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To: NYC Council Public Safety Committee

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Testimony for January 11, 2021 Hearing on Policing Reform in NYC

Thank you for the opportunity to speak at today's much-needed hearing.

New York City criminalizes drugs and low-level broken windows offenses at a startling rate, with enforcement in these areas accounting for a vast proportion of the NYPD's policing activities and the city's budget. It is inappropriate and ineffective to use law enforcement as front-line healthcare providers -- those resources should instead be allocated to health-serving agencies and entities immediately.

NYC's budget for policing far outstrips that for important health and social services. Policing receives a larger share of the city's budget than public health, homeless services, youth services and other vital agencies -- combined. Funds that should be used for social services are instead being used to criminalize New Yorkers and harm communities mostly for minor infractions that harm no one, such as marijuana possession.

Extreme Racial Disparities and High Costs of Drug Enforcement and Broken-Windows Policing

In 2019, there were more than 21,000 drug enforcement arrests and violations in New York City, with two-thirds being for only possession of marijuana, a controlled substance, or paraphernalia. Further, nearly 15,000 summonses were issued by the NYPD for marijuana in 2019, accounting for 17% of all criminal summonses issued citywide that year.

The estimated cost of just the police hours associated with drug arrests and violations alone in 2019 in NYC is \$32.2 million.¹ However, *the true cost associated with NYPD drug arrests and violations in 2019 is likely closer to \$96 million*, or 6% of the NYPD patrol services expense budget.²

Stark racial disparities persist among these drug arrests and violations, despite data showing similar rates of use across populations. In 2019, more than 45% of people arrested or cited for drug offenses in NYC were Black, despite Black New Yorkers making up under 25% of the city's total population. A further 38.8% were Latinx, with Latinx people making up less than 30% of the city's total population. Only 11.7% of people arrested or cited for drug violations were white, yet white people comprise 47.2% of the city's population.

The trends in drug enforcement in NYC mirror enforcement of other low-level offenses, often referred to as broken windows policing. Because broken windows policing focuses on the lowest

¹ Based on methodology from the Marijuana Arrest Research Project, which estimated the cost of a single arrest including booking and police hours for processing at \$1,000 - \$2,000 per arrest; this fact sheet uses the midway point of \$1,500 per instance. This cost does not factor in overtime costs, which are significant, and other personnel costs for officers.

² The total 2019 budget for NYPD patrol services was \$1.6 billion to make 214,459 total arrests and violations; drug offenses accounted for 13,050 arrests and violations, or 6% of all NYPD enforcement in 2019.

level offenses to theoretically prevent more serious offenses—an assumption that has been repeatedly disproven —low-level marijuana possession and sale are consistently among the most common offenses charged under broken windows policing.

In 2019 arrests and violations for low-level broken windows offenses accounted for 28.5% of all NYPD arrests and violations issued for the year -- resulting in a tremendous negative impact on individuals and communities and wasting vast city resources.

The estimated cost of just the policing hours associated with low-level broken windows arrests and violations in 2019 in NYC is 91.7 million. However, the *true cost of enforcement for low-level broken windows offenses in 2019 is likely closer to \$456 million*, or 28.5% of the NYPD patrol services expense budget.³

Extreme racial disparities exist in broken windows enforcement as well: more than 45% of people arrested or cited for broken windows offenses in NYC were Black, 33% were Latinx, and only 15% of people were white. This is nearly an inversion of the proportion of each group within the city's population -- and reflects racialized targeting of communities of color for broken windows enforcement.

NYC Must Invest in Communities not Law Enforcement

For decades, we've seen the harms of overpolicing up close in our work to end the marijuana arrest crusade in New York. We've watched as policing has played a pivotal role in the racist drug war and how resources have been funneled into law enforcement instead of vital services that make our communities safer. In too many cases, drugs have been used by the NYPD -- the largest and most militarized police force in the United States -- as an excuse to target, harass, assault and kill Black people. It's beyond time to shift resources and reinvest that funding into ending our city's overdose crisis, homelessness, and vast inequality -- especially as we face extreme budget shortfalls due to the pandemic. NYC must act in this historic moment to cut the NYPD's budget and reallocate those resources to the more relevant city agencies, harm reduction programs, and community-based organizations who are better trained and equipped to actually keep our communities safe.

Even low-level contact with law enforcement has lasting negative physical and mental health consequences.⁴ In 2019, the NYC Dept of Health and Mental Hygiene released a research brief summarizing findings that the criminal justice system and policing negatively impact New Yorkers' physical and mental health, warning the public that contact with the criminal justice system — everything from police stops or searches to incarceration — poses a public health risk.⁵

New York City Health Commissioner Barbot stated: “Even brief contact with the police or indirect exposure is associated with lasting harm.”

The NYC City Council should invest in evidence-based resources for people who use drugs instead of investing in law enforcement that often harms these communities.

³ The total 2019 budget for NYPD patrol services was \$1.6 billion to make 214,459 total arrests and violations; broken windows offenses accounted for 61,137 arrests and violations, or 28.5% of all NYPD enforcement in 2019.

⁴ Fernandes, April D. "How Far Up the River? Criminal Justice Contact and Health Outcomes." *Social Currents* 7, no. 1 (2020): 29-45.

⁵ NYC Health. "Criminal Justice System Involvement and Measures of Health among New York City Residents, 2017" Epi Data Brief 109, June 19, 2019, <https://assets.documentcloud.org/documents/6236491/databrief109-2.pdf>.

Instead of fueling the criminalization of people who use drugs and low-level broken windows offenses, funding currently allocated to the NYPD should be shifted toward providing NYC residents with resources that save lives and make the city safer for all, such as evidence-based drug treatment⁶ and quality healthcare and mental health services.

Such programs should be built on sound research and evidence, trauma-informed, culturally and gender competent, and focus on a comprehensive continuum of care including:

Recommendations for NYC drug policy-related policing changes include:

- 1. End arrests and violation-level enforcement for drugs, drug paraphernalia, and related “petty offenses” often used to criminalize drug use by enacting “non-enforcement” policies to effectively decriminalize drugs.**
 - This includes ending issuing summonses for marijuana (15,000 issued in 2019 alone).
 - If someone is struggling with problematic use, refer them to a harm reduction program (not mandated attendance – up to the person if they attend).
- 2. Eliminate nuisance complaints and remove “odor of marijuana” as a justification for a stop/search**
- 3. Prohibit “sweeps” of homeless encampments and shift calls for service relating to encampment “nuisance violations” principally to civilian agencies**
- 4. Establish Overdose Prevention Centers / safer consumption sites and allow drug checking services**
 - Drug checking (also known as pill testing or adulterant screening) allows people who use drugs to identify the substance they intend on taking and helps prevent harms associated with unknowingly consuming a substance adulterated with a dangerous contaminant like fentanyl. NYC should explicitly authorize and facilitate the wide scale use and distribution of testing supplies and equipment, particularly in tandem with safe consumption facilities.
- 5. Eliminate narcotics unit of NYPD and reinvest that funding in harm reduction services. Stop the use of confidential informants for narcotics by prohibiting the use of known drug users as buyers and informants for pursuing drug evidence.**
 - The NYPD uses narcotics units to aggressively make arrests. Officers in such units routinely descend upon people standing or walking and “jump out” to make stops or engage in so-called “consensual” conversations with individuals targeted in hopes of detecting some evidence of contraband.
 - Narcotics units have also engaged in routine undercover operations that destabilize communities, most frequently targeting street and low-level sellers and users engaged in buying or sharing drugs, and often coercing drug users to serve as “confidential informants.”
 - All such measures not only sweep people into the criminal legal system but make it harder for individuals who use drugs problematically or have a substance use disorder to access treatment and harm reduction services.

⁶ Drug Policy Alliance. “DPA’s Principles of Substance Use Disorder Treatment.” <https://www.drugpolicy.org/issues/principles-sud-treatment>. (2020)

- The practices surrounding confidential informants often incentivize false testimony and elevate the risk that warrants and arrests will be unduly effected, and creates dangers for both informants and those targeted.

6. Eliminate the Special Narcotics Prosecutor office and cut DA budgets commensurately, then reinvest that funding in harm reduction services

7. Eliminate no-knock and quick-knock raids

- Prohibit the use of public resources to seek and execute “no-knock” search warrants in drug cases. The use of such warrants has led to numerous tragedies, such as the killing of Breonna Taylor. At a minimum cities should prohibit the utilization of such warrants for use in searches targeting drug evidence.

8. Restructure drug courts to be person-centered, non-coercive, and pre-plea

- Drug courts should not receive public funding unless they:
 - Include people arrested and charged with higher-level offenses who would otherwise face lengthy incarceration terms;
 - Eliminate jail sanctions for drug relapse;
 - Allow the use of opioid substitution treatments, such as methadone and buprenorphine, to treat opioid-using participants;
 - Provide opioid-using participants with overdose prevention education, training and naloxone;
 - Adopt pre-plea rather than post-plea or postconviction procedures for participant eligibility.

9. End civil asset forfeiture

- Laws permitting governments to seize property suspected of having a connection to criminal activity - known as [civil asset forfeiture](#) - expanded as a part of the drug war.
- Both the federal government and states in later years have continued to expand the property that could be seized and made it easier to take property without even an arrest or a conviction. Such practices have served as an incentive for police to pursue drug arrests and a source of funding for much of the military and surveillance equipment commonly used in drug war policing.
- NYC data on dollar amounts of seized assets by DA office is available.

10. Ban the acquisition and use of surveillance technologies and predictive policing software for the enforcement of suspected drug offenses.