

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON PUBLIC SAFETY

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June 12, 2012  
Start: 1:11 pm  
Recess: 2:07 pm

HELD AT: Council Chambers  
City Hall

B E F O R E:  
PETER F. VALLONE, JR.  
Chairperson

COUNCIL MEMBERS:  
Erik Martin Dilan  
Helen D. Foster  
Daniel R. Garodnick  
James F. Gennaro  
Vincent J. Gentile  
Daniel J. Halloran III  
Eric A. Ulrich  
David G. Greenfield

## APPEARANCES (CONTINUED)

Lance Ogiste  
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Brooklyn District Attorney's Office

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Executive Assistant District Attorney  
Major Narcotics Investigation Bureau  
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Evan Goldstein  
Policy Coordinator  
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Harry Levine  
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Queen's College, the City University of New York

Scott Levy  
Staff Attorney  
The Bronx Defenders

Brian Pearson  
Leader  
VOCAL New York

1  
2 CHAIRPERSON VALLONE: Welcome to  
3 this Public Safety Committee hearing. I ask that  
4 if you are going to testify, please fill out a  
5 form, and our first panel will be the Brooklyn  
6 DA's Office represented by Lance - - --not even  
7 close-okay, and Steven Banks. Before we get to  
8 that, I have a brief opening statement.

9 We will be discussing today a  
10 resolution, which supports Governor Cuomo's  
11 proposal to amend the penal law to make possession  
12 of a small quantity of marijuana in public view a  
13 violation and applauds the Speaker of the Assembly  
14 for her support of the proposal and calls upon the  
15 Senate to pass legislation enacting the same.  
16 Under the current law, the penalty for unlawful  
17 possession depends on the amount of marijuana  
18 possessed. In 1977, the state legislature  
19 determined that possession of 25 grams or less of  
20 marijuana should be decriminalized. Since then,  
21 possession of 25 grams or less is only a  
22 violation. Although the 1977 was a radical  
23 change, the legislature created certain  
24 aggravating circumstances, which increased penalty  
25 for possession of less than 25 grams from a

1 violation to a misdemeanor. One of these  
2 circumstances is to possess marijuana in public  
3 view. Under this circumstance, police officers  
4 are still able to charge the individual of  
5 criminal possession of marijuana in the fifth  
6 degree, which is a Class B misdemeanor punishable  
7 by three months in jail or up to \$500. On June  
8 4<sup>th</sup>, Governor Cuomo announced a proposal that would  
9 amend the penal law, so the possession of small  
10 amounts of marijuana would be in violation, not a  
11 B misdemeanor, even if possessed in public view.  
12 Let's hope that this change would standardize the  
13 penalties associated with small amounts of  
14 marijuana and allow our officers to focus on more  
15 important crimes. We will have a conversation on  
16 this. I actually am looking forward to hearing  
17 some of the testimony because I personally support  
18 the intent of this bill, which is to prevent  
19 people from being arrested by the police after  
20 they're asking to empty their pockets, which is  
21 clearly unfair as the Mayor believes and the  
22 Police Commissioner, who issued an order banning  
23 exactly that. I do have some concerns though that  
24 this bill may go too far. If the goal is to  
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1  
2 prevent this type of unfair arrest, then perhaps,  
3 the bill should just prevent that type of unfair  
4 arrest. I also have some concerns as to the  
5 amounts of marijuana involved here—25 grams is a  
6 lot. It's ten joints I'm informed.

7 [laughter]

8 CHAIRPERSON VALLONE: I don't see  
9 why someone would need to carry that much in  
10 public view; however, the intent as I said is a  
11 good one. I want to commend the people involved  
12 in moving this forward, and I look forward to the  
13 compromise bill that is being discussed in Albany  
14 right now. We do have a quorum. Alex, do we have  
15 a quorum. We need two minutes, so we are going to  
16 start then with the Brooklyn DA's testimony, and  
17 we may have to interrupt you in a few seconds, but  
18 why not? Thanks for coming down today by the way.

19 LANCE OGISTE: Good afternoon,  
20 Chairman Vallone, Councilman Gentile, one of our  
21 Brooklyn Councilman and all the other members of  
22 the Public Safety Committee. My name is Lance  
23 Ogiste. I am counsel to Brooklyn District  
24 Attorney Charles J. Hynes. I know there are many  
25 people still to testify, so I'll keep my remarks

1  
2 brief. I am joined today by my colleague, Mark  
3 Fliedner, who is the executive assistant district  
4 attorney in charge of the Major Narcotics  
5 Investigation Bureau. It is our honor and  
6 privilege to come before you on behalf of District  
7 Attorney Hynes to voice his unequivocal support  
8 for City Council resolution 986-A, supporting  
9 Governor Cuomo's proposal to amend New York State  
10 Penal Law Section 22110 sub 1, making possession  
11 of 25 grams or less of marijuana in public view a  
12 violation and calling upon the New York State  
13 Senate to follow the Governor's lead to pass  
14 legislation enacting the same. In 2010, 11,772  
15 top count [phonetic] were filed in Brooklyn,  
16 charging Penal Law Section 22110 sub 1. In 2011,  
17 that number decreased to 11,315 complaints. Even  
18 with the reduction in the number of complaints  
19 filed for this crime, the financial costs of  
20 processing these arrests was substantial. Using  
21 numbers cited in City Council Resolution 986-A of  
22 between \$1000 to \$2000 to process marijuana  
23 arrests-

24 CHAIRPERSON VALLONE: [Interposing]

25 Mr. Ogiste, can I ask you - - one second. Council

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2 Member Gennaro does need to go home and deal with  
3 an emergency in his district. If I could ask that  
4 the roll be called just for his vote at this  
5 moment...

6 COMMITTEE CLERK: Kevin Pin,  
7 Committee Clerk. Roll call in the Committee on  
8 Public Safety. Council Member Gennaro?

9 COUNCIL MEMBER GENNARO: Yes, I  
10 vote yes on this matter and I thank the Chair for  
11 his accommodation and indulgence. It's greatly  
12 appreciated, and I vote yes.

13 CHAIRPERSON VALLONE: Thank you,  
14 Council Member. Mr. Ogiste, I apologize.

15 LANCE OGISTE: No, no problem.  
16 Thank you very much, Chairman. Using numbers  
17 cited in City Council Resolution 986-A of between  
18 1000 and 2000 dollars to process marijuana  
19 arrests, it costs the city between 11 million to  
20 22.5 million dollars to process these cases in  
21 Brooklyn alone. As is stated in your proposed  
22 Resolution, these taxpayer dollars could be better  
23 spent on much needed human services and combatting  
24 more serious criminal activity. Let me give you  
25 an example of how that money might be spent. In

1  
2 1999, DA Hynes created ComALERT, Community and Law  
3 Enforcement Resources Together, the first  
4 prosecutor run reentry program into the united  
5 States. ComALERT helps the formerly incarcerated  
6 to successfully reintegrate into their communities  
7 by providing wraparound services, such as  
8 substance abuse treatment, mental health  
9 counseling , anger management, transitional  
10 employment, housing assistance and other services  
11 that help keep the formerly incarcerated drug and  
12 crime free. In 2007, professor Bruce Western, now  
13 Harvard University, released his study of  
14 ComALERT, finding that the program reduced  
15 recidivism among its graduated by more than half  
16 in comparison to a mass control group of parolees  
17 who did not receive such services. The possible  
18 savings from Brooklyn alone from this small change  
19 in the penal law is enough to provide ComALERT  
20 services to returning ex-offenders citywide, and  
21 can help to further reduce crime. Apart from  
22 financial costs reducing the crime to a violation  
23 from a misdemeanor can help alleviate some of the  
24 collateral consequences of a conviction that could  
25 affect possible employment and educational

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2 opportunities. As District Attorney Hynes has  
3 said, Governor Cuomo's proposal will go a long way  
4 toward a more balanced approach to drug related  
5 offenses and compliment other progressive  
6 initiatives already serving our community. It  
7 will lead to a more efficient use of law  
8 enforcement resources. That is our statement from  
9 the Brooklyn District Attorney Charles J. Hynes,  
10 and I thank you for your - - .

11 CHAIRPERSON VALLONE: Steven, why  
12 don't we go to you first and then we'll go to some  
13 questions?

14 STEVEN BANKS: Thank you for the  
15 opportunity to testify. Steven Banks, Attorney-  
16 in-Chief of the Legal Aid Society. I'm here with  
17 Bill Gibney, who is the director of our special  
18 litigation unit, criminal defense area. I saw  
19 Council Member Halloran had a camera. I don't  
20 know if you're recording this first ever moment  
21 where all of the district attorneys, the Legal Aid  
22 Society, the mayor, the police commissioner all  
23 agree on one thing—pass the resolution and the  
24 Governor's legislation to pass. I'm not sure that  
25 there's anything in our testimony that is as

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2 important as that fact. You see broad range of  
3 perspectives, broad range of viewpoints,  
4 understand what the problem that is trying to be  
5 addressed here through law enforcement and what is  
6 trying to be addressed here in terms of protecting  
7 the rights of residents of the city. We have  
8 detailed testimony for the record. We're not  
9 going to read it, but I want to just highlight a  
10 few points and read one sentence from the  
11 testimony, which I think you'll find interesting.

12 On Page 2, you'll see a quote that  
13 says, "The legislature finds that arrests,  
14 criminal prosecutions, and criminal penalties are  
15 inappropriate for people who possess small  
16 quantities of marijuana for personal use. Every  
17 year this process needlessly scars thousands of  
18 lives and wastes millions of dollars, law  
19 enforcement resources, while detracting from the  
20 prosecution of serious crimes." That is not a  
21 statement from the legislature in 2012. That's a  
22 statement from the legislature in 1977.

23 Immediately prior to passage of what's known as  
24 the Marijuana Reform Law, which decriminalized  
25 personal possession of 25 grams, made it a

1 ticketable [phonetic] offense violation with a  
2 fine, not a crime, not a finger printable offense,  
3 not a photographed offense, not something for  
4 which you have to say, have you ever been  
5 arrested? Yes. This is not a crime. Immediately  
6 before then, there were about 25,000 arrests a  
7 year before the '77 reform. Within a decade or so  
8 after the '77 reform there were about 1,000  
9 arrests a year. In the decades since, that number  
10 has crept [phonetic] up to 30,000 to now 50,000  
11 and in 2011, 50,680. Now no study says that  
12 marijuana use has increased 50 fold since it  
13 appeared immediately following the marijuana  
14 reform law that the 1977 legislature passed. In  
15 fact, there's a problem that happens on the street  
16 corners and the parks of the city and then a  
17 counter between New Yorkers and police in which  
18 people are asked to empty their pockets and that  
19 results in an arrest. The reason why the Senate  
20 compromised however will not solve this problem is  
21 that the police commissioner tried exactly that  
22 solution in September when he issued a patrol  
23 directive that's described in our testimony making  
24 it clear that arrests are not to happen when the  
25

1 public view is caused by the empty your pockets  
2 command. In the month of August before this  
3 directive, there were 4189 arrests in connection  
4 with the provision of law that the Governor's  
5 amendment would address. Immediately after the  
6 Commissioner's directive in November/December, the  
7 number came down to 2,974. Not a tremendous drop,  
8 but of greater concern is that the figured in  
9 March of 2012 are now 4,186, so within three  
10 arrests it's the same as before the directive, and  
11 these are not statistics that come from Legal Aid  
12 Society's caseload. These statistics come from  
13 the state division of criminal justice services,  
14 although our caseload certain bears this out and  
15 every day in criminal court and to the credit of  
16 the district attorneys, I appreciate their  
17 perspective on this that's its taking precious law  
18 enforcement dollars and diverting it from more  
19 serious things to this particular area, but it's  
20 leaving people just as the legislature said in  
21 1977 scarred. As I said, you now have to say,  
22 I've been arrested, has an employment consequence,  
23 city employees can lose their jobs, you can lose  
24 your housing, evictions from the Housing Authority  
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1  
2 occur. There are problems with getting  
3 educational loans. You can be deported. There's  
4 a record of who you are now as a criminal, rather  
5 than someone who committed a violation and the  
6 legislature intended to give you a ticket or a  
7 fine. So this legislation as proposed by the  
8 Governor is critically important, and amendments  
9 compromises that essentially would be what the  
10 police commissioner tried to do in September 2011  
11 isn't going to change the waste of resources that  
12 law enforcement currently pours into this and  
13 isn't going to change the scars that are left on  
14 New Yorkers as a result of this, so we would urge  
15 the Council to support the Governor's proposal and  
16 we would urge that the Senate embrace the  
17 Governor's proposal in the way that the Speaker  
18 has.

19 CHAIRPERSON VALLONE: Okay. Thank  
20 you. We have with us today Council Members  
21 Halloran, Ulrich, Gentile, Foster, Garodnick,  
22 Greenfield and the sponsor of this measure,  
23 Melissa Mark-Viverito. To say she has been in the  
24 forefront of this issue is like saying Eli Manning  
25 is in the forefront of the Giant's victory in the

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2 Super Bowl. She has been a leader throughout, and  
3 I'd like to just turn it over to her for a brief  
4 statement.

5 COUNCIL MEMBER MARK-VIVERITO:

6 Thank you, Mr. Chair and I think you were present  
7 obviously in the budget hearing last year when we  
8 did question Commissioner Kelly [phonetic] about  
9 this very issue, and he told us at that point that  
10 we should change the law, and that's what we're  
11 looking to do and so I'm glad that we're having  
12 this reso in support of the efforts at the state  
13 level to close that loophole in the marijuana law  
14 from 1977, which has decriminalized marijuana  
15 possession in small amounts. Also, the other  
16 factor here that I think hasn't been—I'm sorry I'm  
17 late, but maybe it has been mentioned—I mean, you  
18 kind of alluded to it a little bit is really the  
19 concern with regards to now the implementation of  
20 secure communities in New York City when in fact  
21 we know that a lot of these arrests that are  
22 happening right now for marijuana possession is  
23 after someone has been asked to expose it.  
24 Obviously, these are false arrests, so a false  
25 arrest then leading to the possible deportation of

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2 someone who now is being taken in by the police  
3 into police custody is of great concern. So this  
4 is really just common sense for all the reasons  
5 cited. It's been—I really have to say that the  
6 advocates Vocal New York and Drug Policy Alliance  
7 have been really instrumental in bringing this  
8 issue to the forefront and to light and to getting  
9 the level of support that has gotten us to this  
10 point. So with that, thank you all. Thank you,  
11 Mr. Chair for your support as well, and I look  
12 forward to us passing this resolution.

13 CHAIRPERSON VALLONE: Thank you,  
14 Council Member. I'm going to ask a few brief  
15 questions. As I said before you got in, I do have  
16 some concerns otherwise support the intent of  
17 this. I just want to clarify—both of you  
18 mentioned convictions. I'm a former DA, and you  
19 know for a fact that you have to be arrested at  
20 least three times for this before you're even  
21 discussing a conviction. If you're that dumb, you  
22 deserve one, so there's rarely a conviction, but  
23 there are problems with just the arrest as was  
24 alluded to, but convictions aren't really  
25 happening here. Is it Ogiste? Is that how you

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pronounce it?

LANCE OGISTE: Yes. Yes, it is.

CHAIRPERSON VALLONE: There's definitely an L somewhere here, unless you just made a giant I. Mr. Ogiste, would passage of this law affect your office's ability to prosecute sales of marijuana in any way?

LANCE OGISTE: I don't believe so, but also ask my colleague who is here, Mark Fliedner, and is head of the Major Narcotics Bureau to weigh in if he has any comments, but I do not believe that would compromise our ability to prosecute people for the sale of marijuana, especially when we're talking about large quantities of marijuana. It won't affect it in any shape or form.

CHAIRPERSON VALLONE: Well, specifically what if you didn't see money change hands?

MARK FLIEDNER: You're saying - - that we did not see money change hands? We're talking... In the scenario that you describe we're several steps away from a prosecution in effect a prosecution for sale of a significant amount of

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2 marijuana. The other thing—I kept reading the  
3 materials—when I was asked to look at this issue  
4 because I focus on major narcotics, I testified  
5 before you a short time ago about the prescription  
6 drug problem which is a new focus and the fairness  
7 and consistency argument that is made in the  
8 materials that are being provided by the City  
9 Council in support of this bill are what struck me  
10 because I think the largest challenge as  
11 prosecutors of major narcotics offenses in this  
12 day and age is the perception that the system is  
13 set up fundamentally unfair, and if a fact  
14 pattern—meaning the communication between the  
15 police officer and somebody that is arrested—  
16 begins with a fundamental unfairness and a lack of  
17 consistency in how it plays out from neighborhood  
18 to neighborhood—

19 CHAIRPERSON VALLONE: We went  
20 through that. I had a specific question about  
21 prosecution. You said you're a few steps away  
22 from an arrest there. If somebody hands a bag to  
23 somebody else, but you don't see the money being  
24 transferred now you can't make an arrest, but you  
25 could if it was public view allowed that to

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2     happen?

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4                   MARK FLIEDNER: I'm not saying that  
5     we couldn't make an arrest if there are a lot of  
6     other factors in place, but when we're talking  
7     about isolating the factor of the public view, I  
8     don't know the fact pattern where this legislation  
9     as put into place would have a chilling effect on  
10    our ability to prosecute a sound sale case. I  
11    just don't see it. Maybe you can offer me one  
12    that has not raised my concern to date.

12

13                   CHAIRPERSON VALLONE: I haven't  
14    done this in a long time, but to prosecute a sale,  
15    you have to see the money change hands.

15

16                   MARK FLIEDNER: Correct.

16

17                   CHAIRPERSON VALLONE: You have a  
18    known dealer on a corner, who you see handing a  
19    bag to somebody else, but you don't see the money  
20    change hands, which happens, police officers  
21    aren't staring at the entire process all the time,  
22    can you still prosecute that as a crime in any  
23    way?

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24                   MARK FLIEDNER: I think that there  
25    are ways that we can go about prosecuting it, but—

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                  CHAIRPERSON VALLONE: [Interposing]

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Tell me, tell me.

MARK FLIEDNER: For all intents and purposes, realistically, we proceed with cases where we can see all of the elements of the offense - - .

CHAIRPERSON VALLONE: You don't get a conviction though.

MARK FLIEDNER: That's absolutely right. I mean, that's what I think that is so critical about this legislation is we're talking about the reality of the way that the system is working in a fair context.

CHAIRPERSON VALLONE: I'm not saying that this is a reason not to pass the bill. I'm just saying there's an effect there on not getting that dealer off the street if you can't prosecute for seeing it in his hand in open view. You didn't do anything to dissuade me of that notion, but again, that may not rise to the level or making this a bad bill. We have questions from Council Member Halloran.

COUNCIL MEMBER HALLORAN: Thank you, Mr. Chair. Actually, you prefaced one of those questions that I had already had, but I'm

1  
2 going to start with Mr. Banks because I think  
3 that's the best place to start is the consequences  
4 and where we wind up. Are there any things that  
5 you've seen in the bill as it's drafted that  
6 understanding as an officer of the court you have  
7 to balance? Of course, - - advocate for your  
8 client. You're looking at the big picture of  
9 everything that goes on and the caseload that we  
10 have, the cost that it incurs to the city. Is  
11 there anything in the bill as it's drafted now or  
12 in the compromise bill that the Senate is  
13 proposing that needs to be changed? What needs to  
14 be changed? Why does it need to be changed? What  
15 suggestions do you have? I understand that the  
16 Legal Aid Society more than any other entity in  
17 the city probably understands the consequences of  
18 convictions and simply arrests better than most,  
19 but there is a public safety element that we have  
20 to be concerned with in this Committee in  
21 particular. So can you take that question, and  
22 just run a little bit for me?

23 STEVEN BANKS: The Governor's  
24 proposal balances all of the interests. It's  
25 really tailored to the problem that's occurring.

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2 It doesn't address other concerns that might have,  
3 but it might be balanced against law enforcement  
4 concerns. For example, it doesn't prevent someone  
5 from being stopped and questioned and then the  
6 police evaluating the quantity, so in the  
7 potential sale situation, there isn't anything  
8 that would stop someone consistent with all the  
9 constitutional limitations, which could be  
10 separate to its own hearing, to stop somebody and  
11 then to evaluate that the quantity is not 25  
12 grams, but in fact a quantity that's high enough  
13 to lead to other potential issues in the case.  
14 The problem with the compromise bill as I  
15 articulated is it creates this problem that's  
16 playing out on the street corner. I think again  
17 the Commissioner Kelly's order was in response to  
18 complaints about the problem, and as he said in  
19 prior testimony, the law is going to have to be  
20 changed, and so I think—I can't speak for him—  
21 that's one of the reasons—

22 CHAIRPERSON VALLONE: [Interposing]  
23 Nobody wants you to I'm sure.

24 STEVEN BANKS: On this he might  
25 though. The proposal is to actually address what

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2 the problem that his directive was meant to  
3 address, which is that if you leave it in the  
4 hands of every individual encounter, people are  
5 going to be arrested where they should not be  
6 arrested, and his order didn't solve that problem  
7 versus having a change in law that would then make  
8 it impossible to prosecute someone for that basis.  
9 There's no sense in using police resources to  
10 bring people down who can't be actually prosecuted  
11 for something, so it would stop the problem, and  
12 it would address the collateral consequences, but  
13 it wouldn't limit the law enforcement interests,  
14 which although we may disagree...

15 CHAIRPERSON VALLONE: [Interposing]

16 Can I ask you a question though?

17 STEVEN BANKS: Sure.

18 CHAIRPERSON VALLONE: With  
19 permission to Council Member Halloran. How would  
20 a law that says you can't arrest someone if you  
21 ask them to open their pockets for having  
22 marijuana in plain view not solve the problem?

23 STEVEN BANKS: I have to take the-

24 CHAIRPERSON VALLONE: [Interposing]

25 the problem with the compromise bill - -.

1  
2 STEVEN BANKS: No, no, no, no. I  
3 understand what you're asking. I think I have to  
4 take the Commissioner's position for what it is,  
5 which he tried the Senate compromise actually, and  
6 it didn't work, so now you're eliminating the  
7 arrest for-under the Senate compromise, you're  
8 going to have disputes whether or not it came into  
9 public view as a result of the police citizen  
10 encounter or whether it was in public view. That  
11 is why-again, I don't want to speak for the  
12 Governor either-but I believe that's why the  
13 Governor took the broader perspective that we have  
14 to deal with eliminating the dispute about how it  
15 came into view, and that's what the change in the  
16 law does.

17 CHAIRPERSON VALLONE: That's a good  
18 point.

19 COUNCIL MEMBER HALLORAN: Mr.  
20 Chairman, I was just looking at some notes as  
21 well, and again, there has always been that issue  
22 of police officers having to fill out those forms  
23 the right way with the right information of how  
24 they came upon those objects and we don't want to  
25 put our police officers in positions where they

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2 are less than accurate in any way, shape or form  
3 when they're filling out that paperwork and that  
4 would create that parade of - - of having defense  
5 attorneys asking for these map hearings on  
6 certainly very interesting grounds, I'm sure.  
7 Looking just to the numbers because one of the  
8 things I think that is incredible about what we're  
9 talking about is the number of these arrests and  
10 what it does to the system as a whole. Now we've  
11 cut back arraignment times. We've cut back  
12 weekends in some boroughs. Of course, Staten  
13 Island keeps getting short shifted at every turn  
14 with special programs and the ability to process  
15 its prisoners. What is the Legal Aid Society's  
16 perspective on the overall impact on the criminal  
17 justice processing system by taking this out of  
18 the equation.

19 STEVEN BANKS: When you're talking  
20 about one out of seven arrests just looking at the  
21 Legal Aid Society's caseload, it's about 30,000  
22 cases a year out of a caseload of about 220,000 or  
23 so cases, so it's a significant impact. It has an  
24 impact on the ability of the system, whether it's  
25 the courts, the prosecution or the defense to

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2 focus on more serious cases because it just simply  
3 takes up time and space, but it takes up time and  
4 space with human beings for whom there is a  
5 consequence.

6 CHAIRPERSON VALLONE: Let me just—  
7 and I hate to pull more time into this, but I  
8 really do want us to understand long term  
9 implications. We'll now have C summonses  
10 [phonetic]. Summons parts will need to handle the  
11 overflow and I know the Legal Aid Society has been  
12 in summons parts, but so have I, and those aren't  
13 pretty parts to begin with. Even attorneys who  
14 are there on a regular basis will tell you you can  
15 just be in that part for the whole morning and  
16 half of the afternoon before your case gets  
17 called, unlike the ap parts, which at least  
18 usually by 11 o'clock, if you have shown up at a  
19 reasonable enough time, you're able to get out of.  
20 Do we need to start considering once this has  
21 passed devoting resources to a special part  
22 because you can't just throw them in to ap/ar 2  
23 [phonetic] in Queens for example, and say, good  
24 luck, Judge Demaccus [phonetic], a retired judge  
25 who is barely able to get through the calendar on

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a normal day. You now have 500 extra cases.

STEVEN BANKS: I think you raised a good point in terms of the processing of these violations is going to have to change, but in the end, you're going to be using less time and effort, but you're absolutely right in terms of the planning and the implementation.

COUNCIL MEMBER HALLORAN: And that's what I'm concerned about 'cause you know, this body in Albany frequently passes laws and then says, oh, now we got to do something else, and I'd like us to have that dialogue before the floodgate opens because if we don't do that, we'll wind up overwhelmed in another place, and not that it's not a better place for a debate, but the point is, it's not prepared to be right now, at least as far as this criminal practitioner who has been on both sides of the aisle is concerned.

STEVEN BANKS: I think in the end there are substantial deployment of resources to the current 30,000 cases for us and larger for the overall city, there is a lot of resources being deployed there that could be redeployed more effectively as opposed to saying, okay, we need a

1  
2 whole new allocation of recourse, it's much more a  
3 question of making better use of the existing  
4 resources to have a better outcome for the courts,  
5 for the communities and ultimately for the New  
6 Yorkers who are caught up in this, free the police  
7 up to do other things. We may not agree with what  
8 those things are, but free them up.

9 COUNCIL MEMBER HALLORAN: Again, I  
10 appreciate your testimony. I appreciate that the  
11 district attorneys have weighed in on this. We  
12 have run into these issues of how do we deal with  
13 this low level offense. I just would hope that  
14 the city and the state is cognizant of the fact  
15 that you're taking one out of seven arrests and  
16 you're not eliminating the arrest, you're simply  
17 making it a desk appearance ticket and a violation  
18 and not a crime, which is important--or a summons,  
19 which is important and I understand that, but are  
20 desk appearance ticket and summons part to my  
21 knowledge unless things have radically changed in  
22 the two years I've been not practicing criminal,  
23 we're always overwhelmed. I just would like us to  
24 make sure somebody's saying--I know our district  
25 attorneys are always hurting for money--that we

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have assistance - - who are shuffled off to those appropriate locations.

STEVEN BANKS: But luckily at least on the summons parts, we're not dealing with that, at least not in Brooklyn, so that won't affect us. It might affect the police 'cause they're drafting more summonses in terms of their time in doing this.

COUNCIL MEMBER HALLORAN: So maybe we're going to have to just look at that, and Chairman Vallone, I would suggest that we ask that if this law does get passed, that at least for the city, I mean, I don't know what the rest of the state is going to do, but the city of New York has always had issues with regards to these parts, and if there is something we can do in advance to solve the problem, we should look at that.

CHAIRPERSON VALLONE: That is a very good point, Council Member. Council Member Mark-Viverito?

COUNCIL MEMBER MARK-VIVERITO:  
Thank you, Mr. Chair and good to see our colleague, Council Member Halloran, back. You know, I just want to make one quick statement, and

1  
2 I have a question for the rep from the DA's  
3 office. I just don't want us to also--there's a  
4 direct connection between these marijuana arrests  
5 and the whole stop and frisk policy, which has  
6 been under debate as well - - are a subset of the  
7 stop and frisk. This is resulting out of a stop  
8 and a frisk potentially. So and more summonses is  
9 going to happen obviously, but less arrests is the  
10 end result here, so putting people through that  
11 process and criminalizing them unnecessarily.

12 There was a four part NPR series that was done on  
13 this issue, and it looked particularly at the  
14 Bronx DA's office, where some of the ADAs were  
15 testifying in the report that they were throwing  
16 out a lot of cases, a lot of the marijuana arrest  
17 cases, because as they were investigating it, they  
18 were finding out that the marijuana in public view  
19 it had become in public view because officer was  
20 asking the individual to empty their pockets, so I  
21 think it's just talking about that false arrest.

22 Could you speak to that in terms of your  
23 experience whether that is the same--I'm not sure  
24 if that was provided in your testimony, I did come  
25 in late. So if you're repeating yourself, I

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apologize. I'm not sure if you're familiar with that report that was done.

LANCE OGISTE: No, I'm not familiar with the report, Councilwoman Viverito, but in terms of Brooklyn, what we do is when we have DAT cases we don't look at the summonses - - we don't get the summonses or what we call the EAPs [phonetic] cases, which are expedited affidavit program cases. Those are filled out and done by the police department. The DAT cases, desk appearance tickets, we do examine very carefully, and if we find that there's such a situation, then we're going to move to throw that case out.

COUNCIL MEMBER MARK-VIVERITO: But you're not able to talk about the numbers in this case?

LANCE OGISTE: No, I just do not know.

COUNCIL MEMBER MARK-VIVERITO:  
Okay, so I know that that is an issue that has emerged, and then, just in terms of our resolution, it's strongly in support of the Governor's proposal. I know the Senate republicans are talking about a compromise and

1  
2 whittling it down further and I'm glad to hear  
3 that the Governor is standing firm, and I hope  
4 that that's the case because the proposal I think  
5 that republicans are bringing - - been great  
6 concern. I mean, I just wanted to ask about that  
7 question. I appreciate it, and again, this is a  
8 policy that unfortunately is impacting adversely  
9 communities of color and that also is something  
10 that has to be mentioned here that especially when  
11 we're talking about false arrests that we're  
12 really potentially harming the future of many  
13 young people, and that's something that definitely  
14 you should not be a part of. So thank you all for  
15 your testimony. Thank you for service.

16 LANCE OGISTE: You're quite  
17 welcome.

18 CHAIRPERSON VALLONE: Okay. Thank  
19 you. We don't have any more questions of you so  
20 you can leave. Thank you for spending time with  
21 us.

22 LANCE OGISTE: It was our pleasure.

23 CHAIRPERSON VALLONE: We're going  
24 to vote and then we're going to hear from one last  
25 panel. Let me call you guys up, so you can-while

1  
2 we get ready to vote. Also, I've been given a  
3 statement in favor of this by Cyrus Vance  
4 [phonetic]. Next panel is Scott Levy [phonetic],  
5 Harry Levine[phonetic], Evan Goldstein [phonetic],  
6 and Brian Pearson [phonetic]. If you can all take  
7 your spots, while we do a vote here.

8 [long pause]

9 CHAIRPERSON VALLONE: I'd like to  
10 ask the clerk to call the roll.

11 COMMITTEE CLERK: Kevin Pin,  
12 Committee Clerk. Roll call in the Committee on  
13 Public Safety Reso 986-A. Council Member Vallone?

14 CHAIRPERSON VALLONE: As I've said  
15 earlier, I support the intent of this bill. I  
16 absolutely believe that it's unfair to arrest  
17 people after asking them to empty their pockets.  
18 I do though want to see the results of the  
19 negotiations in Albany when it comes to a  
20 compromise and see what they come up with before  
21 making a final decision on this, so at this point,  
22 I'm going to abstain and make no recommendations  
23 to my colleagues.

24 COMMITTEE CLERK: Dilan?

25 COUNCIL MEMBER DILAN: I vote aye.

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COMMITTEE CLERK: Foster?

COUNCIL MEMBER FOSTER: Yes.

COMMITTEE CLERK: Gentile?

COUNCIL MEMBER GENTILE: May I  
explain my vote, Mr. Chairman?

CHAIRPERSON VALLONE: Yes.

COUNCIL MEMBER GENTILE: I'm not  
sure from a public safety viewpoint if this is the  
right thing to do, but this resolution and this  
bill in Albany has the - - of people that I  
respect; the law enforcement, the five Das and the  
police commissioner, and as a former prosecutor  
myself, I know of some of the problems that were  
discussed here today. So while I'm not completely  
convinced that this is the right way to go, I do  
lean on the law enforcement entities that have  
endorsed this proposal and this resolution, so I  
in that regard I will vote yes.

COMMITTEE CLERK: Garodnick?

COUNCIL MEMBER GARODNICK: Aye.

COMMITTEE CLERK: Greenfield?

COUNCIL MEMBER GREENFIELD: Aye.

COMMITTEE CLERK: Halloran?

COUNCIL MEMBER HALLORAN: Mr.

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Chairman, may I be excused to explain my vote?

CHAIRPERSON VALLONE: Yes.

COUNCIL MEMBER HALLORAN: I think that this is a necessary change in the law. I think that we need to make it clear as the Police Commissioner indicated in his testimony last year where we need to be on this issue. I'm going to abstain at this time for the same reasons you are to see the outcome of the discussion. I would hope that the majority of what the Governor's proposal is remains intact, but I'm not comfortable with all the changes that all my colleagues on my side of the aisle have proposed on the Senate bill, but I would also like to say this; last night I had the honor of being in the presence of Mayor Giuliani, and we had a long discussion about what has happened in New York in the years since he has left office, and we agreed on something and I just want to point it out. We are at the verge of now almost in a sense criminalizing sugar and legalizing marijuana and while I don't think there is anything wrong either per se, I just find it hard to understand sometimes where our priorities are and where the

1  
2 pushes are in both this administration and the  
3 government in general, so I just—it's just  
4 interesting that we find ourselves in this  
5 universe right now. I'm going to abstain on this  
6 one until such time as the resolution of the  
7 Albany discussions is complete. I would hope that  
8 my colleagues in the republican party in the  
9 Senate will bend a little bit more towards the  
10 Governor's proposals, although they do have some  
11 legitimate concerns on implementation, and I hope  
12 that this body, the City Council and the Mayor,  
13 will understand the consequences of issuing  
14 summonses and that we will get Albany's help to  
15 ameliorate the overflow that it will cause to the  
16 court systems in a part system that's already  
17 overflowing with issues, so I'm going to abstain  
18 for now. Thank you, Mr. Chair, for your  
19 indulgence.

20 COMMITTEE CLERK: Ulrich?

21 COUNCIL MEMBER ULRICH: No.

22 COMMITTEE CLERK: By a vote of six  
23 in the affirmative, one in the negative and two  
24 abstentions, the item has been adopted. Members,  
25 please sign the Committee Report.

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2 CHAIRPERSON VALLONE: Thank you,  
3 members. We have been joined there by Council  
4 Member Dilan who is now leaving. I think I  
5 mentioned everyone else. Why don't we start on  
6 one end and go across and hit the button on the  
7 microphone, identify yourself and please keep your  
8 testimony between two and five minutes because I'd  
9 like to have as many Council Members hear all the  
10 testimony as I can.

11 EVAN GOLDSTEIN: Good afternoon,  
12 everyone. Thank you, Mr. Chairman and Council  
13 Members on the Public Safety Committee. My name  
14 is Evan Goldstein and I'm a policy coordinator the  
15 Drug Police Alliance. The Drug Policy Alliance is  
16 a national organization that promotes health  
17 alternatives to the war on drugs and focuses drug  
18 use and abuse as health issues rather than  
19 criminal justice issues. For the past—first and  
20 foremost I want to thank Council Member Mark-  
21 Viverito for her leadership on this issue. She  
22 has really been a champion when discussing how the  
23 issue around marijuana arrest practices in New  
24 York City has impacted communities of color and  
25 has really dissolved a lot of the relationship

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2 that young men of color have with the police and  
3 the trust in the police, and that actually we  
4 found through doing a lot of interviews and  
5 discussions in those communities have really bled  
6 out to the communities in general where young  
7 men's mothers and grandmothers are afraid that  
8 when their grandsons and sons go out to go get  
9 some milk that they won't come back for a day or  
10 two, and so we've been for the past year and a  
11 half educating staff members and Council Members  
12 about this issue using marijuana arrests not as  
13 marijuana per se as an issue, but the way to talk  
14 about some of the adverse consequences that  
15 certain police practices have in communities of  
16 color. So I very much thank the Council for  
17 voting in the affirmative supporting the  
18 legislation - - the Public Safety Committee. A  
19 lot of my remarks and details are in my testimony  
20 and so I defer to any questions you may have.

21 CHAIRPERSON VALLONE: Thank you. I  
22 appreciate you summing up your testimony as it is  
23 very lengthy, but it is important, so thank you.

24 HARRY LEVINE: My name is Harry  
25 Levine. I'm a professor of sociology at Queen's

1  
2 College in the graduate center in the City  
3 University of New York. For most of my career,  
4 I've been researching drug policy and alcohol  
5 policy and problems, and for the last five years,  
6 I have been focusing on the question of marijuana  
7 arrests in New York. I did an 100 page report  
8 with colleagues for the new York Civil Liberties  
9 Union, which released in 2008 called the Marijuana  
10 Arrest Crusade. I have testimony. I actually  
11 came here to bring my testimony. We've done a  
12 series of other reports, not just about marijuana  
13 arrests in New York, but also about California and  
14 other places. I came here today to thank the City  
15 Council for considering this resolution and for  
16 members of the City Council for playing really a  
17 leadership role I think in moving the question of  
18 the unfair and racially biased marijuana arrests  
19 to the forefront of public and political  
20 consciousness in New York City. In some ways,  
21 people have been heroic about this, and I think  
22 that the Governor, the Assembly and the support of  
23 the five District Attorneys and the Mayor and the  
24 Police Commissioner speak to the effectiveness of  
25 the work that people have done to inform and

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2 educate people about what has been going on in the  
3 streets of New York. The testimony I brought with  
4 me today addresses some of the history of how we  
5 got into this situation and also talks about some  
6 of the things that I think will happen if or when  
7 the legislation passes and additional problems  
8 that the summons system will face and I really  
9 will sort of let the written testimony speak for  
10 itself. There's a graph and some pictures in  
11 there. I think I'd like to—if you have the  
12 written testimony—I'd like to just point you to a  
13 couple of things in the written testimony. Do you  
14 have it? On the second page, there's a graph that  
15 basically divides up the marijuana arrests in New  
16 York City between two periods, between 1978 and  
17 1997 when marijuana arrests averaged about 3,300  
18 arrests a year and the period from 1998 to 2011  
19 when marijuana arrests have averaged 39,000  
20 arrests a year. It seems to me that what at least  
21 some of us have been talking about and what I  
22 would like to propose that the City Council at  
23 least in the long term consider is seriously  
24 moving back to a much earlier and I think saner  
25 approach to this whole question. We can talk

1  
2 about it. The second thing I wanted to show you  
3 is a series of photographs and that's on page 5.  
4 One of the things that I discovered in my search  
5 is a couple of different ways in which marijuana  
6 is obtained from people's possession, but one of  
7 the ways, which is a sort of secret of policing,  
8 not just in New York, but in other places is the  
9 police actually simply put their hands in people's  
10 pockets. In the last couple of years there has  
11 been a growing number of media reports that talk  
12 about this, both public defender attorneys and  
13 people who have been stopped and frisked and have  
14 the people put their hands in their pockets.  
15 Recently some people have been taking photographs  
16 of this and there are three photographs of police  
17 officers on page 6, putting hands in pockets of  
18 people who did not get arrested. This is much  
19 more common than the three pictures that I'm  
20 showing you and it seems to me - - that it both  
21 underlies this and - - problem. The third thing  
22 is a picture on page 8, which is a picture of  
23 people lined up in the morning to go to the  
24 summons courts in Manhattan - - and Brooklyn. And  
25 like the arrests for marijuana, the people in the

1  
2 summons court are overwhelmingly blacks and  
3 Latinos - - young people and that when or if the  
4 city moves from making great numbers of marijuana  
5 arrests to making many summonses, they are going  
6 to be written by the same police in the same  
7 neighborhoods and given to the same population  
8 that the - - arrests are now, and the striking  
9 thing about marijuana, which has been reported by  
10 others, but is really important is that every  
11 national study and the study by the New York City  
12 Public Health Department finds that young whites  
13 use marijuana at higher rates than young blacks,  
14 so in my neighborhood of Columbia University,  
15 there are people walking around with marijuana in  
16 their pocket, but they do not get stopped and  
17 frisked, and they do not get hands put in their  
18 pockets, and they will not be getting the  
19 summonses in the same numbers that the people in  
20 other neighborhoods will.

21 CHAIRPERSON VALLONE: Professor,  
22 Harry, wait, you're Harry. - - . Also - - single  
23 spaced, so please take a-see what Evan did? Try  
24 to do the same. Thanks.

25 SCOTT LEVY: Thank you. I did

1  
2 write a lengthy written testimony, but I will make  
3 it brief. My name is Scott Levy. I'm a staff  
4 attorney at The Bronx Defenders and the director  
5 of the Marijuana Arrest Project there. We're a  
6 public defender office in the south Bronx. I  
7 represent about 28,000 clients a year, and I want  
8 to thank everyone for allowing me the opportunity  
9 to come here and voice my support for the  
10 resolution. I just want to tell a brief story.  
11 Over the past year, I've personally represented  
12 literally hundreds of clients arrested for low  
13 level marijuana possession, and in February of  
14 this year, I represented a young, 24 year old man,  
15 who was arrested as he walked out of a bodega in  
16 his neighborhood. He had no prior criminal  
17 history whatsoever. As he walked out of the  
18 bodega, he was approached by two police officers,  
19 who immediately made him assume the search  
20 position, put their hands in his pockets and  
21 recovered a very small bag of marijuana. Despite  
22 the fact that he had never possessed that  
23 marijuana in public view, he was taken to central  
24 booking. He spent more than 30 hours incarcerated  
25 before he was able to see a judge. He ultimately

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2 received an adjournment and contemplation of  
3 dismissal and was able to catch the last few  
4 minutes of the Super Bowl, but not before telling  
5 me how unfairly he believed he had been treated  
6 and unjustly he felt he had been treated and how  
7 disrespectfully he felt he had been treated. When  
8 we're talking about marijuana arrests, I think  
9 that is really the issue here is that each and  
10 every one of these arrests is an encounter that  
11 leaves a bad taste in the mouth of usually a  
12 young, black or Latino young man, and I have  
13 represented literally hundreds and hundreds of  
14 cases of clients with virtually identical stories.  
15 The problem with these arrests is that they reveal  
16 a policing strategy that disproportionately  
17 affects young people of color and also one that  
18 encourages and even relies on a casual disregard  
19 for civil rights. Last year about this time, The  
20 Bronx Defenders decided to look in a more  
21 systematic way at this issue. We started the  
22 Marijuana Arrest Project and began systematically  
23 interviewing clients who has been arrested for low  
24 level marijuana possession. We focused on two  
25 salient features of the NYPD's marijuana arrest

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2 practices—the first was the unjustified initial  
3 stop by the police and the second was what we  
4 started calling manufactured misdemeanors where  
5 the clients were being charged with misdemeanors  
6 despite the fact that they never actually  
7 possessed marijuana in public view. Our research  
8 suggests pretty strongly that the NYPD actually  
9 manufactures thousands of misdemeanors every year  
10 and that after Commissioner Kelly's order in  
11 September of 2011, the rate at which they were  
12 manufacturing misdemeanors actually increased  
13 despite an explicit command not to continue this  
14 practice. Our data collection effort resulted in  
15 518 comprehensive interviews with clients arrested  
16 between May and October of last year and every New  
17 York NYPD precinct in the Bronx and at every  
18 command and the results are truly disquieting.  
19 The data shows that the percentage of illegal  
20 detentions and manufactured misdemeanors actually  
21 as I said increased in the month immediately  
22 following Ray Kelly's order commanding that this  
23 practice stop. From 31% to 40% of the arrests  
24 were unjustified stops and from 33% to 44% for  
25 manufactured misdemeanors. In addition overall,

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2 we found that the police lack sufficient legal  
3 basis to justify the initial contract with our  
4 clients in 34% of each and every case we looked  
5 at. In 36% of these cases, police officers  
6 manufactured misdemeanor charges by arresting  
7 clients for misdemeanors despite that the  
8 marijuana had only come into public view as a  
9 result of police action and strikingly in 79% of  
10 those cases, the marijuana came into public view  
11 only as a result of a police search. Our clients  
12 were not actually revealing marijuana on their  
13 own, and I should note that in each and every one  
14 of these complaints, the police alleged that they  
15 viewed the marijuana in public view and neglected  
16 to say how it had gotten there in the first place.  
17 Taken together, the cases in which the police had  
18 no legal cause for the initial detention and  
19 manufactured the misdemeanor charges account for  
20 41% of all the cases that we looked at, and as  
21 these findings demonstrate, this manufacturing  
22 misdemeanors is not an aberrational occurrence.  
23 It is a widespread and systematic practice and one  
24 that would undermine up to 20,000 arrests in New  
25 York City alone. It's truly a staggering number.

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2 I will try to wrap this up very quickly, but I do  
3 think it merits attention just to talk about what  
4 the collateral consequences are. We've touched on  
5 that briefly in this hearing, but each arrest  
6 usually leads to 24 hours or more in  
7 incarceration. Each one of those days is a lost  
8 day of school, a lost day of work, a suspension at  
9 work, often termination. Marijuana arrests can  
10 lead to deportation, loss of federal financial  
11 aid, loss of public housing, termination of  
12 parental rights. There are really Draconian  
13 collateral consequences that stem from these  
14 arrests and what I think is absolutely crucial for  
15 this Committee to understand and I thank you for  
16 the opportunity is that most of these collateral  
17 consequences attach regardless of whether the  
18 client is charged with a violation or a  
19 misdemeanor, particularly when the federal  
20 government is in charge. For immigration  
21 purposes, it matters little to the federal  
22 government whether or not a client is charged with  
23 a violation or a misdemeanor, and going to  
24 Councilman Halloran's point our fear is that a lot  
25 of these cases will end up in the summons part

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2 without proper oversight and a lot of these  
3 collateral consequences may continue to pile up  
4 without any representation or oversight from  
5 offices like ours. The other thing I just think  
6 is important to note is that the recent research  
7 has shown one that these arrests and these  
8 encounters have devastating consequences for each  
9 and every person who goes through it, but that  
10 these encounters are highly concentrated in a  
11 small number of neighborhoods around the city and  
12 when you start multiplying the effects block by  
13 block and community by community, you can see how  
14 these marijuana arrests are really undermining the  
15 ability of communities and certain neighborhoods  
16 to really regulate themselves and police  
17 themselves and it has done a great disservice for  
18 relationships between those communities and the  
19 NYPD.

20 CHAIRPERSON VALLONE: Okay, finish  
21 it up.

22 SCOTT LEVY: Yes. What I will  
23 finish and say is that I hope that this resolution  
24 and the Governor's proposal represents what is  
25 just a first step towards what we see is the need

1  
2 for wholesale criminal justice reform and a  
3 reevaluation of the stop and frisk policy city  
4 wide, so thank you very much.

5 CHAIRPERSON VALLONE: Okay, well  
6 you know I agree with the part about the  
7 manufactured stops, but not the rest of it. Mr.  
8 Pearson, if you would please be relatively quick  
9 and finish the hearing for us please.

10 BRIAN PEARSON: My name is Brian  
11 Pearson. First and foremost I want to thank the  
12 Public Safety Committee for hearing my statement  
13 today. Again, my name is Brian Pearson. I'm a  
14 leader with VOCAL New York, Voices of Community  
15 Active Leaders in New York. I'm here today to  
16 tell my own experience with wrongful marijuana  
17 arrest for low level marijuana possession that I  
18 believe illustrates while the resolution you are  
19 discussing today needs to be passed, I also want  
20 to offer my support to Governor Cuomo, Assembly  
21 Member Jeffries [phonetic] and Senator Asante  
22 [phonetic] in their efforts to end these arrests  
23 which are racially biased, economically wasteful  
24 and illegal under the 1977 New York State law. My  
25 story shows the collateral consequences of these

1  
2 arrests that Mayor Bloomberg and Police  
3 Commissioner Kelly have repeatedly try to brush  
4 under the rug. Last fall, I was on parole, but my  
5 life was improving. I was up for early release.  
6 I was working on the construction of subway  
7 tunnels and on my way toward getting a - -  
8 position. I had moved from a ¼ house for parolees  
9 and was renting a room in Crown Heights. On  
10 Wednesday, my cousin drove me to the train at  
11 Eastern Parkway and Utica Avenue, so I could get  
12 to work for the 3 to 11 shift. Before I could  
13 exit the car, we were surrounded by officers who  
14 came out of nowhere. They claimed we fit the  
15 description of bank robbery suspects. My cousin  
16 to assert his right not to be searched, but we  
17 were pulled from the car and frisked anyway. The  
18 officer found an remainder of a joint about the  
19 length of a thumbnail after searching my cousin.  
20 He said they had no right to conduct this search  
21 and argued that it was a tiny amount of marijuana.  
22 Most importantly, he told them that everything he  
23 had on him and in the car was his and asked that I  
24 be let go to go to work. They refused. All of  
25 this was illegal search in violation of our

1  
2 rights, but as common - - for people in African  
3 American, Latino communities, I was eventually  
4 arrested and held in central booking - - for about  
5 72 hours before I finally saw a judge. When I was  
6 released I was given another court date. In all,  
7 I had three court dates before the charges were  
8 dropped. For three days I was without a lawyer,  
9 forced to miss work because of the wrongful  
10 arrest. Upon release, I found out there were even  
11 further collateral damages, collateral  
12 consequences, damages. I was able to convince my  
13 job to keep me on, but I was set back in the  
14 competitive process to get a union book needed for  
15 the union membership. This meant that after my  
16 temporary construction work ended in the tunnels,  
17 I was left without employment or union membership.  
18 Next I had to - - my parole officer so I would not  
19 be violated and sent back to prison despite a  
20 negative urine test for drugs and a statement by  
21 my cousin, I was not violated; however, my early  
22 release for parole was terminated and I had to  
23 spend an additional four months on parole. Today  
24 I live in Woodhaven Queens, a community with a lot  
25 of hardworking immigrants, but not a lot of

1  
2 African Americans and Latinos, who make up 87% of  
3 the roughly 50,000 marijuana arrests in New York  
4 City. I do not see police officers rolling up on  
5 people there like they do in Crown Heights, where  
6 I recently lived at or any black or Latino  
7 community for that matter. The NYPD are not  
8 trying to create safe and healthy communities for  
9 people who look like me. They are using this  
10 unjust policy to harass us, to intimidate us and  
11 to drive us into the criminal justice system  
12 because they believe that blacks and Latinos are  
13 likely to be criminals. While I believe that the  
14 underlying institutional and racism of New York  
15 City Department would not end with this passage of  
16 this one law; however, it will remove the number  
17 one method they have used to criminalize an entire  
18 generation of black and Latino men and pump them  
19 into this criminal justice system. Again, I would  
20 like to thank the Public Safety Committee for  
21 hearing my statement today.

22 CHAIRPERSON VALLONE: Thank you,  
23 Brian. Thank you all. I want to especially thank  
24 Council Member Viverito, who—I was here when she  
25 complained first to the Police Commissioner about

1  
2 this and he said to her, change the law, which he  
3 was absolutely right. He was obeying the law at  
4 that point, and other than the manufactured part  
5 where they shouldn't be asked to take out, that  
6 was never the law. Although, I guess you could  
7 interpret it that way, but it should never have  
8 been interpreted that way, and she went about and  
9 did what she could to get Albany to change the  
10 law, and it looks like it's going to be happening  
11 one way or another, so congratulations to you. I  
12 know you want to make a statement, but I'm not  
13 going to allow you because I have to be at an  
14 event at 2 o'clock. Really quick?

15 COUNCIL MEMBER MARK-VIVERITO: I  
16 just want to thank especially Dr. Levine 'cause I  
17 didn't thank you before for all your work and Mr.  
18 Pearson, thank you because it's testimony,  
19 personal testimony that really helps make the case  
20 and understand why these policies need to change  
21 and I'm sorry that you went through all of that,  
22 but I thank you very much for your advocacy and  
23 for being here today.

24 CHAIRPERSON VALLONE: Yes, thank  
25 you all. This meeting is adjourned.

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COMMITTEE ON PUBLIC SAFETY

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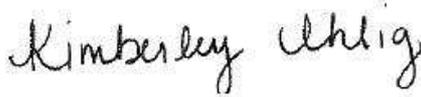
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[gavel]

C E R T I F I C A T E

I, Kimberley Uhlig certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature \_\_\_\_\_



Date \_\_\_\_\_7/3/12\_\_\_\_\_