

# Marijuana Madness

## The Scandal of New York City's Racist Marijuana Possession Arrests

# 6

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### 6.1 Introduction

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There are five basic things to understand about the scandal of marijuana possession arrests in New York City. From these all other questions follow.

First, simple possession of less than an ounce of marijuana is not a crime in New York State. Since 1977 and passage of the Marijuana Reform Act, state law has made simple possession of 25 grams or less of marijuana (or less than seventh-eighths of an ounce) a violation, similar in some ways to a traffic infraction. A person found by the police to be possessing a small amount of marijuana in a pocket or belongings can be given a criminal court summons and fined \$100 plus court costs, and may suffer other consequences, some quite serious.<sup>1</sup> But at least initially, violations and summonses rarely include arrests, fingerprints, criminal records, and jailings.<sup>2</sup> For over 30 years, New York State has formally, legally decriminalized possession of marijuana.

Second, despite that law, for more than a decade the New York Police Department has arrested, prosecuted, and jailed more people for marijuana possession than for any other crime whatsoever (see [Figure 6.1](#)). From 1997 through 2012 (and into 2013) the New York City Police Department

made more than 600,000 arrests and jailings of people for possessing small amounts of marijuana, mostly teenagers and young people in their 20s. In 2011, the NYPD made more than 50,000 arrests of people who possessed only a small amount of marijuana. In just that one year, the NYPD made more marijuana arrests than it did in the 19 years from 1978 through 1996. These arrests have been carried out under two mayors (Giuliani and Bloomberg) and three police commissioners (Safir, Kerik, and Kelly). These simple marijuana possession arrests have skyrocketed even though marijuana use has remained much the same. As numerous news stories have pointed out, these extraordinary numbers of arrests and jailings have made New York City the marijuana arrest capital of the world.

Third, most people arrested were not smoking marijuana. Usually they just carried a bit of it in a pocket. The police most commonly found the marijuana in the course of a stop and frisk in which they searched (often illegally) the person's pockets and belongings. The people arrested were handcuffed, taken to a police station, fingerprinted, photographed, eye-scanned, and usually held for 24 hours in the city's jails. They were spit out the next day into the criminal arraignment court where, if it was a first offense, they usually received a year of probation and a life-time, permanent, inextinguishable criminal record.

Fourth, these marijuana possession arrests have targeted young people. Nearly 70% of the people arrested are younger than 30, about 56% are younger than 25, and nearly a quarter are teenagers. The possession arrests also target people who have never been convicted or even arrested before.<sup>3</sup> The youngest people, the great majority of those arrested for marijuana, are the least likely to have criminal convictions; 94% of the teenagers (age 16 to 19) arrested for marijuana possession and 77% of the young people age 20 to 24 arrested for marijuana possession had never been convicted of even one misdemeanor. The arrests are not capturing career criminals; they are ensnaring young people, overwhelmingly without any criminal convictions. For many of the young people, this is their first arrest.<sup>4</sup>

Fifth, these arrests have targeted young Blacks and Latinos even though U.S. government studies have consistently found that young Blacks and Latinos use marijuana at lower rates than young Whites.<sup>5</sup>

About 77% of the arrests have been made in the NYPD precincts where the majority of the residents are Black and Latino (half the city's neighborhood precincts). Although Blacks and Latinos together make up about 53% of the city's residents, for more than a decade they have been 87% of the people arrested for possessing marijuana. In the last 10 years, Blacks constituted about 25% of New York's residents, but 54% of the people arrested for marijuana possession. Latinos constituted about 27% of the city's residents, but 33% of the people arrested. Whites (non-Hispanic Whites) made up about 35% of the city's population but about 11% of the people arrested.

The police have arrested Blacks at seven times the rate of Whites and Latinos at nearly four times the rate of Whites, even though, as stated above, many years of U.S. government studies have found that young Blacks and Latinos use marijuana at lower rates than young Whites.<sup>6</sup>

There are prejudiced and bigoted people in any large organization, but these many racially skewed or biased marijuana arrests have not been the result of individual prejudice or racism of some police officers. These arrests have been carried out by tens of thousands of officers, every day for more than 15 years. The arrests are not racist in their intent, but very much so in their effects. The arrests are precisely what is meant by the term “institutional racism,” or what some have termed “racism without racists.”

NYPD commanders concentrate police patrols in only certain neighborhoods, designated high crime areas, where residents are largely Blacks and Latinos, disproportionately from low-income families. That is where the police do most stop and frisks, write most criminal court summonses, and make most misdemeanor arrests including for possession of marijuana. In addition, as several studies have found, police are more likely to stop, frisk, and search Blacks in any neighborhood, including predominately White ones. The police catch so many more of one kind of “fish” because they are mostly searching in certain waters, looking mainly for certain kinds of fish.

The marijuana possession arrests are carried out at the command and instruction of individuals at the highest levels of the NYPD and the mayor’s office. They find it fair and reasonable to continue making these arrests even though they fall most heavily on people who use marijuana at lower rates, and who are among the most vulnerable people in New York City. The patrol and narcotics officers’ arrests of mainly Blacks and Latinos for marijuana possession are driven not primarily by racial or ethnic animosity, but by a systemic focus within the police department on Black and Latino young men. And the effects are clearly racially biased, discriminatory, unfair, and unjust. They are racist.

With several colleagues, we have been researching these arrests since 2005.<sup>7</sup> We have obtained arrest data from New York State and the FBI. In conferences, academic settings, and private meetings, we have learned much from current and former police officers from New York and other big cities in the United States, Canada, the United Kingdom, and elsewhere. We also have learned about the arrests from experienced public defenders and private attorneys who have handled literally thousands of these cases, from judges and former prosecutors, from people who work in New York’s jails and courts, and from many young people arrested for marijuana possession. Our research, reports, and testimony have helped make the marijuana arrests a major news and political issue in New York City and to some extent nationally. Very good reporters, journalists, and researchers have documented extensively the way the arrests are carried out, the use of illegal

searches, and the racial, age, and gender skewing of the arrests (which are nearly 90% males).<sup>8</sup>

We regard New York City's marijuana possession arrests as a scandal, similar to Love Canal and the Ford Pinto. Love Canal, filled with 20,000 tons of deadly chemicals, was the first toxic waste scandal. The Pinto and its exploding gas tank is still the most famous car-design scandal. These kinds of scandals are of horrific situations, harming many people, that go on for years before being revealed. Important institutions including Hooker Chemical and Ford had long benefited and did not want the conditions exposed or the practices stopped.

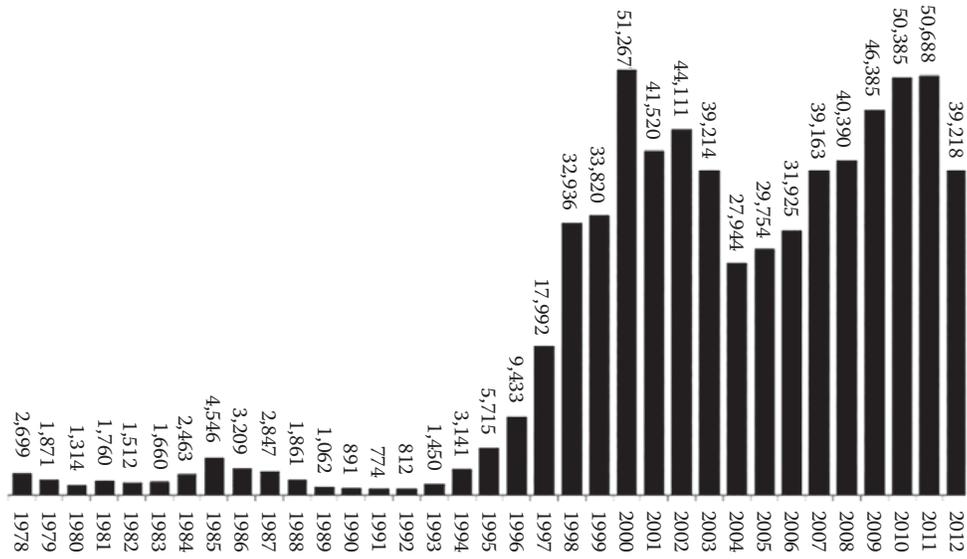
New York City's marijuana possession arrests are the same kind of scandal. They have gone on for years and harmed millions of people, but two mayors and three police commissioners have continued making the arrests and resisted all efforts to end them. And until recently the NYPD has been remarkably successful at keeping the arrests out of the public eye. The NYPD started and has continued this marijuana arrest crusade on their own, and they could end it, but Mayor Bloomberg and Police Commissioner Kelly were unwilling to do so. As a result members of the state legislature and the governor have sought to change New York State's marijuana law to stop the NYPD from making these possession arrests.<sup>9</sup>

This chapter summarizes what we have learned about how these arrests are made, and about why the NYPD has made and continues to make them, despite what is now a large, vocal, and broadly based opposition to the arrests. It answers questions we have been asked many times.<sup>10</sup> First it uses a series of graphs to show the rise of the marijuana possession arrests from a few thousand a year for 19 years (1978–1996) to averaging 35,000 arrests a year since 1997, and their racial bias. Second, it focuses on how police usually find the marijuana: by searching the pockets and possessions of people they stop, often illegally. Third, it discusses the marijuana arrests and stop and frisks as a way for the NYPD to deploy officers in a time of a nationwide decline in serious crime beginning about 1990. Fourth, it describes the usefulness of the marijuana possession arrests to specific groups within the NYPD including supervisors at all levels, as well as many patrol and narcotics police. Fifth, it briefly discusses the extraordinary rise of public opposition to the stop and frisks, the marijuana arrests, and policing as it has been carried out in New York City for nearly two decades.

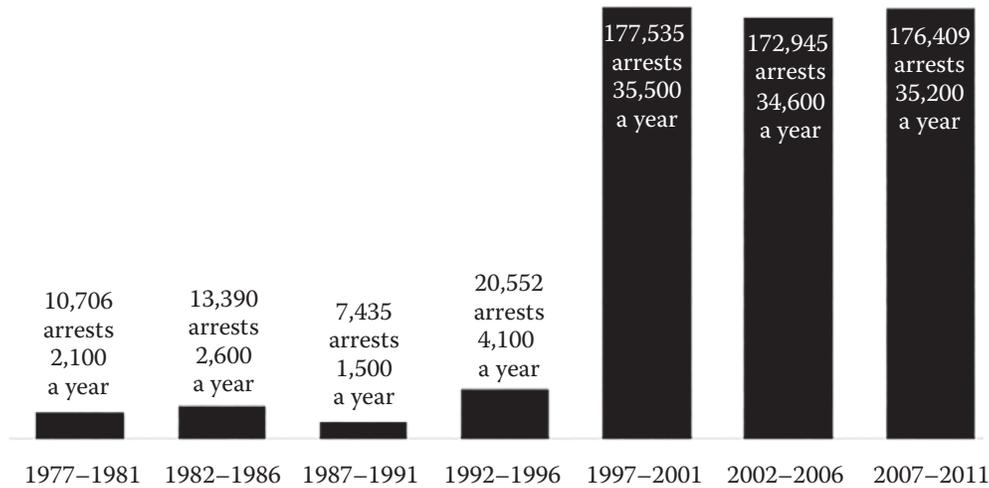
## 6.2 Rise of the Marijuana Arrest Crusade

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Some of what has been happening can best be seen graphically.<sup>11</sup> The five graphs shown in [Figures 6.1](#) through [6.5](#) summarize well the major developments and themes in the story of New York City's marijuana arrests. The



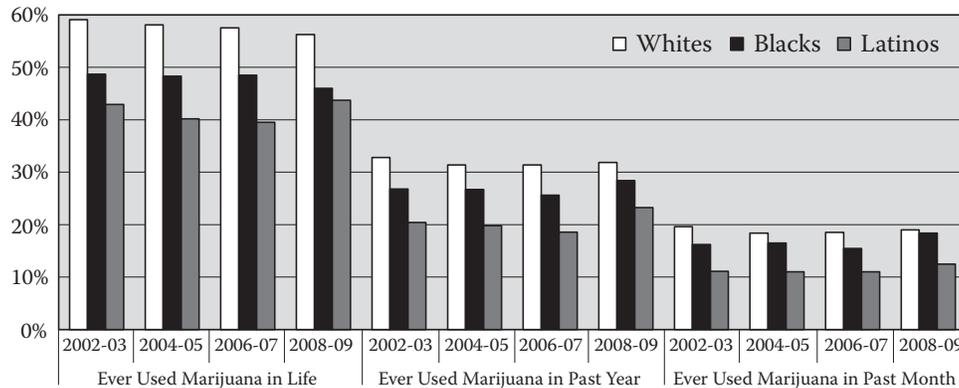
**Figure 6.1** New York City's marijuana possession arrests from 1978–2012.



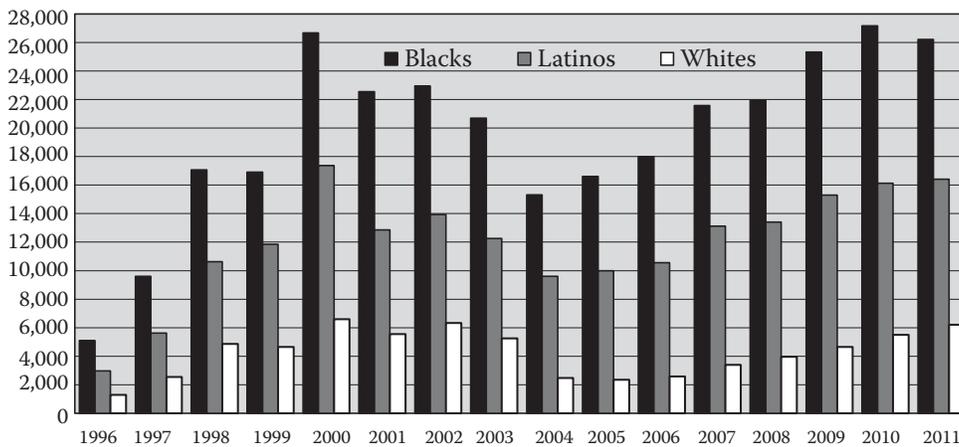
**Figure 6.2** New York City's marijuana possession arrests in five-year periods. These are lowest-level arrests, age 16 and older, charged under NYSPL 221.10. (From New York State Division of Criminal Justice Services, Albany, New York.)

first two graphs show the total number of marijuana arrests by year and by five-year blocks revealing the extraordinary increase in marijuana arrests beginning in the mid-1990s. The next two graphs show the marijuana use of young Whites, Blacks, and Latinos, and the marijuana arrests by race for each group over 16 years. The graphs show that, as *New York Times* columnist Jim Dwyer once put it, “Whites Use Pot, but Blacks Are Arrested.”<sup>12</sup>

The final graph shows the 15 precincts with the lowest per capita rate of marijuana arrests and the 15 NYPD precincts with the highest rates



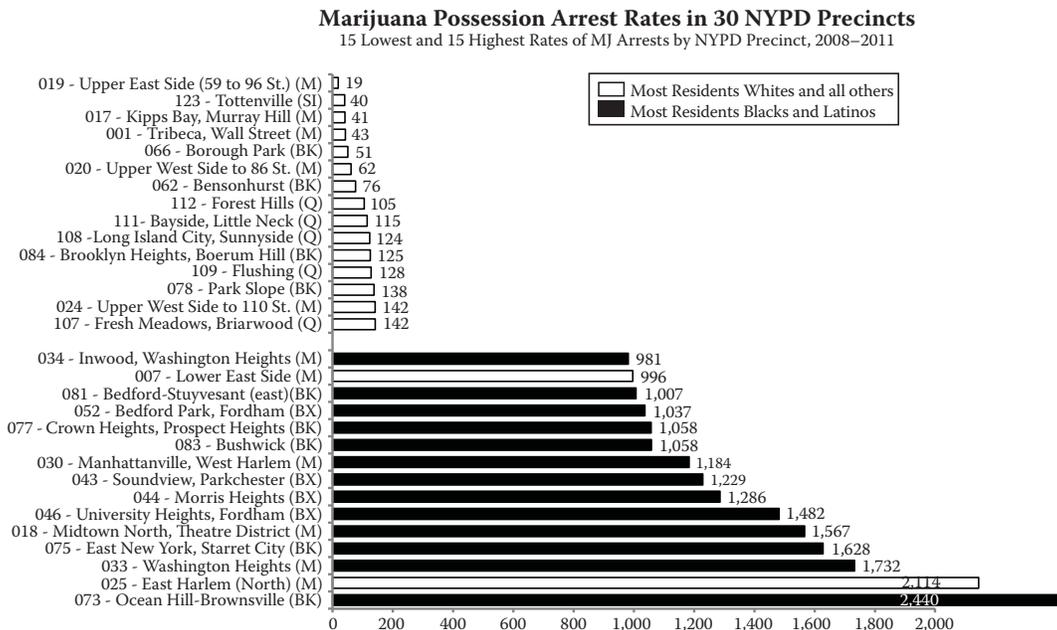
**Figure 6.3** Marijuana use by Whites, Blacks, and Latinos, ages 18 to 25, 2002–2009.



**Figure 6.4** Marijuana arrests of Blacks, Latinos, and Whites in New York City, 1996–2011. (Use data are from U.S. Dept HHS, SAMHSA, Office of Applied Studies. Arrest date is from New York State Division of Criminal Justice Services, Albany, New York.)

of marijuana arrests. It also shows in which precincts the majority of residents are Blacks and Latinos, and those precincts where the majority of residents are mostly Whites plus some others, chiefly Asians. In all 15 precincts with the lowest marijuana arrest rates, the majority of residents are Whites and others.<sup>13</sup> In 13 of the 15 precincts with the highest rate of per capita marijuana arrests the majority of the residents are Blacks and Latinos.

There are enormous differences in the rates of arrest for marijuana possession in the precincts with the highest and lowest arrest rates. The wealthy Upper East Side of Manhattan, where Mayor Bloomberg lived, has the lowest marijuana arrest rate in the city, despite its many schools serving teenagers from upper-middle class and wealthy families. The low-income and predominately Black and Latino precincts of Ocean Hill Brownsville and East



**Figure 6.5** These tables show only the lowest level misdemeanor marijuana possession arrests and charges. 4-year average of rates, 2008–2011. (From the New York State Division of Criminal Justice Services, Computerized Criminal History System. Includes all fingerprintable misdemeanor arrests for NYS Penal Law Article 221.10 as the most serious charge in an arrest event. Ages 16 and older.)

Harlem, however, have marijuana possession arrest rates 125 times higher than where Bloomberg lives. See Figure 6.5.

How did it happen that the NYPD shifted from averaging about 3,000 lowest-level marijuana possession arrests for 20 years to averaging 35,000 marijuana arrests a year for the next 15 years? What changed?

First of all, the leadership changed. In the spring of 1996 Mayor Rudolph Giuliani fired William Bratton as police commissioner and appointed Howard Safir.<sup>14</sup> By the end of 1996, marijuana possession arrests jumped from 5,700 arrests in 1995 to the new high of 9,400. In 1997 under Safir, the arrests jumped again to 17,900, double the number of marijuana arrests during Bratton’s two years as police commissioner combined.<sup>15</sup> In 1998, the number of lowest-level marijuana possession arrests climbed to 32,936, beginning an arrest crusade that New Yorkers are still experiencing.

Howard Safir did not come to this unprepared. He had spent 15 years working for the U.S. Drug Enforcement Administration (DEA) rising from narcotics agent to deputy commissioner. Safir and Giuliani had known each other since the early 1980s when they both worked in the anti-drug office of the Reagan administration during the creation of the “War on Drugs.” There was a meeting of minds between Giuliani, who was always strongly anti-drugs, and his police commissioner about making many lowest-level marijuana possession arrests. Furthermore, by the last third of the 1990s the crack

cocaine crisis had ebbed, but use of marijuana was as prevalent as ever and more prevalent than for any other drug. Marijuana was also popular among teenagers and young people in their 20s who are easy to find, intimidate, and arrest. Safir proudly reported that as police commissioner he “established thirty-nine major anti-drug initiatives.” Almost certainly, one of them was the marijuana possession arrest crusade.<sup>16</sup>

Michael Bloomberg became Mayor in January 2002, shortly after the devastation and disruption caused by the bombing of the World Trade Center in September 2001. Bloomberg had campaigned as a moderate, a Republican of convenience, who famously admitted that he had smoked marijuana and “liked it.” At the time, the huge numbers of marijuana possession arrests under Giuliani were poorly understood, even by close observers of the city, and their racial disparities were unknown. Even so, there was reason to believe that Bloomberg would soften many of the policing policies of the fiercely combative Giuliani. And Bloomberg appointed Raymond Kelly as police commissioner; Kelly had served as police commissioner under David Dinkins and had publicly criticized the kind of heavy-handed policing, especially of petty offenses, that had become Giuliani’s trademark.

But Bloomberg and Kelly continued and expanded Giuliani’s policing policies. In 2002 the number of marijuana arrests increased over Giuliani’s last year. The number of marijuana arrests declined for two years, and then began a steady increase that soon outstripped even Giuliani. Under Giuliani’s two terms from 1994–2001, the NYPD made a total of 196,000 of the lowest-level marijuana possession arrests, an extraordinarily large number of arrests for one minor offense (and for one that had been supposedly, and officially, decriminalized). Under Giuliani the NYPD averaged 25,000 arrests a year for eight years. Yet Bloomberg in his first two terms, from 2002–2009, made nearly 300,000 marijuana arrests, 50% more than under Giuliani, and an average of 38,000 marijuana possession arrests a year.

By the end of 2012, the NYPD under Bloomberg had made an astonishing 440,000 lowest-level marijuana possession arrests, and for many years this has been the single offense for which more people have been arrested and charged than any other. It is not an exaggeration to say that New York City has led the world in the number of marijuana arrests and that its overall rate of marijuana possession arrests has been among the highest anywhere.

### **6.3 Searching Pockets and Possessions for Marijuana**

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How did the NYPD accomplish the enormous growth in marijuana possession arrests from a few thousand a year to an average of 35,000 a year? Police did so by focusing great attention on the contents of people’s pockets and possessions. Focusing on the contents of people’s pockets and possessions was



**Figure 6.6** A NYPD uniformed officer reaching into the pockets of a man being frisked and searched in April 2011 in Brooklyn.

a form of policing that narcotics officers (antidrug police) had long used in apprehending people for possessing small amounts of “hard” drugs, almost entirely heroin and cocaine. In effect, Safir and Giuliani applied the street-level policing style of narcotics squads—where people are stopped, frisked, and searched—to the policing of possession of small amounts of marijuana. The technique, although financially costly and damaging to the lives of the young people arrested, has produced an amazing number of arrests for tiny amounts of marijuana (see Figure 6.6).

How do the police find a bit of marijuana, often a few grams, in a tiny plastic bag about the size of a silver dollar, or a thin marijuana cigarette, or even part of one? First of all, in the course of a pat-down or frisk an officer simply reaches into the person’s pockets. When we began researching marijuana arrests, we interviewed many people who had been arrested who told us that police retrieved the marijuana by reaching into their pockets. Public defenders and other attorneys also told us that many of their clients reported that police had simply reached into their pockets and belongings, pulling out whatever they had. Sometimes police just ordered people to empty their pockets, or even tricked them into doing so.

Partly as a result of our research and the advocacy of others, beginning in 2011 experienced journalists first reported that people arrested for marijuana possession commonly described encounters in which police officers simply reached inside a suspect’s pockets or belongings. For example, in February 2012 Jennifer Peltz of the Associated Press reported on the case of Stephen Glover who had been arrested for marijuana possession when he was standing outside a Bronx job-training center. Glover had been “sharing a box of mints with friends, when police came up to him, asked him whether

he had anything in his pockets that could hurt them, and searched them [his pockets] without asking his permission. They found the remains of two marijuana cigarettes in his pockets, he said. ‘They just take it upon themselves to search,’ the 30-year-old Glover said.”<sup>17</sup>

In 2011, writer Steve Wishnia published a long article quoting several attorneys describing common types of marijuana arrest cases. Sydney Peck, a Brooklyn public defender, said, “A police officer pulls marijuana out of someone’s pocket, and all of a sudden, it’s marijuana in public view.” Wishnia quoted a staff attorney at the Brooklyn Defenders who said he had “seen a lot of ‘dropsy’ cases, in which police say they saw the defendant drop the marijuana on the ground.” This attorney described a case of a man arrested for marijuana possession while in front of a small grocery store. The police officer’s report said that the man was “in possession of a quantity of marijuana, which was open to public view,” but the officer also reported that he “recovered [the marijuana] from defendant’s pants pocket.” The attorney, perplexed by how marijuana in a pocket could be open to public view, wondered if his client had worn “transparent pants.”<sup>18</sup>

Most thorough of all was the DuPont Award-winning, two-part series by Ailsa Chang, the police and criminal justice reporter for WNYC, which first broke the story about illegal searches for marijuana by the NYPD. In April 2011 she reported a number of cases of police putting their hands inside people’s pockets and searching their clothing. Wrote Chang:

WNYC tracked down more than a dozen men arrested after a stop and frisk for allegedly displaying marijuana in public view. Each person said the marijuana was hidden—in a pocket, in a sock, a shoe, or in underwear. There’s no videotape to confirm their accounts, but they each said the police pulled the drugs out of his clothes before arresting him for having marijuana in public view. None of them had been buying their drugs outside. And none of them were carrying a weapon when they were stopped....

Antonio Rivera, 25, said he gets stopped by police up to five times a month. In January, he said he was stopped and frisked near the corner of E. 183rd Street and Creston Avenue in the Bronx. He was arrested for misdemeanor marijuana possession. Critics of the police say his case is an example of how officers may be conducting illegal searches when making marijuana arrests. Rivera said his marijuana was in his pants and that police pulled it out of his clothes after searching him without his consent. “So they checked my pockets, my coat pockets, and they patted my jean pockets,” Rivera said, “and then once he felt the package I had in my crotch area, he went into my pants and he pulled it out.”

Rivera had lodged a soft Ziploc bag of marijuana between his legs inside his pants while still in the room where he bought it. He said he never took the drugs out when he went outside, but the police officer who arrested him told prosecutors Rivera was openly displaying his drugs. In the criminal complaint

against Rivera, the arresting officer stated that he “observed the defendant to have on his person, in his right hand 1 Ziploc bag containing a dried-green leafy substance with the distinctive odor alleged to be marijuana in public view”....

Leo Henning, an African-American, said he was walking with a Ziploc bag of marijuana in his sock—under his foot—when two officers stopped him in March on a street corner in East Harlem. He had just bought the marijuana inside a warehouse several blocks away and had tucked the bag in his sock before he stepped outside, he said. Henning said one of the officers who stopped him placed his hands on him almost immediately.... “He went into my front right pocket. Then he went into my front left pocket,” Henning said. “Then he went into my right back pocket. Then he went into my left pocket.” Finding nothing, Henning said the officer stuck his fingers down Henning’s left sock. “And then he switched over to my right sock,” Henning said. “He stuck his hands in. His fingers were going under my foot inside my sock. That’s when he felt it, I gather.” At that point, the officer allegedly pulled out the bag of marijuana and arrested Henning for displaying marijuana “open to public view.” Henning spent the night in jail.<sup>19,20</sup>

It is illegal for police to reach inside someone’s pockets without prior “probable cause,” meaning evidence sufficient to justify an arrest. The U.S. Supreme Court established in *Terry v. Ohio* 392 U.S. 1 (1968) that police officers may formally, officially stop and detain someone only when they have “reasonable suspicion” that something illegal or dangerous is going on that warrants further investigation. But this is not sufficient to legally frisk someone. In order to conduct a legal pat-down—what the Supreme Court called “a limited search of the outer clothing for weapons,” especially a gun—the officer must have “reasonable suspicion” to believe that the person is armed and dangerous, posing a threat to the officer or others. But even this frisk, this pat-down, this “limited search” is to be of only the “outer clothing.” A full search, in which the person stopped is required to empty his pockets, or one that goes beyond the pat-down of outer clothing, requires “probable cause,” that is, enough evidence to justify an arrest. Police have no legal justification for reaching into someone’s pockets or possessions unless the officer feels a weapon, and guns are relatively easy to feel. As Ira Glasser has explained,

What *Terry* means, therefore, is that in the absence of probable cause—that is, in the absence of enough evidence to justify an arrest or a search warrant issued by a court—a police officer may frisk someone who has been legally and forcibly stopped only if the officer has good and specific reasons to suspect a concealed weapon. What the officer may not legally do is frisk someone because he “suspects” a crime other than the possession of a concealed weapon.<sup>21</sup>

Yet this is precisely what happened for 15 years in New York City’s marijuana arrest crusade.

The second principal way that police officers retrieve marijuana is that some individuals take out their marijuana and hand it over. Few people do this without being asked or ordered. When we began our research on the marijuana arrests some years ago, we had many reports from public defender and legal aid attorneys, and from people who had been stopped and searched, that police, in effect, tricked people into emptying their pockets or taking out their marijuana.

In September of 2011, after numerous reports of the police searching people, and of police tricking and ordering people to empty their pockets revealing only a bit of marijuana, Police Commissioner Kelly broke his many years of silence about the marijuana arrests when he released a formal Operations Order concerning “Charging Standards for Possession of Marihuana in a Public Place Open to Public View.” The order instructed that unless “the public display of marihuana” was “an activity undertaken of the subject’s own volition,” the charge must be a violation, not a misdemeanor.<sup>22</sup>

In his order, and in its voluminous press coverage, it became clear that police officers commonly, in Kelly’s words, “recover marihuana pursuant to a search of the subject’s person or upon direction of the subject to surrender the contents of his/her pockets or other closed container.” Commissioner Kelly also referred to individuals who are “requested or compelled” by police officers to empty their pockets and reveal their marijuana. As Kelly’s order acknowledged, police officers sometimes ask people to empty their pockets, but police also “direct” or “compel” people to do so.<sup>23</sup>

In June of 2012, Governor Cuomo broke his own long-standing silence about New York City’s marijuana arrests in a press conference he held announcing he was going to introduce legislation to further decriminalize (or “re-decriminalize” as some put it) marijuana possession in all of New York State entirely because of the large number of marijuana arrests in New York City. Addressing the cameras and the press, the governor described the common occurrence of NYPD officers ordering people to turn out their pockets and the result:

I understand the intent of the law in 1977, and ... that is not [the] current effect of the law. There is a blatant inconsistency. If you possess marijuana privately, it’s a violation; if you show it in public, it’s a crime. It’s incongruous; it’s inconsistent the way it has been enforced. There have been additional complications in relation to the stop-and-frisk policy where there are claims that young people can have a small amount of marijuana in their pocket; during the stop and frisk the police officer says “turn out your pockets” and marijuana is now in public view. [The offense] just went from a violation to a crime.

Numerous newspaper and other media stories have also reported cases where people were told (or directed, ordered, commanded, or instructed) to empty their pockets and turn their pockets inside out.<sup>24</sup>

## 6.4 Marijuana Possession Arrests as Response to Decline in Number of Serious Crimes

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Why has the New York Police Department been making historic and unprecedented numbers of arrests, many of them blatantly illegal, for possession of small or even tiny amounts of marijuana? Why has it been doing so when state law has long decriminalized simple possession of marijuana? And why, despite the ever-growing opposition to these arrests from advocates, attorneys, elected officials, and prominent reporters and columnists, and despite a great many news stories documenting the (at best) devious ways the arrests are made and their harmful consequences, have the arrests continued unabated? Why did Mayor Bloomberg, Police Commissioner Kelly, and the top commanders of the NYPD continue to make ever more of these lowest-level possession arrests, year after year?

It is surprising that neither Mayor Bloomberg nor Police Commissioner Raymond Kelly has ever answered those questions directly. Some reporters have said that, off the record, top people in the Bloomberg administration say that the marijuana arrests “bring crime down.” But the administration has never provided any evidence for that, or even made an extended argument to present and defend such a claim.<sup>25</sup> Strange as it seems, the marijuana arrest crusade has gone on, producing more than 600,000 arrests for marijuana possession by 2012 (at a cost of nearly a billion dollars) without a serious explanation of the policy for taxpayers, citizens, and the general public.<sup>26</sup>

In order to understand this process we have therefore relied upon the experiences and insights of veteran police officers and long-time observers and researchers of New York’s criminal justice system, and on an ever-growing body of statistical and qualitative data about police activities, including about the NYPD’s huge number of racially skewed stop and frisks.

Only one study, published in 2007 in *Criminology and Public Policy*, one of the two peer-reviewed journals of the American Society of Criminology, has examined whether New York City’s marijuana possession arrests have reduced violent and serious crimes. And it strongly concluded that the marijuana arrests had not reduced serious crimes. University of Chicago professors Bernard Harcourt and Jens Ludwig used highly technical methods to analyze statistically the effects of the marijuana arrests on serious crimes including violent crimes, but they explained their key findings clearly. Referring to the marijuana possession arrests as MPV (marijuana in public view) arrests, they wrote:

Whatever the conceptual underpinning of this marijuana policing strategy ... we find no good evidence that the MPV arrests are associated with reductions in serious violent or property crimes in the city. As a result New York City’s marijuana policing strategy seems likely to simply divert scarce police

resources away from more effective approaches that research suggests is capable of reducing real crime. ...

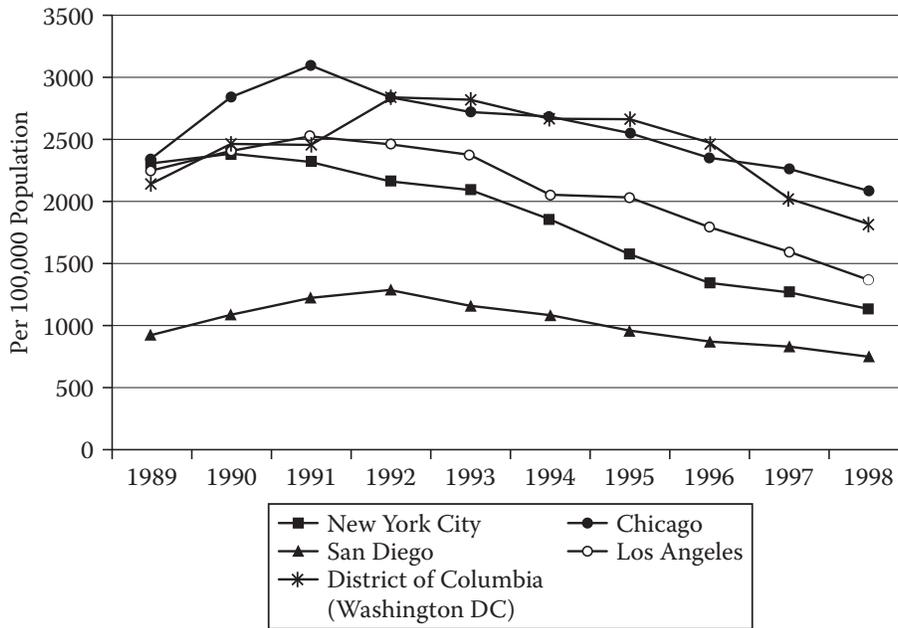
[New York City's] experiment with misdemeanor MPV arrests—along with all the associated detentions, convictions, and additional incarcerations—represents a tremendously expensive policing intervention.... [The marijuana possession arrests have] had a significant disparate impact on African-American and Hispanic residents. Our study further shows that there is no good evidence that it contributed to combating serious crime in the city. If anything, it has had the reverse effect. As a result, the NYPD policy of misdemeanor MPV arrests represents an extremely poor trade-off of scarce law enforcement resources.<sup>27</sup>

Harcourt and Ludwig's study is in accord with the observations of patrol officers we interviewed in New York and other cities. These experienced police officers point out that when officers spend several hours arresting and booking teenagers and young adults simply for possessing marijuana, they are off the street and unable to engage in other police work. Likewise, narcotics squads searching for and arresting people possessing small amounts of marijuana are not available for other crime-fighting work. In describing these marijuana arrests, a number of police officers used exactly the same phrase, calling them "a waste of time."

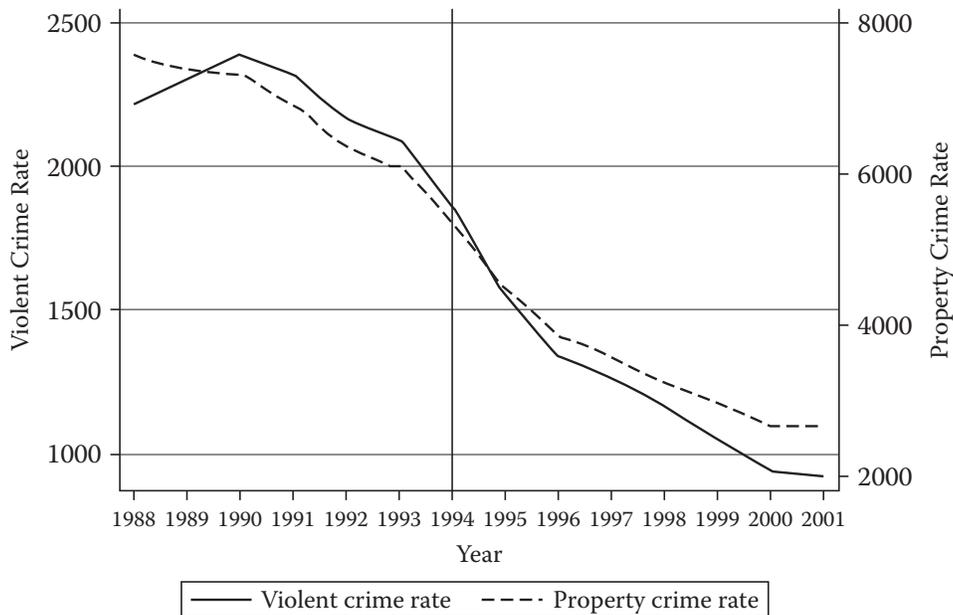
The question remains: why make all these marijuana possession arrests?

Since the rise of professional policing, police departments have sought to measure officer productivity, with numbers of arrests and other enforcement activities serving as the primary quantitative measures of productivity. In the 1990s, the availability of computers and computerized databases gave police commanders access to much more information about crime patterns, and about policing patterns. A number of other technological developments, including the shift from foot patrols to patrol cars, the use of computer terminals in police vehicles, and the rise of cell phone use, have also allowed supervisors to more closely supervise officers on the street.

Fueled in part by these developments, two important phenomena overlapped in New York City beginning around 1990. First, a nationwide and international decline in the number of serious and violent crimes began in the late 1980s and continued and expanded in the 1990s.<sup>28</sup> Some observers conclude that the use of computers to track crime patterns, along with other economic and social shifts, including the availability of better locks and physical security, contributed to making the widespread reduction in serious crimes in the 1990s and continuing in the 2000s. To repeat: this decline in reported serious felonies occurred in many U.S. cities and states, and in a number of other countries.<sup>29</sup> As the two graphs show (Figures 6.7 and 6.8),



**Figure 6.7** Reported rate of violent crime: Five U.S. cities, 1989–1998. (From Marshall, J., *Zero Tolerance Policing*, Australian Institute of Criminology, Australian Government, Australian Capital Territory, Australia, March 1999. Available at [http://www.ocsar.sa.gov.au/docs/information\\_bulletins/IB9.pdf](http://www.ocsar.sa.gov.au/docs/information_bulletins/IB9.pdf))



**Figure 6.8** Violent and property crime rates, New York City, 1988–2011.

New York City first had fewer reports of serious crimes around 1990, when David Dinkins was mayor and Raymond Kelly was his police commissioner.

Second, beginning in 1994, with considerable fanfare, the NYPD under Mayor Giuliani and Police Commissioner Bratton shifted its patrol and crime-fighting focus to minor crimes and offenses, to misdemeanors and even civil infractions. This policy continued and expanded under Giuliani's next two police commissioners, and then under Mayor Bloomberg and Police Commissioner Kelly.

For U.S. police departments, the decline in the number of serious crimes presented an unusual but not entirely unanticipated question: what do managers of police departments experiencing a decline in serious crime do with the police officers who formerly spent much of their time responding to the serious felonies? In addition, a prominent initiative of President Bill Clinton funded 100,000 more police officers nationwide. As a result, in the 1990s the question of how to assign and supervise officers in an era of declining crime was a real one, and it did not go away in the 2000s.

Giuliani, Bratton, and their top law enforcement advisors had a number of motivations for focusing heavily on misdemeanors and other petty offenses (not all of them admitted).<sup>30</sup> But they certainly recognized that if serious crime continued to decline, they would have to assign police in new ways. And they also understood that officers freed from working on felonies could be deployed to focus on low-level offenses, on misdemeanors and even on infractions such as writing graffiti, urinating on the street, and having loud boom boxes. Assigning officers to police minor offenses kept them busy and also provided a valuable paper trail of their activities showing when and where they wrote summonses, filled out stop-and-frisk forms, and made misdemeanor arrests.<sup>31</sup>

Until the early or mid-1990s, half or more of all arrests in New York occurred when police officers investigated reported crimes, after someone reported a robbery, burglary, assault, rape, or other crime by calling the police or coming to a police station, or occasionally when a body turned up. Police officers then were assigned to investigate and if possible arrest a suspect. For many years, the NYPD made about equal numbers of arrests for felonies (serious crimes) and for misdemeanors, most of them in response to crimes that people reported. But with the decline in serious crimes, and with the increase in the number of police officers in the 1990s, the NYPD and some police departments shifted to a new kind of "proactive" policing focusing on petty offenses.

In order for this policy emphasis on petty offenses to go into effect, officers on the street had to cooperate. But people do not typically become police officers in order to write tickets and give warnings for minor offenses; people become police officers to catch bad guys and make arrests. Therefore, patrol

police had to be given the authority to make more arrests for minor offenses. Indeed, they had to be encouraged to do so, in part through overtime pay. Nowhere was this emphasis on making arrests of people for minor offenses carried out more publicly and adamantly than in New York City, first under Rudolph Giuliani and then under Michael Bloomberg.

One veteran NYPD patrol officer who came on the force in 1984 explained how this transformation was effected for marijuana possession within the microcosm of the police station. During his first 10 years, he said, an officer who brought in a simple marijuana possession arrest might be teased or even ridiculed by the desk sergeant or other officers: “Hey, look at what Jones brought in: a really dangerous case of pot possession. Major criminal you’ve got there, Jonesy.”

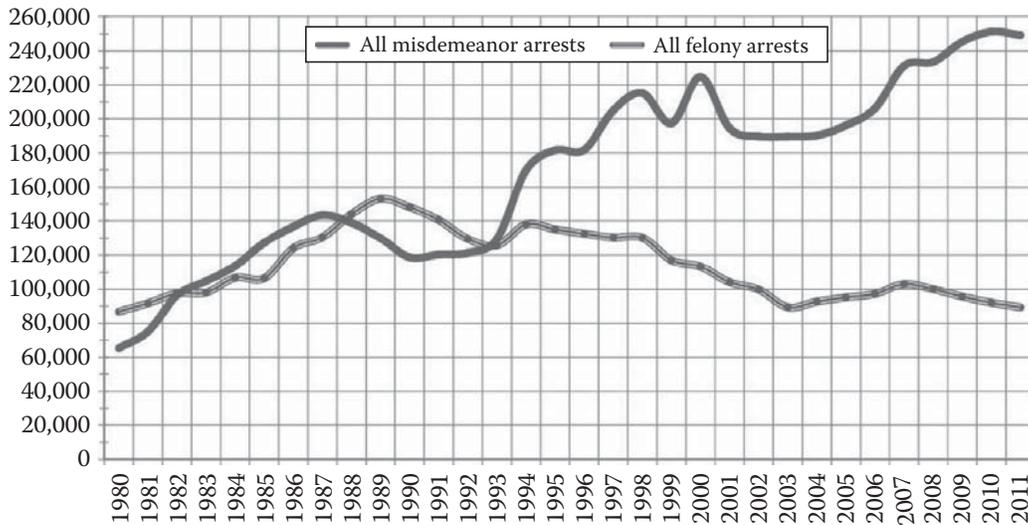
Beginning around 1996, after Bratton had left and Safir was in charge, the attitude within the department changed: marijuana possession arrests became not just acceptable but desirable and worthy of praise. Now the sergeant or commander would say: “I’d like to see the rest of you making those marijuana collars like Jones has been doing. You know they’re out there. Go get some.”

Another veteran officer told us that shortly after Giuliani appointed Bratton as his first police commissioner, Bratton addressed over 20,000 police officers at a huge police-only event at Madison Square Garden. Bratton told the troops that there was a new regime in town with a new policy: NYPD officers should make full-fledged arrests for many minor offenses, and they would get overtime pay for doing so. This was followed by 20,000 police officers standing up, stamping their feet, applauding, and cheering in a “deafening roar.”

It took a number of years for this change to be fully implemented. But the shift in policing in New York (and in some other cities) has transformed what it is that police officers do. In 1980, the NYPD made 86,000 felony arrests and 65,000 misdemeanor arrests. As the graph in [Figure 6.9](#) shows, in 1994, Giuliani’s first year as mayor, that pattern began to change. By 2011, the NYPD reported 89,000 felony arrests but nearly 250,000 misdemeanor arrests.

Chief among the misdemeanors in 2011 were the more than 50,000 arrests for marijuana possession and the 32,000 arrests for possession of tiny or miniscule amounts of all other drugs. Since the late 1990s, lowest-level drug possession arrests have constituted about a third of all misdemeanor arrests in New York City, and about a quarter of all arrests of any kind.

In a relentless, 20-year public relations offensive, the NYPD and its mayors have claimed that the chief reason there were fewer reported crimes, especially serious felonies including murders, shootings, assaults, robberies, and rapes, was because the NYPD was making many more arrests for minor offenses. This policy has been promoted under a number of slogans or brands. In 1994 and 1995 under Giuliani and Bratton, this policy was first called “broken-windows policing.” It has also been called “quality of



**Figure 6.9** Felony arrests and misdemeanor arrests, New York City, 1980–2011.

life policing,” “order maintenance policing,” and “zero tolerance policing.”<sup>32</sup> In all forms it has had the backing of important conservative Republicans, who in New York were centered at the Manhattan Institute, which became a major promoter of misdemeanor-focused policing.<sup>33</sup>

The number of serious crimes reported did drop in the years following Giuliani and Bratton’s shift to focusing on petty offenses. But, as a substantial body of research has pointed out, and as even Bratton noted in 1994 when he became police commissioner, this drop in violent and serious crimes had also clearly been happening before Giuliani and Bratton came upon the scene, and it happened in many cities in the United States and in other countries that did not adopt this policy of focusing on petty offenses.<sup>34,35</sup> Indeed, recent scholarship on the striking international character of the crime drop (in Canada, England, Wales, the Netherlands, France, and other countries) makes very clear that no single policing strategy or set of conditions produced the widespread, international crime decline.<sup>36</sup>

In 2013, as this chapter is being finished, it is becoming easier to see that, at least after the first few years, the NYPD’s focus on misdemeanor arrests, including the huge number of marijuana possession arrests, was in part, probably in large part, a response to the much broader decline in the number of serious crimes.<sup>37</sup> The numbers of marijuana arrests began to rise because Giuliani and Safir wanted officers to make these arrests, which were consistent with the policies of the war on drugs they both had helped create. But the marijuana arrests became so common and numerous, and have continued in 2013, because they were useful and beneficial to significant constituencies within the police department, including supervisors at all levels and many patrol and narcotics police.

## 6.5 Usefulness to Police of Marijuana Arrests

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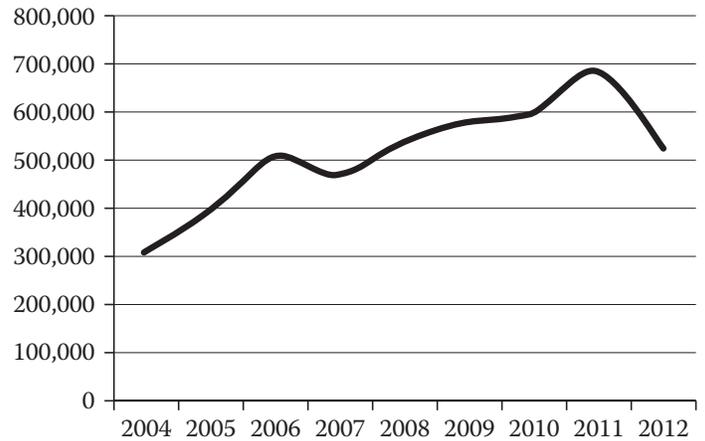
To the emphasis on low-level offenses and misdemeanor arrests, New York City added one more critical factor: hundreds of thousands of stop and frisks a year. By 2012, under Michael Bloomberg alone, the NYPD had made 3,300,000 recorded stop and frisks, and an unknown number of unrecorded and unreported ones, perhaps half again as many. By 2012, the stop and frisks had gained national notoriety and the attention of the U.S. Justice Department because of the hard work and advocacy of many civil rights and civil liberties advocates, researchers, journalists, editorial writers, elected officials, attorneys, public defenders, and a number of federal lawsuits.<sup>38</sup>

New York City's stop-and-frisk practices have been subjected to intense and frequent public debate among the groups just mentioned, including respected journalists for the *New York Times*, Associated Press, *New York Daily News*, and many other publications on one side, and Mayor Bloomberg, Police Commissioner Kelly, top commanders at the NYPD, and their defenders including the Manhattan Institute and the editorial pages of the *New York Daily News* and the *New York Post* on the other side.

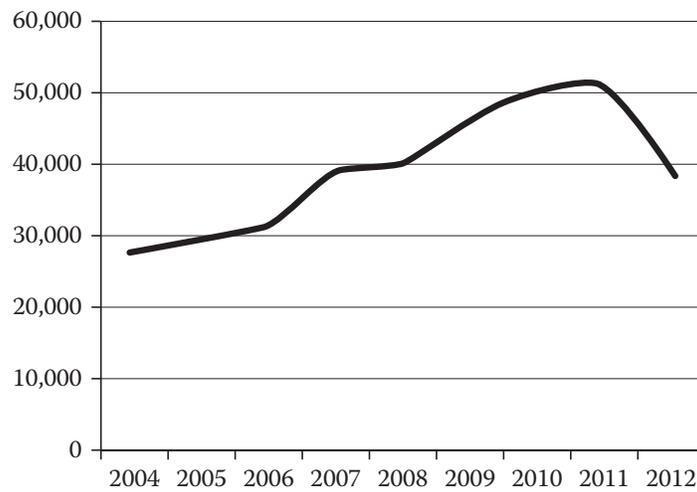
One thing they all accept is the number of stop and frisks made each year as reported by the NYPD based on forms, called UF-250 forms, which were filled out by individual officers. Since 2004 the NYPD has filed an average of 500,000 UF-250 forms a year, and about half the time the stops led to frisks. In 2011, the huge volume of forms filed led to the mind-boggling fact, announced by the NYCLU, that more young Black men were stopped and searched by police that year than actually lived in New York City.<sup>39</sup>

By now (2013) it has become very clear that the marijuana arrests are a direct by-product of the stop and frisks.<sup>40</sup> Year after year, police officers have filled out forms indicating that they have stopped at least 500,000 people a year, 87% of them Blacks and Latinos, and 10% of them Whites, about the same percentages as are arrested for marijuana possession, and in about the same age groups. The two charts in [Figure 6.10](#) show the stop and frisks and the marijuana arrests from 2004 through 2012. There are many more of the former, but the two lines follow an uncannily parallel trajectory. And both the stop and frisks and the marijuana possession arrests were down the same 22% in 2012.<sup>41</sup>

The New York Police Department is an avowedly top-down paramilitary organization. Individual officers and low-level commanders did not decide on their own to make millions of stop and frisks and hundreds of thousands of marijuana possession arrests. They were ordered to do so, sometimes indirectly, sometimes very directly. Patrol and narcotics police were pressured to make and record stop and frisks, and to make arrests for marijuana



(a)



(b)

**Figure 6.10** (a) NYPD stop and frisks; (b) NYPD marijuana possession arrests.

possession and other minor offenses. They were rewarded for doing so and punished for not doing them enough.

From our research and interviews, we identified several major incentives for narcotics and patrol officers, and for NYPD commanders and supervisors at all levels, to support the policy of making many marijuana arrests. As veteran officers explained, the marijuana possession arrests have served multiple needs and interests of NYPD commanders, and of significant numbers of patrol and narcotics officers.

Many reports<sup>42</sup> have documented that the NYPD uses quotas to achieve its high numbers of stop and frisks, of misdemeanor arrests for marijuana and other minor offenses, and of criminal court summonses (about 600,000 a year) for even lower-level offenses such as holding an unsealed alcohol container, riding a bike on the sidewalk (even slowly on an empty sidewalk in front of one's home), sitting quietly on a park bench in a housing project shortly after sundown, and similar minor offenses. Officers assigned to

certain precincts (meaning neighborhoods where most residents are Blacks and Latinos, especially public housing developments and other low-income areas) have been heavily pressured to fill out five or more stop-and-frisk forms a month, issue 20 or so criminal court summonses for quality of life infractions, and make one, two, or three arrests. Officers do not like filling out the stop-and-frisk forms, and many object to needlessly burdening people, especially young and poor people, with criminal court summonses; many of the revelations that police officers have made about quotas have focused on the stop and frisks and the summonses. But unlike the other two duties the NYPD has imposed on officers, making arrests, in particular the marijuana arrests, has apparently not required as much pressure, especially among narcotics police who seem to have taken to the job with relish and gusto.

For narcotics police, for rookie officers who experience the most pressure to meet quotas, and for some patrol police, making the marijuana arrests is not an unpleasant part of the job. Police work can be dangerous. In our interviews, rank-and-file police officers reported that making marijuana arrests is safer and easier than many other forms of police work. Officers are unlikely to get shot or stabbed arresting someone for marijuana. People arrested for possessing marijuana tend to be nonviolent and easy to handle. Furthermore, as one veteran officer put it, marijuana arrestees are “clean,” meaning physically clean, not smelly or dirty. This matters because the arresting officer is “married” to the arrestee throughout the booking process, sometimes for many hours. Unlike drunks or heroin junkies, people arrested for possessing marijuana are unlikely to throw up in the back of the squad car. Most people possessing a bit of marijuana, especially ordinary teenagers and young people, tend not to have AIDS, hepatitis, tuberculosis, or even body lice. In effect, making marijuana and other misdemeanor arrests has become a “quality of life” issue, *for the police*. According to some news reports, narcotics officers have resisted efforts to shift them to other duties or even to higher-level anti-drug work, which is often more dangerous and more tedious, and provides less opportunity for overtime.<sup>43</sup>

Marijuana arrests allow police officers to make much-desired overtime pay. Because NYPD pay scales have been at historically low levels, many officers naturally desire overtime work. The main way that patrol officers can generate overtime on their own is by hunting for suspects (especially teenagers and young adults) who may have some sort of “contraband” in their possession and then stopping, frisking, and searching them. The item that men and women of any race or class are most likely to have in their possession that can justify an arrest is a small amount of marijuana. A marijuana arrest (or other low-level misdemeanor arrest) near the end of a shift guarantees an officer several hours of relatively clean, easy overtime, at time-and-a-half pay. This is so much a part of life within the NYPD that, among themselves, officers refer to marijuana and other misdemeanor arrests, especially at

the end of a shift, as “collars for dollars.” Apparently every police officer in New York City knows the expression; many learn it from others in the first weeks of police academy. In recent years most officers can usually obtain at least 35 hours of overtime a month. Veteran police officers assured us that although this number is nowhere written down, many police and their commanding officers know it and live by it, with even greater overtime opportunities for special circumstances and projects. For many officers, making arrests toward the end of a shift is by far the most common way to obtain this much-desired overtime pay.

One technique that narcotics police use for generating many marijuana arrests of buyers we have termed “net fishing.” This occurs when narcotics police stake out a storefront such as a small grocery which is selling five- and ten-dollar bags of marijuana. Instead of raiding the place and closing it down, a narcotics team puts an undercover officer close by to observe. When he sees people who may have bought marijuana coming out of the store, he radios or phones a description of them to fellow officers who have set up their operation a block away. When the suspects reach the next corner they are stopped and told that they have been observed coming out of a “known drug dealing establishment” and must be searched. When the just-purchased marijuana is discovered, the people arrested—usually young Blacks and Latinos—are locked in a van parked nearby, the operation continuing until the van is filled.

Like fishermen who put nets across a river to catch fish swimming downstream, the narcotics team may return a couple of times a week for many months, setting up their “nets” and making arrests. If they bring in a group of arrestees toward the end of a shift, the officers can accumulate substantial overtime. A surprising number of journalists’ interviews with people arrested for marijuana possession were of people who had just purchased their marijuana and were stopped and arrested by police a block way. They had been caught in these net-fishing operations.

As with the 500,000 stop-and-frisk forms filled out a year and the 600,000 criminal court summonses the police write a year, the marijuana arrests allow officers to show productivity, which counts for promotions and more desirable assignments and schedules. The marijuana arrests also allow police supervisors to keep much better track of what their officers are doing.

Those of us researching the marijuana arrests have concluded that this police supervising and monitoring function of the stop and frisks, of the criminal court summonses, and of the seemingly pointless arrests for marijuana possession and other minor offenses is a major reason they have continued and why the top police commanders have resisted so fiercely any efforts to give them up or even reduce them. In short, police supervisors from the precinct level to the top commanders benefit from marijuana arrests. The

arrests generate records, facilitate supervision of police activities, and allow police supervisors to show that they and their officers are productive.

Perhaps the number one concern of police supervisors at all levels is, “Where are my officers right now and what are they doing?” When officers make many arrests for marijuana possession and other misdemeanors (and make many stop and frisks and write many summonses), they keep busy. As a police lieutenant said, “You don’t have to worry that they are goofing off or doing something else.” At a time when serious and violent crimes (and therefore arrests) have declined significantly, officers who write up many stop and frisks, write many criminal court summonses, and make arrests for marijuana and other misdemeanors enable supervisors, from the precinct on up, to show that the officers they supervise are not sloughing off and are being productive. In addition, supervisors also accumulate overtime pay when the officers working directly under them do.

For NYPD commanders, police officers whose days are filled making stop and frisks, writing summonses, and making arrests for possession of small amounts of marijuana or other drugs provide much-desired staffing flexibility because these officers can be easily shifted elsewhere when needed. If something big happens—a fire, bombing, watermain break, subway accident, or other emergency, or when the president or other dignitary is in town—these officers can be shifted elsewhere without taking resources from more important patrols and operations. No ongoing investigation or anti-crime operation is affected by temporarily reducing marijuana possession arrests or stop and frisks. This flexibility is so central to ordinary NYPD functioning that, in at least some years, many of the 900 or so uniformed officers on duty during games at Yankee Stadium were plainclothes narcotics police temporarily assigned to uniformed patrol duties (and paid overtime to do so). In a sense, officers making marijuana and other misdemeanor arrests function as a kind of “reserve army” of police to be called upon when needed, which is quite useful for the top brass of the department.

For the NYPD, marijuana arrests provide an easy way to target and acquire information, to institutionalize and routinely surveil young people, particularly people of color. Along with national and other local police agencies, the NYPD seeks to have as many young people as possible “in the system,” meaning having them fingerprinted, photographed, eye-scanned, and now increasingly DNA tested. Howard Safir, the police commissioner from 1996 to 2000, regarded collecting information as a critical police task and became one of the most prominent national advocates for collecting what he termed “DNA fingerprints.” Similarly, Mayor Bloomberg and Police Commissioner Kelly have been enthusiastic supporters of expanding criminal databases to include many ordinary Americans.

Marijuana arrests are the best and easiest way currently available to acquire actual fingerprints, photos, and other data on young people,

especially Black and Latino youth, who have not previously been entered into the criminal justice databases. There is nothing else the police can do to put as many new people “into the system,” and to update information on those already entered, as the wide net of marijuana possession and other misdemeanor arrests.

A researcher who worked every day for nearly a year interviewing arrestees in the criminal court detention cells of one borough told us of one guard’s daily talk to the people arrested for marijuana possession and other petty offenses. In a speech delivered every day for years, the guard dramatically told the tired, hungry, misdemeanor arrestees under his watch that everyone else had lied to them about why they were arrested, but that he would tell them the truth. The truth, he said, was they were arrested for their fingerprints and photos. We think that he correctly reported one source of support for the arrests among some commanders within the upper echelons of the NYPD, including Commissioners Safir and Kelly.

There is one other essential service that the marijuana arrests and the stop and frisks provide for NYPD commanders: training rookie officers. There is perhaps no occupation or profession where the gap between what new hires learn in their training programs and what they actually do on the job is greater than in police work. In the police academy the trainees learn what the laws and regulations are, ways to defend themselves, and other essential knowledge. In their months and years on the street they learn a whole different curriculum: how policing works in the real world. For police commanders, rookie police fresh out of the academy are a management nightmare. They are inexperienced, untested, and many come from suburban, exurban, and even rural areas with little or no previous contact with Blacks, Latinos, or big city life. Every big-city police department has to figure out how to manage that transition.

In New York City as in other American cities, police commanders have settled on a convenient solution: assign new officers mainly to foot patrols in low-income Black and Latino neighborhoods (also called “high-crime” areas), and assign them to write many summonses, do many stop and frisks, and make arrests for petty offenses, especially involving teenagers. This accomplishes several things at once. It gets the new officers out on the street, seeing what goes on, and stopping and talking to many young people their own age. Some officers first have to learn to understand the dialects, accents, and slang to even communicate. It also focuses the young officers’ attention and efforts on teenagers and ordinary young people who are less likely to be dangerous or even physically threatening. This work further emphasizes communication skills and basic tasks such as filling out summonses or stop-and-frisk forms, or writing up arrest reports. In stopping people to question them, and in writing summonses and filling out stop-and-frisk forms, the

new police get used to routinely using their brains, words, and pens for policing, and not their guns.

If, in the course of frisking and searching people, the rookie officers find some marijuana or, less commonly, some other contraband, they make arrests, again usually of less dangerous, easily intimidated young people, many of whom have never been arrested for anything. The officers gain valuable experience putting on handcuffs; bringing their arrestees back to the police station; taking the fingerprints, photographs, and eye scans; writing up the police reports; sending the records to be checked against the FBI's databases; and often accompanying the arrestees to the courthouse and sometimes even waiting until they appear in court. They also often have to speak with commanders, prosecutors, and other criminal justice personnel. If an officer screws up the paperwork or fingerprints in the course of making one of these marijuana possession arrests, there is no harm done, because nobody really cares about these marijuana arrests anyway. And even the rookies get overtime pay so they have an incentive to make these misdemeanor arrests and, ideally, not mess them up. If brand new officers do this kind of work all day every day for six months or a year, by the end of the process they are well on their way to becoming functioning police. Some will wash out in this process, some will excel, and all will learn much that needs to be understood.

For the police department and the mayor this is, indeed, an effective way to train young officers. Many police departments do this kind of thing quietly and in a limited way, but the NYPD proudly trumpets and promotes this not as training (they never mention that) but instead promote it as a genuine "crime-fighting" innovation under the slogan, "Operation Impact." The Manhattan Institute even gave Police Commissioner Kelly an award for Operation Impact. The only real downside to this, of course, is that this training program for new police subjects hundreds of thousands of young people from low-income neighborhoods, primarily Black and Latino young men, to the repeated indignity of the stop and frisks, and to the expensive and time-consuming criminal court summonses they receive. And the really unfortunate young people whom the rookies capture and charge with marijuana possession and other minor misdemeanors get to experience the traumatic ordeal of a criminal arrest, a scary night in the dungeons of New York City, and a life-time criminal record.

The NYPD, the mayor, and the great many middle-class New Yorkers who have no idea this goes on benefit from having experienced, trained, and professional police. The suburban police departments, which make many of their hires from the NYPD, also gain. The cost of this on-the-street training is borne by the people of the neighborhoods where Operation Impact and similar policies are carried out, especially by the least powerful people in the city, Black and Latino teenagers and young people, especially young men.<sup>44</sup>

## 6.6 What Happens Now?

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When we first published a long report about the marijuana arrest crusade and the stop and frisks in 2008, we ended a section like the one above with a question: “Is this what the people of New York City want their police to be doing?” The answer only five years later from many New Yorkers has been a resounding “No!”

As this is being written in the summer of 2013, it is fair to say that a broad-based and unprecedented movement to reform the NYPD is growing and thriving. No single organization leads this movement; there are no celebrity or charismatic leaders, although a few members of the New York City Council have become strong advocates for the basic principles of openness, fairness, democracy, and an end to biased and discriminatory policies and practices. A loosely organized alliance of 26 member organizations, and 35 supporting organizations, has come together under the name Communities United For Police Reform (CPR). Its website describes it well:

Communities United for Police Reform (CPR) is an unprecedented campaign to end discriminatory policing practices in New York, bringing together a movement of community members, lawyers, researchers and activists to work for change. The partners in this campaign come from all 5 boroughs, from all walks of life and represent many of those most unfairly targeted by the NYPD. This groundbreaking campaign is fighting for reforms that will promote community safety while ensuring that the NYPD protects and serves all New Yorkers. We are a movement that is here to stay—a Campaign that will be a visible, lasting presence on the streets of neighborhoods citywide. We will be in communities and on the streets, educating people about their rights; and in the courts and on the steps of City Hall and the state capitol, demanding change to the NYPD—until these policies end. For general information about the campaign, please sign-up for campaign news and updates. For press inquiries, please email [press@changethenypd.org](mailto:press@changethenypd.org).<sup>45</sup>

Currently at least half a dozen lawsuits against the NYPD and New York City for its policing practices are working their way through the federal courts. Suits have been filed independently and sometimes in partnership by the Center for Constitutional Rights, the New York Civil Liberties Union, the Legal Aid Society Special Litigation Unit, the Bronx Defenders, the NAACP Legal Defense Fund, and some private attorneys. Pro bono attorneys and legal staff from some of the city’s top private and corporate law firms have assisted in the work. The suits have targeted stop and frisks, marijuana arrests, trespassing arrests in public housing and private buildings, illegal searches, the criminal court summons system, the surveillance of Islamic student organizations, the NYPD’s police training materials and programs, and more.

A series of bills to rein in the NYPD and change its policies, collectively entitled The Community Safety Act and drafted by Communities United for Police Reform, has been introduced in the New York City Council and two of the bills were passed by the Council on June 27, 2013. Although Mayor Bloomberg vowed to veto them, both passed by veto-proof majorities. One bans “bias-based” policing and gives victims a “private right of action” to vindicate their rights.<sup>46</sup> The other, entitled The NYPD Oversight Act, assigns responsibility for NYPD oversight to the commissioner of the department of investigation. (In New York City, the DOI currently oversees about 300 city agencies, including the Fire Department, Department of Education, and Human Resources Administration, but not the NYPD.)<sup>47</sup>

Governor Cuomo has committed himself to passing statewide marijuana reform legislation to stop the NYPD’s marijuana arrests. It seems certain that in the next few years other police and criminal justice reform legislation will be introduced in both the state legislature and the city council. For example, recently the quite staid and respectable New York state senator from the upper east side of Manhattan, the wealthiest district in the city, announced her intention to recruit others in the legislature to join her in sponsoring a bill to flat out legalize marijuana possession and use in New York state. A news story about Senator Liz Krueger illustrates the kind of broad support for these reform efforts that are arising from diverse constituencies:

Why is Krueger carrying the standard for marijuana legalization, anyway? A White, 55-year-old woman representing an Upper East Side district in which arrests for marijuana aren’t exactly a monumental issue, and who says she last smoked weed at a Cheech and Chong movie in 1977, would seem to be an odd champion for the case. But Krueger says those things are precisely what make her the right person to get it done, or to try....

“I have a very White, upper-middle-class district,” she continued. “The kids of my constituents are not getting busted, and if they get busted, they have really good lawyers and they’re not ending up with criminal records.”

And yet, she said, “I saw the pain and suffering that our current laws were inflicting, disproportionately on young, poor people. I saw the amount of money we were spending in the criminal justice system unnecessarily. And I can come up with endless better ways to spend that money. I saw young people having their lives ruined before they ever got out of high school, because they ended up with the kind of criminal record that wouldn’t let them get college tuition assistance, or scholarships, or be eligible to apply for certain kinds of jobs.

“If you have a marijuana bust, you can never go to work as a policeman, or fireman or a sanitation worker. Like, seriously?”<sup>48</sup>

Like this article about Liz Krueger, columnists, reporters, editorial pages, newspapers, magazines, video, television and radio news, and many, many

websites have risen to the challenge and provided an extraordinarily rich array of writing, reporting, and images about the harm that the NYPD and New York's larger criminal justice system has been doing, especially to its most vulnerable people. A number of NYPD officers have come forward to tell what they know. Some uniformed officers have surreptitiously recorded their commanders ordering them to write more criminal court summonses, do more stop and frisks, and make more arrests. Reporters have transcribed these recordings and posted segments of the recordings on the website of the *Village Voice* and other publications.<sup>49</sup>

Two columnists for the *New York Times* have written brilliantly about marijuana arrests and other NYPD practices, and the *New York Times* editorial page has been alive with strong writing about stop and frisks, illegal searches, the failures of broken-windows policing, police unnecessarily harassing and arresting people in public housing developments and private buildings, the huge virtually unknown summons court system, and more.<sup>50</sup> Social science, public health, urban studies, social welfare, and law professors have written, spoken, and contributed research, which in turn has been picked up and reported by the increasingly knowledgeable and informed journalists in the news media and on the Web.<sup>51</sup>

In effect, many New Yorkers have been going through a remarkably smart, informed, detailed, public education program about their police department and criminal justice system. And things once learned are not forgotten but built upon. To repeat: this movement is growing and thriving.

And this is happening in New York City, the biggest city in America, a world city, and a world media center. So what happens in New York City definitely does not stay in New York City. There is even a sense among some advocates that New Yorkers have a special responsibility in police reform because this is where two mayors and a number of other prominent individuals played major roles in promoting and spreading the gospel of broken-windows policing and its intense focus on the policing of minor offenses, overwhelmingly among people from low-income families and neighborhoods, young people, and people from racial and ethnic minorities.

Although the problems and crises of policing in New York City are extreme, they are not unusual. Many cities in the United States engage in the same or similar practices with the same results: the targeting of only some people for stop and frisks, criminal court summonses, and arrests for minor offenses including marijuana possession. In our age of cable news, e-mail, podcasts, YouTube, social media, and the instant availability on the Internet of many recorded radio and television broadcasts, it is not difficult for people in other cities to also learn about policing and criminal justice reform from what is happening in New York.

This lesson has not been lost on the leadership of large, national civil rights and civil liberties organizations. Benjamin Jealous, the young, active

executive director of the national NAACP, has spoken out repeatedly about the blatant racial bias in the NYPD's stop and frisks and steered the NAACP to issue a strong condemnation of the entire war on drugs. And on June 4, 2013, the American Civil Liberties Union released a 190-page report about the severe racial bias in marijuana arrests in every one of the 50 states and in hundreds of U.S. cities and counties. The ACLU's report, "The War on Marijuana in Black and White," explicitly drew from the data, arguments, and analysis exposing the NYPD's marijuana arrest crusade. The ACLU report also argues that the only real way to fix the scandalously disproportionate arrests of young Blacks throughout the United States is to completely legalize the possession, use, and sale of marijuana for adults 21 and older. This report has already generated much news and a number of proposals including a federal investigation of race and marijuana policing.<sup>52</sup>

Finally, it is important to note that in November of 2012 voters in Colorado and Washington State approved by significant margins ballot measures to legalize completely the possession, use, and sale of marijuana. Almost immediately police and prosecutors in both states stopped arresting and charging adults for marijuana possession offenses, and they even dismissed charges against people arrested before the election explaining that the voters had sent a clear message. In both states marijuana legalization passed with 55 to 45% of the vote, and in Colorado marijuana legalization received more votes than Barack Obama did for president. Although it was unclear for many months whether the federal government would allow the legal production and sale provisions of both measures to go into effect, it seems increasingly likely that both states will indeed be allowed to create systems for legal production and sale of marijuana products. It is difficult to express fully what a profound and history-making change Colorado's and Washington's ballot measures have introduced and begun.

The main opposition to marijuana reform thus far, and likely in the coming years, is law enforcement: police, sheriffs, and prosecutors. But in the long run they are going to lose. And as has happened in New York City since 2008, when people in many states, cities, and counties learn how the police and prosecutors across America have been manufacturing 700,000 racially biased marijuana possession arrests a year, they will also learn lessons about more general police and prosecutor practices.

Marijuana possession arrests and marijuana policing policy make a uniquely effective cutting-edge issue for police reform for a number of reasons. But one of the most important reasons is that marijuana use is the one "crime" for which there is very good, reliable, and long-standing data about who has been breaking the law by committing this crime. Many years of government studies have found that adult Whites and Blacks of all ages use marijuana at about equal rates, and that White teenagers and young adults age 18 to 25 use marijuana at higher rates than do young Blacks and Latinos. But as

the new ACLU study has documented in stunning detail, Blacks everywhere are arrested for marijuana possession at much higher rates than Whites. And this severe racial disparity is not the result of some prejudiced officers, or “bad apples,” or a lack of training. Rather, it is the result of where and how police commanders routinely deploy their officers.

It is not hard for many people to understand that this racist pattern of policing is not unique to marijuana arrests. Rather, more and more people find it easy to see that the marijuana arrests are so racially skewed because so much other policing is racially skewed or biased. And as events in New York and elsewhere show, a movement to change that—a new kind of civil rights and civil liberties movement focused on the criminal justice system—is being born all around us.

## Endnotes

1. According to New York State Penal Laws 221.05 and 221.10, possession of a small amount of marijuana is not a crime, not a misdemeanor, as long as the marijuana is not “burning or open to public view.” Beginning in 1996 and 1997, the NYPD began to make these arrests by claiming that the marijuana they extracted from someone’s pockets or belongings was “in public view.” Numerous news stories (some cited in this chapter) and a study by the Bronx Defenders have documented that, during a police stop, marijuana in a pocket has frequently turned into an arrest and prosecution for “marijuana in public view.”

Police Commissioner Raymond Kelly implicitly acknowledged in his Operations Order in September 2011 that police officers “direct” or “compel” suspects to empty their pockets and then charge them with marijuana in public view. Governor Cuomo has also described this process in his press conference in June 2012 and in his State of the State address and report in January 2013. A pdf copy of Kelly’s order is at <http://marijuana-arrests.com/docs/NYPD-ORDER-RE-MARIJUANA-ARRESTS-SEPT-19-2011.pdf>. For news stories about Kelly’s order and marijuana arrests immediately following the news about his order, see <http://marijuana-arrests.com/breaking-news.html>. For Cuomo’s address remarks and written State of the State text linking the stop and frisks with the “out of the pocket” marijuana arrests see <http://marijuana-arrests.com/docs/Gov-Cuomo-on-marijuana-arrests-Jan-9-2012.pdf>

*No day in court: Marijuana possession cases and the failure of the Bronx criminal courts*, The Bronx Defenders, New York, April 2013. <http://www.bronxdefenders.org/wp-content/uploads/2013/05/No-Day-in-Court-A-Report-by-The-Bronx-Defenders-May-2013.pdf>

In addition to much press coverage, New York City’s marijuana arrests have generated at least one law journal article about the entrapment issues raised by the arrests. See Ari Rosmarin, The phantom defense: The unavailability of the entrapment defense in New York City “plain view” marijuana arrests, *Journal of Law & Policy*, 21, 1, October 2012.

2. The enforcement, penalties, and collateral or “embedded” consequences of decriminalized marijuana possession are no bed of roses, but they *can be* substantially less harmful than the full-on, heavy-handed form of punitive criminalized enforcement that New York City has adopted. However, failure to appear in court at the required time in response to a violation summons (an innocuous looking “pink ticket”) automatically results in an arrest warrant, and then a full handcuffs-and-criminal-record arrest when a routine police stop, including a traffic stop, reveals the outstanding warrant. In New York (and other cities) these arrest warrants for summonses never expire and can lead to an arrest years or even a decade later.
3. About 30% of everyone arrested for marijuana possession had never been arrested before for anything; another 40% had never been convicted or pled guilty to anything, not even a misdemeanor. In other words, 70% of everyone arrested had never been convicted of any crime whatsoever. Another 11% of those arrested for marijuana possession had a previous conviction for a misdemeanor. Only 19% of the people arrested for marijuana possession had been previously convicted of a felony, mostly a low-level felony for nonviolent drug offenses such as selling small amounts of marijuana. All data are from the New York State Division of Criminal Justice Services.
4. See the excellent report from Human Rights Watch, *A red herring: Marijuana arrestees do not become violent felons*, New York, November 2012.

[According to Human Rights Watch] people who enter the criminal justice system with an arrest for public possession of marijuana rarely commit violent crimes in the future. Over the last 15 years, NYC police have arrested more than 500,000 people, most of them young Blacks or Hispanics, on misdemeanor charges of possessing small amounts of marijuana in public view. Although Mayor Michael Bloomberg and the police have said the arrests have helped reduce violent crime, they have never specified how.

“Our findings support those of other researchers who question the public safety gains from massive marijuana arrests,” said Jamie Fellner, senior adviser to the U.S. Program at Human Rights Watch and coauthor of the report. “Public officials need to explain exactly how placing thousands of people in cuffs each year for possessing pot reduces violent crime.”

Using data provided by the New York Department of Criminal Justice Services, Human Rights Watch tracked until mid-2011 the subsequent criminal records of nearly 30,000 people who had no prior convictions when they were arrested for marijuana possession in public view in 2003 and 2004. Of the group 90% had no subsequent felony convictions. Only 3.1% were subsequently convicted of one violent felony offense. An additional 0.4% had two or more violent felony convictions. See <http://www.hrw.org/news/2012/11/23/usnew-york-few-arrested-pot-become-violent-criminals>

5. See Figure 6.4 showing the marijuana use rates of young Whites, Blacks, and Latinos; it is also at <http://marijuana-arrests.com/graph9-use.html>
6. The racial disparities in New York City’s marijuana arrests have been the focus of our work. For various reports, graphs, tables, and other material showing the racial disparities over many years see <http://marijuana-arrests.com/>

7. The initial work on this marijuana arrest research project was by Harry G. Levine and Deborah Peterson Small, a civil rights attorney and advocate. Since 2009 the project has been directed by Harry Levine and Loren Siegel, an attorney who for many years was director of public education for the American Civil Liberties Union. It has also been helped immeasurably by Troy Duster, Ira Glasser, Craig Reinerman, Jesse Levine, and staff at the Drug Policy Alliance, especially Gabriel Sayegh and Tony Newman, and at the NYCLU, especially Donna Lieberman and Robert Perry.
8. Excerpts, full information, and links to newspapers, magazines, Associated Press, and other news sources can be found at marijuana-arrests.com at <http://marijuana-arrests.com/NYC-pot-arrests-journalism.html>
9. As this chapter was being finished in the summer of 2013, the second attempt at changing slightly New York State law in order to stop or reduce the NYPD's marijuana possession arrests failed, despite the support of the governor, the state assembly, and many others including the editorial boards of the *New York Times* and the *New York Daily News*.
10. We have described and documented our findings in a series of reports and testimony, which have then been reported in news articles and editorials. See *Marijuana Arrest Crusade: Racial Bias and Police Policy in New York City*, by Harry G. Levine and Deborah Small, New York: New York Civil Liberties Union, 2008 and number of other reports available at <http://marijuana-arrests.com/nyc-pot-arrest-docs.html>

In this chapter we have not tried to describe the serious, harmful collateral and embedded consequences of the arrests and criminal records for marijuana possession and other minor offenses, but that has been an important part of almost everything else we have written about the marijuana arrests. See our various reports and testimony on our website given in the last note above. Also see the specific web page with excerpts from and links to articles about the collateral consequences of misdemeanor arrests at <http://marijuana-arrests.com/consequences-of-arrest.html>. For the essential scholarly discussion of the harmful consequences of the Giuliani and Bloomberg-era focus on the heavy policing of minor offenses see K. Babe Howell, "Broken lives from broken windows: The hidden costs of aggressive order-maintenance policing," *New York University Review of Law & Social Change*, 33, p. 271, 2009.

11. All data about the marijuana possession arrests in New York City are from the New York State Division of Criminal Justice Services, Albany, New York. Sources for the marijuana use data are
  - U.S. Dept HHS, SAMHSA, Office of Applied Studies, National Survey on Drug Use and Health, 2002–2010.
  - 2003–2005: Table 1.80B Marijuana Use in Lifetime, Past Year, and Past Month among Persons Aged 18 to 25, by Racial/Ethnic Subgroups Annual Averages Based on 2002–2003 and 2004–2005. <http://www.oas.samhsa.gov/NSDUH/2k5NSDUH/tabs/Sect1peTabs67to132.htm#Tab1.80B>
  - 2006–2010: Table 1.26B—Marijuana Use in Lifetime, Past Year, & Past Month among Persons Aged 18 to 25,
  - 2006–2007: <http://www.oas.samhsa.gov/NSDUH/2k7NSDUH/tabs/Sect1peTabs1to46.htm#Tab1.26B>

2008–2009: <http://www.oas.samhsa.gov/NSDUH/2k9NSDUH/tabs/Sect1peTabs1to46.htm#Tab1.26B>

2009–2010: <http://www.samhsa.gov/data/nsduh/2k10NSDUH/tabs/Sect1peTabs1to46.htm#Tab1.26B>

12. Jim Dwyer, Whites smoke pot, but Blacks are arrested. *New York Times*, Dec. 22, 2009.
13. Asians and “all others” (meaning not Whites, Latinos, or Blacks) constitute about 3% of the NYPD’s marijuana arrests. See the table at <http://marijuana-arrests.com/graph8.html>
14. Giuliani fired Bratton after two years as police commissioner, not because Bratton failed, but, as is widely acknowledged, because he received too much public and media attention. See, for example, The NYPD chief who did his job too well, by Michael Duffy and Massimo Calabresi, *Time Magazine*, Nov. 15, 2007; Analyzing Rudy’s Bratton behavior, by Leonard Levitt, *NYPD Confidential*, October 2000, <http://nypdconfidential.com/columns/2000/001002.html>
15. Although Bill Bratton is the police chief and commissioner most identified with broken-windows policing, he did not emphasize making marijuana arrests in New York, nor in his seven years as police chief in Los Angeles from 2002 through 2009. Furthermore, academic and think tank explanations and defenses of broken-windows policing have not emphasized marijuana possession arrests, especially not those as in New York City where police are commonly finding the bit of marijuana buried deep in someone’s clothes or possessions.
16. For information about Howard Safir see, for example, The commish bites back: Howard Safir explains his life to his critics, by Josh Benson, *New York Observer*, May 17, 1999; Safir plans to add 400 detectives to narcotics units, *New York Times*, August 7, 1997; He still gets no respect, by Leonard Levitt and Howard Safir, *NYPD Confidential*, December 10, 2007; Minority men: We are frisk targets. *News poll finds 81 of 100 have been stopped by cops*, by Leslie Casimir, Austin Fenner, and Patrice O’Shaughnessy, *New York Daily News*, March 26, 1999. The numbers of narcotics officers each year from 1980 to the present is not available. However, veteran police officers who were on the force in the 1990s and early 2000s have said that under Safir the number of narcotics officers increased substantially.
17. Jennifer Peltz, Pot arrests top 50K in 2011 despite NYPD order, *Associated Press*, Feb 1, 2012 (over a hundred papers across the United States carried this AP story), <http://news.yahoo.com/pot-arrests-top-50k-2011-despite-nypd-order-182052393.html>
18. Steven Wishnia, Hypocritical NYPD continues racist pot arrest crusade, *Alternet*, Dec 30, 2011, <http://www.alternet.org/module/printversion/153617>
19. Ailsa Chang, Alleged illegal searches by NYPD may be increasing marijuana arrests, *WNYC*, April 26, 2011 (excellent 10-minute radio show plus text), <http://www.wnyc.org/articles/wnyc-news/2011/apr/26/marijuana-arrests/> Also Ailsa Chang, Alleged illegal searches by NYPD rarely challenged in marijuana cases, *WNYC*, April 27, 2011 (excellent 8-minute radio show plus text), <http://www.wnyc.org/articles/wnyc-news/2011/apr/27/alleged-illegal-searches/>

20. Also see Kristen Gwynne, How “stop and frisk” is too often a sexual assault by cops on teenagers in targeted NYC neighborhoods, *Altnet*, January 21, 2013, <http://www.altnet.org/print/civil-liberties/how-stop-and-frisk-too-often-sexual-assault-cops-teenagers-targeted-nyc>. Gwynne writes:

I’ve reported on stop and frisk for two years, and in that time I’ve talked to young men who have experienced stop and frisk, and the stories they tell are harrowing. A Black teenager in Bedford-Stuyvesant described how embarrassed he was to have “old ladies” watch as his pants landed around his ankles while police searched him. A 17-year-old in the Bronx explained that police, “They go in my pants. You’re not supposed to go in my pants.” Being touched by a female police officer can be especially upsetting for adolescent males. “It’s annoying because it doesn’t matter what kind of cop it is, female or male, they’re gonna frisk you. If you say something to the female about it, the female says something to you like ‘What? I can do what I want.’ And they still frisk you. You can’t say sexual harassment, nothing,” 18-year-old South Bronx resident Garnell told me last year, adding, “And they go hard, grabbing stuff they’re not supposed to.”

A New York attorney told me last year he has video of a cop saying he just “credit card-swiped” a man’s ass—without gloves, naturally. What kind of gun can fit between two butt cheeks? And why are cops touching penises, anyway? The answer is simple: They’re not looking for guns, but hoping to make arrests. While stop and frisk is only legally allowed for the purpose of uncovering weapons, it has been linked to far more low-level summonses and pot busts than guns. As 18-year-old Lower East Side resident “Twin” recently told me, “They run their hands down your ass crack because they think you’re hiding drugs there.” In the public housing on Baruch Street, he says police hang out until they see someone “suspicious” enough to grope.

One of our marijuana arrest research project researchers witnessed a conversation between a Latino teenager who had been arrested for marijuana possession and his attorney. The young man explained that he handed over his bit of marijuana when the police officer started to reach inside his pants. The young man got upset and visibly angry just telling what happened; he said he did not want the cop grabbing his genitals.

21. Ira Glasser, Executive Director of the American Civil Liberties Union for 23 years, is the author of numerous works on the Constitution including *Visions of Liberty: The Bill of Rights for All Americans* (New York, 1991). The quotes are from a pamphlet written in direct response to the NYPD stop and frisks and marijuana arrests: *Stop, Question and Frisk: What the Law Says About Your Rights* (Drug Policy Alliance, 2011), <http://www.drugpolicy.org/resource/stop-question-and-frisk-what-law-says-about-your-rights>
22. New York Police Department Operations Order: Charging Standards for Possession of Marijuana in a Public Place Open to Public View by Direction of the Police Commissioner, September 19, 2011. A pdf copy of Kelly’s order is at <http://marijuana-arrests.com/docs/NYPD-ORDER-RE-MARIJUANA-ARRESTS-SEPT-19-2011.pdf>. For news stories about Kelly’s order and marijuana arrests immediately following the news about his order, see <http://marijuana-arrests.com/breaking-news.html>

23. For a critical but neglected source of rich descriptions about how NYPD narcotics police routinely made illegal searches and arrests in the 1980s and early 1990s, see Chapter 4, “Perjury and falsifying documents,” *The City of New York Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department, Commission Report*, July 1994 (pp. 36–43). This is the report of the “Mollen Commission,” appointed by Mayor Dinkins to investigate police corruption. Although much of the report focuses on gangs of police who robbed drug dealers, one chapter focuses on the most common and routine form of corruption which the Commission termed “perjury and falsifying.” We have excerpted and posted on our website parts of that chapter describing the routine illegality that occurred when narcotics police sought to make drug arrests on the street. For those unfamiliar with its findings, or who wish to understand what narcotics policing has historically meant in New York City, it is an eye-opening work, available at <http://marijuana-arrests.com/docs/Mollen-Excerpts-Falsification.pdf>
24. There is a type of narcotics squad, based in police precincts, that may make many of the marijuana possession arrests. The squads are called Street Narcotics Enforcement Units, or SNEU (pronounced Snew). A SNEU team officer was responsible for the shooting death of Ramarley Graham in the Bronx in February 2012. Police believed the teenager had a gun, but he had only a bit of marijuana. According to the *New York Times*, about half of the police precincts in the city have SNEU teams. The *Times* reporter was unable to obtain from the police or the DA’s office a list of the police precincts, but we hypothesize that they are likely many or most of the precincts that have high levels of marijuana arrests. In nearly all of these precincts the majority of the population is Black and Latino. For maps showing the 75 neighborhood police precincts by race and by marijuana arrests see <http://marijuana-arrests.com/maps-NYC-pot-arrests-race.html>
25. In 2012, *New York Times* columnist Jim Dwyer listed the three on-the-record quotes he was able to obtain from Bloomberg administration representatives defending the marijuana arrests by asserting they reduced crime. Each defense was one sentence or shorter. Wrote Dwyer:

In 2008, a police spokesman, Paul J. Browne ... accused the New York Civil Liberties Union, which had issued a report on the subject [of marijuana arrests], of smearing the department while acting as a front for a marijuana-legalization group. Taking care of little crimes, including pot possession, “helped drive crime down,” Mr. Browne said.

In 2009, John Feinblatt, a mayoral aide, said, “This continued focus on low-level offending has been part of the city’s effective crime-reduction strategy, which has resulted in a 35 percent decrease in crime since 2001.”

Last year, another aide, Frank Barry, said, “Marijuana arrests can be an effective tool for suppressing the expansion of street-level drug markets and the corresponding violence.”

That is all they have said. No evidence, no research, no studies, just one sentence claims, kind of like the advertising claims of health products. See Jim Dwyer, Altering a law the police use prolifically, *New York Times*, June 5, 2012.

26. The cost of the marijuana arrests is discussed in *\$75 Million a Year: The Cost of New York City's Marijuana Possession Arrests*, by Harry G. Levine and Loren Siegel, New York: Drug Policy Alliance, March 2011. <http://marijuana-arrests.com/docs/75-Million-A-Year.pdf>. Also see *One Million Police Hours: Making 440,000 Marijuana Possession Arrests in New York City, 2002–2012*, by Harry Levine, Loren Siegel, and Gabriel Sayegh, New York: Marijuana Arrest Research Project and Drug Policy Alliance, March 2013. [http://www.drugpolicy.org/sites/default/files/One\\_Million\\_Police\\_Hours.pdf](http://www.drugpolicy.org/sites/default/files/One_Million_Police_Hours.pdf)
27. Bernard E. Harcourt and Jens Ludwig, Reefer madness: Broken windows policing and misdemeanor marijuana arrests in New York City, 1989–2000, *Criminology and Public Policy*, 6:1, pp. 165–182, 2007. Available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=948753](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=948753)
28. The comprehensive work on the crime decline is Alfred Blumstein and Joel Wallman, *The Crime Drop in America*, revised edition, New York: Cambridge University Press, 2006. Also see Jeremy Travis and Michelle Waul, Reflections on the Crime Decline: Lessons for the Future? Washington, DC: Urban Institute Justice Policy Center, August 2002; Franklin E. Zimring, *The Great American Crime Decline*, New York: Oxford University Press, 2007; Leonard A. Marowitz, *Why Did the Crime Rate Decrease Through 1999? (And Why Might It Decrease or Increase in 2000 and Beyond?) A Literature Review and Critical Analysis*, California Department of Justice, Division of Criminal Justice Information Services, December 2000; Claude Fischer, *A Crime Puzzle: Violent Crime Declines in America*, Berkeley Blog, UC Berkeley, June 2010. <http://blogs.berkeley.edu/2010/06/16/a-crime-puzzle-violent-crime-declines-in-america/>
- In September 2011, John Jay College, CUNY, hosted a two-day conference on the crime decline. Among the papers presented and distributed was one by Eric Baumer and Kevin T. Wolff which presented numerous graphs comparing rates for a range of crimes for 76 large U.S. cities from 1980 to 2010. There was a widespread drop in property and violent crimes beginning in the early to mid-1990s and continuing until 2007. Baumer and Wolff's paper is at [http://www.jjay.cuny.edu/Baumer\\_Wolff.pdf](http://www.jjay.cuny.edu/Baumer_Wolff.pdf). All the conference papers and many video presentations are at <http://www.jjay.cuny.edu/academics/4893.php>. For an examination of the crime decline internationally, see note 36 below.
29. Some NYPD insiders and deeply knowledgeable students of the department have also produced strong evidence showing that the drop in serious crimes, especially in the 2000s, has been partly manufactured by what the HBO series *The Wire* called “jucking the stats.” The enormous pressure to keep the “crime numbers down” has led precinct commanders and others to the wholesale downgrading of felonies to misdemeanors, recording robberies as “lost property,” making it difficult for crime victims to file crime reports, and other methods of keeping serious crimes off the books. See John A. Eterno and Eli B. Silverman, *The Crime Numbers Game: Management by Manipulation*, Boca Raton, FL: CRC Press, 2012; Eli B. Silverman, John A. Eterno, and Jesse Levine, Manufacturing low crime rates at the NYPD: Reputation versus safety under Bloomberg and Kelly, *Huffington Post*, August 13, 2012; John A. Eterno, Policing by the numbers, *New York Times* Op-ed, June 17, 2012.

- Some of Eterno and Silverman's findings have been confirmed in a special report to the NYPD released in July 2013. See Thomas Tracy, Crime review finds NYPD downgrades hundreds of felonies: The Crime Reporting Review Committee found that the NYPD downgraded hundreds of felony robberies, assaults and grand larcenies to misdemeanors each year, *New York Daily News*, July 3, 2013; Joseph Goldstein, Audit of city crime statistics finds mistakes by police, *New York Times*, July 2, 2013; Christopher Robbins, Here's why the NYPD changes your stolen property to "lost property," *Gothamist*, July 3, 2013.
30. A number of things that Giuliani and Bratton did were just clever or even brilliant public relations moves. The very public war on "squeegee men," for example, which Giuliani had promised in 2003 in his campaign for mayor, was not about reducing crime. But the squeegee men, who appeared at busy intersections, especially those entering and exiting bridges and tunnels, deeply irritated middle-class commuters and drivers. And getting rid of them produced a visible and much appreciated sign of change. If *that* is what broken windows policing meant, then many middle-class New Yorkers and commuters from the suburbs in New Jersey, Long Island, Westchester, and Connecticut were for it. For contrasting views of Giuliani and his "style," see Wayne Barrett, Giuliani's legacy: Taking credit for things he didn't do, *Gotham Gazette*, 2008, <http://www.gothamgazette.com/commentary/91.barrett.shtml>; John Tierney, Giuliani's legacy: A change in the way New Yorkers think about crime, welfare, quality of life, squeegee men, *Gotham Gazette*, 2008, <http://www.gothamgazette.com/commentary/91.tierney.shtml>
  31. The rise in misdemeanor arrests is much greater than the decline in felony arrests. This is partly or even largely because felony arrests usually involve an investigation to find a perpetrator and are often labor intensive and time consuming. Misdemeanor arrests, however, are quick: the perpetrator is caught in the act of panhandling, possessing marijuana in a pocket, not paying the subway fare, or being somehow "disorderly."
  32. The rivalry and feud between Bratton and Kelly dates back to at least 1990 to 1992, when Kelly was police commissioner under Mayor Dinkins and Bratton was chief of the transit police, and continues to this day. Bratton and his colleagues and supporters strongly dislike the term "zero tolerance policing" and argue that is what Safir, Kerik, and Kelly have done. The Brattonists say that only they did "true" broken-windows policing. Nonetheless, the term has been commonly used to describe the policies under all three NYPD police commissioners and both mayors. See, for example, Bratton's chapter "Crime is down in New York City: Blame the police," in Norman Dennis (Ed.), *Zero Tolerance: Policing a Free Society*, enlarged and revised second edition, London: IEA Health and Welfare Unit, 1997.
  33. Not surprisingly, the very powerful real estate interests in New York City have strongly backed Giuliani and Bloomberg's policing focus on misdemeanor arrests and petty offenses. There is no doubt that this policy has made life significantly more difficult and shaky for low-income people, made it harder for people to get and keep apartments and jobs, stay in school, or even in public housing. This had had the effect of "churning" the residents of low-income

neighborhoods, and allowing developers to renovate and build in convenient low-income neighborhoods abutting more middle-class or even wealthy areas. Significant swathes in Manhattan, Brooklyn, and now the Bronx have become “developed” in this way. It may be that part of the “crime decline” in New York is that some especially troublesome and troubled people and families moved away, becoming the problems of Newark, Yonkers, Bridgeport, and dozens of other cities, including even Southern cities. *New York Times* “Numbers” columnist Charles Blow suggests this in *Escape from New York*, *New York Times*, March 18, 2011.

34. In January 1994, at the time of his swearing-in as police commissioner, Bratton noted that the crime rate in New York City had been going down for years. As the *New York Times* reported: “Mr. Bratton acknowledged that crime had dropped during the tenure of his predecessor, Raymond W. Kelly,” in George James, Bratton urges a shared covenant of reverence for law, *New York Times*, January 12, 1994.
35. A large and still growing literature has reviewed and debunked various claims of the NYPD and of broken-windows policing with its heavy emphasis on misdemeanors and other minor offenses. Some of the most thorough and impressive work has been by University of Chicago Professor Bernard Harcourt. See *Illusion of Order: The False Promise of Broken Windows Policing*, Cambridge, MA: Harvard University Press, 2001; Bernard Harcourt, Policing disorder. *Boston Review*, May 2002, <http://new.bostonreview.net/BR27.2/harcourt.html>; Bernard E. Harcourt and Jens Ludwig, Broken windows: New evidence from New York City and a five-city social experiment, *University of Chicago Law Review*, 73, 2006, <http://ssrn.com/abstract=743284>; Bernard Harcourt, Bratton’s “broken windows.” *Los Angeles Times*, April 20, 2006, <http://articles.latimes.com/2006/apr/20/opinion/oe-harcourt20>; Harcourt writes:

Everybody agrees that police matter. The question is how to allocate scarce police dollars. Should cops be arresting, processing and clogging the courts with minor-disorder offenders or focusing on violence, as well as gang and gun crimes, with the help of increased computerized crime tracking? The evidence, in my view, is clear: Focusing on minor misdemeanors is a waste.

I recently concluded a study with my colleague, Jens Ludwig, of 1990s New York crime data. We found no evidence for the proposition that disorder causes crime or that broken-windows policing reduces serious crime. Rather, the pattern of crime reduction across New York precincts during the 1990s, when Bratton was first experimenting with broken-windows policing, is entirely consistent with what statisticians call “mean reversion.” Those precincts that experienced the largest drops in crime in the 1990s were the ones that experienced the largest increases in crime during the city’s crack epidemic of the mid- to late-1980s. What goes up must come down—and it would have come down even if New York had not embarked on its quality-of-life initiative.

Also see Emily Badger, The study that could upend everything we thought we knew about declining urban crime, *Atlantic Cities*, Feb 07, 2013, <http://www.theatlanticcities.com/politics/2013/02/was-nypd-really-responsible-new-yorks-famous-drop-crime/4616/>; David F. Greenberg, Studying New York City’s crime decline: Methodological issues, *Justice Quarterly*, 2013,

<http://stopandfriskinfo.org/content/uploads/2013/05/Greenberg-2013.pdf>. Greenberg, an extremely accomplished quantitative criminologist, finds “no evidence that misdemeanor arrests reduced levels of homicide, robbery, or aggravated assaults. Felony arrests reduced robberies, but only to a modest degree. Most of the decline in these three felonies had other causes.”

For an independent analysis by an Australian government researcher, see Jane Marshall, Zero tolerance policing, Australian Government, Australian Institute of Criminology, March 1999, [http://www.ocsar.sa.gov.au/docs/information\\_bulletins/IB9.pdf](http://www.ocsar.sa.gov.au/docs/information_bulletins/IB9.pdf)

William Bratton is probably the best exponent and defender of his vision of policing. See his chapter “Crime is down in New York City: Blame the police,” in Norman Dennis (Ed.), *Zero Tolerance: Policing a Free Society*, enlarged and revised second edition, London: IEA Health and Welfare Unit, 1997. Much of the book is a defense of Bratton’s style of policing. Also see William J. Bratton, *The Turnaround: How America’s Top Cop Reversed the Crime Epidemic*, New York: Random House, 1998.

36. On the international decline in crime see

Jan van Dijk, Andromachi Tseloni, and Graham Farrell, *The International Crime Drop: New Directions in Research*, London: Palgrave Macmillan, 2012. The authors write: “Our conclusion is that since 1995 volume crime has dropped significantly across Europe.” And, they say, “Improved security against volume crime has initiated a prolonged recession on criminal markets in the West, a downturn that appears largely independent from criminal policies of individual governments.” Professor Jan van Dijk, the lead author, was the 2012 winner of the Stockholm Prize in Criminology. See <http://files.m17.mailplus.nl/user317000013/12983/leafletJvD.pdf>

Paul Knepper, An international crime decline: Lessons for social welfare crime policy? *Social Policy & Administration, Special Issue: Crime and Social Policy*, 46, 4, 359–376, August 2012. The author writes: “During the past two decades, crime rates have declined in Europe and North America.... The discussion here includes the possibility of a convergence across social welfare improvements, the danger of misreading the U.S.A. as a trend-setter, [and] the potential of the Scandinavian way in situational crime prevention.”

Graham Farrell, Andromachi Tseloni, Jen Mailley, Nick Tilley, and Jill Dando, The crime drop and the security hypothesis, *Journal of Research in Crime and Delinquency*, 48, 2, 147–175, May 2011. The authors write: “Major crime drops were experienced in the United States and most other industrialized countries for a decade from the early to mid-1990s. Yet there is little agreement over explanation or lessons for policy. Here it is proposed that change in the quantity and quality of security was a key driver of the crime drop. From evidence relating to vehicle theft in two countries, it is concluded that electronic immobilizers and central locking were particularly effective. It is suggested that reduced car theft may have induced drops in other crime including violence.”

Andromachi Tseloni, Jen Mailley, Graham Farrell, and Nick Tilley, Exploring the international decline in crime rates, *European Journal of Criminology*, 7, 5, September 2010. The authors write: “This paper examines aggregate crime trends and variation around them from 1988 to 2004 for 26 countries and five main crime types using data from the International Crime Victims Survey....

The study results suggest that, with the exception of burglary, all examined crime types fell by roughly the same rate across countries. The sample's small number of countries in Latin America, Africa and Asia experienced even steeper reductions in burglary than occurred in Europe, North America and Australia."

Richard Rosenfeld and Steven F. Messner, The crime drop in comparative perspective: The impact of the economy and imprisonment on American and European burglary rates, *The British Journal of Sociology*, 60, 3, 445–471, September 2009.

Alan Travis, Fall in UK crime rate baffles experts: The classic theory that property crime rises faster in times of economic strife no longer seems to apply, latest figures show, *Guardian*, January 24, 2013; Marc Sandeep Mishra and Martin Lalumie, Is the crime drop of the 1990s in Canada and the U.S.A. associated with a general decline in risky and health-related behavior? *Social Science and Medicine*, 68, 39–48, 2009.

Marc Ouimet, Explaining the American and Canadian crime drop in the 1990's, *Canadian Journal of Criminology*, 44, 1, January 2002. The author writes: "Although Canada's crime trends are similar to those found in the U.S., there has been little or no change in policing practices or incarceration trends. This paper suggests that the causes of the decline in crime rates lie elsewhere, namely, in demographic shifts, improved employment opportunities and changes in collective values."

Why has crime fallen around the world? Parliament, UK, Briefing Papers, January 2013, <http://ukbriefingpapers.co.uk/briefingpaper/SN06567>. The authors write: "In the U.S.A. the reduction in crime that began around 1990 has been the subject of much academic debate. There has been less discussion surrounding European crime levels, which reached a plateau around 1995 and then steadily declined over the subsequent decade."

37. To be clear, we are not at all suggesting that the NYPD played no role in the decline in violent and other serious crimes in the 1990s and since. Computerized tracking of crimes, better and more complete computerization of crime reports, closer supervision of at least some officers, some improvements in morale (especially under Bratton), and other factors helped bring down the number of serious crimes. One recent study suggested that drug felonies declined in part because the NYPD ceased to prioritize them (even as the NYPD did prioritize misdemeanor marijuana arrests). See James Austin and Michael Jacobson, *How New York City Reduced Mass Incarceration: A Model for Change?* (with a Foreword by Inimai Chettiar), New York: Brennan Center for Justice at New York University School of Law, January 2013, <http://www.brennancenter.org/publication/how-new-york-city-reduced-mass-incarceration-model-change>

William Bratton, by all accounts, was an energetic, inspiring, and charismatic police commissioner in New York City. In his two years as chief of the New York Transit Police (1990–1992) and as NYPD commissioner (1994–1996), he did many things to boost the morale of ordinary officers, made small improvements in their lives, and sought to empower and energize them. Bratton redesigned police uniforms and belts, gave police new cars, different guns and more bullets, and sought to improve policing across the board. He believed that changing small things for police—and in policing—could produce large changes in

reducing serious crimes and public fear, and raise public confidence in the police. And at Transit and at the NYPD he had an extraordinary assistant in Jack Maple. But Bratton and Maple (and a number of others) were gone in 1996 after two years, and that was over 17 years ago. Much changed quite quickly under Police Commissioner Safir, and then since. The policing focus on petty offenses and misdemeanor arrests was begun for many reasons, but it has continued and expanded, we have suggested, in part because it was so useful and beneficial to both NYPD commanders and to many patrol and narcotics officers.

38. So much has been written about the stop and frisks that it now constitutes a small library of reports, academic studies, video interviews, graphs, pie charts, tables, spreadsheet files, court testimony, legal briefs, and more. For links to organizations focusing work on the stop and frisks, see <http://marijuana-arrests.com/NY-stop&frisk-info.html>; also see <http://ccrjustice.org/racial-disparity-nypd-stops-and-frisks>; <http://www.nyclu.org/issues/racial-justice/stop-and-frisk->; <http://stopandfriskinfo.org/>; <http://www.policereformorganizingproject.org/>
39. See, for example, in 2011, NYPD made more stops of young Black men than the total number of young Black men in New York by Ali Gharib, *Think Progress*, May 10, 2012, <http://thinkprogress.org/justice/2012/05/10/481589/nypd-stop-and-frisk-young-black-men/>  
 See also NYPD targets minorities in stop and frisk, by Rocco Parascandola, *New York Daily News*, May 9, 2012, <http://www.nydailynews.com/news/crime/nypd-targets-minorities-stop-frisk-report-article-1.1075037>; Injustices of stop and frisk, *New York Times* Editorial, May 13, 2012, <http://www.nytimes.com/2012/05/14/opinion/injustices-of-stop-and-frisk.html>
40. One hypothesis about the NYPD's apparent reluctance to give up making marijuana arrests suggests that the overtime pay officers earn by booking marijuana arrests would be hard to make up in other ways (at least under current priorities and policies). Bloomberg and Kelly believe strongly in the importance of making large numbers of stop and frisks. But, as news stories about quotas have made clear, it can be difficult to get ordinary patrol officers to do the stop and frisks. In this context, the marijuana arrests provide an incentive for officers to make the stop and frisks. For each 10 or 15 stop and frisks, officers can usually find one or two young people with a bit of marijuana, allowing the officers to make arrests and collect overtime pay. This is partly the explanation for why marijuana possession has been the number one criminal arrest and charge in New York City for many years. In effect, the marijuana arrests function as a kind of "Crackerjack prize" for officers doing the stop and frisks. Kelly, Bloomberg, and their top advisors may fear that if they take away the prize of overtime pay, the number of stop and frisks will drop.
41. The mayor and the police department do not explain why the numbers of stop and frisks and marijuana arrests were down in 2012, and certainly not why they are down the same percentage (22%). But this pullback by the police department appears to be an effort to show some response to the extraordinary public outcry about the stop and frisks and the marijuana arrests, to proposed legislation to install a monitor over the police, to the much-publicized federal lawsuits about the stop and frisks and the marijuana arrests, and to the news that the U.S. Attorney General is considering installing a federal monitor over the

NYPD. It is worth noting that in 2012 former Mayor Ed Koch, who was quite conservative on policing matters, denounced the marijuana arrests as racially biased and called on the city's district attorneys to stop prosecuting any of them.

42. The NYPD's use of quotas for arrests, criminal court summonses, and stop and frisks has been documented by hundreds of news stories over the years. Some of them have been collected and excerpted at <http://marijuana-arrests.com/quotas-arrest-quotas.html>. *Village Voice* reporter Graham Rayman has documented a number of the more recent revelations in his series called "The NYPD Tapes." In one report he quotes a veteran NYPD officer:

Marquez Claxton spent 20 years as a police officer and a detective in the NYPD, most recently in Williamsburg's 90th Precinct. He retired as a detective second grade. He worked in narcotics as an undercover, in vice, in domestic violence, and was involved in the investigation of thousands of cases.

"Quotas have always been a part of the Police Department for as long as I was a member.... What makes it worse is now there are quotas on everything." The CompStat model means numbers alone gauge the success of crime fighting. "It's like factory work," he says. "The difficulty is that you can't quantify prevention. There is no number which says I stopped seven burglaries today. People have made careers out of summonses and arrests, but that's not even the main component of police work. "A lot of cops come on the job to have relationships with the community, to be public servants," he says. "But in today's PD, the officers are ostracized unless they have their numbers. You're punishing officers who say their job is not to be the hammer." Graham Rayman, Quotas and victim intimidation? Of course, says another NYPD veteran. (*Village Voice*, May 7, 2010)

Also see Robert Gearty and Bill Hutchinson, Second NYPD whistleblower testifies he was called a "rat" for protesting stop-and-frisk quotas: Officer Pedro Serrano said he was ostracized for protesting the stop-and-frisk quotas that were demanded at the 40th Precinct where he worked in the South Bronx, saying he was told "you can't fight a losing battle." *New York Daily News*, March 20, 2013; Ross Tuttle, New York's police union worked with the NYPD to set arrest and summons quotas, *The Nation*, March 19, 2013, <http://www.thenation.com/article/173397/audio-new-yorks-police-union-worked-nypd-set-arrest-and-summons-quotas?rel=emailNation>; Ben Muessigm, Cop: NYPD quota is 20 summonses, 1 arrest per month, *Gothamist*, March 3, 2010, [http://gothamist.com/2010/03/03/cop\\_claims\\_nypd\\_quota\\_is\\_20\\_summons.php](http://gothamist.com/2010/03/03/cop_claims_nypd_quota_is_20_summons.php)

43. See Rocco Parascandola, Narcotics cops told: Think big, sources say the new strategy of limiting misdemeanor busts puzzles and angers some drug officers, *New York Newsday*, June 23, 2005.
44. Recently Bratton explicitly criticized Kelly over the Operation Impact patrols in an address to the Manhattan Institute, the conservative think tank that has promoted broken windows policing in both Bratton and Kelly eras. Jonathan Lemire and Rocco Parascandola, Ex-cop William Bratton slaps Kelly on police frisks; Two spar over operation impact, *New York Daily News*, June 15, 2013.
45. Communities United for Police Reform website is <http://changethenypd.org/>. Its mission statement and list of members and organizational supporters are at <http://changethenypd.org/campaign/intro-members>

46. The new law establishes a strong and enforceable ban on profiling and discrimination by the New York City Police Department. It:

Expands the categories of individuals protected from discrimination to also include age, gender, gender identity or expression, sexual orientation, immigration status, disability, and housing status.

Creates a meaningful “private right of action” for individuals who believe they have been unjustly profiled by the NYPD.

Enables New Yorkers to challenge NYPD policies and practices based on intentional discrimination and disparate impact (meaning that even if a policy is not intentionally discriminatory, if it has the effect of discrimination, then a lawsuit may be brought to change the city policy that led to the effect of discrimination). See <http://changethenypd.org/intro-1080-summary-changes>

47. See <http://changethenypd.org/about-community-safety-act>. Two other Community Safety Act bills are still pending:

Protecting New Yorkers against unlawful searches (Intro. 799): Ends the practice of the NYPD deceiving New Yorkers into consenting to unnecessary searches; requires officers to explain that a person has the right to refuse a search when there is no warrant or probable cause; and requires officers to obtain proof of consent to a search.

Requiring officers to identify and explain themselves to the public (Intro. 801): Requires officers to provide the specific reason for their law enforcement activity, such as a stop and frisk, and requires officers to provide documents to the person with the officer’s name and information on how to file a complaint at the end of each police encounter.

See <http://changethenypd.org/about-community-safety-act>

48. Dana Rubinstein, Albany’s unlikely marijuana legalization champion, *Capital New York*, May 24, 2013, <http://www.capitalnewyork.com/article/politics/2013/05/8530368/albanys-unlikely-marijuana-legalization-champion-sees-interest-no-m>

49. Some of the coverage of the NYPD’s activities and policies has been excerpted and linked to at <http://marijuana-arrests.com/>

For coverage of the NYPD marijuana arrests, see <http://marijuana-arrests.com/NYC-pot-arrests-journalism.html>

For coverage of the stop and frisks, see <http://marijuana-arrests.com/stop&frisk-NY.html>

For coverage of a variety of NYPD scandals see <http://marijuana-arrests.com/scandals-nypd.html>

For coverage of the case of Adrian Schoolcraft and other NYPD officers who have come forward to talk about the quotas and pressures to make stop and frisks, write criminal court summonses, and make misdemeanor arrests including for marijuana, see <http://marijuana-arrests.com/adrian-schoolcraft.html>

50. On the marijuana possession arrests see, for example:

Jim Dwyer, Whites smoke pot, but Blacks are arrested, *New York Times*, Dec 22, 2009

Jim Dwyer, A smell of pot and privilege in the city, *New York Times*, July 21, 2010

Jim Dwyer, A call to shift policy on marijuana, *New York Times*, June 14, 2011

- Jim Dwyer, Side effects of arrests for marijuana, *New York Times*, June 16, 2011
- Jim Dwyer, Out of one gram of marijuana, a “manufactured misdemeanor,” *New York Times*, March 21, 2013
- Charles M. Blow, Smoke and horrors, *New York Times*, Oct 22, 2010
- Charles M. Blow, Drug bust, *New York Times*, June 10, 2011
- Charles M. Blow, Escape from New York, *New York Times*, March 18, 2011
- Colleen Long, A little pot is trouble in NYC: 50k busts a year, *Associated Press*, November 5, 2011 (over a hundred papers across the United States carried this AP story)
- New York Times* Editorial, Trouble with marijuana arrests, September 26, 2011
- New York Times* Editorial, Police powers in New York, March 17, 2012
- New York Times* Editorial, Examining marijuana arrests, April 2, 2012
- New York Times* Editorial, No crime, real punishment, June 4, 2012
- New York Times* Editorial, What’s missing from this picture? June 22, 2012
- New York Times* Editorial, An ineffective way to fight crime, November 22, 2012
- Brent Staples, The human cost of zero tolerance, *New York Times* Editorial, April 18, 2012
- Kristen Gwynne, Tale of two cities: NYPD’s racist arrests create class war, *AlterNet*, May 13, 2012
- Alexander Zaitchik, The whole system relies on these arrests: The NYPD’s racist marijuana arrest crusade and its national implications, *AlterNet* and *American Independent News Network*, May 15, 2012
- Thomas Kaplan, Cuomo seeks cut in frisk arrests, *New York Times*, June 3, 2012
- Bill Hammond, Cuomo’s pitch: Yes, we cannabis: Weeding out the worst of stop-and-frisk, column, *New York Daily News*, June 5, 2012
- James King, New Yorkers are systematically screwed by “public view” marijuana law. These are their stories, *Village Voice*, June 13, 2012
- Drug Policy Alliance, Marijuana arrests (brief video interviews with 13 New Yorkers, 2012, <http://www.youtube.com/playlist?list=PL1C39C63C08181217&feature=plcp>)
- Natasha Lennard, Why marijuana decriminalization won’t kill NYPD discrimination, *Alternet*, June 16, 2012
- Wendy Ruderman and Joseph Goldstein, Lawsuit accuses police of ignoring directive on marijuana arrests, *New York Times*, June 22, 2012
- Ed Koch, Stop-and-frisk and the marijuana misdemeanor arrests outrage, *Huffington Post*, June 26, 2012
51. On the summons court system see Brent Staples, Inside the warped world of summons court, *New York Times* [editorial], June 16, 2012; Joseph Goldstein, Sniff test does not prove public drinking, a judge rules, *New York Times*, June 14, 2012; Joseph Goldstein, Stop-and-frisk trial turns to claim of arrest quotas, *New York Times*, March 20, 2013; Graham Rayman, Federal judge lets [summons] quota lawsuit go forward, *Village Voice*, April 24, 2012; Rocco Parascandola, Law enforcement or reaching quotas? Stats show NYPD focusing on pot possession, boozing in public, *New York Daily News*, July 23, 2010; Harry Levine and Loren Siegel, Summonses issued by the NYPD, *Marijuana-Arrests.com*, April 2012. On the beginnings of the emphasis on summonses and the warrants they produce see Norimitsu Onishi, Police announce crackdown on quality-of-life offenses, *New York Times*, March 13, 1994. About the many warrants open on

these summonses see Shane Dixon Kavanaugh, 1 million outstanding warrants in New York City: From open alcohol containers to littering, one-eighth of the city's population face arrest for unresolved summonses, *New York Daily News*, February 23, 2013.

52. The war on marijuana in Black and White, American Civil Liberties Union, Criminal Law Project, New York, June 2013, <http://www.aclu.org/criminal-law-reform/war-marijuana-black-and-white>

