

**New York City's Failure: Harsh, Unjust Police Tactics**  
***A Policy Paper of the Police Reform Organizing Project***

**New York City's Failure**

Mayor Michael Bloomberg has been the focus of much public criticism in recent months. Elected officials and editorial writers have expressed concern and outrage over matters ranging from the city's response to snow storms to the appointment of Cathie Black as the city's Education Chancellor to the payroll scandal at the city's Department of Employment. A policy area where the mayor has mainly escaped criticism and where it is long overdue are the truly objectionable practices of the Police Department, namely our city's wasteful, ineffective, unjust, illegal, bullying, homophobic, and starkly racially biased arrest methods.

**Wasteful Practices**

The vast majority of arrests in New York City are for low-level offenses, such as misdemeanors like possessing a small amount of marijuana or violations like selling umbrellas or flowers on the street without a license. By any criteria, almost none of these activities could be considered dangerous or predatory. At worst, most city residents would view them as public nuisances.

Police officers and other criminal justice personnel — judges, court officers, district attorneys, public defenders and correction officers — spend hours every day, if not their whole workday, processing these cases. And these law enforcement officials are preoccupied with these seemingly insignificant cases day after day, week after week, month after month and so on.

According to the Drug Policy Alliance, just one category of arrests — for possessing, not selling, small amounts of marijuana — costs New York City \$75 million per year.

**Ineffective Practices**

The aggressive arrest-driven policing applied in New York City aimed at minor offenses has effectively caught up hundreds of thousands, perhaps actually millions, of individuals in the criminal justice net in recent years. Last year, for example, the city's police made over 370,000 arrests. Most of these arrests occurred in New York's low-income communities of color — for example, although the majority of people who use marijuana are white, 86 percent of the individuals arrested for marijuana possession last year were black or Latino.

Common sense tells us, as does more and more social science research into the perceptions of “procedural justice,” that the extent to which arrested people see and experience the criminal justice process as fair, respectful, consistent and impartial will determine their willingness in the future to respect the police and to comply with the rule of law. Unfortunately, the city's methods for processing cases involving minor offenses are all too often marked by rude and unfair treatment. The system bears few if any of the hallmarks essential to people's positive perception of procedural fairness.

In other words, most people caught up in this system will emerge from the courtroom embittered and angered by their experience with less regard for law enforcement personnel and procedures and with reduced willingness to comply with authority. While aimed at enhancing community safety and well being, aggressive

arrest-driven policing actually contributes to the undermining of respect for social norms that is the building block for creating a stable and crime-free community.

### **Illegal Practices**

Many individuals subjected to aggressive arrest-driven police practices and subsequently charged with marijuana possession are coming forward with testimony that their arresting officers engaged in illegal search and seizure methods. According to these accounts heard over and over from people in different communities and who do not know each other, police often stop individuals, usually young black or brown men, for no apparent reason — the persons involved are not engaged in what could be considered furtive or suspicious activity; they may have been walking to or from their school or workplace or been on a personal errand.

In another clear violation of their rights, the police conduct an aggressive search without asking permission and without any evident indication that the persons detained are carrying a weapon or contraband. The police reach into people's pockets and crotch areas and/or tell them to remove their shoes. The police then confiscate the hidden marijuana and later claim to the court that the substance was open to public view, the condition necessary to charging the individual with a misdemeanor — under state law, simple possession only rises to the level of a violation, which is not by legal standards even considered a crime.

These police actions broach provisions of our nation's constitution and of New York State law. But most victims choose not to contest these illegal practices — it would usually take 8 to 10 separate appearances at court to fight the charges. They usually accept a plea to a lesser offense, a violation instead of a misdemeanor, and thereby achieve their freedom until the next time the police stop and frisk them on the street.

### **Unjust Practices**

A particularly perverse category of injustice inflicted by aggressive arrest-driven policing takes the form of the collateral consequences arising from contact with the criminal justice system and the criminal record that ensues. The areas where bad consequences can, and often do, result from convictions for a misdemeanor or even a violation include housing, education, immigration, employment, driving, and public assistance.

Regarding immigration, for example, one misdemeanor conviction can lead to deportation. Two convictions for offenses reflecting "moral turpitude" can have a similar outcome; such offenses include shop lifting or turnstile jumping, hardly the kinds of dangerous or socially disruptive acts that should cause a person to be sent out of perhaps the only country that he or she has known to a foreign nation where the deportee has no remaining family or friends.

Criminal justice contact can also limit an individual's job prospects, especially in New York where over 100 professions, ranging from barber to attorney, require licenses obtained from state authorities. Studies have shown that arrests alone can be an obstacle or even a bar to employment. New York City's school system, for instance, mandates that an employee report any arrest, even for a violation, and will frequently suspend or reassign a teacher while a case is pending.

Even where arrests do not legally or technically prohibit employment, employers will always prefer job candidates who have had no contact with the criminal justice system. The damage done in depriving people of

jobs extends, of course, to the families who will suffer undue hardship when their breadwinners cannot find gainful employment.

### **Bullying Practices**

Police officers often harass or mistreat individuals from the city's most vulnerable groups: LGBT people, persons with mental illness, sex workers, street vendors and the homeless. Individuals from these constituencies report frequent, harsh encounters with police officers; people in psychiatric crisis, clearly disoriented and confused, thrown to the ground, hand-cuffed, and locked up; LGBT persons called derogatory names, questioned rudely, inappropriately touched as they enter a local community center or gather in a group on a neighborhood street corner; sex workers arrested for simply carrying condoms or forced to have sex in return for their release; street vendors hassled, fined and arrested for violating minor rules that are arbitrarily enforced; homeless people roughed up – their belongings often destroyed – and apprehended for begging on the subway or sleeping on a park bench.

One characteristic joins the people subjugated to these harsh practices: they are members of marginalized groups with little or no political standing. They are viewed as virtually powerless to effectively oppose abuse or neglect by government personnel including police officers. Especially given its tradition of tolerance and support for people who are different or just down and out, NYC should help and protect the vulnerable individuals in its midst, not employ its police force to effectively ostracize and punish them.

### **Racially Biased Practices**

Many recently gathered statistics point to the undeniable conclusion that New York City's aggressive arrest-driven policing is marked by stark racial bias.

- In 2010, the city's officers stopped and frisked over 601,055 individuals — blacks and Latinos represent 87 percent of the people so treated, although the two ethnic groups make up only 53 percent of the city's total population.
- Police data also show that young people were stopped at an average of once every 90 minutes in high-poverty, majority black and Latino neighborhoods like East New York and Brownsville, Brooklyn; whiter, wealthier areas averaged one stop every 18 hours.
- Individuals end up detained on Rikers Island or in the city's juvenile facilities as a direct result of whom the New York City Police Department arrests. Over 90 percent of the city's adult detention population is black or Latino, as is about 95 percent of the juveniles locked up.
- In recent years, the top ten precincts for marijuana arrests in New York City averaged 2,150 marijuana arrests for every 100,000 residents; the populations in those precincts are 90 percent or more nonwhite. The 10 precincts with the lowest rates of marijuana arrests averaged 67 out of 100,000 residents, and are over 80 percent white. This, again, despite the fact that most pot users are white. Experience tells us that the general public, and especially the people that live in disadvantaged inner city communities, know this fundamental sorry truth about local policing: white people can possess marijuana with virtual impunity; people of color, however, must regularly look over their shoulder and watch out for the long harsh arm of the law.

Other strong evidence that aggressive arrest-driven policing has a racist impact comes from representatives of the non-profit prison reform organization, the Correctional Association of New York, which monitors conditions in the city's court pens that hold recently arrested people just before they are arraigned, or officially charged with an offense, by a sitting judge. The organization's officials report that on visits to the Brooklyn, Manhattan, and Bronx pens, they usually see hundreds of detainees who were arrested the day or night before and there will only be one or two white faces in the midst of cell after cell of black and brown people. Out of 250 people arrested in Manhattan say on a Wednesday, conditions monitors will note that on the following Thursday they will see 248 or 250 people of color confined in those cells. Such a racial disparity — not merely disproportionate but virtually exclusive — is not an accident. It is a function of the policies and practices of the New York City Police Department.

### **Moving Forward**

That the city's Police Department pursues such a misguided and aggressive arrest-driven policy is disturbing but should not be completely surprising. History and experience tell us that whenever powerful law enforcement agencies, like police or prisons that can forcibly deprive people of their freedom, operate without checks and balances within government or without external, independent oversight, abuses and corruption are inevitable. That is what Attica and Abu Ghraib teach us. That is what recurring police scandals that have blighted New York's landscape all too often teach us. And at this historical moment, the New York City Police Department is a revered, sacrosanct and politically untouchable agency. It is effectively accountable to no political figure including the city's current mayor, or any government or civic body. Its commissioner is, for better or worse, an iconic figure; he and his policy setting team have to report or account to no one when they set arrest priorities or any other policy for the Police Department. Such unlimited power is dangerous, and should be unacceptable, to all New Yorkers, not just the black and brown residents of our inner city communities who bear the brunt of the Police Department's harsh current policies.

It is way past time that the New York City Police Department stop its wasteful, ineffective, illegal, unjust, homophobic, and racially biased arrest practices. It is way past time that the city's citizens and elected officials demand transparency from Police Department leaders. New York City should establish an autonomous agency that monitors and assesses the Police Department's policy agenda as to matters like arrest practices and that has the authority to investigate claims of abusive conduct and to punish the officers found guilty. New York City should also take a page out of the Boston or San Diego Police Departments' book and engage in collaborative problem-solving policing that cuts crime while stabilizing rather than disrupting communities and fosters adherence to social norms while building positive rather than hostile relationships with local residents. Such an approach would help provide New Yorkers of every race and income level with the chance to fully experience a more safe, livable, and inclusive city.