

**STATEMENT OF CHIEF DERMOT SHEA
CHIEF OF CRIME CONTROL STRATEGIES
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL
COMMITTEES ON PUBLIC SAFETY AND THE JUSTICE SYSTEM
COMMITTEE ROOM, CITY HALL
FEBRUARY 26, 2018**

Good morning Chair Richards, Chair Lancman, and Members of the Council. I am Chief Dermot Shea, Chief of Crime Control Strategies for the New York City Police Department (NYPD). I am joined here today by Susan Herman, the NYPD's Deputy Commissioner of Collaborative Policing, and Oleg Chernyavsky, the NYPD's Director of Legislative Affairs. On behalf of Police Commissioner James P. O'Neill, I wish to thank the City Council for the opportunity to speak with you today about the NYPD's enforcement of marijuana laws.

The crime reductions that New York City achieved in 2017 were categorically historic: the lowest per capita murder rate since 1951; the fewest shootings ever recorded in the modern era; and robberies, burglaries, and auto thefts at their lowest levels. The gains the Department have made may seem incredible – but there are very credible reasons for why the crime context in New York City is different from the experience of the rest of the country. They include the dedicated NYPD police officers who work on our streets every day, committed community residents in each borough, and our local community leaders, including members of the Council. They include the relationships the Department has been forging and strengthening over the past several years as we extend our Neighborhood Policing philosophy to all aspects of the Department's work.

Decline in crime has been matched by similar declines in enforcement actions, specifically low-level enforcement. The Department made 100,000 fewer arrests in 2017 than it did just four years ago in 2013, made roughly 180,000 fewer stops and issued far fewer summonses overall. Over the last several years, New York City has demonstrated that it can enhance fairness, without sacrificing safety or responsiveness to community concerns.

Turning to the topic of today's hearing. The Police Department's current marijuana policy was instituted in 2014. Under the policy, officers are instructed to charge the Penal Law violation of unlawful possession of marijuana when he/she observes a person in possession of 25 grams or less of marijuana in public view – instead of charging criminal possession of marijuana in the fifth degree, a B misdemeanor.

In essence, a criminal court summons is issued for possession of small amounts of marijuana. Nonetheless, there are some exceptions to the policy. A summons will not be issued for possession where the individual has an active warrant, the person is arrested on another offense, or there is evidence of intent to sell. Moreover, a person can only be issued a summons if they have a valid form of government-issued identification. In the event that a person does not have identification, officers will support efforts to positively identify the person, including by allowing the person to contact a third party to obtain identification.

Officers will make an arrest, however, and charge the B misdemeanor, for possession of 25 grams or less of marijuana if it is burning in public. When an arrest occurs, it is important to note that the arrestee may be eligible for a desk appearance ticket at the local precinct. The issuance of a desk appearance

ticket permits the arrestee to be released from the Department's custody within hours, provides a future court appearance date, and avoids processing through central booking.

Since this policy was established, there has been a 40% decline in marijuana misdemeanor arrests from 2013 to 2017. In addition to making fewer arrests, the Department is issuing more summonses for marijuana possession, allowing New Yorkers to avoid arrest and jail time. Criminal summonses for marijuana possession were up 58% in 2017 when compared to 2013.

It would be presumptuous to not acknowledge that the enforcement of marijuana laws is a charged issue, and that there is a robust public debate among public safety professionals, scholars, advocates, and elected officials on calibrating the appropriate law enforcement response to the seriousness of the incident. The overwhelming majority of arrests or summonses for marijuana come from community complaints. Public marijuana use remains a concern for New Yorkers. In 2017, there were nearly 26,000 911 calls complaining about the use of marijuana, an increase of 12% from 2016. 311 calls complaining about marijuana use also significantly increased in 2017.

The NYPD has an obligation to be responsive to community concerns. This also must be acknowledged within the public debate. Our policy seeks to balance enforcing the law in a fair and rational manner, while also recognizing that New Yorkers continue to regularly contact the NYPD about illegal conditions involving marijuana.

The Police Department remains committed to keeping New Yorkers safe, reducing crime, and ensuring the fair enforcement of the law, including the marijuana laws.

Before concluding my testimony, I will address Intro. 605. Intro. 605 would require the Department to quarterly report on arrests and criminal summonses for marijuana possession, disaggregated by demographics, borough, and precinct. Over the last several years, the Department has collaborated with the Council on a number of reporting bills in order to provide valuable data to the public and increase transparency and we look forward to working with the Council on this bill.

Thank you for the opportunity to testify today, my colleagues and I would be happy to answer any questions that you may have.



**BROOKLYN
DEFENDER
SERVICES**

TESTIMONY OF:

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Presented before

The New York City Council Committees on Public Safety and the Justice System

Oversight Hearing on Enforcement of Marijuana Laws

February 26, 2018

My name is Catherine Gonzalez and I am a Staff Attorney in the Criminal Defense Practice at Brooklyn Defender Services (BDS). BDS provides multi-disciplinary and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy in nearly 35,000 cases in Brooklyn every year. This includes thousands of people arrested for marijuana possession or sale, or fighting deportation, eviction, or a loss of parental rights due to marijuana-related allegations or convictions. I thank the New York City Council, and in particular Committee Chairs Donovan Richards and Rory Lancman, for inviting us to testify on the enforcement of marijuana laws.

BDS is proud to support the Drug Policy Alliance's (DPA) StartSMART campaign to legalize and sensibly regulate adult marijuana use and sale across New York State. The immense harms of prohibition and discriminatory enforcement practices, balanced against the opportunity for advances in racial justice and economic empowerment envisioned by this campaign, warrant urgent action by state legislators and the Governor. The Marijuana Regulation and Taxation Act (MRTA), S.3040/A.3506, sponsored by Senator Liz Krueger and Assembly Member Crystal

Peoples-Stokes, would create a well-regulated and inclusive marijuana industry, improve public safety, and meaningfully repair some of the damage caused by existing drug laws. We hope that the Governor's call, in his State of the State, for a State Department of Health study on marijuana legalization is a meaningful step towards supporting this comprehensive legislation, rather than a stalling tactic.

Importantly, inaction in Albany is no excuse for injustice in New York City. The New York Police Department can decline to arrest or summons people for marijuana possession or any other marijuana offense. Local District Attorneys can decline to prosecute these cases. Indeed, police and prosecutors have unilaterally promulgated discretionary policies to reduce marijuana enforcement. However, these policies have fallen far short of the reform New Yorkers want and deserve, and the Council should hold them accountable. BDS applauds Speaker Corey Johnson's support for legalization and respectfully urges him to support the MRTA.

As a defense attorney, the most frustrating response from policymakers asked whether they support legalization is: "I'm not there yet." Every day, approximately 50 New Yorkers, mostly young men of color, are arrested for low-level marijuana possession, potentially upending their lives and the lives of their families and deepening the inequality in our city. In reality, there is no evidence to support the notion that punitive responses actually decrease marijuana use, if that is the goal. In fact, since legalization, marijuana use by teens has decreased in Colorado.¹ Simply put, there is no justification for the status quo – and no justification to delay reform.

NEW YORKERS NEED AND WANT URGENT REFORM

There is broad popular support for marijuana legalization. Across the country, a large majority (64%) support full legalization of marijuana; this includes a slim majority of Republicans (51%).² A recent Emerson College poll showed two to one support for legalization among New York State residents.³ Yet more than 800,000 people have been arrested for low-level marijuana possession over the past 20 years. The vast majority were people of color, despite government surveys showing equal or greater use by white people.⁴ Untold numbers of people are being detained and deported by ICE, losing their children to foster care, or suffering eviction from subsidized housing, in whole or in part, because of marijuana prohibition. Meanwhile, states with legal marijuana markets are benefiting from more than \$1 billion in new—or newly above-ground—economic activity and hundreds of millions of dollars in taxes and fees every year.^{5,6}

¹ Christopher Ingraham, *Following Marijuana Legalization, Teen Drug Use Is Down in Colorado*, WASH. POST, Dec. 11, 2017 at https://www.washingtonpost.com/news/wonk/wp/2017/12/11/following-marijuana-legalization-teen-drug-use-is-down-in-colorado/?utm_term=.d81e6a662ea0.

² Justin McCarthy, *Record-High Support for Legalizing Marijuana Use*, U.S. GALLUP NEWS, Oct. 25, 2017, <http://news.gallup.com/poll/221018/record-high-support-legalizing-marijuana.aspx>.

³ Marijuana Policy Project of New York & Drug Policy Alliance, *New Poll Shows 2 to 1 Support for Legal Marijuana Use in New York State* (2017), <http://www.drugpolicy.org/press-release/2017/11/new-poll-shows-2-1-support-legal-marijuana-use-new-york-state>.

⁴ Melissa Moore, *Lawmakers Must Legalize Marijuana in New York to Support Racial and Economic Justice*, N.Y. DAILY NEWS, Nov. 27, 2017 at <http://www.nydailynews.com/opinion/lawmakers-legalize-marijuana-new-york-support-justice-article-1.3661162>.

⁵ Tom Huddleston, Jr., *Colorado Topped \$1 Billion in Legal Marijuana Sales in 2016*, FORTUNE, Dec. 13, 2016 at <http://fortune.com/2016/12/13/colorado-billion-legal-marijuana-sales/>.

With a looming \$4 billion budget deficit, and an average of nearly 60 people arrested for low-level marijuana possession across the state every day, the time for the Governor and the Legislature to act is now. Support for legalization from the Mayor and the Council would at least help to affirm that it is not a fringe issue.

SHARP AND PERSISTENT RACIAL DISPARITIES IN MARIJUANA ENFORCEMENT CONTINUE UNDER MAYOR DE BLASIO

A report commissioned by the Drug Policy Alliance examining the 60,000 low-level marijuana possession arrests in New York City in the first three years of the de Blasio administration found that 86% involved Black or Latinx people—a racial disparity that has remained roughly constant for decades. This follows deliberate policing strategies targeting both neighborhoods in which people of color are a majority of residents and individual people of color within majority-white neighborhoods. In 2016, the NYPD arrested 362 people in West Harlem for this offense, yet only 14 in the Upper East Side, which has more than three and a half times as many residents. Of those 14 arrests, 50% involved Black and Latinx people, despite these groups making up only 10% of residents. Throughout Manhattan, Black people are 13% of the population and 45% of the people arrested for this offense, amounting to ten times the arrest rate for white people. In fact, more Black people were arrested for this offense in Manhattan than white people citywide. Across the East River, in the Mayor's home neighborhood of Park Slope, Black and Latinx people comprise 24% of residents and 73% of those arrested for this offense.⁷ When white people are arrested, they are significantly more likely to have their cases dismissed by District Attorneys, and cases involving Black and Latino people are approximately twice as likely to end in a conviction compared to those involving white people.⁸

Of course, these disparities extend to arrests for allegations of marijuana sales. Of the 80 people arrested for the lowest-level marijuana sale charge (Criminal Sale of Marijuana in the 5th degree) in New York City in 2016, only 1 was white. 94% of those arrested for the more common Criminal Sale of Marijuana in the 4th Degree were Black and/or Latinx, despite research showing users typically buy drugs from their peers.⁹

None of this is surprising to me. In my two and half as a public defender, having represented hundreds of clients on marijuana charges, I can recall representing only one white person; she had been arrested for low-level possession while hanging out with a group of friends who were all people of color. The vast majority of the people I have represented in these cases were young Black men who were arrested in heavily policed neighborhoods.

⁶ Aaron Smith, *Colorado Passes a Milestone for Pot Revenue*, CNN MONEY, July 19, 2017 at <http://money.cnn.com/2017/07/19/news/colorado-marijuana-tax-revenue/index.html>.

⁷ Harry Levine, *60,000 Jim Crow Marijuana Arrests in Mayor De Blasio's New York* (Drug Policy Alliance & Marijuana Arrest Research Project 2017), https://www.drugpolicy.org/sites/default/files/Marijuana-Arrests-NYC--Unjust-Unconstitutional--July2017_2.pdf.

⁸ Brendan Cheney, *For Non-white New Yorkers, Marijuana Arrests More Often Lead to Conviction*, POLITICO, May 9, 2017 at <https://www.politico.com/states/new-york/city-hall/story/2017/05/04/racial-disparities-in-marijuana-convictions-in-all-five-boroughs-111807>.

⁹ Source: NYS Division of Criminal Justice Services

THE VIEW FROM KINGS COUNTY CRIMINAL COURT

As a public defender, I meet my clients on the brink of crisis, generally within 48 hours of an arrest. The most common cases I handle include allegations of turnstile jumping, possession of a crack pipe, driving on a suspended license, stealing essentials like a bar of soap, trespass (often shelter-seeking) or, despite years of pronouncements by policymakers and prosecutors to the contrary, low-level marijuana possession. The Brooklyn District Attorney's office received a lot of attention for announcing that it would decline to prosecute most low-level marijuana possession cases; in reality, the office prosecuted 83% of these cases in 2016. Likewise, Mayor de Blasio has made pronouncements about ending most low-level marijuana possession arrests, yet the NYPD made three times as many such arrests during his first three years in office compared with the first three years of the Giuliani Administration, with roughly the same sharp racial disparities.

The gulf between the rhetoric of policymakers in the city and the reality we see in court underscores the need for legislative action. Moreover, the statutory criminalization of marijuana, not just its enforcement, drives discriminatory broken windows policing. The oft-claimed "odor" of marijuana and the alleged observation of a flicked marijuana cigarette are two of the most common pretexts officers use to justify unconstitutional stops and frisks, or turn car stops into full blown searches. Much like allegations of failure to signal, odor of marijuana is notoriously difficult to disprove in court, hence the commonality of its use as a pretext. All that said, simply ending all arrests and summonses for marijuana spare thousands of New Yorkers the trauma and burden of criminal court involvement, fines, and countless severe consequences.

Nobody wants to be hauled into criminal court and charged with a crime, but the people I represent on marijuana cases tend to be particularly angry about their arrests. They know marijuana use, particularly by white people, is widespread and only selectively enforced. They have been stopped and frisked or pulled over, cuffed and ripped from their communities, families, and jobs, and detained overnight in putrid holding cells. Again, nearly all are people of color. They tell me about illegal searches by the police. They express fears of missing or losing work, getting kicked out of school or losing student loans, leaving young children without caretakers, and surviving without much needed medication. If they are immigrants with or without lawful status, they express fear of ending up on ICE's radar. Simply put, they are often terrified or angry or both. After we speak, they are led into the courtroom shackled.

Once in court, most low-level marijuana possession cases in Brooklyn resolve with no criminal sentence. This is why court watchers often say "the process is the punishment." After formally charging people, prosecutors generally do not seem to care about marijuana. However, the absence of a criminal sentence does not mean there is no additional punishment. Beyond the harm that can happen between arrest and arraignment, cases that result in an Adjournment in Contemplation of Dismissal (ACD)—2,733 of 4,326 total cases in in Brooklyn in 2016—remain open and visible to prospective employers and landlords for six months to a year.¹⁰ Cases that result in non-criminal violations trigger costly court surcharges and erect legal barriers to civil lawsuits for police misconduct. Cases that result in misdemeanor convictions result in even steeper surcharges and often permanent criminal records. Importantly, I can only speak to

¹⁰ Source: NYS Division of Criminal Justice Services

marijuana cases in Brooklyn; in other parts of the state, where jail populations have doubled while that of New York City jails has shrunk by half, people may be much more likely to suffer pre-trial detention on bail or Misdemeanor jail sentences.

Client Stories

[Note: All client names have been changed, except in the first case, which involves a client who voluntarily shared her story with the media.]

Colyssa Stapleton went downstairs from her apartment to pick up baby formula from her former partner. She was there for less than 30 seconds when an undercover officer approached claiming that he smelled marijuana on her person. When she told the officer that she had not been smoking, and that she needed to get back upstairs to care for her seven month-old child, he arrested her and called ACS. Her child was placed in foster care and she was charged with marijuana possession and endangering the welfare of a child. Even though drug tests came back negative, it took more than a year for Colyssa to regain full custody of her daughter; she missed her baby's first steps and her first tooth. Colyssa is Black and 25. Her story was featured in *The New York Times*.¹¹

Mr. F's car broke down on a roadway. An undercover cop pulled over and helped jump his car. The cop then asked Mr. F if he had any marijuana. Mr. F, feeling gracious for the help, went into his car and pulled out a small amount of marijuana that he had for personal use from his backpack and gave it to the undercover. The cop then arrested him and charged him with sale and possession of marijuana. Mr. F is in the Army Reserves, has no record, and was not the target of any lawful search. He was only trying to thank someone for helping him out. Mr. F is Black and 23 years old.

Ms. R was illegally searched and found to have a small amount of marijuana. She also had an open summons warrant for having an open container of alcohol that she had failed to pay. Police arrested her and detained her overnight. Her BDS attorney was able to secure an ACD, but the case was slated to remain open for a year. Recently, Mr. R learned that the company for which she works conducts random background checks and she is at serious risk of losing her job. Now, her attorney is working to get the ACD immediately sealed, but it is unclear whether the court will grant it. Ms R. is South Asian and 22 years old.

Mr. P was stopped by police as he left the NYCHA building where he lives as a tenant of record based on an outdated trespass notice issued 11 years earlier. Police found a small amount of marijuana on him and arrested him for trespass and marijuana possession. He was detained overnight. The case resolved with an ACD but Mr. P was forced to do a day of community service. Mr. R is Black and 38 years old.

Mr. H was arrested along with his entire family by a notoriously unscrupulous NYPD Detective based on an apparently bogus search warrant. This Detective's prior misconduct had led to 17 settlements totaling more than \$1.2 million, each one involving him entering a private home under the guise of searching for narcotics, and he had been found not credible by a Supreme

¹¹ Stephanie Clifford & Jessica Silver-Greenberg, *Foster Care As Punishment: The New Reality of 'Jane Crow'*, N.Y. TIMES, July 21, 2017 at <https://www.nytimes.com/2017/07/21/nyregion/foster-care-nyc-jane-crow.html>.

Court Judge. One settlement involved the choking death of a 49 year-old father of three. After lab results showed that the materials this Detective allegedly obtained from the house were not in fact controlled substances, prosecutors continued to charge Mr. H for the small amount of marijuana that was recovered. After further litigation, Mr. H's BDS attorney was able to resolve the case with an ACD and immediate sealing, but the marijuana charge had allowed the government to continue harassing our client for some time even after we debunked the original charges. It is worth noting that if prosecutors had turned over discovery materials at the outset of the case, this case almost certainly would have been resolved with the same final outcome but immediately. Instead, Mr. H's time and emotional well-being, along with substantial taxpayer dollars and scarce court resources, were wasted in the cover-up of the case's fatal flaws. Mr. H is Black and 23 years old.

Mr. S had saved up more than \$10,000 while cutting hair and doing other odd jobs throughout his life with no arrests. In 2015, police executed a search warrant at his apartment and allegedly found marijuana. They arrested one person in the apartment, issued a summons to another, and stole Mr. S' life savings. Mr. S was not charged with a crime. Mr. S had tried to recover the money for approximately six months, regularly contacting the Civilian Complaint Review Board and the NYPD's Property Division, when suddenly the NYPD materialized an I-card warrant for his arrest that supposedly dated back to the time of the search. Finally, the NYPD Legal Bureau provided him with a signed and authorized property release, but when he went to claim his property, he was arrested and charged with numerous counts of marijuana possession. As Mr. S' criminal defense attorneys at BDS fought these charges, he also faced eviction proceedings from NYCHA housing. We were able to get the criminal case dismissed, but he still has not been able to get his money returned. In this case, too, prosecutors' failure to turn over discovery prolonged the case substantially. Mr. S is Black and 33 years old.

THE VIEW FROM KINGS COUNTY FAMILY COURT

BDS represents over half of all parents in child welfare cases in Brooklyn, one of the busiest family courts in the country. Collateral consequences of marijuana use and arrest often extend to parents and children involved in family court. Although New York State law does not allow marijuana use to be the sole basis for removing a child from a parent or denying that parent custody privileges, BDS sees these consequences in family court every day.

Contrary to popular perception, many of drug use allegations against parents we represent involve marijuana. While marijuana use is less often the cause for the initial filing of a neglect petition, or the removal of a child, it can often be used as a barrier to reunification, favorable or quick settlement of a case, or ending supervision. We believe it is often used as a way to impose moral judgment on our clients—a reflection of class and race-based prejudices. Family Court, the Administration for Children's Services (ACS), and the law make little to no distinction between recreational use and problematic abuse of drugs. Moreover, the vast majority of our clients, who are poor and often people of color, live in shelters, public housing, and/or highly-policed neighborhoods that make them extremely vulnerable to government surveillance of marijuana and other drug use.

Poor parents who come into contact with the child welfare system are frequently asked to submit

to drug testing even when there is no drug use alleged in the initial prompting of the ACS investigation and there has been no court case brought against them. If a parent does not agree to drug testing, even early on in the investigation process, a negative inference may be drawn against them. If a parent does submit to a drug test despite there being no drug use allegations, even if that test comes back negative, that parent's time, resources and right to privacy have been undermined.

The majority of our clients utilize public hospitals for labor and delivery. It is not uncommon for our clients and their newborns to be drug tested at birth, often without their knowledge. Our understanding is that the Health + Hospitals' policy only requires verbal consent to drug testing during or after labor, but many mothers who have been tested at a hospital report that they were not asked permission for testing on themselves or their babies. Racial disparities have been well documented at many points in the health care delivery system, and we know that mothers of color are more likely to be drug tested in child birth than white mothers.

Parents involved with ACS who admit to using marijuana recreationally or who have only one positive marijuana test have been asked to participate in drug treatment. Depending on the treatment center, parents may be expected to go to treatment several times per week for a couple of hours each time, or to continue to submit to random testing for an indefinite period of time, even after having several negative drug tests. Parental marijuana use has been used to justify or advocate for minimal or restrictive visitation time with children, despite laws requiring proof that drug misuse is directly impacting a parent's ability to provide adequate supervision or meet children's basic needs.

The impacts of marijuana prohibition on mostly women of color in family court must be considered in comparison to the apparent absence of any sanctions against the white male authors of two different op-eds in *The New York Times* proclaiming the benefits of illegal marijuana use in parenting and enduring cancer treatment, respectively.^{12,13}

The MRTA would protect parents from being ensnared in the criminal legal system for personal marijuana possession, erase many of the re-entry barriers that inhibit employment, education, and personal growth for people who have already been criminalized, and redirect scarce public funds toward public health and education resources that strengthen families. Furthermore, as DPA has written, the bill would help “[p]revent unnecessary denial of custody, visitation, or parenting time by requiring clear and convincing evidence of unreasonable danger to the safety of a child that is not solely based on the presence – or non-pertinent details – of a parent's marijuana use.” Ultimately, we believe a culture shift to end the hyper-stigmatization and kneejerk condemnation of parents of color who use marijuana or other drugs is needed, and we hope that that could be engendered, in part, by legalization.

Client Story

Ms. C's child was removed by ACS and we are currently litigating to have the child returned. Ms. C is compliant with all services, attends visits, and was observed lovingly bonding and

¹² Mark Wolfe, *Pot for Parents*, N.Y. TIMES, Sept. 7, 2012 at <http://www.nytimes.com/2012/09/08/opinion/how-pot-helps-parenting.html>.

¹³ Hon. Gustin L. Reichbach, *A Judge's Plea for Pot*, N.Y. TIMES, May 16, 2012 at , <http://www.nytimes.com/2012/05/17/opinion/a-judges-plea-for-medical-marijuana.html>.

interacting with her child. However, because Ms. C tested positive for marijuana, ACS argued that the child should not be released to her. Otherwise, she would almost certainly be reunited with her child, and the case would be on track for closure. This is an example of the way marijuana use among marginalized people is pathologized and penalized, even as its use by the broader public gains mainstream acceptance.

THE VIEW FROM IMMIGRATION COURT

For many years, the Council has worked to protect immigrant New Yorkers. The New York Immigrant Family Unity Project, of which BDS is one of three direct service providers, is a groundbreaking program that increased the number of people who win their immigration cases by a factor of ten. The most impactful way for the City to reduce the likelihood of Immigration and Customs Enforcement (ICE) arrests, detention, and deportation is to minimize immigrant New Yorkers' contact with the criminal legal system. An arrest even for the lowest-level violation can lead to deportation, broken families, and broken communities. Under the Secure Communities program, a federal mass-deportation regime, all fingerprints taken by the NYPD and other local law enforcement agencies are automatically provided to the FBI and ICE. The NYPD's high-arrest policies, including for marijuana and other drug possession, thus effectively provide the federal government with ready-made lists of thousands of immigrant New Yorkers whose humanity, family and community ties, and even lawful residency may be undermined simply because they bear the label of "criminal" for the most paltry alleged offenses. ICE collects information gathered through arrests regardless of whether the District Attorney declines to prosecute a case, a case is still pending so has no final resolution, all the charges are dismissed, or a case results in a non-criminal violation. That is why we say immigrants are doubly punished in our criminal legal system.

To be clear, we are not only talking about undocumented immigrants. New Yorkers with lawful status such as green cards, asylum, or student visas can lose their status and be deported if they are convicted of most drug offenses, including many marijuana offenses. Others who currently lack lawful status may be able to obtain it, however this possibility may evaporate upon conviction of any drug offense.

It must be noted that the aforementioned racial bias in marijuana enforcement is particularly harmful to immigrants of color. BDS believes the surest way to end these disparities, and to protect New Yorkers from being deported for marijuana offenses, is to end marijuana prohibition altogether. That said, in the interim, we strongly urge NYPD to end marijuana arrests.

Client Story

Mr. L was born in Jamaica but is a longtime green card-holder who has worked the same job in Queens for more than a decade. He has a US citizen son. He is now facing deportation and is ineligible for discretionary relief only because of a few misdemeanor marijuana possession convictions from more than 15 years ago. Barring a pardon from Governor Cuomo, which we will be requesting shortly, he and his family will likely be torn apart. He is Black and in his mid-40's.

EVICTED, HOUSING INSTABILITY, AND MARIJUANA PROHIBITION

BDS' Civil Justice Practice assists clients with a wide range of so-called collateral consequences stemming from justice system involvement. Many of these individuals and families, disproportionately people of color, see their housing stability or future housing options severely curtailed by low-level marijuana arrests or convictions.

The most common marijuana-related consequences we see are those having to do with NYCHA, HPD, and HUD apartments and other federally subsidized housing programs. Our clients routinely have their applications for subsidized housing denied based on past marijuana convictions or currently pending cases; face termination of tenancy proceedings based on marijuana arrests or convictions; or are forced to exclude loved ones from their households based on these arrests. Under current NYCHA policy, for example, an applicant for public housing with a misdemeanor marijuana conviction would be ineligible for public housing for three or four years from the completion of their sentence. For residents, any drug arrest of a household member, or the arrest of anyone visiting the home, will result in termination of tenancy proceedings being brought against the head of household. While these subsidized housing policies are based upon federal regulations that would not change with the MRTA, legalization would end the arrests and prosecutions that currently lead to these disastrous consequences.

Marijuana enforcement also affects private housing options. In housing court, it is not uncommon to see clients facing eviction due to lease violations or violations of prior probationary stipulations based solely on marijuana arrests. In fact, we believe landlords of rent-stabilized buildings seeking to evict their tenants, perhaps to legally or illegally deregulate the apartment, sometimes call the police for interventions in instances of low-level offenses like marijuana use.

Marijuana criminalization also has an indirect but important impact on housing stability, as any criminal, family, or immigration court involvement can prevent our clients from making it to work, school, or job interviews—and thus adversely impacts their ability to pay rent. Lastly, such court involvement may reduce families' household size, directly affecting eligibility for public assistance and housing subsidies.

PROPERTY SEIZURE, ASSET FORFEITURE AND MARIJUANA PROHIBITION

Given the widespread use of marijuana, the current state of prohibition offers police ample opportunity to engage in property seizures and even civil asset forfeiture. There is a common misconception that all property seized and forfeited by law enforcement belongs to people convicted of crimes and that it has been used in, or gained through, commission of a crime. The reality is that this process begins at arrest, at a time when the owner is presumed innocent, and these funds and assets are most often retained without court oversight and without due process. BDS' Civil Justice Practice works case by case to advocate for justice, but the policing-for-profit industry continues. Even clients who can prove that their property was not used for illegal activity often settle—that is, they pay the police to get their own stuff back—due to the coercive dynamics and burdensome procedures described in detail below. It is very difficult to advise a client, even one with a good case, not to pay for an expeditious and guaranteed return of their property. Because settlements are only approved if the client signs a “hold harmless” agreement,

preventing any civil lawsuit against the City for abuse of civil forfeiture, there are no realistic avenues to challenge the underlying practices in court. For our clients, the cost is simply too high. Fighting to protect their rights means suffering the unrecoverable loss of time, wages, missed medical appointments, stable housing and more. The reality is that only clients who cannot afford to settle end up pursuing their right to due process and pushing back against the City's fundamentally unfair policies.

Client Stories

Example #1 – Property with no nexus to alleged offense

The first example involves the seizure of a car that was not in use, and not even in our client's possession, at the time of arrest. Our client, John, was a passenger in a friend's car when it was stopped because an officer alleged the driver had two earpieces in his ears while driving. The stop resulted in a search and John was charged with sale and possession of marijuana. That car was seized during the arrest, but the property collection did not stop there.

At the time of arrest, the NYPD asked if our client owned a car. They took John's keys and wallet. They drove nearly four miles from the site of arrest to John's house, knocked on the door, told his younger brother that they had received a phone call that the car was blocking the driveway and seized and held that car, as well. At the station, John was told that if he did not cooperate with their investigation of the drugs found in the first car, he would not get his own car back.

Due process gave our client the right to a "prompt" hearing, called a *Krimstock* hearing, for the car's return during the pendency of the criminal case and any civil case. Indeed, shortly after his arrest, the NYPD informed John of this right to a *Krimstock* hearing and explained they would settle the case for \$1,000 and a release from liability. Urgently needing his car to commute to and from his job on Long Island but unable to afford the steep settlement fee, our client requested the hearing. However, his hearing was postponed indefinitely when the Assistant District Attorney (ADA) in the criminal case secured an ex parte retention order for the vehicle, effectively ensuring our client could not take advantage of his due process rights to a prompt post-deprivation hearing.

Six weeks after the arrest, the ADA released the car, demonstrating that, in fact, they did not need the car for evidence, and our client was once again permitted to pursue its retrieval with the NYPD. Yet despite the absence of a criminal case related to the car, the NYPD continued its civil forfeiture case. The NYPD was unwilling to provide any basis for their retention of his car or explain how this car was connected to an arrest that occurred in another car miles away. John could have requested a new *Krimstock* hearing, waited up to 20 days for it to be scheduled, and even if it were successful, he would still be facing a civil forfeiture case in state court that could take months to resolve. In the end, he paid a \$500 settlement to get his car back.

Example #2 – Cash Forfeiture

These difficulties and delays are not unique to vehicle forfeiture. We see similar problems with cash forfeiture as well.

For example, Maria was arrested with a co-defendant for possession of marijuana. At the time of arrest Maria had her phone and about \$500 cash on her; the co-defendant had no money. When our client was first brought to the precinct, she saw that the phone and cash were vouchered under her name. After Maria was offered and accepted an Adjournment in Contemplation of Dismissal (ACD), she began the process of retrieving her phone and cash, only to find that the cash was suddenly vouchered under her co-defendant's name, whose case was still open. Two months later, the ADA on her case had yet to respond to requests to release her phone. As for the cash, because it was no longer in her name she faced an uphill battle to get it returned. An NYPD Sergeant explained that our client had to secure another ADA release in her co-defendant's name, get a notarized letter from the co-defendant relinquishing any claim to the cash, and then make a demand for the cash at the NYPD property clerk window. If she were successful in all this the NYPD would begin an investigation to determine if the cash can be released to her. More than three months later, Maria finally was able to get her cash back, but not her phone.

This example illustrates what can happen outside of formal civil forfeiture proceedings. If Maria had been unsuccessful in jumping through all these hoops and could not make a claim for the property within 120 days of the termination of her criminal proceeding, it would have been forfeited automatically without the city needing to file for forfeiture. A very real and perverse incentive thus exists to delay the return of property in such cases.

Of course, if the police were unable to arrest either person for the personal possession of marijuana, both of these unjust seizures would never have happened.

DRUG PROHIBITION AND THE OVERDOSE EPIDEMIC

As we discuss marijuana policy, we must also consider its place in the broader landscape of drug prohibition. Most urgently, we must address the connections between marijuana and non-marijuana drug laws and the epidemic of drug overdose, which is now the leading cause of death for people in the United States under 50.¹⁴

The opioid and other drug overdose epidemic is among the most deadly forces in our city today. BDS appreciates that State and City policymakers, heeding the calls of drug users and other experts, have worked to expand the use of life-saving naloxone kits and medication-assisted treatment, as well as other important initiatives to reduce the stigma of addiction and mental illness. However, we are concerned this important work could be undermined by regressive law enforcement strategies that further marginalize, stigmatize, and ultimately criminalize the very people these same policymakers seek to support. For example, as Crain's reported last year, "nearly half of the \$143.7 million budgeted for [NYC's new overdose prevention initiative] HealingNYC through fiscal year 2021 will go to the NYPD, mostly to step up arrests of drug dealers." Much of the funding provided to the police will reportedly be used to investigate overdoses with the goal of bringing high-level criminal charges against people alleged to have

¹⁴ Sheila Kaplan, *C.D.C. Reports a Record Jump in Drug Overdose Deaths Last Year*, N.Y. TIMES, Nov. 3, 2017 at <https://www.nytimes.com/2017/11/03/health/deaths-drug-overdose-cdc.html>.

supplied the drugs.¹⁵ This strategy aligns with an alarming national trend toward expanded use of drug-induced homicide prosecutions identified by the Drug Policy Alliance in a recent report, *An Overdose Death Is Not Murder: Why Drug-Induced Homicide Laws Are Counterproductive and Inhumane*.¹⁶

There is a growing recognition among policymakers of all parties, many of whom may struggle with addiction themselves or have friends or family members who struggle with addiction, that criminalization is an ineffective and, in fact, often very dangerous approach to drugs. These dangers are only heightened as police and prosecutors here and across the country pursue homicide-like charges or other very serious charges against alleged suppliers when overdoses do occur. Among many other serious risks, experts have noted that increased enforcement can discourage people who witness overdoses from calling 911 because suppliers are often close acquaintances and may even be the witnesses, themselves.

At an April 22, 2017 New York City Council Committee on Public Safety hearing, NYPD Chief of Detectives Robert Boyce said of the Department's response to the epidemic: "Our focus is not on the individual addict. Our focus is on the street level as well as interdictions coming into the country." Arrest data provided by the New York State Division of Criminal Justice Services does not support this statement. The most common drug arrest charge in 2016 was low-level marijuana possession, with 18,136 arrests. The next most common NYPD drug arrest charge, or fifth most common arrest overall, in 2016 was low-level non-marijuana drug possession, or Criminal Possession of a Controlled Substance in the 7th Degree, with 16,630 arrests. The most common drug *sale* arrest charge was Criminal Sale of a Controlled Substance in the 3rd Degree, with 5,628 arrests, or approximately one-sixth of the number of low-level drug possession arrests.

Research funded by the National Institute on Drug Abuse found that legally protected marijuana dispensaries were associated with reductions of 16 to 31 percent in opioid overdose deaths.¹⁷ Other experts have argued that the criminalization of marijuana led to the over-prescription and over-use of opioids and eventually the epidemic that we are struggling to address today. Simply put, marijuana seems to be a safer alternative to opioids in pain management, but criminalization undercuts that benefit. Furthermore, Portugal's model for drug policy suggests that we may be able to dramatically reduce overdose deaths and other serious harms related to addiction through a careful and deliberate decriminalization of the use and possession of *all* drugs coupled with an aggressive public health strategy. In that country, heroin use has been cut by an estimated 75% and, more importantly, overdose deaths have plummeted. Portugal has the lowest rate of drug-induced death in Western Europe – *less than 2% of the rate in the United States*. In light of the

¹⁵ Caroline Lewis & Rosa Goldensohn, *Will stepping up drug-dealer arrests help alleviate the opioid crisis?* CRAIN'S N.Y. BUSINESS (2017), http://www.craainsnewyork.com/article/20170522/HEALTH_CARE/170529996/nypd-gets-biggest-share-of-new-city-funding-to-fight-opioid-overdose-deaths (last visited May 30, 2017).

¹⁶ Lindsay LaSalle, *An Overdose Death Is Not Murder: Why Drug-Induced Homicide Laws Are Counterproductive and Inhumane* (Drug Policy Alliance 2017), http://www.drugpolicy.org/sites/default/files/dpa_drug_induced_homicide_report_0.pdf.

¹⁷ National Institute on Drug Abuse, *Study Links Medical Marijuana Dispensaries to Reduced Mortality From Opioid Overdose NIDA* (2016), <https://www.drugabuse.gov/news-events/nida-notes/2016/05/study-links-medical-marijuana-dispensaries-to-reduced-mortality-opioid-overdose> (last visited May 30, 2017).

growing overdose epidemic, lawmakers must work to end the drug war altogether, in addition to legalizing marijuana.

RES. 0177-2018 AND THE INHERENT DANGER OF POLICE-CIVILIAN INTERACTIONS

High rates of arrests for low-level alleged offenses like marijuana can also carry other devastating consequences. Every time our clients come into contact with the NYPD there is a potential for an abuse of power by the officers involved. That includes incidents of police brutality and killings, as in the tragic case of Ramarlay Graham. It also includes the incidents of sexual misconduct, as happened to Anne Chambers, who was reportedly in police custody for alleged possession of marijuana and Klonopin when she was allegedly raped by two officers in the back of a police van. In my experience, such misconduct occurs far more often than news reports suggest. Unfortunately, neither this Resolution nor the change in state law that it endorses would fix the problem. People in jails and prisons across the country are already legally incapable of providing consent to sex *and* there is a federal law (the Prison Rape Elimination Act) requiring specific measures to prevent sexual misconduct, yet an epidemic of rape persists in these facilities.¹⁸ Moving our city's laws and policies to a point where unnecessary and discriminatory arrests are not taking place would be a positive and necessary step toward limiting police misconduct of all kinds.

INT. 0605-2018 AND THE URGENT NEED FOR ACTION

This legislation to require reporting on marijuana possession arrests and summonses may help inform the argument for reform, but, frankly, policymakers and the public should have more than enough data to take action now. The data on marijuana summonses likely mirror the racial disparities in arrests, perhaps with a greater portion of Black and Latinx New Yorkers facing arrests as opposed to summonses. Councilmembers interested in supporting racial justice and economic empowerment should make clear that they support enactment of the MRTA and, in the interim, oppose marijuana arrests and prosecutions.

MARIJUANA PROHIBITION AND RESOURCE ALLOCATION

As a public defense organization, Brooklyn Defender Services is principally concerned with the direct impacts of drug laws and enforcement on our clients and their families and communities. That said, we recognize that the fiscal and economic impacts of drug policy do in fact play a major role in their daily lives. For example, most of our clients or their children attend or attended public schools with inadequate funding. According to the New York State Board of Regents, schools are owed billions of dollars in funding under the Campaign for Fiscal Equity lawsuit, with the majority owed to schools with high populations of Black, Latino and immigrant

¹⁸ Aviva Stahl, We Can't Fight Rape Culture Without Fighting Mass Incarceration, Broadly, Feb. 20, 2018, https://broadly.vice.com/en_us/article/j5bv8d/metoo-mass-incarceration-prison-rape.

students.¹⁹ Without the resources for a State Constitutionally-mandated “sound basic education,” many of our public schools have infamously become pipelines to prisons and jails. If funds currently spent on drug enforcement were instead reinvested in school-based mental health clinics and restorative justice programs, school environments would improve and administrators and teachers would be better able to address any behavioral problems without calling 911 or issuing suspensions and expulsions. If funds currently spent on overtime for police officers who make low-level marijuana possession arrests near the end of their shifts were instead reinvested in making addiction treatment more widely available and accessible, perhaps overdoses would decline rather than increase or plateau at record-high levels.

The fact that marijuana and other drug prohibition is the status quo should not exempt it from close scrutiny. This hearing is a critical example of such scrutiny and the current City and State budget seasons provide ample additional opportunities for reconsideration of existing funding choices. While the City and State have together spent an estimated \$75 million every year criminalizing mostly people of color for low-level marijuana possession, the State has provided more than \$15 million dollars in *subsidies* to mostly or all white-owned craft wineries, breweries, distilleries and cideries in recent years.^{20,21} These resource allocations expand the disparities in health, economic success, and liberty in our society. In addition to simply legalizing and regulating adult marijuana use, the MRTA would foster significant economic growth and meaningfully shift the balance toward justice and equality. Ending marijuana arrests and prosecutions in New York City and joining the call for inclusive statewide legalization would get us much closer to that end.

BDS is grateful to the Council for hosting this critical hearing and shining a spotlight this issue. Thank you for your time and consideration of our comments. We look forward to further discussing these and other issues that impact our clients. If you have any questions, please feel free to reach out to Jared Chausow, our Senior Policy Specialist, at 718-254-0700 ext. 382 or jchausow@bds.org.

¹⁹ *Brennan Ctr. for Justice, Campaign for Fiscal Equity V. State of New York* (2006), <https://www.brennancenter.org/legal-work/campaign-fiscal-equity-v-state-new-york>.

²⁰ Robert Harding, *Regulatory Reforms, Tax Credits Help NY Craft Beverage Producers Save \$15M*, AUBURN CITIZEN, May 9, 2017 at http://auburnpub.com/blogs/eye_on_ny/regulatory-reforms-tax-credits-help-ny-craft-beverage-producers-save/article_a593fbb4-0433-11e7-b486-5b9c7090db7a.html.

²¹ Marijuana Arrest Research Project, Loren Siegel & Harry G. Levine, *\$75 Million a Year: The Cost of New York City's Marijuana Possession Arrests* (Drug Policy Alliance 2011), <http://marijuana-arrests.com/docs/75-Million-A-Year.pdf>.



Testimony of

The Legal Aid Society

Before the City Council Committee on Public Safety and Justice Committee

February 26, 2018

Presented by:

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Criminal Practice
Prepared with the Criminal Practice
Special Litigation Unit

The Legal Aid Society

The Legal Aid Society is the nation's oldest and largest not-for-profit legal services organization. With its annual caseload of more than 300,000 legal matters, the Society takes on more cases for more clients than any other legal services organization in the United States, and it brings a depth and breadth of perspective that is unmatched in the legal profession. The Society's law reform/social justice advocacy also benefits some two million low-income families and individuals in New York City, and the landmark rulings in many of these cases have a national impact. The Society accomplishes this with a full-time staff of nearly 1,900, including more than 1,100 lawyers working with over 700 social workers, investigators, paralegals and support and administrative staff through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City. The Legal Aid Society operates three major practices — Criminal, Civil and Juvenile Rights. The Society's Pro Bono program coordinates volunteer help from law firms, corporate law departments and expert consultants.

The Society's Criminal Practice is the primary public defender in the City of New York. During the last year, our Criminal Practice represented over 230,000 indigent New Yorkers accused of unlawful or criminal conduct on trial, appellate, and post-conviction matters. In the context of this practice the Society represents people accused of crimes from their initial arrest through the post-conviction process. Many thousands of our clients with criminal cases in Criminal Court and Supreme Court are teenagers who are treated as if they are adults. The Criminal Practice has a specialized unit of lawyers and social workers dedicated to representing many of our youngest clients prosecuted in the criminal system.

The Society's Community Justice Unit provides legal services and advice in specific catchment areas in each of the five boroughs providing anti-violence services through the Council-funded CureViolence model. This public health model responds to gun violence with services in the community including mediation, social services, violence interrupters, and education. The model works on the theory that conflicts addressed by credible messengers from the community prevents further violence.

The Disparate Impact of Marijuana Policing on New Yorkers

The Legal Aid Society represents thousands of New Yorkers each year in Criminal and Supreme courts who are facing marijuana-possession charges. Each one of those arrests has deep-reaching collateral consequences, which include: deportation, eviction, monetary fines and surcharges, negative impact on financial aid, license suspension and work opportunities. Even though studies show that marijuana use among Black and White people is the same, the overwhelming majority of the people arrested for marijuana-possession are Black and Latinx.¹

Marijuana Prohibition is a Tool of Hyper-Criminalization

The number of people that the Legal Aid Society has represented since 2014 for low-level marijuana possession charges has not shown any significant decreases (Exhibit I). In fact, there is a pattern from 2015 to 2017 where the number of people we represented on these charges remains in the 10,000 range. More importantly, in January of 2017 the Legal Aid Society represented 778 people citywide on low-level marijuana possession charges and that number increased in January 2018 to 814 people showing that the decriminalization policy has

¹ Unjust and Unconstitutional, 60,000 Jim Crow Marijuana Arrests in Mayor de Blasio's New York, *available at*, <http://marijuana-arrests.com/docs/Marijuana-Arrests-NYC--Unjust-Unconstitutional--July2017.pdf>

not reduced the number of people arrested.

In 2017, the Legal Aid Society represented approximately 10,000 New Yorkers who were charged with marijuana possession charges.² The city-wide breakdown of those arrests was as follows: in the Bronx we represented 1,991 people, in Brooklyn we represented 2,830 people, in New York we represented 2,970 people, in Queens we represented 1,728 and in Richmond we represented 369 people. The majority of people arrested in those neighborhoods were between the ages of 16 and 25 years old.

That same year the NYPD arrested a total of 18,121 New Yorkers for the lowest-level marijuana possession charge.³ Of New York City's 76 neighborhood police precincts, 37 neighborhoods have a majority of Black and Latinx residents and they have about half the city's population.⁴ These 37 neighborhoods account for 66% of the marijuana possession arrests and 92% of the people arrested in these neighborhoods were Black and Latinx.⁵

The Jim Crow policing of marijuana-enforcement is a reality for Black and Latinx New Yorkers everywhere in New York City.⁶ For example, in Manhattan, Blacks are 13% of the residents but 45% of the people arrested for marijuana possession and similarly in Queens where Blacks are 18% of the residents but 49% of the people arrested for marijuana.⁷ Of the 18,121 marijuana arrests made by the NYPD in 2016, only 14 of them were on the Upper East Side and this was not a mistake. It is clear that there are two different systems of marijuana enforcement based on race and ethnicity, which prey on people of color for possessing small

² The charges ranged from Criminal Possession of Marijuana in the 5th degree, 4th degree and unlawful possession of marijuana. NY Penal Law § § 221.10, 221.15 and 221.05. *See also* Exhibit 1 "Legal Aid Society Marijuana Arrest from 2014-2017."

³ *Supra* note 1, at 8.

⁴ *Id.*

⁵ *Id.*

⁶ *Supra* note 1, at 9.

⁷ *Id.*

amounts of marijuana.

Marijuana Prohibition Justifies the Continuation of Illegal Stops

The NYPD continues to stop a disproportionate number of youth of color based on marijuana-possession charges. Black and Latinx youth from underserved communities all throughout New York City are aggressively stopped, frisked and then questioned by police officers because the officer claims to smell marijuana or to have seen it burning in “public view”. The fact that these stop and frisk encounters occur less frequently now than in the past and are underreported does not mean that they do not systematically occur, or that the *Floyd*⁸ litigation actually ended this tactic. On the contrary, youth and community members at large from predominantly minority communities such as East New York, Far Rockaway, Harlem, South Bronx, and Stapleton inform us that the NYPD continues to engage in racial-profiling. Some of the stories we have heard include: police officers throwing Black and Latinx youth against walls and cars, claiming that they saw the young person smoking marijuana and demanding to know where are the guns in the neighborhood. The criminalization of marijuana in New York City remains focused on Black and Latinx youth giving officers another pretext to engage in unlawful stops and frisks.

Marijuana Prohibition Deepens the Divide Between the Police and the Community Increasing Distrust

The continued criminalization of marijuana has devastating consequences in the lives of our clients that completely shapes their perception of the police. Through our work in the Community Justice Unit we were able to join our community partners, Cure Violence organizations across the five boroughs, in sessions of the *Floyd* Joint Remedial Process where

⁸ *Floyd et. al vs. New York City et. al*, 770 F.3d 1051 (2nd Cir. 2014).

the facilitator, retired Judge Ariel Belen, met with youth and young adults in neighborhoods throughout the City. In every single session, Black and Latinx youth expressed their frustrations with the NYPD's racially disparate practice of stopping and frisking them based on marijuana-possession charges. Black and Latinx youth repeatedly expressed feeling dehumanized, abused, and afraid every time that the police initiated action based on marijuana-possession. Black and Latinx youth who identified as LGBTQ were especially fearful for their safety after being targeted and signaled out. These racially discriminatory arrests on the basis of marijuana-possession begin the criminalization process where young people are labeled as criminal and stigmatized and made to feel shamed and unaccepted⁹ which makes them distrust and fear the police.

I would like to share an example of distrust between community members and the police created from aggressive marijuana prohibition enforcement. A young person from Far Rockaway was sitting in a staircase of his apartment building listening to music. Two police officers came in through a door at the bottom of the staircase and approached the young person. They say that they smelled marijuana in the staircase and he is the only person there. The police make an arrest and process the young person who upon being released from court goes back to the community with a completely different understanding of the role and credibility of the police. That young person is now fearful of walking out of their own apartment for fear of being subjected to police action. The sidewalks and streets stop being walkways and places to feel safe and be able to enjoy the air outside of their homes. Instead, the sidewalks and staircases become corridors of a practice where the police select Black and Latinx people for arrest based on marijuana possession. This is an all too common example

⁹ Victor Rios, *Punished: Policing the Lives of Black and Latino Boys*, NYU University Press, 2011 ("In the era of mass incarceration labeling not only generates criminality; it also perpetuates criminalization.").

that plays out on a daily basis in the underserved and marginalized neighborhoods of New York City.¹⁰

An Arrest has a Profound Impact on the Lives of Young People

The deprivation of liberty through the arrest process is a traumatizing and scarring experience that nobody forgets, especially a young person. When someone is arrested for unlawful possession of marijuana for the first time, they are subjected to being searched, handcuffed, placed in police custody to be taken to a precinct where the person must be fingerprinted, photographed, and placed in a cell while all of their possessions are vouchered. Even though the law allows the person under arrest to place a phone call, the arresting officer does not tell them about this and an overwhelming amount of people do not know their right to a call. The person under arrest must wait in the precinct possibly subjected to questioning without knowing that they have a right to ask to speak to an attorney. After the precinct, the person is again handcuffed and taken to Central Booking where they are placed in holding cells with other arrestees who are coming from other precincts in the county. The person then speaks to the Community Justice Agency (CJA) who will begin to ask the person under arrest about contacts, employment, education, house-size and income. This information will be used to calculate a number that is supposed to assist the judge in deciding whether or not to release the person on his or her own recognizance. At this point, the young person has no clue what is going to happen or how long they will have to stay in the cell. Hours later that young person will be able to speak to a Public Defender who begins to interview and learn about the client and the arrest. The entire arrest to arraignment process varies from borough to borough. Although the City tries to adhere to the 24-hour ratio for somebody to be seen by a judge,

¹⁰ *Supra* note 1, at pg. 8.

there are delays and extended arrest times are common. Once the young person goes in front of the arraignment judge, the practice is that they will be offered a Marijuana Adjournment in Contemplation of Dismissal (MACD 170.56) which comes with the condition that the person not be arrested for a year after which they will receive a dismissal and sealing of their records on that arrest.¹¹

Personal Experience of Marijuana Arrest

I went through this arrest process and can attest to its profound psychological and traumatizing impact. When I was 17 years old, two plain-clothes detectives jumped out of an unmarked car and pointed their guns at me. I was not smoking, I did not have a pipe in public nor was I committing any crime, I was simply being another Latinx youth in his Queens neighborhood at night. At the time, I did not know what my rights were so I did not know that I could tell the detectives that I did not consent to their search. Instead, I stood quiet and felt completely paralyzed by the guns pointed at my face. I was afraid of being shot and not returning home. The detectives recovered a small amount of marijuana that was in my jacket pocket and said, “we, got you “ and with that I was taken to the precinct to become another marijuana arrest statistic.

After being handcuffed and taken to central booking, I finally spoke with a Public Defender who told me what my rights were and what was going to happen. I did not understand the court proceeding. It seemed as though the people there were speaking in another language, so I said yes and nodded my head and after spending the night at arraignments, I was finally told that I could go. I accepted the MACD and ran out of the

¹¹ NY Crim. Proc. Law § 170.56.

courthouse. I was a senior in high school at the time and the arrest completely threw my life out of control. I could not apply to get a job and I was fearful about talking about the experience to anybody because of how they would look at me and judge me. More importantly, my understanding of police and community relationships was crystalized in that moment by living the violent, overaggressive and intimidating reaction from the detectives after pointing their guns at me.

The MACD Shields Racial Profiling and Aggressive Policing

One of the biggest problems with the MACD is that it leaves the behavior of the police officers unchecked. In my case, nobody was going to question the detectives who pulled their guns at my face because I had accepted to end the case with the understanding that I would stay out of trouble. The irony is that I was not engaged in trouble in the first place. Similarly, I have represented hundreds of youth of color who were not smoking marijuana when they were stopped and arrested by the police or that they were simply sitting on a park bench with friends only to be told by the officer that they were seen smoking so they are now under arrest. In every single one of those cases, if it is the first time that the person is arrested for marijuana possession I, as a public defender, must make the application to the court for the case to be dismissed pursuant to the MACD. The case remains open and assuming the person does not get in trouble within that one-year period, nothing else is done with the case so the behavior of the arresting officer never comes under judicial scrutiny. The failure to hold police officers accountable for their unlawful conduct deepens the distrust between the community and the police and it creates incentives for the police to abandon the law and make their own rules.

Marijuana Prohibition Enforcement and Mass Incarceration

In 2016, across the nation marijuana arrests outnumbered all arrests for crimes that the FBI classifies as violent.¹² This means that within the last two minutes an average of two Americans were arrested for marijuana possession.¹³ In New York state, marijuana possession is one of the top arrests in the state, which is why 60 people are arrested every day for it.¹⁴

Marijuana Prohibition and Bail

Over 30 years of discriminatory marijuana prohibition enforcement in New York created a situation where thousands of New Yorkers have criminal records from those arrests. Because of this biased policing resulting in massive criminal records, people who are charged with committing other offenses later on have a prior low-level marijuana-related conviction on their record, which will be used by the judge when deciding whether or not to set bail. Additionally, prosecutors not only get to see convictions but they are also able to see MACD's and prior violations for marijuana and they heavily rely on this inaccurate picture of criminal justice involvement to request higher bail.

Furthermore, marijuana arrests that result in Desk Appearance Tickets (DATs) often become bench warrants because people inadvertently miss their court dates.¹⁵ This perpetuates a cycle of criminal justice involvement that prosecutors rely on when making bail requests.

¹² USA Today, *More people were arrested last year for pot than for murder, rape, aggravated assault and robbery combined*, available at https://www.washingtonpost.com/news/wonk/wp/2017/09/26/more-people-were-arrested-last-year-over-pot-than-for-murder-rape-aggravated-assault-and-robbery-combined/?utm_term=.266c02471337

¹³ *Id.*

¹⁴ Drug Policy Alliance, *The Costs of Marijuana Prohibition Enforcement: The Criminal Justice System*, available at http://smart-ny.com/wp-content/uploads/2017/06/StartSMART_DPA_CJ-and-Marijuana-Enforcement-10-20-2017.pdf

¹⁵ Phillips, Mary T., *Marijuana Possession Arrests New York City—How Times Have Changed* New York City Criminal Justice Agency, Research brief No. 30 available at, <https://issuu.com/csdesignworks/docs/researchbrief40>

Marijuana and DATs

It is true that marijuana arrests have been declining since 2012 and that the police are issuing more Desk Appearance Tickets (DATs).¹⁶ However, the same racial disparities that plagued marijuana arrests persists in the manner in which DATs are being issued. “*Ethnic disparities in the handling of marijuana arrests remains a cause for concern, primarily at the point of arrest but also throughout case processing.*”¹⁷ The fact that there have been more bench warrants as a result of marijuana possession tickets and a continuation of the Jim Crow policing shows that the DAT procedure is not the answer.

Marijuana Prohibition Encourages Pretextual Stops

A pretextual stop means that the police officer uses a traffic violation as a way to gain consent and justify a search or seizure of a vehicle.¹⁸ In the marijuana-criminalization context, the mere odor of marijuana as a result of a pretextual stop gives police officers carte blanche to ask the occupants of the vehicle to step out of the car and to conduct a search of the vehicle and in many instances to seize the vehicle as evidence of the crime. We have represented thousands of New Yorkers subjected to pretextual stops where the odor of marijuana was used as the main reason that the officer relied on to search the car.

The majority of pretextual stops are simply a means to search the car for other evidence to incriminate the person. Not all cases where the police officer alleges to smell the scent of marijuana in the car are charged as marijuana possession arrests. In fact, the vast majority of pretextual stops that result in arrests are for a completely different reason other than marijuana: possession of a weapon, driving with a suspended license, having a forged credit

¹⁶ *Id.* at 2.

¹⁷ *Id.* at 7 (“the chance of being offered a DAT remains significantly worse for nonwhites than for whites.”).

¹⁸ *Whren v. United States*, 517 U.S. 806, 808 (1996).

card and many others. The reality is that the mere smell of marijuana in a pretextual stop, opens the door for the police officer to conduct a higher level of intrusion in search of other incriminating evidence to make an arrest.

Marijuana Prohibition and Supervised Release

In the post-conviction context of supervised release such as parole and probation marijuana possession is considered a violation with severe consequences. In 2017, our Parole Revocation Unit found that marijuana was involved in more than 20 percent of parole violation charges in New York City in the first half of 2017. In these cases, alleged use of marijuana was charged and played a major factor in the parole violation and the client's continued detention in the parole violation.

Marijuana Prohibition and Immigration

A marijuana conviction is grounds for inadmissibility and deportation under the Immigration and Nationality Act (INA).¹⁹ The INA makes inadmissible anyone with a conviction for a violation of any law or regulation of a state, the United States, or a foreign country related to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. § 802).²⁰ A noncitizen is also inadmissible or removable for being deemed a “drug abuser” or a “drug addict.”²¹

A marijuana possession charge for a noncitizen person immediately triggers a *Padilla* obligation for a Public Defender.²² The landmark decision in *Padilla v. Kentucky* established

¹⁹ American Bar Association, Marijuana and Immigration, *available at* https://www.americanbar.org/content/dam/aba/publications/criminal_justice_magazine/v32/CJ_v032n01_Spring2017_RAILTON_authcheckdam.pdf

²⁰ *Id.* (“Under U.S. Immigration law, all that is needed for a conviction is (1) a finding of guilt or admission of enough facts to support such a finding, and (2) punishment, or restraint on liberty has been imposed, including suspended incarceratory sentences. The definition is purposely broad, so that if a conviction is later pardoned, expunged, or otherwise set aside, it usually persists for immigration.”).

²¹ *Id.*

²² *Padilla v. Kentucky*, 559 U.S. 356 (2010).

the obligation for criminal defense attorneys to advise clients of immigration consequences of a plea. We have specialized criminal-immigration attorneys who are constantly advising us on plea deals for noncitizen clients. Given the recent executive orders on immigration, which have made noncitizens with open criminal cases subject to removal and the growing number of ICE arrests in the courthouses²³, marijuana enforcement in the immigration context has destructive consequences requiring attorneys to advise clients with the utmost care.

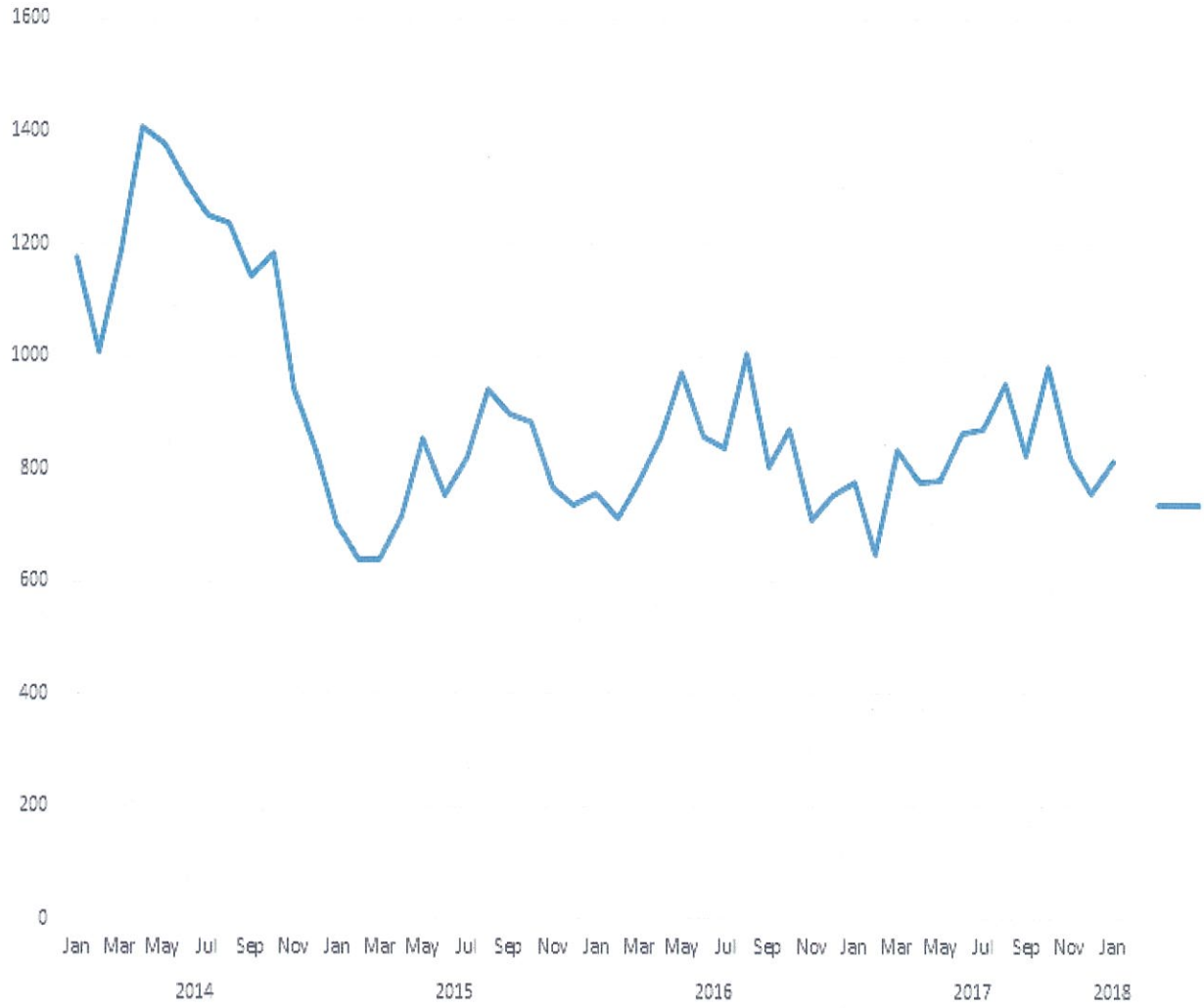
Decriminalizing Marijuana is Smart Policy

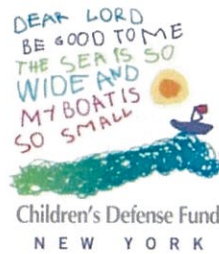
We support the decriminalization of marijuana as we believe it will have a positive impact on public health. It will also improve the criminal justice system by helping stop the funneling of Black and Latinx people into the system. The decriminalization of marijuana would enable safer communities and help build better relationships between the community and the police. Instead of criminalizing people for marijuana possession and leaving them with criminal records that handicap them for life or land them in deportation, the money saved should be invested into communities of color who have borne the brunt of this form of hyper-criminalization to create economic justice and begin to restore the harms of this failed policy.

²³ Immigrant Defense Project, Ice Out of Court New York State Campaign, *available at* <https://www.immigrantdefenseproject.org/ice-courts-nys/>

EXHIBIT I

Legal Aid MJ 4th, 5th and Unlawful Possession of MJ 2014-Present





**Testimony for the New York City Council Committees on Public Safety and Justice System
Joint Oversight Hearing on Enforcing Marijuana Laws
February 26, 2018**

Good Afternoon. My name is Charlotte Pope and I am the Youth Justice Policy Associate with the Children's Defense Fund-New York (CDF-NY). The Children's Defense Fund's (CDF) Leave No Child Behind® mission is to ensure every child a healthy start, a head start, a fair start, a safe start and a moral start in life, and successful passage to adulthood with the help of caring families and communities. Through CDF's Cradle to Prison Pipeline® Campaign—a national initiative to stop the funneling of children down life paths that often lead to arrest, conviction and incarceration—CDF-NY works to replace punitive school discipline and safety policies in New York schools with social and emotional supports that encourage a positive school climate.

Thank you to Chair Richards and Chair Lancman, and to the members and staff of the City Council Committees on Public Safety and Justice System for the opportunity to testify today.

Introduction

Our testimony intends to highlight marijuana enforcement in city schools, particularly the use and disproportionate impact of criminal court summonses. As an active member of the Dignity in Schools Campaign New York, a coalition in large part organized by youth, CDF-NY understands that justice system responses to student behaviors in school do not address the underlying conditions that lead to the unwelcome behaviors, and those measures cannot be relied on to support long-term solutions.¹ Research, including one ethnographic study in schools across New York City² and another in the Bronx specifically³, has found that intense policing and surveillance methods lead students to distrust and avoid school officials – instead of instilling a greater sense of safety, students feel a heightened sense of “danger and disillusion.”⁴

While CDF-NY is encouraged by recent investments in school climate-focused pilot programs and school based mental health services, we believe that all city schools need access to models, such as restorative justice practices and collaborative problem solving, that can positively address student needs and lessen reliance on summonses, arrests, and handcuffing events in schools. Steps towards a positive school climate will come from alternatives to police responses, including training and support for educators and investments in school staff such as mental health workers or restorative practitioners.

Policing in New York City Schools

CDF-NY's long-time concern has been that the NYPD and their School Safety Division exercise discretion to impose criminal justice responses to student behavior that is best responded to by their peers, educators and school staff. Students now receive a double punishment, in the form of a suspension or

¹ Kupchik, A. (2009). Things are Tough All Over: Race, Ethnicity, Class and School Discipline. *Punishment and Society*, 11: 291-302.

² Weiss, J. (2008) Under the Radar: School Surveillance and Youth Resistance. PhD thesis. City University of New York.

³ Weiss, J. (2010). Scan This: Examining Student Resistance to School Surveillance. In *Schools Under Surveillance: Cultures of Control in Public Education*. (Torin Monahan & Rodolfo D. Torres eds., 2010).

⁴ Brooks, K., Schiraldi, V., and Ziedenberg, J. (2000). School House Hype: Two Years Later. *Justice Policy Institute & Children's Law Center, Inc.* Available at http://www.justicepolicy.org/uploads/justicepolicy/documents/school_house_hype.pdf.

other disciplinary sanction as well as an arrest or criminal court summons,⁵ further alienating young people from school and pushing them into the school-to-prison pipeline.

The Department of Education's Student Code of Conduct, or Discipline Code, outlines 21 unique supports and interventions to be used in tandem with disciplinary actions, like parent outreach, peer mediation, or counseling staff referrals.⁶ For behaviors relating to marijuana, these supports are used by school support staff in addition to disciplinary actions:

<i>Discipline Code Infraction</i>	<i>Grade</i>	<i>Maximum Possible Disciplinary Action</i>
Possessing illegal drugs	K to 2	In-school action (e.g. formal restorative conference)
	3 to 5	Suspension of 60-90 days
	6 to 12	Suspension of one year
Using illegal drugs	K to 2	Parent Conference
	3 to 5	Suspension of 60-90 school days
	6 to 12	Suspension of 60-90 school days
Selling or distributing illegal drugs	K to 2	Removal from classroom for up to 4 days
	3 to 5	Suspension of 30-59 school days
	6 to 12	Expulsion

The School Safety Division of the NYPD is budgeted for nearly 5,000 school safety agents, who have the authority to use force and make arrests (the youngest student arrested in school last year was eight years old) but not the authority to issue a criminal court summons. During the 2016-2017 school year, in 72% of all reported summons situations, a patrol officer was called in to distribute a summons, with the remaining situations being carried out by the Uniformed Task Force – police officers assigned to the School Safety Division.

Disparities in Enforcement

In 2011, data on school-related summonses became publically available in New York City for the first time as a result of the Council's Student Safety Act. Unfortunately, due to gaps in the data, we do not know the racial disparities in summonses by summons charge, but we do know that summonses overall were disproportionately given to Black students. In the 2016-2017 school year 94% of all summonses were given to students of color, with 51.7% of all summonses given to Black students who only made up 26.5% of the total student population. CDF-NY supports Intro. 0605-2018 and the effort to bring greater transparency to the policing of young people across New York City. If Intro. 0605-2018 were to also include enforcement actions disaggregated by whether the action occurred in a school building or on school property we could better understand the disparities in enforcement in schools.

The New York City School Justice Taskforce, an effort to reduce the number of children pushed into the justice system by improving educational engagement, identified in 2013 that the overwhelming majority of school-related suspensions, summonses, and arrests were for routine behaviors that occur on a daily basis in most schools.⁷ That taskforce found most city schools work with students without resorting to suspensions, summonses or arrests much if at all. Instead, it was a small percentage of schools that were in need of alternatives. Those trends persist today, where during the 2016-2017 school year the use of summonses was reported at only 255 school sites. Further, almost 40 percent of all summonses happened at just 25 school sites. This echoes findings from other jurisdictions indicating that policing patterns are less a function of student behavior than a function of adult response.⁸

Summonses for Marijuana

⁵ A summons issued to a student 16 years and older by an officer is essentially a paper ticker that requires the student to appear in Criminal Court at the date and time listed for an arraignment on the violation charged. If the student fails to appear, a bench warrant will be issued for their arrest.

⁶ See <http://schools.nyc.gov/RulesPolicies/DisciplineCode/default.htm>.

⁷ New York City School-Justice Partnership Task Force. (2013). Keeping Kids in School and Out of Court. Retrieved from <https://www.nycourts.gov/IP/justiceforchildren/PDF/NYC-School-JusticeTaskForceReportAndRecommendations.pdf>.

⁸ *Ibid.*

During the last full school year there were 252 summonses given out for possession of marijuana representing the most common single reason for a criminal court summons in school – 31% of the 805 total summonses given to people age 21 and under on school grounds. Those 252 summonses were distributed at 145 unique sites, with some overlap where individual schools are listed in addition to the name of their school campus as a whole.⁹

	<i>Percent of all Marijuana Summonses</i>	<i>Percent of Total High School Student Population</i>
Brooklyn	33%	28%
Manhattan	24%	21%
Bronx	21%	19%
Queens	17%	26%
Staten Island	5%	6%

Again, because School Safety Agents do not have the authority to distribute summonses, 81% of marijuana summonses were given by a patrol officer, while 16% were given by a police officer of the Uniformed Task Force of the School Safety Division. On 14 occasions the student was also placed in metal handcuffs, around 6% of all instances.

Of the 84 summonses issued in the 3rd quarter of the NYPD's 2017 reporting (July 1 to September 30), the most recent data period publically available, 38 total or 45 percent of all summonses were for possession of marijuana. During that period, no summonses for marijuana were given out in Staten Island, and 6 of the 38 summonses for marijuana were given on the same high school campus in Bushwick, with each school on the campus on average educating 98% students of color. Nearly a quarter of all summonses were given out by two police precincts, 20 and 83.

Research into school pushout and the school-to-prison pipeline has shown that Black students who engage in the same behaviors as white youth are more likely to face school discipline consequences.¹⁰ In order to reduce this disproportionality, and because disparities increase in schools with police presence and with rigid zero tolerance policies,¹¹ schools should adopt alternative forms of discipline that are less disruptive,¹² such as restorative justice.¹³

Impact

Missing school to answer a summons and attend court not only requires students to miss classroom instruction time and possibly fall behind academically, but exclusion serves to stigmatize students and impede access to needed support or resources.¹⁴ Accumulating evidence demonstrates that excluding students from school significantly decreases the likelihood that they will graduate from high school,¹⁵ and increases the likelihood that students will be pushed into the justice system in the future.¹⁶ Not only does a summons require missing school, it burdens young people with fines and court fees or potential warrants for missed court dates or inability to pay the fine. It is important to point out that this potential for

⁹ Incident location is reported inconsistently, with some locations listed as a school campus while other locations are listed as the name of a school inside of a school campus. For this reason, it is difficult to decipher how many incidents happened in total on each campus.

¹⁰ Mizel, M.L., Miles, J.N.V., Pedersen, E.R., Tucker, J.S., Ewing, B.A., and D'Amico, E.J. (2016). To educate or to incarcerate: Factors in disproportionality in school discipline. *Children and Youth Services Review* 70: 102–111.

¹¹ Carter, P., Fine, M., Russell, S. (2014). Discipline disparities series: Overview. Discipline Disparities Research-to-Practice Collaborative. The Equity Project at Indiana University. Available at http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/Disparity_Overview_031214.pdf.

¹² Anyon, Y., Jenson, J., Altschul, I., Farrar, J., McQueen, J., Greer, E., and Simmons, J. (2014). The persistent effect of race and the promise of alternatives to suspension in school discipline outcomes. *Children and Youth Services Review*, 44: 379–386.

¹³ Gregory, A., Clawson, K., Davis, A., & Gerwitz, J. (2014). The Promise of Restorative Practices to Transform Teacher-Student Relationships and Achieve Equity in School Discipline. *Journal of Educational and Psychological Consultation*, 25: 1–29.

¹⁴ Noguera, P.A. (2003). Schools, Prisons, and Social Implications of Punishment: Rethinking Disciplinary Practices. *Theory into Practice*, 42(4): 341-350.

¹⁵ Justice Policy Institute. (2011). Education under Arrest: The Case Against Police in Schools. Washington, D.C.: Author. Available at http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf.

¹⁶ *Ibid.*

intensifying punishment is only imposed on students 16 and older, while their 15 year old classmates are experiencing alternatives.

In the short term, research suggests that strict security measures have been found to hinder the development of respect, sense of emotional fit, and quality of relationships among members of the school community by fostering feelings of alienation, mistrust, resentment, and adversity among students.¹⁷ These measures create social barriers, and disrupt feelings of trust and cooperation between students, teachers, and school staff,¹⁸ and perpetuate inequalities already present in our education system.¹⁹

The Warning Card Program

In February of 2015, the NYPD launched a warning cards project to establish a pilot program in five school campuses in the Bronx that gives NYPD officers and School Safety Agents the discretion to issue a “warning card” to students instead of issuing a criminal court summonses for two infractions – possession of small amounts of marijuana and disorderly conduct – that occur on school grounds. During the 2016-2017 school year, because of the discretion loophole, there were still 20 summonses for marijuana given out at the 5 school campuses that are a part of the warning card program.

In February of 2017 the NYPD expanded the warning card program to 11 additional school campuses, for a total of 71 schools. However, there are nearly 600 schools that educate students ages 16 and older that are eligible to receive a criminal court summons. Short of ending the use of criminal court summonses in schools, this program must become the standard practice and all schools must be included.

The Memorandum of Understanding

The Mayor’s Leadership Team on School Climate and Discipline released two phases of recommendations to address school pushout in New York City and formed a number of workgroups to examine particular issues. CDF-NY continues to endorse the Leadership Team’s recommendation that the Memorandum of Understanding (MOU) between the Department of Education and NYPD be revised to place primary responsibility for maintaining a positive school climate on educators, not police.²⁰ Further, the yet to be released MOU should eliminate the use of criminal summonses in school, under the premise that a criminal court summons is an inappropriate response to school behaviors and triggers a series of negative short- and long-term social and academic consequences.

Need for Alternatives

The School Discipline Consensus Report, a national effort released in 2014, presented a comprehensive set of consensus-based and field-driven recommendations to improve conditions for learning and better support students and keep them out of the justice system.²¹ That report identifies a number of studies demonstrating that the likelihood for engaging in unwelcome behavior can be reduced by helping students attain new strengths. For example, some of the factors found to be highly correlated with helping youth resist substance use and abuse include strong relationships between youth and adults, opportunities for youth to become involved in the community, and clearly communicated and modeled values and standards for behavior.²² Students who receive interventions that build on their strengths,

¹⁷ Nance, J.P. (2014). School Surveillance and the Fourth Amendment. *Wisconsin Law Review*: 79-139. Available at <https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1441&context=facultypub>.

¹⁸ Hirschfield, P. (2010). School Surveillance in America: Disparate and Unequal, in *Schools Under Surveillance: Cultures of Control in Education*. (Torin Monahan & Rodolfo D. Torres eds.).

¹⁹ Kupchik, A., Ward, G. (2004). Race, Poverty, and Exclusionary School Security: An Empirical Analysis of U.S. Elementary, Middle, and High Schools. *Youth Violence and Juvenile Justice*, 12(4): 332 – 354.

²⁰ For all recommendations, see http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT_Report_7-21-16.pdf.

²¹ Morgan, E., Salomon, N., Plotkin, M., Cohen, R. (2014). The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System. *The Council of State Governments Justice Center*. Available at https://csjusticecenter.org/wp-content/uploads/2014/06/The_School_Discipline_Consensus_Report.pdf.

²² *Ibid.*

rather than focusing solely on addressing areas for remediation, have been found to be more engaged and motivated in their own learning processes.²³

Another resource, the Model Code of Conduct formed by the Dignity in Schools Campaign, emphasizes prevention and intervention for substances rather than punishment and criminalization.²⁴ It calls for a health-based approach to student drug use and abuse, using referrals to counseling and services rather than punishment. It encourages districts and schools to make every effort to avoid involvement of police and other law enforcement personnel in responding to drug use and shall refer students to harm reduction programs, counseling and/or treatment by trained professionals. The recommendations come from the understanding that trust and cooperation among members of the school community are fundamental to positive learning outcomes, school safety, and healthy learning climates.²⁵

Investments

Positive alternatives to policing students in school – such as restorative practices, collaborative problem solving, and trauma-informed approaches – support schools in building the skills and capacities of the whole school community to constructively resolve conflict and change behaviors. Restorative practices in particular emphasize prevention, de-escalation and changing the material conditions of students' lives to reduce harm and conflict. New York City schools need to shift toward restorative practices where students and school staff take the lead in addressing and preventing harmful behaviors. As the Council considers the Mayor's Preliminary Budget we encourage attention to and systemic financial investment in:

- Expanded whole-school approaches to address student behavior, including restorative justice practices, collaborative problem solving, and therapeutic crisis intervention;
- Student support services and the provision of more social workers, guidance counselors and mental health providers, starting with high needs schools;
- Increased access to school-based and school-linked behavioral health services; and
- Training, ongoing professional development, resources, and support for school staff to prevent and de-escalate the incidents that often lead to police intervention.

Conclusion

We appreciate the Council's attention to the issue of marijuana enforcement and the opportunity to speak to ending the practice of issuing summonses to young people in schools. Even ending the single most common summons category issued in schools, low level possession of marijuana, would keep over 200 students per year from a string of negative consequences. We look forward to a city committed to whole-school approaches that promote student social emotional and academic growth,²⁶ where schools utilize preventive, restorative practices.

We thank the Council Committees on Public Safety and Justice System for considering this testimony.

²³ Kendziora, K., Osher, D., and Schmitt-Carey, M.A. (2007). *Say Yes to Education Student Monitoring System: Research Report*. New York: Say Yes to Education Foundation.

²⁴ See http://dignityinschools.org/wp-content/uploads/2017/10/Model_Code_2013-1.pdf

²⁵ Goddard, R.D., Tschannen-Moran, M., Hoy, W.K. (2001). A Multilevel Examination of the Distribution and Effects of Teacher Trust in Students and Parents in Urban Elementary Schools. *Elementary School Journal*, 102(1): 3-17.

²⁶ Gonzalez, T. (2012). Keeping Kids in Schools: Restorative Justice, Punitive Discipline, and the School to Prison Pipeline. *Journal of Law and Education*, 41(2): 281-335.

Good Afternoon Council my name is Natéjhia Lopez I am 17 years old, a Youth Leader at Make the Road NY, and one of thousands of young people of color impacted by the problematic practices of cannabis enforcement.

At the age of 16, I was arrested for smoking weed along with two friends. The police officers repeatedly asked us why we were so scared, and said that it was “just weed”. Where these police officers may not consider it “serious” cannabis is still one of the main reasons young people are pushed into the criminal justice system, the effects of which have serious and lasting impacts for us and our families. However, despite their passive type of language, the officers’ behavior was angry and hostile. In the process of handcuffing my friend, a police officer slammed him to the ground which led to my friend getting a concussion. All of this for, as the police officer said, “just weed”.

As frightening as this event was, thankfully I was able walk away from the situation and return back to my community, while countless others are incarcerated or even killed for what should be minor interactions with police officers.

Cannabis enforcement is harmful because it intentionally criminalizes communities of color for possessing and using cannabis, especially when compared to white communities who use just as much or more but do not face the same level of hyper-aggressive policing. This policing puts young people like me through overwhelming conditions such as getting arrested and going through the process of being put through the system. This type of enforcement has culminated to the reality that within our public schools cannabis is the second highest reason for arrests, with the highest percentage of those arrest being youth of color.

As people we deserve to be treated with basic dignity and respect. Cannabis enforcement does not apply those values to us - but instead locks us in cells while many of us are already locked within ourselves. However Council, I do not want you all to perceive this is as a call to provide cannabis to 16 year olds, but rather a call to rethink the way in which we have dealt with this issue and undo the harm that generations of criminalization has caused.

We need systems of support. We need policies that provide equity in safety and doesn’t criminalize communities of color. Cannabis Enforcement policies do not do that. What does provide these values for our communities would be a process where we legalize cannabis, wipe clean the records of people we have convicted and imprisoned for cannabis, and ensure legalization provides reparations and restitution to the communities that have bore the burden of racialized drug policies.

I would like to close out with a quote. Howard Zehr once said "I have a dream that we won't have to talk about 'restorative justice' because it will be understood that true justice is about restoration and about transformation. I have a dream"

We share this dream for the future of our communities, and we hope you do too Council.
Thank you.

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Hearing Date: February 26th, 2018

Dear Distinguished Councilmembers,

My name is Corey Pegues, and I retired as Deputy Inspector of the NYPD's 67th Precinct in Brooklyn. I left law enforcement in March 2013 after 21 years in uniform. Thank you for the opportunity to represent my own views as well as the views of my organization, The Law Enforcement Action Partnership (LEAP), as they pertain to marijuana enforcement. LEAP is a nonprofit group of police, judges, prosecutors, and other criminal justice professionals who use our expertise to advance public safety solutions. Promoting sensible drug policy is a core component of our mission.

New York exercised admirable common sense when we decriminalized personal possession of marijuana 40 years ago, but our failure to effectively carry out that policy has been a wasteful and destructive use of police resources and tax dollars. Nearly all of the low level marijuana arrests made in the last four decades happened between 1997 and 2016 – and resulted in more than 710,000 arrests, primarily of black and Latino residents.

The various positions I held in the 67th Precinct gave me a well-rounded perspective on how we address crime in our city. As we see in many big cities, gangs and members of organized crime engage in senseless acts of violence, and domestic violence and rape are all too common. Overall, crime rates have been declining for some time, but any amount of violence is too much. Police exist to fill a critical role in our communities: keeping people safe and helping to bring perpetrators to justice. The opportunity to serve the public is the reason I enrolled in the police academy than 20 years ago, and I stand by that decision. I did not, however, join law enforcement to perpetuate a system of unfairly enforced laws that waste time and create no public safety benefit. I did not put on my uniform every morning so I could spend hours of my time and my community's hard-earned tax dollars bringing people into the station for holding a small amount of marijuana. I joined the historic NYPD to keep my neighborhood safe.

We can save the NYPD thousands of man-hours each year and free up resources for the most serious crimes. Crime survivors deserve our utmost attention, and marijuana possession is nowhere near serious enough to be wasting our limited energy while serious crimes go unsolved.

In addition to the financial and public safety costs of our city's marijuana enforcement, we must address the racial disparities – which have imposed further economic consequences onto hundreds of thousands of the city's residents. Despite different racial demographics using marijuana at similar rates, black New Yorkers are seven times as likely to be arrested for marijuana than white New Yorkers. Even a single marijuana arrest can have serious economic and social consequences for generations of families living in these neighborhoods. Costly court fees, fines, jail time, bail costs, possible loss of employment, and possible loss of housing make already struggling families that much more likely to fall into a cycle of poverty and crime – especially when there are children to feed or elderly family members to care for.

There's no excuse for continuing our destructive marijuana enforcement strategy. The NYPD has bigger things to worry about, and the good residents of our city deserve relief from the unreasonable consequences of these arrests.

Testimony for City Council Oversight Hearing on Marijuana Enforcement
2/26/2018
Darian Agostini, Make the Road NY

Peace and good afternoon council my name is Darian Agostini, I am 23 years old and a Youth Organizer for Police Accountability at Make the Road NY.

As a youth organizer I am in a position where the youth that I work with regularly talk to me about their experiences being policed, many of which look like police stopping them, asking them if they have marijuana and in many cases illegally searching them to find said marijuana.

Council it is those moments that have driven me to testify before you today. When I hear their stories I cannot help to remember my own experiences in high school not too long ago. I, like thousands of young people across the city, grew up and went to school in an overly policed ,yet intentionally underfunded neighborhood.

At 16, I was stopped with a group of friends by plain clothed officers who asked us “where’s the weed at?” as soon as they approached us. The police officers, with no evidence that my friends and I actually possessed any marijuana separate us and search us individually. After finding a small amount of marijuana (about a gram worth) near my friends bookbag, the police ask whose it is. When none of us reply the police look at me and say “ well I guess this yours” because I was the eldest of the group.

Incidents like this continue to be an everyday occurrence for youth of color in our communities, with nearly 2 in 5 (38%) of those arrested in 2017 for marijuana being under 21 years old, and the disparity between arrests for people of color and their white peers having never decreased.

These unnecessary arrests for small amounts of marijuana create conditions in the lives of our communities that are difficult and at times even impossible to surmount.

For me this was almost a year of returning back and forth to court, which meant losing important hours of school, and for my mother it meant losing time and money at work to attend those court sessions with me, which was a luxury we couldn’t afford at the time.

The judge in my case wanted to give me a curfew of 6pm, which if instated, would have prevented me from attending a College Now course on Criminal Justice and Band practice; essentially disconnecting me from resources and my community way in a very vital way.

Council, I say all this to reiterate what has been said a million times before me, marijuana enforcement doesn’t work. Instead of keeping young people away from drugs, policing us has lead to generations of young people being criminalized as drug

users or sellers and prevented whole communities from having access to higher education, health care, public housing and in many cases even a safe immigration status.

We can no longer continue to enforce policies and practices that are racially incentivized, separate families, and criminalize young people. True sanctuary doesn't mean we have sentries on every corner rummaging through the pockets of every person on the street.

We must restore the harm of generation with legislation that legalizes marijuana, while simultaneously wiping clean the records of people who are or have been incarcerated for marijuana. This is not a matter of, as the opposition would say "placating pot-heads", but rather a matter of providing equity to communities who have for too long been crushed by the crucible of criminalization. We hope that you see it this way as well. Thank you.

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Member of Parliament, Ottawa, Canada

Officer Hans van Duijn
Ret. National Dutch Police
Union President, Amsterdam, Netherlands

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Ret. Supreme Court Justice, Oslo, Norway

Sheriff Bill Masters
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Chief Norm Stamper
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Washington, District, Chicago, Illinois, USA

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Hearing Date: February 26th, 2018

Dear Distinguished Councilmembers,

My name is Joanne Naughton, and I spent more than 20 years with the NYPD where I worked in uniform on patrol, undercover in the Narcotics Unit, and retired as a lieutenant. I want to thank you for this opportunity to express my personal views on marijuana enforcement, as well as the views of the Law Enforcement Action Partnership (LEAP). We are a nonprofit group of police, judges, prosecutors, and other criminal justice professionals who use our expertise to advance public safety solutions.

Though I retired some time ago, the NYPD's approach to dealing with marijuana has remained relatively unchanged. I'm appalled we continue to waste taxpayer dollars enforcing laws that damage the relationships between officers and the communities they serve. Public marijuana use might be a nuisance to some of our neighbors, but getting the police involved in this dispute was never a good idea.

As someone who has also worked as a criminal defense attorney, I can assure you that those who are arrested for small amounts of marijuana don't believe for one minute the criminal justice system has their best interests in mind. They are not going to trust the officers who patrol their neighborhood, which means they're not going to help the police when they have information about criminal activity.

Everyone's safety depends on strong communication and trust between police and civilians, because that's how crimes are solved. Aggressively enforcing low-level marijuana laws – in a state where it's technically decriminalized – is actually making it harder for police to do their jobs. We rely on the police to protect us by preventing people from committing serious crimes and arresting them when they do. We must come to terms with this reality, and make building relationships and removing barriers to trust a priority over accumulating drug arrest statistics.

Decades ago, the NYPD disbanded the unit devoted to enforcing gambling laws because of the resulting corruption. Police didn't wait for Albany to change the laws, they simply stopped proactively enforcing them. When complaints were received, police responded, but unlawful gambling was no longer a high priority with the department. When we know drug use is clearly a medical issue, not a criminal issue, we have to wonder what makes drug law enforcement so imperative to the NYPD today.

There's no evidence that arresting people for marijuana possession benefits the public. We know the community members are not enthusiastic about marijuana arrests, so I can't help but wonder what drives the pursuit.

The pending legislation, which would require reports from the NYPD about their enforcement of the laws prohibiting marijuana, will go a long way toward shining a light on the department's activity in this area; but the larger issue of prohibiting the use of marijuana by adults needs to be examined. Lets take a look at the 9 states and Washington, D.C., where marijuana is legal and take note of the benefits their residents enjoy.

Prohibition is an idea whose time should be over.

February 26, 2018



To: Committee on Public Safety and the Committee on Justice System

From: Cassandra Frederique, New York State Director, Drug Policy Alliance

Testimony for February 26, 2018 Oversight Hearing on Marijuana Enforcement and Data

As a candidate for mayor in 2013, Bill de Blasio said: "Low level marijuana possession arrests have disastrous consequences for individuals and their families. These arrests limit one's ability to qualify for student financial aid and undermine one's ability to find stable housing and good jobs. What's more, recent studies demonstrate clear racial bias in arrests for low level possession.... This policy is unjust and wrong."

However, low-level marijuana possession continues to be among the most common arrests made across the city, despite the Mayor, Police Commissioner, and other members of the city administration touting reduced arrests in recent years. These arrests also continue to be marked by extremely high racial disparities under Mayor de Blasio, as was the case under the Bloomberg and Giuliani administrations. Black and Latino New Yorkers continue to comprise 85 percent of the more than 60,000 people arrested for low-level marijuana possession on Mayor de Blasio's watch. Most people arrested are young Black and Latino New Yorkers – even though studies consistently show young white people use marijuana at higher rates.

Looking at the last 20 years, the NYPD has arrested more than 700,000 people for low-level marijuana possession, despite the state legislature decriminalizing personal possession forty years ago.

From 1997 through 2016, the NYPD made 710,000 of these lowest-level marijuana possession arrests, an average of 35,500 arrests a year for twenty years. This accounts for ninety-five percent of all the city's lowest-level marijuana possession arrests made in the last forty years (since decriminalization).

Over that time, the NYPD arrested and jailed: 374,000 African Americans, 237,000 Latinos, and 79,000 whites with marijuana possession as the highest or only criminal charge. That means the NYPD arrested Black New Yorkers for marijuana possession at seven times the rate of whites and Latino New Yorkers at nearly four times the rate of whites.

In 2016, marijuana possession was New York City's fourth most commonly charged criminal offense:

- More than 85% of all those arrested for marijuana possession were Black and Latino
- Nearly 70% of those arrested were under 30 years old
- Over a third were under 21 years old

In 2017, we see the extremely skewed enforcement continue:

- More than 86% of all those arrested in NYC for marijuana possession were Black and Latino
- Nearly 83% of those arrested were under 30 years old
- Nearly 2 in 5 (38%) of those arrested were under 21 years old

For context, about 51 percent of the over 8 million people who live in New York City are Black and Latino, and 49 percent are whites plus all others.

Despite attempts to reform marijuana enforcement, we see these shocking racial disparities persist year after year, decade after decade.

These arrests are also concentrated in certain New York City neighborhoods--the rates of NYPD arrests for marijuana possession per 100,000 of the population are extremely skewed across the boroughs. For 2016, in Queens, police arrest Black people at seven times the rate of whites. In Manhattan, the NYPD arrests Black people at 10 times the rate of whites. And in Staten Island, the NYPD arrests Black people at 15 times the rate of whites.

Last summer, following the release of a report by the Marijuana Arrest Research Project and Drug Policy Alliance highlighting ongoing arrests and the continued extreme racial disparities, the Mayor launched a media attack calling the report's findings "fake news" and claimed that marijuana arrests were no longer happening in New York City. But the numbers don't lie—in 2016 there were 18,122 low-level marijuana arrests in NYC. And in 2017 there were 17,880.

Decriminalization is Not Enough

New York state decriminalized marijuana possession forty years ago—and that law is still on the books. However, ongoing arrests for marijuana have been largely justified by a loophole left in the law that allows police officers to distinguish between public and private personal possession. Because possession in “public view” remains a crime, this loophole—coupled with pervasive and racially biased over-policing of certain communities and stop and frisk tactics—has resulted in continued mass arrests for personal possession of marijuana despite decriminalization.

The failure of decriminalization is most evident in New York City. In 2014, then-Police Commissioner Bratton issued a statement in coordination with Mayor de Blasio that instructed NYPD police officers to no longer make an arrest when they have discovered marijuana on a person in the course of a search. The accompanying police instruction, Order 43, represented a clarification of the existing law to law enforcement. This policy change represented a visible shift from the NYPD's previous practices and signaled the potential for the increased efficacy of New York's 1977 Decriminalization statute. However, the result has been much of the same. In 2015 arrests dropped significantly, but 2016 saw those numbers increase once again. More importantly, although arrests have been reduced from their 2014 level, the racial disparities in *who* is being arrested have remained consistent, with more than 8 in 10 of those arrested being Black or Latino (despite similar rates of use across racial and ethnic groups).

A portion of the reduction in arrests for marijuana possession can be attributed to a shift to officers issuing summonses or violations in some cases. However, there is a concerning lack of transparency in the criteria officers use to decide whether to arrest someone or give a summons, and clear inconsistencies in how officers apply discretion. Further, the NYPD has refused requests to provide demographic data on marijuana summonses. Advocates can only access the total number of summonses issued, but no information about race/ethnicity or age. Given the extreme racial disparities in arrests, we call for the NYPD to immediately release full data on summonses.

In New York City, marijuana decriminalization has fallen short and will continue to do so. It has not succeeded in curbing the costs or the harms of prohibition and has instead made the need for reform clearer.

Marijuana Arrests Tied to Gross Violations of Rights

The principle reason we support legalizing marijuana is because marijuana prohibition continues to be used as a justification for massive violations of civil and human rights in New York.

The more than 700,000 arrests that have taken place in New York City in the last 20 years are not a trivial matter. They involve being handcuffed, placed in a police car, taken to a police station, fingerprinted, photographed, possibly being held in jail for up to 24 hours while awaiting arraignment before a judge, appearing in court several times over the course of months, and can conclude with the imposition of a permanent criminal record that can easily be found on the internet by employers, landlords, schools, credit agencies, and banks. New Yorkers who are arrested often face immediate and long-term consequences that can make it difficult to get and keep a job, maintain a professional license, obtain educational loans, secure housing, or even keep custody of a child or adopt.

Furthermore, marijuana is consistently used as a justification for law enforcement interactions with vulnerable populations and provides pretext for law enforcement to overpolice communities of color, with all-too-often tragic outcomes. We need real policy change to end marijuana policing that can lead to these horrific and in some cases deadly outcomes.

The recent indictment of two New York detectives for raping and kidnapping an 18-year-old woman they arrested for allegedly possessing a small amount of marijuana following an unnecessary search (as the young woman sat in her parked car) illustrates the dramatic harm that can result from continued marijuana arrests.

As does the death of Wayne Henderson, a 25-year-old who was found to have violated parole over marijuana possession and who died in custody at Rikers Island in 2017 while awaiting sentencing.¹ Data gathered by the Legal Aid Society's Parole Revocation Defense Unit show that marijuana was involved in more than 20 percent of parole violation charges in New York City in the first half of 2017.² In these cases, alleged use of marijuana was charged and played a major factor in the parole violation case and the client's continued detention in the parole violation. In some cases, use of marijuana is the sole charge for violation of parole, which can result in a significant time in custody.

The dire need for reform is also illustrated by the tragic death of Mario Sanabria, a 69-year-old Bronx resident who was killed by NYPD officers in December as they were serving a no-knock warrant for marijuana on someone who was not at the residence. Sanabria was a caretaker for his 92-year-old brother-in-law, and initially thought the officers bursting through the door were burglars attacking the home.³

And the case of Joel Guerrero, and many other noncitizen immigrants, who now face deportation because of an arrest for low-level marijuana possession years ago.⁴ This points to the larger issue of simple marijuana possession being the fourth most common offense among people who were deported nationally, and the most common offense among people deported with drug law violations. Just this year, we have seen that New Yorkers may face deportation for marijuana misdemeanors regardless of how old a conviction may be and that plainclothes ICE officers have greatly expanded their efforts and are now showing up in courtrooms to arrest immigrants 900% more than in prior years.⁵

Further, the mere presence of marijuana is used to justify removing a child from their home by the Administration of Children's Services, as happened with Colyssa Stapleton, whose daughter was removed from her custody for months following a false marijuana possession arrest.⁶ Attorneys with Brooklyn Defender Services' Family Defense Practice have also spoken publicly about a recent case, which is emblematic of many others, where a woman was drug tested without notice while giving birth and a small trace of marijuana was found in her system. Her child was removed and, though she has him back, she's now subject to 12 months of invasive surveillance—despite no evidence of abuse or neglect of the child.⁷

Standing Up For Rights of New Yorkers

We also recognize that New York does not operate in a vacuum. Mayor de Blasio and Councilmembers have publicly vowed to fight the Trump administration to protect New Yorkers' rights when it comes to immigration, women's rights, and civil liberties. But the above cases show that, without real ending marijuana prohibition, which leads to these law enforcement abuses, their words ring hollow.

In a moment when the federal administration continuously propagates outright lies and half-truths, we need those who claim to be allies of the most vulnerable New Yorkers to end the marijuana arrest crusade and focus on building up our state by taxing and regulating marijuana, instead of destroying lives.

Ending marijuana prohibition is the most reliable way to remove simple marijuana possession as the basis for an arrest that can have lifelong negative consequences. If the Mayor and Councilmembers really want to shield New Yorkers from the deplorable policies emanating from Washington, they should make clear that arresting people for marijuana possession will no longer be tolerated and create a legalized framework for marijuana, as the Marijuana Regulation and Taxation Act does.

The Drug Policy Alliance and our partners believe that while legalizing marijuana for adult use will not alleviate all the challenges faced by those communities who are most criminalized, it will remove a tool that has been used to harm them. That's why the Start SMART NY campaign—Sensible Marijuana Access through Regulated Trade—to legalize marijuana is a racial justice campaign. We believe that it is time to stop the ineffective, racially biased, and unjust enforcement of marijuana prohibition and to create a new, well-regulated, and inclusive marijuana industry that is rooted in racial and economic justice.

There is no excuse for the New York City marijuana arrests to continue in 2017. Mayor de Blasio pledged to end biased policing practices—if the end looks like more than 61,000 arrests on his watch and the same level of severe racial disparities, then the Mayor has failed to carry out his campaign promises to Black and Latino New Yorkers.

Further, we strongly recommend that police and district attorneys in the five boroughs of New York City immediately cease arresting, charging and prosecuting anyone for violation of New York State Criminal Law section 221.10. District attorneys should take the additional step of sealing all prior arrest records for low-level marijuana possession, as their colleagues in Philadelphia, San Francisco, San Diego, and other jurisdictions have done.

We look forward to further conversations with this committee regarding the implementation of these recommendations.

Thank you for your time,
Kassandra Frederique

¹ Harris, Zach. "In Prison for Smoking a Joint, a Rikers Island Inmate Dies From Medical Neglect." Merry Jane, August 31, 2017. <https://merryjane.com/news/rikers-island-inmate-locked-up-for-pot-found-dead>

² Correspondence with Legal Aid Society Parole Revocation Defense Unit (PRDU), June 2017, covering cases involving Rule 11 (Use of Marijuana) from January 1, 2017 to June 5, 2017. PRDU is the primary provider of indigent defense services for all detained accused parole violators within the NYC area and handles over 95% of all parole violations in NYC. According to DOCCS, 45% to 50% of all first-time releases onto parole were paroled to the NYC area.

³ McKinley Jr., James C. "After Police Raid Kills Man, 69, Family Asks Why Trigger Was Pulled." New York Times, December 13, 2017. <https://www.nytimes.com/2017/12/13/nyregion/nypd-police-shooting-bronx-mario-sanabria-lawsuit.html>

⁴ Whitford, Emma. "After Decades In The U.S., NY Immigrant With Years-Old Pot Conviction Faces Deportation." Gothamist, March 3, 2017. http://gothamist.com/2017/03/03/trump_deportation_ice.php

⁵ Brown, Stephen Rex. "Courthouse arrests of immigrants by ICE agents have risen 900% in New York this year: Immigrant Defense Project." New York Daily News, November 15, 2017. <http://www.nydailynews.com/new-york/ice-courthouse-arrests-immigrants-900-n-y-2017-article-1.3633463>

⁶ Clifford, Stephanie and Jessica Silver-Greenberg. "Foster Care as Punishment: The New Reality of 'Jane Crow.'" New York Times, July 21, 2017. <https://www.nytimes.com/2017/07/21/nyregion/foster-care-nyc-jane-crow.html>

⁷ Nila Natarajan of Brooklyn Defender Services Family Defense Practice speaking at public event "Costs and Consequences of Marijuana Arrests for Parents and their Children," December 6, 2017.

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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Kelly Grace Price

Address: 534 W 157th

I represent: Talk Action Coalition

Address: 40 Reister St.

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Name: Nateghia Lopez

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I represent: Make THE ROAD NY

Address: 301 GROVE ST

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Name: DARIAN Agostini

Address: 854 HANCOCK ST

I represent: MAKE THE ROAD NY

Address: 301 GROVE ST

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Name: Chris Alexander

Address: _____

I represent: Drug Policy Alliance

Address: 330 Seventh Ave, 21st Floor, NY

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Name: COREY Peques

Address: 26 CROTONA AVE

I represent: LEAP

Address: 125 MYSTIC AVE MASS, 02155

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Name: Kassandra Frederique

Address: _____

I represent: Drug Policy Alliance

Address: 330 Seventh Ave, NY, NY

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Name: Charlotte Pope

Address: _____

I represent: Children's Defense Fund - NY

Address: 815 2nd Ave, NY

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Date: 2/26/18

(PLEASE PRINT)

Name: Anthony Posada

Address: 199 WATER STREET 6 FLOOR NY 10038

I represent: THE LEGAL AID SOCIETY

Address: 199 WATER STREET 6 FLOOR

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Name: Marsha Jean - Charles

Address: _____

I represent: Brotherhood Sister Sol

Address: 512 W 143rd Street NY NY 10031

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Date: _____

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Name: Chief Pedro School Safety Director

Address: _____

I represent: NYPD

Address: _____

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Appearance Card

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Oleg Cherepanov, Director of Legislative Affairs

Address: _____

I represent: NYPD

Address: _____

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Appearance Card

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in favor in opposition

Date: 2/26/14

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Name: Chief Dermot Shea, Chief of Crime Control Strategies

Address: _____

I represent: NYPD

Address: _____

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in favor in opposition

Date: 2/26/18

(PLEASE PRINT)

Name: Susan Herman, Deputy Commissioner Collaborative Policy

Address: _____

I represent: NYPD

Address: _____

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Appearance Card

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I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: Feb 26, 2018

(PLEASE PRINT)

Name: Catherine Gonzalez

Address: 177 Livingston St

I represent: Brooklyn Defender Services

Address: Brooklyn, NY 11201

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I intend to appear and speak on Int. No. 1173 Res. No. _____

in favor in opposition

Date: 2-26-18

(PLEASE PRINT)

Name: JOANNE NAUGHTON

Address: _____

I represent: LEAP

Address: _____