to
24 make sure I put that on the record, and if you
25

1 believe that, that is--that is also a problem. I-I
2 think there are a lot of--

3
4 CHIEF SHEA: [interposing] And that's
5 under the context of where we have come from whether
6 it's Broken Windows 20 years ago, New York City of
7 old to New York City today. We've made dramatic
8 improvements.

9 COUNCIL MEMBER WILLIAMS: [interposing]
10 Great. So, hold on because I read--I read--

11 CHIEF SHEA: [interposing] Continue to
12 look for improvements.

13 COUNCIL MEMBER WILLIAMS: And the
14 improvements are here listed? I actually tried to
15 cite them. I also cite that police officers
16 discharging their weapons are down. I also cite for
17 the last time at least I checked complaints against
18 officers are down, and those are things that we have
19 to celebrate as we're celebrating crime being down.
20 But I do that not giving credence that it should have
21 been worse in the first place. Like it should never
22 have been what it was before, [bell] and so we
23 acknowledge that while we have to celebrate it. It
24 shouldn't be what it is now. So, we have to make it
25 better. So, we're going to rest our laurels of

1 getting better from a place we absolutely should not
2 have been in the first place, we also have a problem,
3 but I—I always try to take time to celebrate because
4 we are going in the—in the good way, but I have to
5 acknowledge where we are. These numbers are a huge
6 problem still, and we have to keep pushing it down.
7 We're concerned if you believe there's no disparate
8 impact and people aren't being policed differently.
9 I'm not even sure what we're discussing because even
10 in the face of the numbers, I mean we go to where we
11 are now with people telling us we were crazy before.
12 When we were doing everything, 5, 6, 7 years ago, we
13 were trying to make the city all crazy. The sky was
14 going to crack open and black and brown people were
15 going to come and destroy the city. That didn't
16 happen, and so we're telling you again based on these
17 numbers that we also have a problem, and I think when
18 it comes to what are the police going to do when
19 they're called, I think one of the problems that I
20 have with Broken Windows and sometimes to the chagrin
21 of may advocates that I work with, is not the theory
22 itself. It is how they're being applied, and so the
23 fact that the police are the ones that are trying to
24 fix the Broken Windows all the time is a problem. If
25

1 you only have summons and arrests, there's a problem.
2
3 So, my thing is perhaps the police aren't the ones
4 that need to be responding every single time there is
5 someone smoking marijuana, it at all. If there's
6 other things that are happening along side it, then
7 we have to discuss, but everything that we do we're
8 asking the police officer to go and write a summons
9 and write an arrest, and that's not-that's a problem
10 for me. On the flip side, I'd like to know what
11 happens when someone calls about an opioid crisis in
12 Staten Island. Are they arrested or summons?

13 CHIEF SHEA: If somebody—you'd—you'd have
14 to give me a little more details in the question, but
15 if somebody calls up and says what exactly?

16 COUNCIL MEMBER WILLIAMS: There is
17 someone who is high on opioids or they then they're
18 high on opioids or you go and discover that they're
19 high on opioids or something like that, what happens
20 to that person?

21 CHIEF SHEA: If somebody is high on
22 opioids, if somebody is high on marijuana, somebody
23 is not getting arrested for being high for either of
24 the offenses.

25

1
2 COUNCIL MEMBER WILLIAMS: Okay, so if
3 you—if you have marijuana on you and you're high,
4 what's happening?

5 CHIEF SHEA: If—if an officer encounters
6 somebody that is in possession of marijuana,
7 generally speaking they would receive a summons for
8 that.

9 COUNCIL MEMBER WILLIAMS: Okay. So, my—
10 and I know my time is running out so I'm going to
11 finish, but I just want to say you look at drugs and
12 how it's dealt with in each of these communities, you
13 cannot tell me that there's not disparate impact.
14 When you look at how the opioid crisis is being dealt
15 with, there are still black and brown people in
16 prison right now from many years ago when this issue
17 was in the black and brown community. When we look
18 at marijuana as people are now trying to make it
19 legal to sell, and preventing the very people who
20 were selling it before from being able to sell it.
21 Not looking at the people who are in prison right now
22 for the same thing we're trying to legalize. That is
23 a problem. When we look at the numbers here, I
24 believe white people smoke marijuana as well. I also
25 believe when you look at the data, you will see that

1
2 they're smoking the same amount of time. If you are
3 saying that it is a response to 311 calls, I want to
4 see those numbers. I hope you show it to the chair
5 people as well. I can't believe that they'll—they'll
6 match up directly, and I also don't believe that if—
7 if 311 is calling the other communities that it will
8 always lead to an arrest and a summons. That is a
9 problem and the reality that we have to deal with,
10 and until we deal with that, we're going to have a
11 problem. Even as we're celebrating, where we are
12 now, let's just—that's a huge concern, and I'm going
13 to end with this: And from the annals of I couldn't
14 believe it wasn't even legal to begin with. I'm glad
15 to hear you're supporting Reso 177. Hopefully
16 whatever needs to happen, will happen. Lastly, I'm
17 confused because I've heard the Police Commissioner
18 allude that they would no longer do Broken Windows.
19 So, I just need to know before even assessed bad or
20 good are we still policing under the Broken Windows
21 theory?

22 CHIEF SHEA: Sir, answering that
23 question, 100 people will have 100 different
24 definitions of what in their mind is Broken Windows
25

1 Policing. That's--so that's right off the bat when we
2 say that. We expect our officers--

3
4 COUNCIL MEMBER WILLIAMS: [interposing]

5 So, let me say this: Are you policing in any type of
6 theory of Broken Windows, any definition that you--?

7 CHIEF SHEA: [interposing] Again, I would
8 default to the same statement I just made.

9 COUNCIL MEMBER WILLIAMS: I see.

10 CHIEF SHEA: I--I think that means
11 different things, and the definition over the years
12 has transformed--

13 COUNCIL MEMBER WILLIAMS: [interposing]

14 I'll take that to mean probably.

15 CHIEF SHEA: No, that may not be
16 accurate.

17 COUNCIL MEMBER WILLIAMS: I got it. I
18 just have a concern of what that means, and I want to
19 understand what it means because I have a different
20 view than even some of my colleagues. So, I need to
21 understand what that means so I can respond in kind,
22 but thank you very much.

23 CHAIRPERSON RICHARDS: Thank you, and--and
24 I just want to add to that, you know, we hear from a
25 lot of cops. They would really be out--rather be out

1
2 doing work--work on other real things and fighting
3 violent crime--

4 CHIEF SHEA: [interposing] So, that's
5 exactly what we're doing.

6 CHAIRPERSON RICHARDS: --rather than
7 wasting their time writing summonses for marijuana.
8 By the way, could you become a police officer if you
9 smoked marijuana in the past?

10 CHIEF SHEA: Can you become a police
11 officer? Absolutely you can.

12 CHAIRPERSON RICHARDS: Okay. So, do you
13 realize how many--by these disparities existing, how
14 many police officers where people were preventing in
15 these communities of color from becoming police
16 officers, and mayors and--

17 CHIEF SHEA: [interposing] You--you can
18 become a police officer.

19 CHAIRPERSON RICHARDS: --and past
20 presidents and even Council members. Now, I did not
21 inhale, [laughter] the point we're making is we're
22 killing our young people's dreams--

23 CHIEF SHEA: Uh-hm, yeah.

24 CHAIRPERSON RICHARDS: --and, um,
25

1
2 OLEG CHERNYAVASKY: [interposing] I
3 think Council member you're--

4 CHAIRPERSON RICHARDS: You know, we're
5 out here over-enforcing it, but, you know I refuse to
6 believe with a force of what, 36,000 people that none
7 of them have ever enjoyed that smoke marijuana.

8 OLEG CHERNYAVASKY: Council member, I
9 think you misunderstood the Chief. He said that you
10 can become a police officer.

11 CHAIRPERSON RICHARDS: You still can?

12 CHIEF SHEA: You can.

13 CHAIRPERSON RICHARDS: Okay.

14 CHAIRPERSON LANCMAN: Just to clarify, is
15 it disqualifying if you've been arrested or convicted
16 of-of a marijuana offense because that-a possession
17 in the 5th degree?

18 CHAIRPERSON RICHARDS: Uh-hm.

19 CHIEF SHEA: It would be weighed, but it
20 would not be an automatic, to my knowledge,
21 disqualification. Frankly, a misdemeanor.

22 CHAIRPERSON RICHARDS: [interposing] But
23 we fit in those numbers, too. Alrighty, we're going
24 to go to Council Member Reynoso.

1
2 COUNCIL MEMBER REYNOSO: You know, in ten
3 years this hearing we're going to—we're going to look
4 back at this hearing, and we're going to be shocked
5 at the conversations that we're having regarding the
6 enforcement of marijuana, the same way we had the
7 conversation regarding stop and frisk. This is—this
8 is going to go along the same—the same conversations.
9 The sky is not falling when it comes to the use of
10 marijuana in the city of New York especially the
11 over-policing of black and brown communities and you
12 guys just happen to be at this table at that time.
13 We'll have a conversation in ten years and hopefully
14 we'll look back at all the justice that we bring
15 moving forward. I do believe in the legalization of
16 marijuana. I do think that we have to talk about
17 mandating that more than 50% of the licenses that go
18 out for the sale of marijuana be exclusively for
19 MWBEs so that we don't begin to—to turn it into a
20 white enterprise and legalize it and—and all the
21 benefits go to people that are not over-policing.
22 Now, they're suffering the consequences of—of being—
23 of being arrested or summons for marijuana. I want
24 to talk about the 90th Precinct. The 90th Precinct in
25 Brooklyn is a—is a special precinct because we were I

1 believe number 3 in the number of Stop and Frisks
2 that happened in 2012, number 3 even though we were
3 one of the highest gentrified communities in the city
4 of New York. So—so I want to put it in perspective
5 because I think we were the most policed precinct in
6 the entire city when you put it in perspective that
7 less than—in the 90th Precinct less than 50% of those
8 people are black and brown and the other 50% are
9 white. And if we're number 3 on that list, and the
10 majority of the people being stopped are people of
11 color, then you can see that per capita, we were
12 probably being stopped or black and brown people in
13 the 90th Precinct were being stopped at a higher rate
14 than anywhere else in the city of New York. That's
15 an argument that I think we can make. That's like an
16 economics (sic) argument, but we and make that
17 argument. I want to talk about the 90th Precinct,
18 though, right now. What—how many arrests have
19 happened in the 90th Precinct related to marijuana?
20

21 CHIEF SHEA: [pause] The data in front
22 of me for the 90th Precinct is 185 arrests in 2017.

23 COUNCIL MEMBER REYNOSO: And how many of
24 those were people of color?
25

1
2 CHIEF SHEA: I don't have for the 90th
3 broken down individually.

4 COUNCIL MEMBER REYNOSO: Because that
5 would be very important because now—that was 2012.
6 Now, we're in 2017 five years later, there are even
7 less people of color in the 90th Precinct, and I want
8 to see how many people in a gentrified community are
9 being arrested and how many of those people are black
10 and brown people and how many people are white
11 people. I just want to see that correlation. I want
12 to see those 311 calls that are being made, and where
13 they're coming from as well. I think that's very
14 important. I'm also—on the notion that in the 90th
15 Precinct the over-policing does happen, specific
16 [bell] parts of the community that tend to be
17 portions that are mostly people of color and not in
18 the white portions of the district. I think the 90th
19 Precinct is a great test case as to how exactly
20 officers are treating people from the same precinct
21 and the same community the very distinct divisions
22 related to race. So, I really want to see those
23 statistics when you get the chance. It would be—it
24 would be very helpful just the breakdown of people of
25 color in the 90th Precinct that have been arrested or

1 summons for marijuana. That's going to be—that's
2 going to be very helpful to me. So, I would love to
3 see that. That's—that's all the information I want,
4 and again, if we legalize marijuana in the state, I
5 would just want to note on the record that the
6 majority of licenses should go to MWBEs exclusively
7 to MWBEs. I would—I would caution to say the first
8 100 licenses should go to MWBEs and then we open it
9 up to the—to the general market, but again, in ten
10 years we're going to be laughing about this
11 conversation that we're having about a—about a drug
12 that's going to be legalized and will no longer be
13 criminalized. But thank you, Chair, for—for this
14 hearing both chairs for this hearing.

16 CHAIRPERSON RICHARDS: Thank you, Council
17 Member Reynoso, and I actually have your numbers
18 here, and I asked Jordan to give that to you from the
19 Drug Policy Alliance. I want to thank them for a lot
20 of the data that we have today. I also want to thank
21 you for coming in today, and then as you can see,
22 we're very interested in this conversation, you know,
23 Broken Windows policing or whatever you want to call
24 it, when you're looking at the disparities that exist
25 still in this city and how many kids lives we are

1
2 ruining in particular in our—in communities of color
3 around marijuana. We have a lot of work to do around
4 this and very reminiscent of, you know, we had this
5 conversation around Stop and Frisk just as Council
6 Member Williams alluded to where individuals thought
7 the world was going to go crazy if we—if we decreased
8 the amount of Stop and Frisk. This is no—this is no
9 different. Go to any college campus across colors,
10 across socio-economic status, you will see
11 individuals smoking marijuana. So, we really want to
12 see this issue seriously dealt with. I will
13 certainly be at Compstat, and I'm very interested in
14 hearing a lot more from the Commissioner and the
15 Mayor on how they are going to ensure that this
16 disparity does not continue to exist over the next
17 four years, and that we see real progress, tangible
18 progress on these numbers, and where there is a
19 disconnect as Council Member Miller, my neighbor
20 alluded to, there needs to be conversations with the
21 inspectors and others who are really using heavy-
22 handed enforcement in these areas. And quite
23 frankly, when you look at the 105, because we can
24 stay there for a second, it's a very big precinct.
25 That's why we had to build another one. So, that

1 means when officers come into the community they are
2 gunhoe on writing these easy summonses and—and
3 arresting people for marijuana because it's just the
4 easy thing to do, and it's obviously why we're
5 building the—the other precinct. So, I believe
6 officers once again have better things to do with
7 their lives, and they want to do better things at the
8 job than to be writing these summonses and filling
9 out a bunch of paperwork for them. Let's get them
10 out on the streets to fight real crime, and not
11 necessarily these marijuana arrests if they're not
12 connected to any violent or serious crime, and—and
13 that's my closing statement. I really have nothing
14 left to say because the numbers speak for themselves.
15 We do want to see that data because that data—I don't
16 even have to see the data to know the answer to the
17 question, and I would hope that you didn't come here
18 on unprepared with that intention, but the data will—
19 will speak for itself. So we look forward to seeing
20 that, and this is why we're going to pass this piece
21 of legislation as well. We'll go to Council Member
22 Lancman now.
23

24 CHAIRPERSON LANCMAN: Sure, you know, I—
25 maybe I should have said this at the outset because I

1 felt it was—was obvious. It's really impossible to
2 have this conversation and to think about this issue
3 out of the context of Stop and Frisk of hundreds of
4 thousands of Black and Latino young men being stopped
5 for no apparent reason. In the end, and as a result
6 of that policy, there were an extraordinary number of
7 people who were arrested and charged with a
8 misdemeanor because when they were Stopped and
9 Frisked a marijuana cigarette was taken our of their
10 pocket and oh, now it's in public and you're going to
11 be charged with that offense. That's—that's really
12 the origin of the shift in the Mayor's policy in
13 2014. It was the abuse of the marijuana possession
14 laws in connection with Stop and Frisk, which itself
15 is connected to just the almost insatiable appetite
16 of—of the—the Police Department to touch so to speak
17 black and brown young men as a way of reportedly
18 keeping us safe. In that vein, the distinction
19 between arrests and—and summonsing certainly it's
20 better to issue a summons than it is to effect an
21 arrest, but the fact that there are still so many
22 people who are getting that summons who are being
23 forced to go to Summons Court, on pain of a warrant
24 being issues for their arrest if they miss a hearing
25

1
2 date is—is very serious as well, and I—I feel maybe
3 we didn't make—we made too much—we make too much of
4 that distinction between the arrest and—and the
5 summons. It still is concerning that so many people
6 are getting summonses for possession of—of marijuana.
7 With that, Chief you've read statistics precinct by
8 precinct during your testimony. Is there any—that's
9 something that we had asked for? Is there any reason
10 that we couldn't get that from you later this
11 afternoon? The precinct by precinct breakdown you
12 have of arrests for summonses--

13 OLEG CHERNYAVASKY: Sure.

14 CHAIRPERSON LANCMAN: -et cetera?

15 OLEG CHERNYAVASKY: Council Member,
16 that's and I—I just want to make clear, I think the
17 Chief did a pretty good job of making it clear in
18 terms of the statistics that we're using. In order
19 to get the 311 and 911--

20 CHAIRPERSON LANCMAN: [interposing] No,
21 no, I understand. Right now at the moment--I'm not
22 going to as about that.

23 CHIEF SHEA: Right.

24 CHAIRPERSON LANCMAN: At the moment, I'm
25 just asking about the arrest and summons data, which

1 the chief has had in front of him, and which he's
2 been citing throughout his testimony. Can we get this
3 afternoon? You seem to have it. Then we can talk
4 about the 311 and 911 stuff.
5

6 OLEG CHERNYAVASKY: Sure. Let us—we're
7 going to come back and try to get you something this
8 afternoon.

9 CHAIRPERSON LANCMAN: Okay, and now on
10 the 311 and 911 issue, when do you think you can get
11 us the information that we have asked for?

12 OLEG CHERNYAVASKY: So, again, it's—the
13 challenge was, and I just want to put it back on the
14 record in case it—it seemed to have gotten lost in
15 the conversation. The challenge with 311 and 911
16 data is that the complaints that come in, whether
17 they be to 311 or 911, they're based on the narrative
18 that the complainant provides. So, the narrative the
19 complainant provides can use the word marijuana or
20 somebody may say somebody, as the Chief said, is
21 smoking outside. It could be a real cigarette. It
22 could be a marijuana cigarette. It may not use the
23 word marijuana in the narrative or somebody could
24 complain that if somebody using drugs outside, right.
25 So, what we—we did the best we could in preparing for

1 the hearing to have some sort of data here, and we
2 did a search of the term marijuana and weed, and a
3 few different variations of the spelling of
4 marijuana. That points to an increase in complaints
5 both 311 and 911.
6

7 CHAIRPERSON LANCMAN: [interposing] No, I
8 only asked--

9 OLEG CHERNYAVASKY: [interposing] No, no
10 I just--but I just

11 CHAIRPERSON LANCMAN: I understand that
12 that's your--

13 OLEG CHERNYAVASKY: [interposing] I want
14 to say this on the record because I think a lot of it
15 got lost in--in a lot of the conversation. So there's
16 an increase across the board when it comes to the
17 complaints whether 311 or 911. The--the issue is in--
18 in terms of we don't know how many marijuana
19 complaints there are under the drug category. Now,
20 we didn't want to come here and tell you, oh, we have
21 thousands and thousands of drug complaints because we
22 would be capturing cocaine, possibly heroin or any
23 other drug, right? So, we tried to stay as accurate
24 as possible with the data we were providing. We
25 didn't do the smoke search. We didn't do the drug

1 search. So, with that said, I think the number of
2 marijuana complaints would certainly increase. I
3 mean there's already an increase across the board the
4 search term "marijuana". I'm sure there are more
5 marijuana complaints in the drug-in the drug category
6 and in the smoke category, but we are unable to tell
7 how many of those there are.

9 CHAIRPERSON LANCMAN: I'm-I'm not--

10 OLEG CHERNYAVASKY: [interposing] With
11 that said, I'm going to do my best to our question.
12 I'm going to do my best to try to get you as much
13 data as possible on the complaints. There are toing
14 to be caveats. I'm just letting you know now, there
15 are going to be caveats because there will be
16 marijuana complaints hidden in the drug category, and
17 in the smoke category, and whatever other category
18 that may emerge. So, with that caveat, we're going
19 to do our best to give you the numbers.

20 CHAIRPERSON LANCMAN: Look, you have
21 said, and I-I don't mean to beat a dead horse. I
22 thought we did this in the beginning. We were all
23 kind of--

24 OLEG CHERNYAVASKY: [interposing] Uh-hm.

1
2 CHAIRPERSON LANCMAN: --on the same page
3 here. You are relying on 311 and 911 calls as a
4 basis for why you are ultimately making arrests or
5 issuing summonses in the different precincts
6 throughout the city. However you're categorizing
7 those calls in order to make that judgement, we want--
8 we want that data. You've got that data. I assume,
9 as I said before, you're not making that judgment
10 from thin air. So, however you have collected that
11 data, however you have categorized it, whether you
12 have segregated it based on marijuana, drugs,
13 smoking, we want that information.

14 OLEG CHERNYAVASKY: Understood.

15 CHAIRPERSON LANCMAN: We want--we want--we
16 want to know by precinct the 311 and 911 calls that
17 you've gotten that could possibly indicate marijuana
18 being smoked. So, if the 311 call said drug, the 311
19 call said marijuana, the 311 call said smoking, we
20 want all of that, and the reason that we want it is
21 because you've repeatedly said that you've relied on
22 that information. So, I'm not in a position to
23 dispute your characterization of that data as leading
24 to the conclusion that there is more--there are more
25 calls or fewer calls. I don't have the data. I must

1 have that data. We must have that data, and it's not
2 because it's valuable in the abstract, although it
3 is, it's because you're relying on it. So, when can
4 you get it to us?
5

6 OLEG CHERNYAVASKY: That one is going to
7 be a little more challenging, but we commit to
8 working on it, and getting you a data set that
9 includes all of the above categories.

10 CHAIRPERSON LANCMAN: Okay, okay thank
11 you.

12 OLEG CHERNYAVASKY: Thank you.

13 CHAIRPERSON RICHARDS: Thank you all for
14 your testimony.

15 CHIEF SHEA: Thank you.

16 CHAIRPERSON RICHARDS: Alright, we're
17 going to call our first panel and we're supposed to
18 be out of here by 1:00. So, I'm going to call the
19 first panel: Chris Alexander, the Drug Policy
20 Alliance; Kassandra Frederique, Drug Policy Alliance;
21 Corey Cochese (sic) LEAP; Joanne Norton, LEAP.

22 [pause] Okay. I'm going to ask you to begin. State
23 your name for the record, and who you're representing
24 and--[background comments] and we're going to put
25 three minutes on the clock for each person.

1 Alrighty, you may begin. [pause] Is your mic on?

2 [pause]

3
4 JOANNE NORTON: Good morning, Council
5 Members. My name is Joanne Norton, and I spend more
6 than 20 years with the NYPD where I worked in uniform
7 on patrol, undercover in the Narcotics Unit, and I
8 retired as a lieutenant. I want to thank you for
9 this opportunity to express my personal views on
10 marijuana enforcement as well as the views of the Law
11 Enforcement Action Partnership, LEAP. We are a non-
12 profit group of police, judges, prosecutors and other
13 criminal justice professionals who use our expertise
14 to advance public safety solutions. Although I
15 retired some time ago, decades ago, the NYPD's
16 approach to dealing with marijuana has remained
17 relatively unchanged. I'm appalled that we continue
18 to waste taxpayer dollars enforcing laws that damage
19 the relationships between officers and the
20 communities they serve. Public marijuana use may be
21 a nuisance to some of our neighbors, but getting the
22 police involved in this dispute was never a good
23 idea. As someone who has also worked as a criminal
24 defense attorney, I can assure you that those who are
25 arrested for small amounts of marijuana don't believe

1 for one minute that the Criminal Justice System has
2 their best interests at mind. They are not going to
3 trust the officers who patrolled their neighborhood,
4 which means they're not going to help the police when
5 they have information at criminal activity.
6

7 Everyone's safety depends on strong communications
8 and trust between police and civilians because that's
9 how crimes are solved. Aggressively enforcing low-
10 level marijuana laws in a state where ironically it's
11 technically decriminalized, is actually making it
12 harder for police to do their jobs. We rely on the
13 police to protect us by preventing people from
14 committing serious crimes and arresting them when
15 they do. We must come to terms with this reality,
16 and make--building relationships and removing
17 barriers to trust, a priority over accumulating ever
18 greater drill (sic) risk numbers. Decades ago, the
19 NYPD disbanded the unit devoted to enforcing gambling
20 laws because of all the corruption that was
21 uncovered. They didn't wait for Albany to change the
22 laws. They simply stopped proactively enforcing
23 them. When complaints were received, they responded,
24 but lawful gambling--unlawful gambling was no longer a
25

1 high priority with the department. [bell] When we
2 know that addictive, destructive--

3
4 CHAIRPERSON RICHARDS: [interposing]
5 Finish up, yes.

6 JOANNE NORTON: --drug use is clearly a
7 medical problem, a health problem, we have to wonder
8 what makes drug law enforcement so imperative to the
9 NYPD today? The NYPD proactively enforces drug laws
10 when there's no evidence this practice benefits the
11 public or the people using the drugs. We know the
12 public is not enthusiastic about marijuana arrests.
13 So, I can't help but wonder what drives the pursuit
14 of numbers when it comes to drug law violations
15 especially when we don't see that kind of concern for
16 rapes and burglaries and robberies, cyber crimes and
17 other serious crimes. The pending legislation, which
18 would require reports from the NYPD about their
19 enforcement of the laws prohibiting marijuana will go
20 a long way towards shining a light on the
21 department's activity in this area. But the larger
22 issue of prohibiting the use of marijuana by adults
23 need to be examined. Let's take a look at the nine
24 states and DC where marijuana is legal [bell]
25 regulated and taxed to see what their experience has

1
2 been. Prohibition is an idea whose time ought to be
3 over. Thank you.

4 CHAIRPERSON RICHARDS: Thank you so much
5 for your testimony. You may begin, sir.

6 Good morning.

7 CHAIRPERSON RICHARDS: Sorry, and we've
8 also been joined by Chair Council Member Vanessa
9 Gibson.

10 COREY COCHESE: Good morning, Mr. Chair
11 and the rest of your dais. My name is Corey Cochese
12 and I retired as Commander and Officer of the 67th
13 Precinct in Brooklyn. I left law enforcement in
14 March of 2013 after 21 years in uniform. Thank you
15 for this opportunity to represent my own views as
16 well s the views of my organization, the Law
17 Enforcement Action Partnership, LEAP, as they pertain
18 to marijuana enforcement. LEAP is a non-profit group
19 of police, judges, prosecutors, and other Criminal
20 Justice System professionals who use our expertise to
21 advance public safety solutions. Promoting sensible
22 drug policy is a core component of our mission. New
23 York exercises admirable common sense when we
24 decriminalized personal possess of marijuana over
25 four years ago, but our failure to effectively carry

1 out that policy has been wasteful and destructive use
2 of police resources and tax dollars. Nearly all of
3 the lower-level marijuana arrests made in the last
4 four decades happened between '97 and 2016, and it
5 resulted in over 710,000 arrests primarily of Black
6 and Latino residents. The various positions I held
7 throughout 21 years in the NYPD gave me a well-
8 rounded perspective on how we address crime in our
9 city. As we see in the big cities' gangs and members
10 of organized crime engage in senseless acts of
11 violence and domestic violence and rape are all too
12 common. Overall, the crime rates have been declining
13 for some time, but any amount of violence is too
14 much. Police exist to fill a critical role in our
15 communities: Keeping people safe and helping to
16 bring perpetrators to justice. The opportunities to
17 serve the public is the reason I enrolled in the
18 Police Academy over 25 years ago, and I stand by
19 that decision. I did not have a joint law
20 enforcement as a perpetrator system of unfairly
21 enforced laws that waste time and create no public
22 safety benefit. I did not put on my uniform every
23 morning so I could spend hours of my time and my
24 community's hard earned tax dollars bringing people
25

1 into the system for holding a small amount of
2 marijuana. I joined the historic NYPD to keep my
3 neighborhood safe. We can save the NYPD thousands of
4 man hours each year and free up resources for the
5 most serious crimes. Crimes of violence deserve our
6 utmost attention and marijuana possession is nowhere
7 near serious enough to be wasting our limited energy
8 while serious crimes go unsolved. In addition to the
9 financial and public safety costs of our city's
10 marijuana enforcement, we must address the racial
11 disparities, which have imposed further economic
12 consequences onto hundreds of thousands of the city
13 residents. Despite different racial demographics
14 using marijuana at the same rates as you alluded to
15 earlier, black New Yorkers are seven times likely to
16 be arrested for marijuana than white New Yorkers.
17 Even a single marijuana arrest can have serious
18 economic and social consequences for generations of
19 families living in these neighborhoods. Costly court
20 fees, fines, jail time, bail costs, possible loss of
21 an employment [bell] and possible loss of housing
22 make already struggling families that much more
23 likely to fall into a cycle of poverty and crime
24 especially when they have children to feed and
25

1
2 elderly family members to take care. There is no
3 excuse for continuing our destructive marijuana
4 enforcement strategy. The NYPD had bigger things to
5 worry about, and the good residents of our city
6 deserve relief from the unreasonable consequences of
7 these arrests. And just to add for the record, in 21
8 years as Commander and officer in two of the most
9 violent precincts in the city of New York, I can say
10 on the record not one crime out of thousands and
11 thousands of arrests where I saw marijuana as the
12 aggravating factor for the—for the crime. Thank you
13 for having me.

14 CHAIRPERSON RICHARDS: Thank you and
15 thank you for your service to the city.

16 KASSANDRA FREDERIQUE: My name is
17 Kassandra Frederique. I'm the New York State
18 Director at Drug Policy Alliance. Our testimony is
19 pretty long, but I will abridge it, and then you will
20 have the—the real copy. We'll send it to you. So,
21 as a candidate for mayor in 2013, Bill de Blasio said
22 low-level marijuana arrests have disastrous
23 collateral consequences for individuals and their
24 families. These arrests limits one ability to
25 qualify for student financial aid and undermine one's

1 ability to find stable housing and good jobs. What's
2 more, recent studies demonstrate clear racial bias
3 and arrests for low-level possession. This policy is
4 unjust and wrong. However, low-level marijuana
5 possession continues to be among the most common
6 arrests made across the city despite the Mayor,
7 Police Commissioner and other members of the city
8 Administration touting reduced arrests in recent
9 years. These arrests also continue to be marked by
10 extremely high racial disparities under Mayor de
11 Blasio, as was the case on Bloomberg and Giuliani
12 Administrations. Black and Latino New Yorkers
13 continue to comprise 85% of the more than 60,000
14 people arrested for low-level marijuana low-level
15 marijuana possession on Mayor de Blasio's watch.
16 Most people arrested are young Black and Latino New
17 Yorkers even though studies consistently show young
18 white people use marijuana at higher rates. Last
19 summer following the release of a report by the
20 Marijuana Arrest Research Project and Drug Policy
21 Alliance, highlighting ongoing arrests and the
22 continued racial disparities, the Mayor launched a
23 media attack calling the report's findings fake news,
24 and claimed that marijuana arrests were no longer
25

1 happening in New York City, but the numbers don't
2 lie. In 2016, there were 18,122 low-level marijuana
3 arrests in New York City, and in 2017 there were
4 17,880. New York State decriminalized marijuana 40
5 years ago, and that law is still on the books.
6 However, ongoing arrests for marijuana have largely
7 justified by a loophole left in the law that allows
8 police officers to distinguish between public and
9 private personal possession. Because possession in
10 public view remains a crime, this loophole coupled
11 with pervasive and racial bias, over-policing of
12 certain communities and Stop and Frisk tactics has
13 resulted in continued mass arrests for personal
14 possession of marijuana despite decriminalization.
15 The failure of decriminalization is most evident in
16 New York City. In 2014, then Mayor-then Police
17 Commission Bratton issued a statement in coordination
18 with Mayor de Blasio that instructed NYPD officers to
19 no longer make and arrest when they have discovered
20 marijuana on a person in the course of a search. The
21 accompanying police instruction, Order 43,
22 representation a clarification of the existing law to
23 law enforcement. This policy change represented a
24 visible shift from the NYPD's previous practices and
25

1 signaled the potential for the increased efficacy of
2 New York's 1977 Decriminalization Statute. However,
3 the result has been much more of the same. [bell]
4 In 2015, although arrests have been reduced from a
5 2014 level, the racial disparities in who is being
6 arrested has remained consistent, and more than 8 in
7 10 of those arrested being Black or Latino. I just
8 want to say because I hear the buzz—the bell ring,
9 Order 43 was the law that was already on the books.
10 So, NYPD has made a real big shift in policy
11 announcement and Mayor de Blasio Continued to show
12 that we are moving away from this and all this stuff,
13 but we already decided this in-40 years ago. 2017,
14 was the 40th anniversary of New York passing a
15 marijuana decriminalization law, which basically said
16 we don't want to use law enforcement resources to
17 focus on marijuana enforcement. That law is 40 years
18 old, and so the fact that this administration
19 continues to tout something that we've already
20 decided 40 years ago is inauthentic, disingenuous,
21 and continues to gaslight New Yorkers, specifically
22 those of color. A portion of reduction in arrests
23 for marijuana possession can be attributed to a shift
24 in police officers issuing summonses, which is
25

1 exactly what we said should not happen. What we
2 fought for in 2014 was for NYPD to reduce marijuana
3 enforcement. We specifically warned that then moving
4 and shifting to summonses would still have
5 detrimental collateral consequences on New Yorkers
6 specifically New Yorkers that have different levels
7 of citizenship in the United States. We were very,
8 very clear in 2014, that moving from arrest to
9 summons was not an adequate or an effective solution
10 to marijuana enforcement, and as you continue to see
11 as they've moved from arrest to summonses, what has—
12 what has transpired is actually less transparency
13 because again in 2014, when advocates worked in good
14 faith with NYPD and the Mayor de Blasio
15 Administration, we said if you are going to move to
16 summonses, they can't be as high as the arrests were,
17 and we need the data. We need the racial
18 disparities. We need the age. We need to know where
19 these have happened geographically. We met with MOCJ
20 from multiple times, and we asked for them to change
21 the summons form. We asked for the data to publicly
22 available. We asked for the racial breakdown, and
23 they have continuously said that that is not
24 possible, that they changed the summons form. We
25

1 still don't get the data, and so they literally just
2 moved it so that we can see less. They did not wake
3 up one day and decide that they were going to end
4 marijuana arrests. Communities United for Police
5 Reform, the Drug Policy Alliance, Vocal New York,
6 Make the Road, Legal Aid Society, Brooklyn Defenders,
7 Bronx Defenders we pushed for this and we said, we
8 can't take your short-sighted reform as what we need
9 to move possible. And here we are four years later
10 under a different administration that has made it
11 very clear that marijuana enforcement is going to be
12 used to continue to break up families. We said this
13 four years ago, and they did not move. And so, in
14 closing, we recognize that New York does not operate
15 in a vacuum. But Mayor de Blasio and the Council
16 members have publicly vowed to fight the Trump
17 Administration to protect New Yorkers' rights when it
18 comes to immigration, women's rights and civil
19 liberties, but the--but the above cases show that
20 without really ending marijuana prohibition, which
21 leads to law enforcement abuses, these words ring
22 hollow. There is no excuse for--

24 CHAIRPERSON RICHARDS: [interposing] Can
25 I ask you to begin to wrap up.

1
2 KASSANDRA FREDERIQUE: --New York City
3 arrests to continue in 2017. Mayor de Blasio pledged
4 to end biased policing practices. If the end looks
5 like more of--more than 61,000 arrests on his watch,
6 and the same level of severe racial disparities, then
7 the Mayor has failed to carry out his campaign
8 promises to Black and Latino New Yorkers. Further,
9 we strongly recommend the police and district
10 attorneys in the five boroughs of New York
11 immediately cease arresting, charging and prosecuting
12 anyone for violation of the New York State Criminal
13 [bell] Law Section 221.10. District attorneys should
14 take the additional step of sealing all prior arrest
15 records for low-level marijuana possession as their
16 colleagues in Philadelphia, San Francisco, San Diego,
17 and other jurisdictions have done. Thank you.

18 CHAIRPERSON RICHARDS: Thank you so much
19 for our testimony.

20 CHRIS ALEXANDER: Good afternoon. Chris
21 Alexander of Drug Policy Alliance. So, I won't echo--
22 I echo everything that's been said today, and I'll be
23 super brief so we can move onto the questions, but
24 just focus the Council and the committees on Order 43
25 and what it also allowed the NYPD to continue to do,

1 which is the use of constructive burning as a cause
2 for continued interaction with people. What also was
3 listed in Order-in Order 43 in terms of instructing
4 law enforcement to not make the arrests during the
5 course of that search if marijuana was discovered was
6 the fact that they could continue to use the smell,
7 the odor, the-the odor of marijuana as justification
8 for them making any type of search or interacting
9 with people. This was really what was focused on by
10 the NYPD today I their testimony as the cause for a
11 lot of these arrests resulting that they believe that
12 18,000 people were smoking publicly in the streets of
13 New Yorkers that all of these individuals happened to
14 be Black or Latino, at least 86% of them. We just
15 encourage the Council and in that further inquiry of
16 the NYPD to focus on the fact that in many cases
17 marijuana is not found. They may caught-they may
18 point to public burning as being the cause for the
19 interaction, but marijuana is not being located on
20 the persons that they are stopping that they are
21 arresting. They are often times using the scent as-
22 as-as the-as a cause to interact. So, I just want us
23 to focus on that as we move forward to further
24 questioning of the NYPD. I also wanted to push back
25

1 on some fallacies that were said by the NYPD today
2 about increased traffic-traffic incidents in other
3 states that have moved beyond marijuana prohibition.
4 Last year the Drug Policy Alliance, released its
5 report from prohibition to progress, highlighting
6 what we've seen in all of these states that have now
7 moved beyond marijuana prohibition. We've seen
8 reductions in DUIs. We've seen child and youth use
9 of marijuana remain stable post and before and post-
10 legalization, and so we just want to push back on-
11 on the fallacies being told here to you. And so,
12 we'll-I'll send this-this report along so that you
13 all can see what we've seen from other states, the
14 nine states that have legalized marijuana, and the
15 District of Columbia as well. Thank you.

17 CHAIRPERSON RICHARDS: Thank you. Thank
18 you all for your testimony. Do you have questions?
19 Okay, thank you all for your testimony.

20 KASSANDRA FREDERIQUE: I just want to say
21 something because multiple Council members asked NYPD
22 around opioid arrests, and trying to make the
23 distinction between how the heroin crisis is being
24 dealt with versus how marijuana arrests are being
25 dealt with, and I think it's really important to

1 recognize that Drug Policy Alliance does not think
2 anyone should be getting arrested for opioids, right?
3 And that it's important to distinguish that we don't
4 need more of criminalization just to make it more
5 equitable. We everyone to not get arrested.

7 CHAIRPERSON RICHARDS: [interposing]

8 Exactly, exactly.

9 KASSANDRA FREDERIQUE: So, I just want to
10 say that for the record.

11 CHAIRPERSON RICHARDS: [interposing] And
12 that's wholeheartedly where we were going. It's not
13 --we don't want people being criminalized. We think
14 prevention and--and obviously other resources are--are
15 more value in the long term.

16 KASSANDRA FREDERIQUE: Perfect, and I
17 think--

18 CHAIRPERSON RICHARDS: [interposing] So,
19 that's no--at least--

20 KASSANDRA FREDERIQUE: [interposing]
21 Perfect.

22 CHAIRPERSON RICHARDS: --not my stance,
23 but just interested in looking at how the two--
24 [laughter]

1
2 KASSANDRA FREDERIQUE: [interposing] So,
3 Council Member, then I would ask that the Council
4 push the administration on their HealingNYC
5 initiative that gives NYPD \$70 million to turn over
6 those sights into homicide investigations because
7 that's not going to get us any further either, and we
8 can also give you the report that Drug Policy
9 Alliance has published on drug induced homicides, and
10 how that gets us further away from our goal from
11 making anyone safer.

12 CHAIRPERSON RICHARDS: Yeah, great.
13 Thank you and we look forward to meeting with you
14 soon.

15 COREY COCHESE: And for the numbers,
16 Councilman for the numbers that you asked the NYPD
17 for your and as the Commanding Officer, I got those
18 numbers every week. So, let's not--let's playing a
19 game.

20 CHAIRPERSON RICHARDS: I am--

21 COREY COCHESE: [interposing] Push for
22 those numbers, 311 numbers--

23 CHAIRPERSON RICHARDS: Yes.

24 COREY COCHESE: --every commanding
25 officer get those 311 numbers--

1
2 CHAIRPERSON RICHARDS: [interposing]
3 Exactly. Agreed.

4 COREY COCHESE: --every single week.

5 CHAIRPERSON RICHARDS: Agreed. I-I-I
6 hear you, and trust. We know that answer. [laughs]
7 Thank you so much. Thank you for the work you're
8 doing. We're going to call the second pane.
9 Catherine Gonzalez the Brooklyn Defender Services;
10 Anthony Pasada the Legal Aid Society; Marsha John-
11 Charles, Brotherhood/Sister Sol; and Charlotte Pope
12 from the Children's Defense Fund of New York.
13 [background comments, pause] Alrighty, you may
14 begin.

15 CATHERINE GONZALEZ: Hi, good afternoon.
16 My name is Catherine Gonzalez and I'm a Staff
17 Attorney in the Criminal Defense Division of Brooklyn
18 Defender Services. Every year, BDS represents
19 thousands of people arrested for marijuana possession
20 or sale or fighting deportation, eviction, or a loss
21 of parental rights due to marijuana related
22 allegations or convictions. BDS is proud to support
23 the Drug Policy Alliance's Marijuana Regulation
24 Taxation Act to legalize incentively regulated-adult
25 marijuana use and sale across New York State, and we

1
2 urge the Governor and the legislators to make it a
3 reality. However, inaction in Albany is no excuse
4 for injustice here in New York City. It is our
5 position that the New York City Police Department can
6 and should decline to arrest or to issue summons for
7 people—for marijuana possession or any other
8 marijuana offense. Right now, local district
9 attorney's offices can and should decline to
10 prosecute these cases right now. As a defense
11 attorney, the most frustrating response from policy
12 makers with respect to marijuana legalization is I'm
13 not there yet, and with all due respect, what are you
14 waiting for? When we're weighing the value versus
15 the impacts that these arrests have in our
16 communities let's look at the data. Every single day
17 approximately 50 New Yorkers, mostly young men of,
18 are arrested for low-level marijuana possession
19 potentially sending their lives into disarray and the
20 lives of their family, and deepening the inequalities
21 in our city. It's time to speak up and speak out,
22 and with that in mind, I want to thank Council Member
23 Corey Johnson for announcing his support in ending
24 the prohibition. There's no evidence to support the
25 notion that punitive responses actually decrease

1 marijuana use if that's the goal. In fact, since
2 legalization, marijuana by teens has decreased in
3 Colorado, and that state is now generating more than
4 \$1 billion in economic activity and hundreds of
5 millions of dollars in taxes from their legal
6 marijuana industry every single year. There's no
7 justification for the status quo, and there's no
8 justification to the reform. A recent Emerson
9 College-Emerson College poll showed that 2 to 1 New
10 Yorkers support legalization. From the last high
11 arrest rates and sharp racial disparity continue as
12 we have seen this morning. In our written testimony
13 we do provide detailed data demonstrating the
14 racially biased enforcement of marijuana laws with
15 respect to both possession and sale. And today, I
16 will limit myself to one point in my testimony. In my
17 2-1/2 years as a defender with Brooklyn Defender
18 Services, having represented hundreds of clients on
19 marijuana charges, I can only recall representing one
20 white person, and that white person I distinctly
21 remember because she was charged with low-level
22 possession [bell] while hanging out with a group of
23 friends who were all people of color. In the same
24 way, I do want to briefly tell you about--
25

1
2 CHAIRPERSON RICHARDS: [interposing] I'm
3 going to have to ask you to wrap up because we have
4 to get out of there.

5 CATHERINE GONZALEZ: Okay.

6 CHAIRPERSON RICHARDS: Yeah. So, if you
7 want to give a concluding statement that's fine.

8 CHAIRPERSON LANCMAN: I've got questions.
9 So, I want to get to those.

10 CATHERINE GONZALEZ: Okay. So, you know,
11 ending marijuana arrests and prosecutions here in New
12 York City would get us meaningfully closer to getting
13 rid of these racial disparities that are at the
14 center of this conversation. And, we want to add
15 that instead of causing this harm all of the
16 resources that are being allocated to the enforcement
17 of marijuana laws, should be put to better use in our
18 schools and in our communities. I want to thank you
19 for this hearing, and we hope that the Council will
20 support legalization.

21 CHAIRPERSON RICHARDS: Thank you.

22 ANTHONY POSADA: Good afternoon. I want
23 to thank the Chairperson both Donovan Richards and
24 Rory Lancman for having this very critical hearing on
25 these very important matters. My name is Anthony

1 Posada. I'm a Co-Supervising Attorney of the
2 Community Justice Unit of the Legal Aid Society. The
3 Community Justice Unit provides legal services to the
4 Cure Violence organizations of New York City's Crisis
5 Management System, which are organizations that are
6 devoted to turning their neighborhood into safer and
7 healthier places by looking at gun violence as a
8 public health issue. Through this work we are
9 connected through communities all across New York
10 City, and we can say that have seen how marijuana
11 enforcement from the NYPD destroys lives of all these
12 youth and communities that are affected by over-
13 policing. I just want to quickly highlight some of
14 the testimony that I provided is—is significant but I
15 will give—I'm not going to go through all of it
16 entirely and just reserve my comments here to point
17 out some of the key areas. I want to begin with the
18 collateral consequences of the marijuana arrests,
19 which were already highlighted by this body, but just
20 so that we don't forget them and so they are part of
21 the record. Marijuana arrests can lead to
22 deportation. It could lead to an eviction. It has
23 monetary fines that then become warrants when people
24 are unable to pay them. It results in the denial of
25

1 financial aid, and it also creates license
2 suspension. They NYPD marijuana enforcement drives
3 hyper criminalization, and it's a Jim Crow style form
4 of policing. I can say this because I myself have
5 been impacted by this style of policing. As a 17-
6 year-old growing up in Queens as a Latino, I was
7 affected when two undercover cops jumped out of their
8 unmarked car and pointed their guns at my face and
9 threw me up against a wall. I was charged with
10 221.10, this very same provision that the same Chief
11 was saying here that our police officers have a
12 problem making that distinction. I can tell you that
13 I was charged with that statute, and the officer
14 claimed that the marijuana was open in public view,
15 and in that same complaints it is in my pocket. So,
16 I don't understand how it could be open and burning
17 in public view, but still remain in my pocket. And
18 still I have to undergo being taken to the precinct,
19 being fingerprinted, having my property removed from
20 me. Then having to go through the system as a 17-
21 year-old I could have been prevented from going to
22 college and thankfully that didn't happen, but if I
23 lived in a NYCHA building I could have been facing
24 permanent exclusions and never going back to where my
25

1 family lives. And thankfully, that was not the case,
2 but it is the case for many New Yorkers especially
3 youth of color who we have seen how this charge is
4 one that puts them in a position where they feel
5 stigmatized, where they're labeled as criminal.
6 Where they're afraid to walk their own blocks in
7 their neighborhoods because they feel that the police
8 are going to arrest them on this very exact charge.
9 The arrest experience is not something that should be
10 taken lightly, and it's something that is—has far
11 reaching psychological and trauma impacts that stay
12 with the person for the rest of their life.
13 Marijuana prohibition is not making us any safer
14 right now. The way it is happening, it is just
15 tearing communities apart. [bell] In our role in
16 the Community Justice Unit, we were able to be a part
17 of the Joint Remedial Process that resulted after the
18 Stop and Frisk was ruled unconstitutional, and having
19 seen many of these young remedial processes in Far
20 Rockaway, in Staten Island, in Harlem, in South
21 Jamaica, Queens, I can say that in all those
22 hearings, all the youth and community members of
23 color who have been there present to say they have
24 mentioned that NYPD's approach with marijuana is out
25

1
2 of control, that it is abusive, that it is one that
3 strikes terror into their communities, and it is one
4 that makes them afraid. So, this is a problem that
5 continues to happen that it's still happening and we
6 support full legalization. The Smart Act also
7 promoted by the Drug Policy Alliance as a way [bell]
8 that it will make our communities safer and divert
9 all those resources back into the community. Thank
10 you.

11 CHAIRPERSON RICHARDS: Thank you for your
12 testimony. Yes, ma'am, and we're going to really ask
13 you to adhere to the three minutes because we have
14 another committee that we're delaying.

15 MARSHA JONSAL: Okay. So, my name is
16 Marsha Jonsal. I'm representing the Brotherhood/
17 Sister Sol and really quickly. We at the
18 Brotherhood/Sister Sol witness the realities of
19 unequal and disproportionate marijuana policy
20 enforcement time and again. We were founded in 1995,
21 and we provide comprehensive holistic and long-term
22 support services to youth who range in age from 8 to
23 22. Most importantly for this particular hearing, we
24 are the people to whom our young people go when
25 negatively impacted by the state and federal society.

1 One of the biggest threats to our youth is
2 criminalization of marijuana and its imbalanced
3 enforcement. As you already know from various
4 testimonies decriminalization has not solved the
5 arrests in our communities, and, in fact, has
6 furthered the criminalization and mass incarceration
7 experience within them. Behind the often quoted
8 decrease in marijuana arrests is the insidious issue
9 of proportion. Firstly, for the last 20 years the
10 percentage of people the NYPD arrests for possession
11 of marijuana has been at least 84% Black and Latinos.
12 Secondly, this inordinately racialized the percentage
13 of marijuana arrests that exist in spite of countless
14 studies that convey, as you know, that marijuana use
15 across racial categories is similar in proportion to
16 population percentage. The truth in all these
17 numbers is that though use across race is virtually
18 the same, Black and Latino youth in our city are
19 criminalized, targeted and incarcerated by our police
20 as a result of disparate enforcement. It is rather a
21 doubt that Black and Latino people in New York City
22 are disproportionately impacted by marijuana
23 enforcement and targeted over-policing of low-income
24 communities. To pretend that this is not a reality
25

1 would be to ignore the facts, the reports, the times
2 and public outcries for change. Many, though, are
3 allowed to feign ignorance principally because the
4 NYPD does not publish information on arrests, and
5 criminal summonses for marijuana possession
6 disaggregated by demographic information. Other
7 entities, however, have published findings, and they
8 prove undeniably that regardless of Mayor de Blasio's
9 policy shift in 2014, Black and Latino people in New
10 York City continue to be the main people that
11 arrested for marijuana possessing and burning. The
12 latter matter the policy shift did not address, which
13 further allows NYPD to continue with discriminatory
14 arrests in policing practices. Our organization is
15 located in West Harlem/Hamilton Heights, a
16 neighborhood that—that a report titled: *Unjust and*
17 *Unconstitutional: 60,000 Jim Crow Marijuana Arrests*
18 *in Mayor de Blasio's New York*, called the epicenter
19 of NYPD Enforcement. Accordingly, in 2016, the NYPD
20 made strikingly more marijuana arrests in West Harlem
21 than in any precinct in New York City, 48 times more
22 such arrests than on the Upper East Side despite West
23 Harlem having one-third the population. Black and
24 Latino people were 94% of the people the police
25

1 arrested for marijuana. 44% had never been arrested
2 before and 76% had never been convicted of a single
3 misdemeanor. [bell]

4 CHAIRPERSON RICHARDS: I'm going to ask
5 you to wrap up.

6 MARSHA JONSAL: So, I mean just in lieu
7 we are asking that you help ensure that our young
8 people are not going to jail for—at disproportionate
9 rates for possession of a substance that was
10 theoretically decriminalized in 1977, and we further
11 want to illustrate that our youth do not use more
12 than others in wealthier white communities and get
13 arrested more, and that needs to end.

14 CHAIRPERSON RICHARDS: Thank you for your
15 testimony. Thank you for the work your organization
16 does .

17 CHARLOTTE POPPIN: My name is Charlotte
18 Poppin with the Children's Defense Fund New York.
19 Thank you for the opportunity to testify. We want to
20 highlight marijuana enforcement in city schools and
21 the use and disproportionate impact of Criminal Court
22 summonses. Our long-time concern has been that the
23 NYPD and the School Safety Division imposed criminal
24 justice responses to student behavior that should be
25

1 responded by educators and school staff who are best
2 equipped to carry out supports and interventions. Of
3 the 805 total summonses given to young people in
4 schools last year, 31% were given for possession of
5 marijuana representing the single most common reason
6 for a summons in school. Due to gaps in the Student
7 Safety Act data, we don't know the racial disparities
8 in summonses by charge, but we do know that last
9 school year, 94% of all summonses were given to
10 students of color with 52% of all summonses given to
11 black students who only made up 27% of the student
12 population. We support Intro 605, and if it were to
13 also include enforcement actions disaggregated by
14 whether action occurred in a school building or on
15 school property, it would bring even greater
16 transparency to the policing of young people.
17 Answering a summons not only demands students miss
18 class time, but exclusions serves the stigmatized
19 students and impede access to needed supported
20 resources. It burdens young people with fines and
21 court fees or potential warrants or missed court
22 dates or inability to pay the fine. This potential
23 for intensifying punishment is only imposed on
24 students 16 and older while their 15-year-old
25

1 classmates are already experiencing alternatives. In
2 February of 2015, the NYPD launched a Warning Card
3 Pilot program on five school campuses in the Bronx
4 that gives the NYPD the discretion to issue a warning
5 card to students instead of issuing a summons for two
6 infractions: Possession of small amounts of
7 marijuana and disorderly conduct. Last year because
8 of the discretion loophole there was still 20
9 summonses for marijuana given out on those school
10 campuses. In February of 2017, the NYPD expanded the
11 Warning Card Program to a total of 71 schools. Yet,
12 there are still hundreds of schools that educate
13 students old enough to receive a summons. The yet to
14 be released the Revised Memorandum of Understanding
15 between the Department of Education and NYPD, which
16 was the project of the Mayor's Leadership Team on
17 School Climate must eliminate the use of summonses in
18 school. Even ending summonses for low-level
19 possession of marijuana would keep over 200 students
20 a year from administering many of the consequences.
21 We also want to make clear that all steps towards a
22 positive school climate will come from alternatives
23 from police responses including training and support
24 for educators and investment in school staff such as
25

1 mental health workers or restorative practitioners.

2 Restorative practices in particular emphasize

3 prevention and training—changing the material

4 conditions of student's lives to reduce harm and

5 conflict. Thank you.

6
7 CHAIRPERSON RICHARDS: Thank you. Thank
8 you so much for the work you do as well. I'm going to
9 go to Council Member Lancman for questions and then
10 we have one panel left.

11 CHAIRPERSON LANCMAN: Thank you. Just to
12 drill down—drill down on—on where my committee has
13 specific jurisdiction, which is over the district
14 attorneys and the public defenders. Can you tell me
15 what your experience has been in Brooklyn and maybe
16 if you do Manhattan, but if you have Brooklyn as well
17 that's fine. With that office's supposed marijuana
18 and prosecution policy and what you're seeing on the
19 ground. You make a brief reference to it in your
20 testimony, but if you can—if you can tell me what
21 you're seeing.

22 CATHERINE GONZALEZ: So, in—in Brooklyn
23 we're still seeing arrests for marijuana. We see
24 them everyday.

1
2 CHAIRPERSON LANCMAN: It's alright. Just
3 tell me what do you understand the Brooklyn DA's
4 policy to be?

5 CATHERINE GONZALEZ: Our understanding
6 was that they going to client to prosecute these
7 cases.

8 CHAIRPERSON LANCMAN: When you say these
9 cases, what do you mean?

10 CATHERINE GONZALEZ: It's all about--

11 CHAIRPERSON LANCMAN: [interposing] And--
12 and you're not representing their office. So, I
13 don't mean to put you on the spot. I just want to--

14 CATHERINE GONZALEZ: My understanding as
15 a defender like on the ground in court, low-level
16 possession are marijuana related arrests.

17 CHAIRPERSON LANCMAN: Oaky.

18 CATHERINE GONZALEZ: We're seeing--we're
19 still seeing those arrests?

20 CHAIRPERSON LANCMAN: Okay, and you're
21 seeing the prosecutions obviously.

22 CATHERINE GONZALEZ: And we're seeing
23 those prosecutions.

24 CHAIRPERSON LANCMAN: And--and were you
25 ever in a situation where you said to the ADA at

1 arraignment, hey I thought this was part--this was the
2 kind of arrest, the kind of prosecution we were not
3 going to see in your--in your policy?
4

5 CATHERINE GONZALEZ: I do it in every
6 single shift that I pick up a case, and they're--
7 they're, you know, they're still coming, they're
8 still coming through, and our position is that they
9 shouldn't--they shouldn't be coming through.

10 CHAIRPERSON LANCMAN: Uh-hm. Okay.
11 Anything you want to add either about Brooklyn or
12 Manhattan or anywhere else?

13 ANTHONY POSADA: Yeah, I would just add
14 that we put out the numbers of the people we
15 represented last year citywide. It was in--it was 778
16 people on low-level marijuana charges, which was up
17 from the January of 2017, and I would have had the
18 full numbers for February but the month not being
19 over we wanted to have a complete picture, but those
20 numbers are still have not changed. So--but they're
21 still coming through. People are still getting
22 charged with this, and just to echo my colleagues'
23 observations, the prosecutors are still going forward
24 with these cases even though the policy is there.
25

1
2 CHAIRPERSON LANCMAN: And—and do you
3 recall any specific instances where—where you or any
4 of the Legal Aid attorneys said to the prosecutor,
5 hey, I thought under your new policy this particular
6 case would not be covered. But the reason I asked
7 is, you know, we hear anecdotally whether it's
8 turnstile jumping or bail or any of the other things
9 that the DAs or different DAs have announced that
10 they're going to have a more open liberal policy.
11 Anecdotally we—we hear where observers in court or
12 public defenders are—are—are seeing that those
13 policies are not happening, and I don't—we don't have
14 a way of—to measure that. And so, I was just
15 wondering if you know—or we have specific instances
16 where the policy that the DAs Office had publicly
17 announced was not being adhered to? [background
18 comments]

19 ANTHONY POSADA: They are there, and I
20 don't have them for you right now, but I know that I
21 can provide them to you.

22 CHAIRPERSON LANCMAN: So, here's—here's
23 what I request, and very much appreciate your coming
24 and testimony—testifying today. If when you get back
25 to your offices you could speak to your colleagues,

1
2 the powers that be, et cetera, and if you can give us
3 any guidance on how the policies that articulated by
4 the Brooklyn's District Attorney's Office and the
5 Manhattan District Attorney's Offices, which I think
6 are the only two offices that have said they're going
7 to have their own marijuana prosecution policy. Have—
8 have not been adhered to or—or—are not being
9 followed, that would help us in reacting out to those
10 offices and saying hey what's—what's—what's going on?

11 ANTHONY POSADA: Will do. Just really
12 quickly I want to point out what you all were finding
13 out when asking the Chief is that their—this
14 synchronization is not there. If the arrests
15 continue to happen at a hyper rate and they keep
16 coming in, prosecutors are—are going forward with and
17 are prosecuting as he himself testified.

18 CHAIRPERSON LANCMAN: Right, but that's
19 what I—that's what I was getting at, and we're going
20 to follow up with them about, and I wanted to get
21 feedback from you, and the feedback I get from you is
22 going to be essential to the dialogue we're going to
23 have with the Police Department with—with the Chief
24 because we're going to [coughs] want to show, if
25 true, you're making these arrests in Brooklyn and

1 Manhattan [coughs] that even the DAs are declining to
2 prosecute. And so you're not synchronizing your
3 policing policy with other half the Criminal Justice
4 System, right? So law and order. Two halves right.
5 They got book tailor. (sic) So, that would be real
6 helpful for you to get that to us. Thanks very much.

8 CHAIRPERSON RICHARDS: We're going to
9 Council Member Miller, and then to our last panel.

10 COUNCIL MEMBER MILLER: Thank you so
11 much, Mr. Chair. So, what I want to briefly ask is
12 kind of a follow-up to Council Member Lancman, and
13 that is kind of the coordination around policy
14 between NYPD and the DAs citywide and obviously
15 particular—in particular I'm concerned about the
16 Borough of Queens. The Councilman was just alluding
17 to whether or not somewhere like Brooklyn and
18 Manhattan the arrests were consistent with policy.
19 Conversely, I would want to know if arrests are more
20 arrests driven by policy from the District Attorney's
21 Office somewhere like the Borough of Queens. Have
22 you see that because of a more aggressive low-level
23 prosecution policy that you see more arrests?

24 ANTHONY POSADA: Thank you, Council
25 Member Miller, and the answer—there's—it doesn't mete

1 out. So, if you have a—a prosecution policy that's
2 said a certain of these charges will not be
3 prosecuted, it's not adding up with what we're
4 seeing. So, in Queens where the District Attorney
5 has not come forward to say we have a policy for not
6 prosecuting marijuana arrests. Marijuana arrests are
7 happening in Queens especially in the precincts that
8 were highlighted throughout this hearing, and
9 happening at an astronomical rate that is not
10 justified by what we've heard today. So, to—to
11 answer your question, in boroughs where district
12 attorneys have put forward a policy to say that
13 they're not prosecuting marijuana that I am seeing
14 right now we're still seeing those marijuana arrests
15 coming through the system. They have not stopped
16 coming through, and in boroughs where they don't have
17 the policy, it—it just—it continues to be business as
18 usual where the arrests are concentrated in
19 communities of color.

20
21 COUNCIL MEMBER MILLER: So, in a borough
22 where there is a very aggressive prosecution of
23 marijuana and other low-level offenses, are the
24 arrests consistent? In—in other words, so—so they
25 have not just stopped coming. Are they coming at the

1 higher rate that they have been in the past?

2 [background comments]

3
4 CATHERINE GONZALEZ: I can't speak for
5 Queens. I will—I will point to a conversation that
6 was started earlier where there was—there was a large
7 conversation about the majority of these cases coming
8 being the result 911 and 311 complaints in these
9 communities. So that the numbers are higher in the
10 105th Precinct for example in Queens because the
11 complaints within that community that are leading to
12 either more policing or more responses to these
13 neighborhoods that lead to these arrests, and as my—I
14 only practice in Brooklyn. In my experiences with
15 Brooklyn, I have never, ever seen a charging document
16 that says this arrest came from the officer receiving
17 a 911 call or the officer receiving a 311 complaint
18 of marijuana use. I've never seen a criminal case in
19 Brooklyn charges as come that I've been the attorney
20 on where those are the allegations, and I—I can
21 confidently say I don't know that those cases are—
22 have been experienced by anyone in my office.
23 There's no correlation at least when these cases are
24 coming through arraignment that there's no—that
25 there's no other indication that this was not because

1 of a direction interaction with a police officer and
2 our clients. That's what all these charging
3 documents indicate that these arrests are a result of
4 these direct interactions, and not the result of
5 policing because there was a complaint made. And I
6 think that that kind of speaks to your point as to
7 the aggressive policing, but I can only speak to
8 Brooklyn.

10 ANTHONY POSADA: So, the response to your
11 question is yes. In boroughs where there is not a
12 policy, the—and the arrests continue and are
13 aggressive, they—they do—we have seen a rise in the
14 number of how they're treated overall across the
15 board.

16 COUNCIL MEMBER MILLER: [off mic] Thank
17 you Mr. Chair.

18 CHAIRPERSON RICHARDS: Thank you.
19 Alright, thank you all for your testimony. We're
20 going to go to the last panel now. Darian Agostini.
21 I think I said it right, Make the Road; Kelly Grace
22 Price, Jails Action Coalition; and Natal—Natal—I'm
23 not saying it. How do I say it? [background
24 comments] Natasha Lopez, Make the Road New York.

1 This is our last panel today. [background comments.
2
3 [pause] You may begin, sir.

4 NATASHA LOPEZ: Good afternoon. Good
5 afternoon, Council. My name is Natasha Lopez. I am
6 17 years old, a Youth Leader at Make the Road New
7 York and one of thousands of young people of color
8 impacted by the problematic practices of cannabis-
9 cannabis enforcement. At the age of 16, I was
10 arrested for smoking weed along with two friends.
11 The police officers repeatedly asked us why we were
12 so scared, and said that it was just weed. Where
13 these police officers may not consider it serious,
14 cannabis is still one of the main reasons young
15 people are pushed into the Criminal Justice System,
16 the effects of which have—have serious and lasting
17 impacts for us and our families. However, despite
18 their passive type of language, the officers'
19 behavior was angry and hostile. In the process of
20 handcuffing my friend, a police officer slammed him
21 to the ground, which led to my friend getting a
22 concussion. All of this for as the police officer
23 said just weed. As frightening as this event was,
24 thankfully I was able to walk away from the situation
25 and return back to my community while countless

1
2 others are incarcerated or even killed for what
3 should be minor interactions with police officers.
4 Cannabis enforcement is harmful because it
5 intentionally criminalizes communities of color for
6 possessing and using Cannabis, especially when
7 compared to white communities who use just as much or
8 more, but do not face the same level of hyper
9 aggressive policing. This policing puts young people
10 like me through overwhelming conditions such as
11 getting arrested, and going through the process of
12 being put through the system. This type of
13 enforcement has culminated to the reality that within
14 our public schools cannabis is the second highest
15 reason for summons with the highest percentage of
16 those arrests being youth of color. As people we
17 deserve to be treated with basic dignity and respect.
18 Cannabis enforcement does not apply those values to
19 us, but instead locks us in cells while many of us
20 are already locked within ourselves. However,
21 Council, I do not want you all to think—to perceive
22 this as a call to provide Cannabis to 16-year-old,
23 but rather a call to rethink the way in which we have
24 dealt with this issue, and undo the harm that
25 generations of criminalization has caused. We need

1
2 systems of support. We need policies that provide
3 equity and safety and doesn't criminalize communities
4 of color. Cannabis enforcement policies do not do
5 that. What does provide these values for our
6 communities would be a process where we would
7 legalize Cannabis, but clean the records of people we
8 have convicted and imprisoned for Cannabis, and
9 ensure legalization provides reparations and
10 restitution to the communities that have borne the
11 burden of racialized drug policies. I would like to
12 close out with a quote: Howard Zehr once said, I
13 have a dream that we won't have to talk about
14 restorative justice because it will be understood
15 that true justice is about restoration and about
16 transformation. I have a dream. We share this dream
17 for the future of our communities and we hope you do,
18 too, Council. Thank you.

19 CHAIRPERSON RICHARDS: Thank you so much
20 for your powerful testimony. Thank you.

21 Thank you. Peace and good after
22 Councilman. My name is Darian Agostini. I am 23
23 years old and a Youth Organizer for Police
24 Accountability at Make the Road New York. My role as
25 a youth organizer—as a youth organizer I am in a

1 position where the youth that I work with regularly
2 talk to me about their experiences being police, many
3 of which look like police stopping them, asking them
4 if they have a marijuana, and in many cases searching
5 them to—illegally searching them to find said
6 marijuana. Council, it is these moments that have
7 driven me to testify before you today. Where—when I
8 hear these stories, I cannot help but remember my own
9 experiences in high school not too long ago. I like
10 thousands of other young people across the city grew
11 up and went to a school in an overly policed yet
12 intentionally underfunded neighborhood. At 16, I was
13 stopped with a group of friends by plain clothes
14 officers who asked us where the weed at as soon as
15 they approached us. The police officers with no
16 evidence that my friends and I actually possessed any
17 marijuana, separated us, and searched us
18 individually. After finding a small amount of
19 marijuana about a gram near my—by my friend's book
20 bag, the police asked who's it is. When none of us
21 replied, the police looked at me and say well, I
22 guess this is yours because I was the eldest of the
23 group at the time. Incidents like this continue to be
24 an every day occurrence for youth—youth of color in
25

1
2 our communities with nearly two in five or 38% of
3 those arrested in 2017 for marijuana being under 21
4 years, and the disparity and arrests between young
5 people of color and their white peers has never
6 decreased. These unnecessary arrests for small
7 amounts of marijuana create conditions in the lives
8 of our communities that are difficult, and at times
9 even impossible to surmount. For me, this was almost
10 a year of returning back and forth to the court,
11 which meant losing important hours of school, and for
12 my mother it meant losing time and money at work to
13 attend those court sessions for me, which was a
14 luxury that we couldn't afford then and still can't
15 afford today, to be honest. The judge in my case
16 wanted to give me a curfew of 6:00 p.m., which if she
17 would have instated would have prevented me from
18 attending a college—College Now Course on Criminal
19 Justice and my regular band practices essentially
20 disconnecting me from the resources and the community
21 in a very vital way. Council I say all of this to
22 reiterate what has been said a million times before
23 me today that marijuana enforcement just doesn't
24 work. Instead of keeping young people away from
25 drugs, policing just has led to generations of young

1
2 people being criminalized as either drug users or
3 drug sellers and prevented whole communities from
4 having access to higher education, health care,
5 public housing and in many cases even a safe
6 immigration status. We can no longer continue to
7 enforce policies and practices that are racially
8 incentivized, separate families and criminalize young
9 people. A true sanctuary doesn't mean we have
10 sentries on every corner rummaging through the
11 pockets of every person on the street. We must
12 restore the harm of generations [bell] with
13 legislation that legalizes marijuana while
14 simultaneously wiping clean the records of people who
15 are or have been incarcerated for marijuana. This is
16 not a matter of as some in opposition may say
17 placating potheads, but rather a matter of providing
18 equity to communities who have too long been crushed
19 by the crucible of criminalization. We hope that
20 you see this—this as—this in the same manner as well.
21 Thank you.

22 CHAIRPERSON RICHARDS: Thank you. Thank
23 you for your testimony.

24 KELLY GRACE PRICE: Wow, the Crucible of
25 criminalization. My name is Kelly Grace Price. I'm

1 the Communications Co-Chair for the Jails Action
2 Coalition, and unlike these amazing youth leaders I
3 will not be sharing my age with the Council Chambers
4 [laughter] this afternoon, but I will just add
5 something very quickly. I don't—I'm always the last
6 one to testify. Brian knows this. I'm always the
7 last one to testify, and Councilwoman Vanessa knows
8 this, I—I like to testify last, and I didn't mean to
9 testify today, but I—I want to add something as an
10 end note. We've noticed [coughs] in all of the
11 groups that I'm associated with, and that I volunteer
12 at, that across the board there is one subset of the
13 population that keeps being stuck with the
14 discretionary loophole. These are people that have
15 been labeled in the NYPD Compstat database or the
16 Domain Alert Awareness database, whatever they're
17 calling it these days. As people that need to be
18 incapacitated by the Criminal Justice System. Now,
19 those aren't my words. Those are Sy Vance's words
20 himself. I often quote a New York Times Magazine
21 article from December 2015 where Sy Vance talks about
22 when he sat down with Chauncey his favorite Deputy
23 District Attorney, and decided to imbue Palantir
24 technologies into the NYPD. Now, I'm a person that
25

1 does not have a criminal record. I'm very lucky. I
2 was charged with 324 counts of the now
3 unconstitutional CPLR 240.30, which was the
4 aggravated harassment statute. I didn't do anything
5 wrong. I was being beaten silly by one of Sy Vance's
6 confidential informants. I got all of those charges
7 dismissed and sealed, but because of the way that I a
8 labeled in the NYPD databases at every point of
9 police interaction, I don't get any results. A
10 couple months ago, my evil Orthodox landlord up in
11 Washington Heights locked all of the tenants out of
12 our building. I called the NYPD because NYPD
13 Handbook Procedure No. 117.10 requires a summons to
14 be issued when keys are changed on apartment
15 buildings and for an arrest to be made immediately if
16 the situation isn't remediated. Because of the way
17 that I am labeled in the NYPD database, the police
18 literally laughed at me, and made me go to the Psyche
19 Ward. I'm not kidding. These are things that happen
20 everyday to people that are inappropriately
21 demarcated in their NYPD database. These are the
22 same people that are being arrested for low-level
23 marijuana infractions. Councilwoman Gibson, you may
24 remember last summer you specifically grilled Byrne.
25

1 I don't know what his title is, lawyer, big man at
2 the NYPD. You—you specifically asked him to give you
3 data on what constitutes a transit recidivist—
4 recidivist because the NYPD keep saying those are the
5 only people that keep being arrested for turnstile
6 jumping. I'm quite certain that the NYPD still has
7 not provided you the definition of what a transit
8 recidivist is at this point in time because the NYPD
9 never seems to come back and provide you with the
10 data that you ask for in these Council meetings.
11 [bell] But these are the people that keep being
12 arrested, and I would highly encourage you if you
13 want to end these problems across the board for
14 people being issued summonses for double parking. I
15 know a woman that was arrested for not picking up dog
16 poop. [coughs] These things happen all the day in
17 New York—every day in New York City, and the people
18 being arrested for the low-level marijuana
19 infractions as my colleagues at PDS and LAS have told
20 you in the courtrooms that keep happening everyday.
21 We now have Court Watch, and NYC is recording
22 actually the—the arraignments. These are the people
23 that are demarcated as persona non grata in the NYPD
24 database, and I highly encourage you to really drill
25

1
2 down into that byzantine process of labeling people
3 in a Macarthyistic manner as people that need to be
4 over-prosecuted or not to have their complaints taken
5 by the NYPD. I'm sorry. I didn't mean to take up
6 the whole three minutes--

7 CHAIRPERSON RICHARDS: [interposing]

8 You've got to wrap up.

9 KELLY GRACE PRICE: --but thank you so
10 much for listening to me.

11 CHAIRPERSON RICHARDS: Thank you so much.
12 Thank you all for your testimony. I want to thank
13 the committee staff Beth Gewolb, Casey Addison,
14 Steven Resta (sic). I also want to thank the Justice
15 Systems Committee and counsel as well Sheila Johnson,
16 the Financial Analyst, Brian Crow, the Senior
17 Legislative Counsel and my colleagues for their
18 testimony today. Look forward to continuing to work
19 on this issue and we will be following up with the
20 NYPD shortly. So thank you all for coming out today.
21 This hearing is now closed. [gavel]

22

23

24

25

COMMITTEE ON PUBLIC SAFETY JOINTLY WITH THE
COMMITTEE ON JUSTICE SYSTEM

172

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date March 8, 2018