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## **RAY KELLY – THE WRONG CHOICE**

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A recent Quinnipiac University poll showed NYC Police Commissioner Ray Kelly handily defeating a group of other possible candidates in the City's 2013 mayoral election. Given these results, it is safe to assume that many NYC voters are not fully informed about the highly problematic performance of the police department under Mr. Kelly's stewardship for the past ten years.

Everyday the City's police engage in objectionable practices that waste government resources, harm people and communities, and result in more rather than less social disorder. 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. Almost none of the people involved in these activities could be considered a dangerous or predatory individual. 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 they do so 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.

NYC's aggressive arrest-driven policing 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 occurring 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 and social science research tell us that the extent to which arrested people see and experience the criminal justice process as fair, respectful, and consistent will determine their willingness to respect the police and to comply with the rule of law. Unfortunately, the way New York City's justice system processes minor cases 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 emerge from the court room at least somewhat embittered and angered by their treatment and with less regard for law enforcement personnel and procedures and with reduced willingness to comply with authority. Aggressive arrest-driven policing, while aimed at enhancing community safety and well being, actually contributes to the undermining of respect for social norms that is the building block for creating a stable and crime-free community.

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 searches. 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 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.

Many recently gathered statistics point to the undeniable conclusion that the New York City's aggressive arrest-driven policing is marked by stark racial bias. In 2009, the city's officers stopped and frisked over 576,000 individuals -- blacks and Latinos represent 84 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 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.

That the City's Police Department engages in such aggressive, misguided measures is disturbing, but should not be completely surprising. History and experience tell us that whenever powerful law enforcement agencies, police or prisons that can forcibly deprive people of their freedom, operate without checks within government or without independent, external 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 City's Police Department is a revered and politically untouchable agency. Its commissioner – and putative mayoral candidate – Ray Kelly 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 policies.

Mr. Kelly has resisted all calls to modify his agency's counterproductive practices or even to engage in an open public discussion of their merits. As has, it should be noted, his boss on paper, Michael Bloomberg. The only reason for informed New Yorkers to support Mr. Kelly for Mayor is if he promises to change the NYPD's current harmful tactics and to establish measures for applying principles of transparency and accountability to the department's policies and priorities.