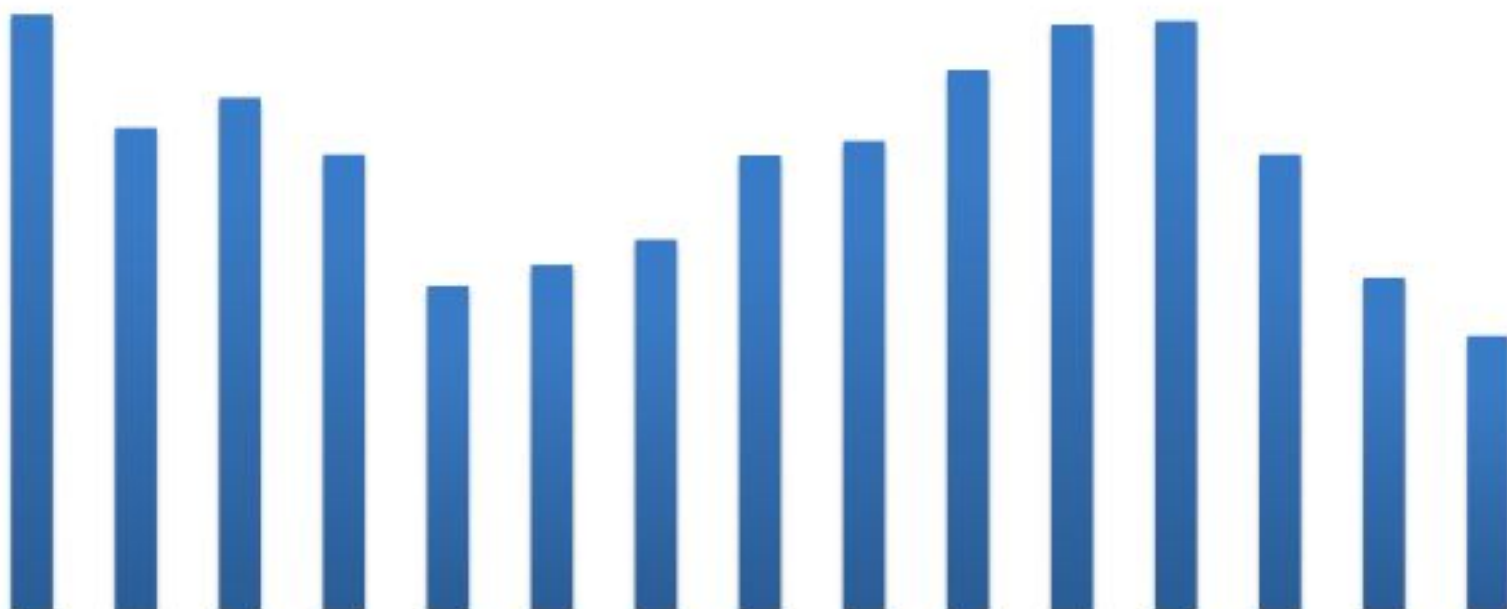


# The Hidden Tax:

Economic Costs of Marijuana Enforcement  
in the Bronx and New York City



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The Bronx Defenders provides innovative, holistic, and client-centered criminal defense, family defense, civil legal services, social work support and advocacy to indigent people in the Bronx. Our staff of over 200 represents approximately 35,000 individuals each year and reaches hundreds more through outreach programs and community legal education. In the Bronx and beyond, The Bronx Defenders promotes justice in low-income communities by keeping people united with their families.

The Bronx Defenders launched The Fundamental Fairness Project in fall 2012 as an extension of the work done by the Marijuana Arrest Project. The Project addresses the ways in which the process has become the punishment for huge numbers of people caught in the web of the criminal justice system and aims to make interactions with the courts less onerous, more efficient, and ultimately more meaningful for our clients.

For more information visit:  
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## Introduction

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In early November, Mayor de Blasio and NYPD Commissioner Bratton announced a new marijuana enforcement policy for the City: people found in possession of small amounts of marijuana would no longer be subjected to full custodial arrests unless found to be smoking in public, and, instead, would be issued summonses and required to return to court at a future date.<sup>1</sup> Encouragingly, the new policy, which took effect on November 19, 2014, will save many people from being fingerprinted and spending hours in custody in a police precinct. As this report highlights, however, simply shifting some percentage of marijuana cases (of which there were over 28,000 in 2013) into the City's summons parts will do little to ameliorate two of the most pressing issues associated with the City's marijuana enforcement practices—racially disproportionate policing and the tremendous collateral costs imposed on low-income communities of color.

This past summer, The Bronx Defenders Fundamental Fairness Project (“FFP”), with the assistance of some of the city's most prestigious law firms, systematically interviewed over 160 people arrested for low-level marijuana possession in the Bronx from April through June 2014.<sup>2</sup> Building on FFP's past work documenting the constitutional deficiencies of the NYPD's marijuana enforcement practices,<sup>3</sup> FFP collected data on the economic and broader community impact of marijuana enforcement in the Bronx. The findings are striking. Taken as a whole, the data collected by FFP suggest that the City's marijuana enforcement policies and practices cost the residents of the Bronx, and of New York City more broadly, millions of dollars a year in fines, court fees, and lost wages, in addition to countless missed days of work and appointments, school absences, and childcare complications.

Moreover, this report suggests that these costs fall almost exclusively on low-income communities of color, which disproportionately experience the most aggressive enforcement

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<sup>1</sup> Joseph Goldstein, “Marijuana May Mean Ticket, Not Arrest, in New York City,” *New York Times*, November 9, 2014 available at <http://www.nytimes.com/2014/11/10/nyregion/in-shift-police-dept-to-stop-low-level-marijuana-arrests-officials-say.html>.

<sup>2</sup> All respondents were charged with Criminal Possession of Marijuana in the Fifth Degree under P.L. § 221.10, a B misdemeanor, which, in pertinent part, prohibits the possession of marijuana “in a public place” that is “burning or open to public view.”

<sup>3</sup> *See, e.g.*, Ailsa Chang, “Data Shows Percentage of Wrongful Marijuana Arrests Rose after Kelly's Order: The Bronx Defenders,” WNYC, Mar. 29, 2012 available at <http://www.wnyc.org/story/196650-blog-bronx-public-defenders-say-data-shows-wrongful-marijuana-arrests-rose-after-kellys-order/>.

of New York’s marijuana laws.<sup>4</sup> This is especially true in the Bronx, home to seven of the 20 neighborhoods with the highest rates of marijuana arrests in the city.<sup>5</sup> Indeed, a recent report by the ACLU found that Bronx County has one of the highest marijuana arrest rates in the country.<sup>6</sup> These arrests are overwhelmingly concentrated in neighborhoods with the highest percentages of Black and Latino residents and the lowest median incomes.<sup>7</sup> And while research consistently shows that whites and Blacks smoke marijuana at similar rates,<sup>8</sup> white New Yorkers are largely unaffected by the NYPD’s marijuana enforcement policies. As a result, **the costs and disruptions associated with low-level marijuana enforcement act as a hidden regressive tax on the residents of low-income communities of color** and present another obstacle to economic opportunity and financial and social stability. The effects of this hidden tax are especially devastating in the Bronx, a borough that has consistently had the highest poverty rates in the city, if not the entire country.

The City’s new marijuana summons policy does little to address these underlying dynamics. Similar to the previous policy, people stopped for low-level marijuana possession will still be required to return to court and will be subjected to mandatory court fees and fines. Indeed, while solving some aspects of the larger problem, moving thousands of cases into the City’s already overcrowded and under-resourced summons courtrooms may unintentionally make some problems worse. In 2013, the City issued over 450,000 total summonses, of which almost 350,000 were scheduled for arraignment in the City’s criminal courts.<sup>9</sup> In the Bronx, over 80,000 summonses were scheduled for arraignment in a single courtroom.<sup>10</sup> A simple appearance—a process that frequently takes no more than a few seconds and results in a small fine or even dismissal—more often than not requires waiting in lines and cramped hallways for many hours, if not an entire day. Thus, as this report shows, the collateral costs associated with marijuana enforcement—in the form of missed days of work, lost wages and the like—often outweigh court-mandated fees and fines. These collateral costs will be unaffected by the new summons policy

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<sup>4</sup> For an interactive map showing arrests rates coupled with city demographics, see Ailsa Chang, “City Has Highest Number of Marijuana Arrests in More than a Decade,” WNYC, Feb. 1, 2012 *available at* <http://www.wnyc.org/story/184666-city-hits-highest-marijuana-arrests-more-decade/>.

<sup>5</sup> See Marijuana Arrest Research Project & Drug Policy Alliance, *Race, Class & Marijuana Arrests in Mayor de Blasio’s Two New Yorks* 12 (Oct. 2014) (hereinafter “*Two New Yorks*”) *available at* <http://marijuana-arrests.com/docs/Race-Class-NYPD-Marijuana-Arrests-Oct-2014.pdf>. The neighborhoods are Morris Heights, East Tremont/Belmont, Bedford Park/Fordham/Norwood, University Heights/Fordham, Hunts Point, Mott Haven/Melrose, and Morrisania/Crotona Park East/Tremont.

<sup>6</sup> American Civil Liberties Union, *The War on Marijuana in Black and White* 16 (2013) (hereinafter “ACLU Report”), *available at* <https://www.aclu.org/criminal-law-reform/war-marijuana-black-and-white-report>.

<sup>7</sup> *Two New Yorks* at 12. Each of the seven Bronx neighborhoods among the 20 neighborhoods with the highest arrest rates in the city is over 84% Black and Latino, with an average median income of just over \$25,000 (compared to over \$34,000 for the Bronx and almost \$52,000 for the city as a whole). *Id.*

<sup>8</sup> See U.S. Dep’t Health and Human Servs., SAMHSA, Office of Applied Studies, *National Survey on Drug Use and Health, 2002-2009* (2012), *available at* [www.icpsr.umich.edu/icpsrweb/SAMHDA/studies/32101](http://www.icpsr.umich.edu/icpsrweb/SAMHDA/studies/32101); ACLU Report at 66-67.

<sup>9</sup> Office of the Chief Clerk of New York City Criminal Court, Criminal Court of the City of New York: 2013 Annual Report 3 (July 2014) *available at* <http://www.courts.state.ny.us/COURTS/nyc/criminal/2013%20Annual%20Report%20FINAL%2072214.pdf>.

<sup>10</sup> *Id.*

The full impact of New York City’s marijuana enforcement policies—in days of work and appointments missed, wages lost, fines and fees paid, school missed, etc.—has never been fully explored. The City and the NYPD have been successful in externalizing these hidden costs. This report, using data collected from 167 in-depth client interviews as well as data provided by the New York State Division of Criminal Justice Services (“DCJS”), looks at some of the costs stemming from marijuana stops and the first court dates associated with those stops. It represents a first step in bringing some of the true costs of the City’s marijuana enforcement policies to light.

## Putting the Study in Context

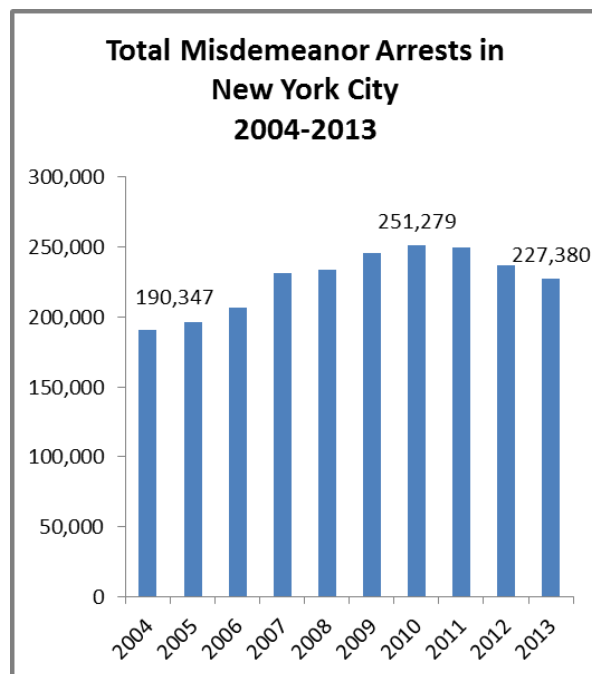
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*Because the truth is, the state of our city, as we find it today, is a Tale of Two Cities—with an inequality gap that fundamentally threatens our future. A little more than five years ago, the Great Recession hit our city economy—and our neighborhoods—with a furious blow to New Yorkers rich and poor. But more quickly than most predicted, our financial sector has come back. Wall Street has not only rebounded above its pre-recession levels, but at present hovers near historic highs. And in some of our neighborhoods, the streets are consistently safe and opportunity consistently flows. This is a good thing. We celebrate that success. Yet for millions in this city—New Yorkers living in all five boroughs—the economic rebound hasn’t just been slow in coming. It seems a distant fantasy—with the ladder up to the good life stretching farther and farther out of reach. Good jobs that pay decent wages are all too scarce. . . .*

- Mayor Bill de Blasio  
State of the City Address, 2014<sup>11</sup>

Over the past ten years, New York City has arrested and prosecuted an unprecedented number of people for low-level misdemeanors as part of a broader quality-of-life “broken windows” policing strategy. The overwhelming majority of people arrested have been young men of color in low-income communities. But despite the dominant presence of the NYPD in so many of the city’s poorest neighborhoods, shockingly little attention has been paid to the role of the NYPD’s quality-of-life policing strategy—and marijuana enforcement, in particular—in maintaining the economic divide that Mayor de Blasio described in his State of the City address.

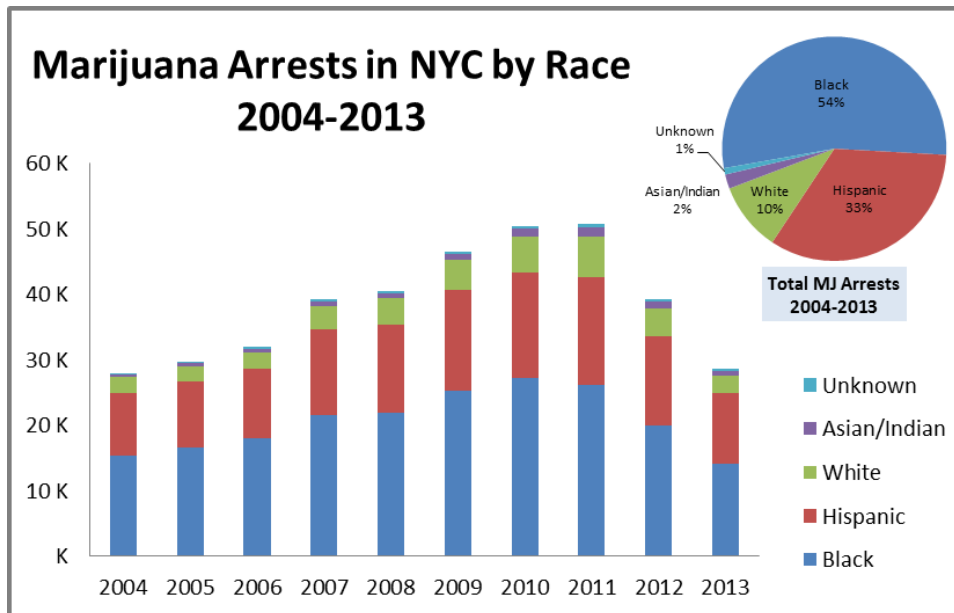
This oversight is surprising given that the apex of quality-of-life policing coincided with the Great Recession of 2008 and 2009, the most significant economic shock to the city’s economy since the Great Depression. The arrest rate actually accelerated through the economic downturn, peaking in the immediate aftermath of the crisis and in the early days of the recovery. In 2010, for example, the NYPD made a record 251,279 misdemeanor arrests citywide, the same year



<sup>11</sup> Available at [http://www.nytimes.com/2014/02/11/nyregion/text-of-bill-de-blasios-first-state-of-the-city-address.html?\\_r=0](http://www.nytimes.com/2014/02/11/nyregion/text-of-bill-de-blasios-first-state-of-the-city-address.html?_r=0).

that the average unemployment rate peaked at 9.6%. In all, in the six years from 2008 through 2013, the NYPD made an astonishing 1,443,617 misdemeanor arrests.<sup>12</sup>

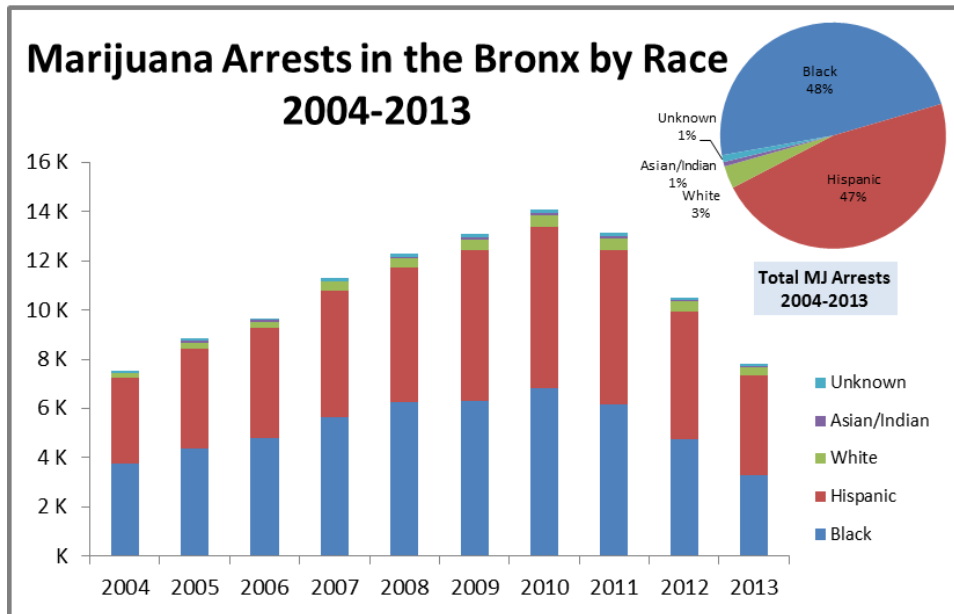
Arrests for simple marijuana possession have played an outsized role in driving the explosion of misdemeanor arrests citywide. From 2008 through 2013, the NYPD arrested over 255,000 people for misdemeanor possession of marijuana, representing almost 18% of all misdemeanor arrests. In both 2010 and 2011, the NYPD arrested over 50,000 people for marijuana possession per year (by way of comparison, the NYPD made fewer than 1,000 marijuana arrests citywide in 1990). In the Bronx, marijuana arrests accounted for just under 19% of the almost 375,000 misdemeanor arrests over the same time period.



In many ways, the Bronx, the borough with the highest unemployment rate in the city and the one that has been the slowest to recover from the Great Recession,<sup>13</sup> is emblematic of the economic divide described by Mayor de Blasio. For example, after hitting peak levels in 2007, median income in the Bronx “declined by 13.5 percent through 2011, more than twice the citywide rate of decline.”<sup>14</sup> In recent years, the poverty rate in the South Bronx, the poorest congressional district in the country, has topped 36% and the severe poverty rate has come in over 16%.<sup>15</sup> The unemployment rate in the Bronx jumped to 11.9% in 2009; at the same time, the number of misdemeanor arrests—and marijuana arrests, in particular—

<sup>12</sup> Unless otherwise noted, Bronx and citywide data were provided by DCJS and are on file with the author.  
<sup>13</sup> For interactive chart showing the Bronx unemployment rate, visit [https://www.google.com/publicdata/explore?ds=z1ebjgk2654c1\\_&ctype=l&strail=false&bcs=d&nسلم=h&met\\_y=unemployment\\_rate&fdim\\_y=seasonality:U&scale\\_y=lin&ind\\_y=false&rdim=country&idim=county:CN360050000000:CN360470000000:CN360810000000:CN360850000000:CN360610000000&ifdim=country&hl=en&dl=en&ind=false](https://www.google.com/publicdata/explore?ds=z1ebjgk2654c1_&ctype=l&strail=false&bcs=d&nسلم=h&met_y=unemployment_rate&fdim_y=seasonality:U&scale_y=lin&ind_y=false&rdim=country&idim=county:CN360050000000:CN360470000000:CN360810000000:CN360850000000:CN360610000000&ifdim=country&hl=en&dl=en&ind=false)  
<sup>14</sup> Office of the NY State Comptroller, *An Economic Snapshot of the Bronx* 5 (July 2013) available at <http://www.osc.state.ny.us/osdc/rpt4-2014.pdf>.  
<sup>15</sup> Institute for Children, Poverty Homelessness, *A Bronx Tale: The Doorway to Homelessness in New York City* 1 (Feb. 2012) (hereinafter “*A Bronx Tale*”) available at [http://www.icphusa.org/PDF/reports/ICPH\\_brief\\_ABronxTale.pdf](http://www.icphusa.org/PDF/reports/ICPH_brief_ABronxTale.pdf).

surged. This dynamic—ballooning misdemeanor arrests combined with slow economic recovery—makes the Bronx particularly vulnerable to the costs associated with the NYPD’s aggressive marijuana enforcement practices.

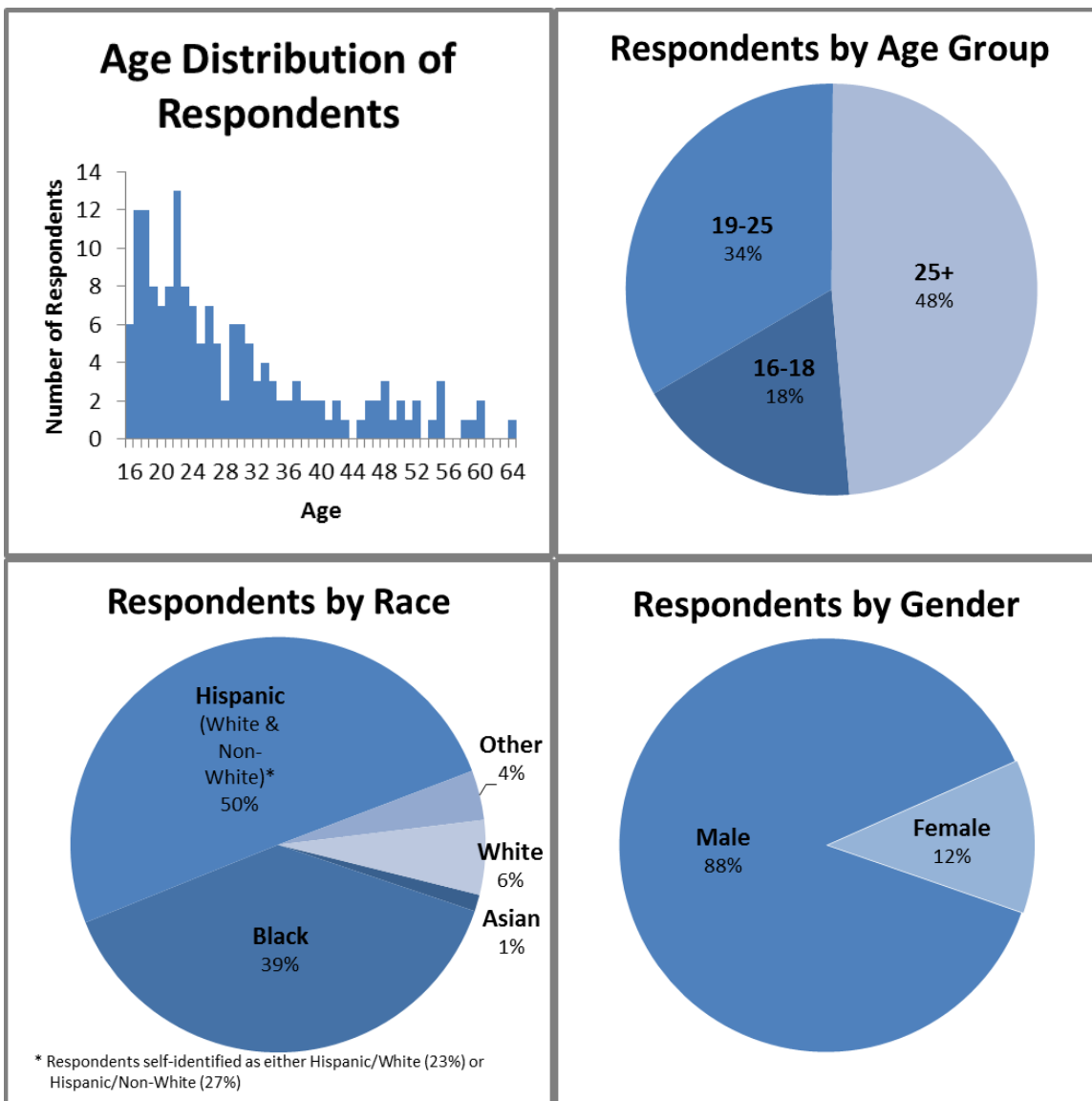


Moreover, the NYPD’s marijuana arrest policies have overwhelmingly and disproportionately targeted young men of color. From 2008 through 2013, 86% of people arrested for possessing marijuana “burning or open to public view” in New York City were either Black or Latino; only 11% were white. The racial disparity is even more acute in the Bronx, where Black and Latino residents accounted for 94% of all marijuana arrests over the same six-year period.

The disproportionate targeting of young men of color is clearly reflected in the makeup of the respondents interviewed as part of this study, who represent just a small fraction of the 6,743 marijuana arrests in the Bronx between January and late-October 2014.



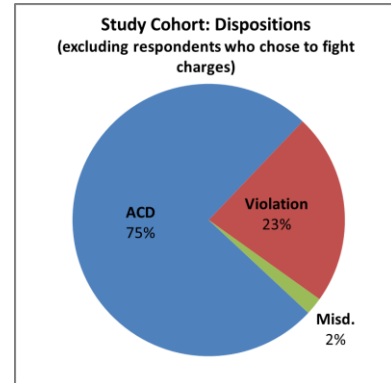
### Study Cohort: A Demographic Snapshot



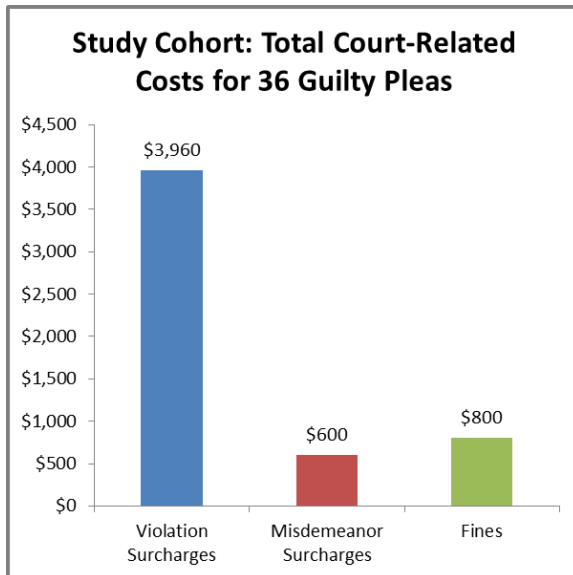
With a relatively small number of economically depressed neighborhoods bearing the brunt of the NYPD’s aggressive policing of low-level offenses, more attention needs to be paid to the ways in which the myriad costs, inconveniences, disruptions, and trauma associated with the tens of thousands of quality-of-life stops and arrests contribute to the widening inequality gap described by the Mayor. This report attempts to quantify some of the costs of the City’s marijuana enforcement practices and ultimately suggests that these costs act as a significant drag on the economic opportunities afforded to New York City’s low-income communities of color.

## Court Fees & Fines

Court fees and fines are the most obvious and direct costs associated with marijuana enforcement. In all, FFP represented 167 respondents who were arrested between April and June 2014 and arraigned in the Bronx desk appearance ticket (“DAT”) part in June and July of the same year. Eighty-eight percent of the cases were resolved at arraignments, with the majority of people receiving deferred dismissals in the form of adjournments in contemplation of dismissal (“ACDs”),<sup>16</sup> and a smaller number pleading guilty to non-criminal violations (either marijuana possession or disorderly conduct),<sup>17</sup> or marijuana misdemeanors.<sup>18</sup>



Each of the 36 guilty pleas represented in the study resulted in the assessment of mandatory court surcharges of \$120 for non-criminal violations and \$200 for misdemeanors. Of those, 26 respondents were assessed additional fines averaging just over \$30—the vast majority of which were for \$25—for an aggregate total of \$800.<sup>19</sup> In all, the 36 respondents who pleaded guilty at arraignments were assessed a total of \$5,360 in fines and court fees.



Thus, while a relatively small number of respondents pleaded guilty to an offense at arraignments, the costs associated with those guilty pleas were significant. Moreover, mandatory court surcharges, rather than fines, accounted for the lion’s share of the total fees assessed.

Looking beyond the respondents represented in this study, the full impact of these court-assessed fees becomes plain. From 2009 through 2013, court fees and fines cost people arrested for marijuana possession in the Bronx an estimated \$3.3 million.<sup>20</sup> Citywide, the costs topped an estimated \$11.3 million.

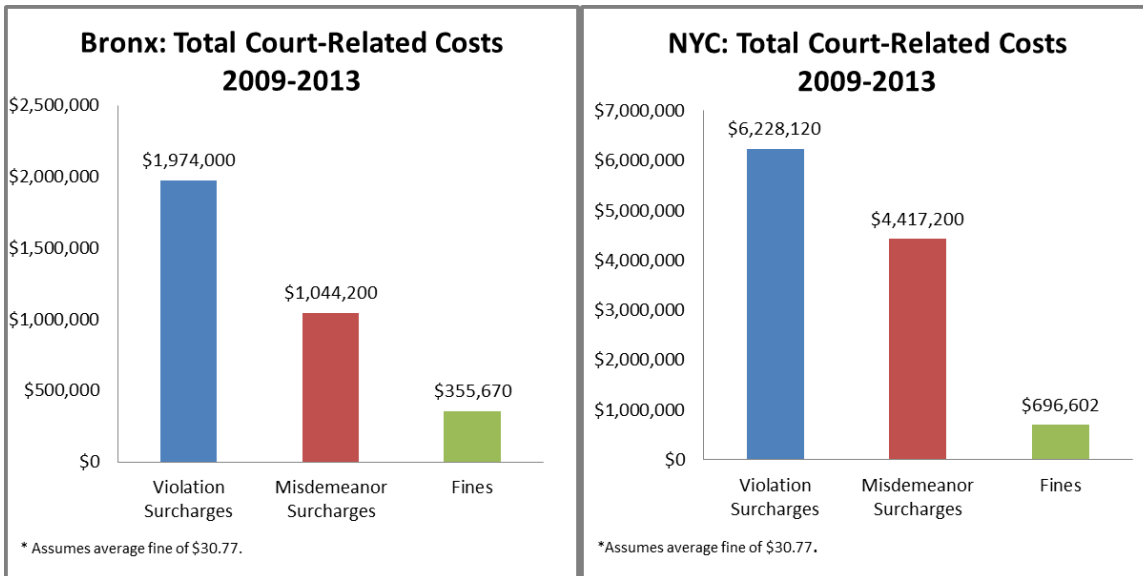
<sup>16</sup> C.P.L. § 170.56.

<sup>17</sup> P.L. § 221.05 and P.L. § 240.20, respectively.

<sup>18</sup> P.L. § 221.10.

<sup>19</sup> An additional four respondents were sentenced to a total of seven days of community or social services.

<sup>20</sup> The current court surcharge schedule (\$120 for violations and \$200 for misdemeanors) became effective in July 2008. There are no mandatory court costs associated with ACDs. Because DCJS does not collect data on the amount of fines assessed, an average fine of \$30.77 has been imputed from the study cohort data.



The numbers reported here almost certainly understate the true scope of the direct financial impact of marijuana arrests and dispositions, in part because ACDs account for a disproportionate number of dispositions in the study cohort. For example, 42% of all misdemeanor marijuana cases resolved in the Bronx in 2013 resulted in convictions for non-criminal violations or misdemeanors—as opposed to only 25% among the study cohort—while ACDs only accounted for approximately 54% of all dispositions, compared to 75% here. The discrepancy is largely explained by the fact that the data reflected in this study only cover dispositions reached at arraignment and do not capture the eventual dispositions reached by the 12% of respondents who chose to fight their cases. As such, the Bronx-wide data likely presents a more accurate picture of the court-related costs associated with these cases.

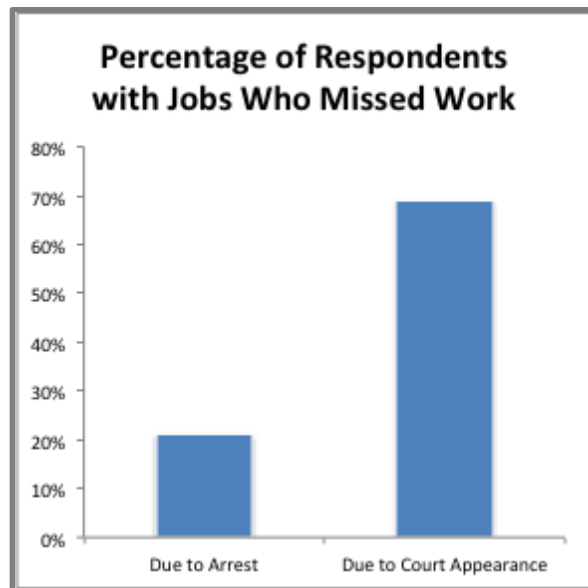
The discrepancy in disposition rates, however, points to a much larger source of costs not captured in this study—the costs of fighting a case. As discussed further below, the costs of fighting a case often dwarf the costs associated with arrest, arraignment, and disposition by many magnitudes.

## Missed Work & Lost Wages

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Merely looking at the fines and fees associated with convictions misses the larger, often more disruptive, economic effects of being stopped by the police for low-level marijuana possession. In addition to tracking fines and court fees, FFP also tracked the number of days of work respondents missed as a result of their arrests and initial court dates. The data suggest that employment costs—in the form of missed days of work and lost wages—are frequently more burdensome than the fines and fees associated with marijuana cases for individual respondents and exceed court-related costs in the aggregate.

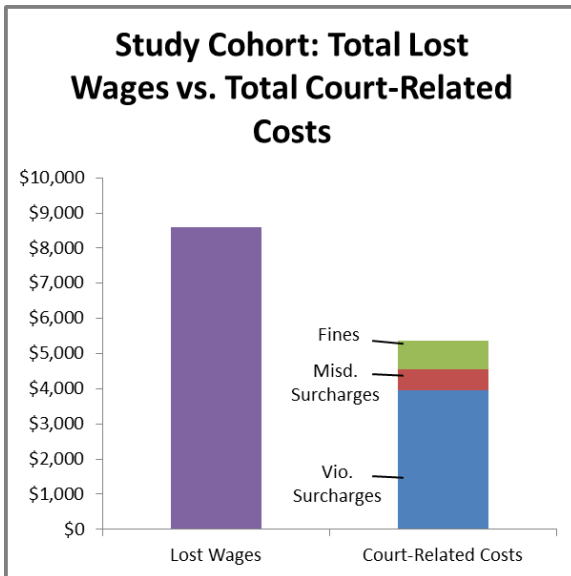
Fifty percent of respondents interviewed for this report were employed at the time of their arrests; 59% reported having a job when they were arraigned in Criminal Court. If 16-, 17-, and 18-year-olds are excluded, those numbers jump to 58% and 64%, respectively. Until Mayor de Blasio's recent announcement, pursuant to a policy put in place in the last year of the Bloomberg administration, the majority of people arrested for low-level marijuana possession in New York City were arrested and detained for a time at a police precinct before being issued a desk appearance ticket ("DAT"), which required them to appear in court approximately two months later to be arraigned.<sup>21</sup> In this way, the new summons policy does not represent a radical change.



Because most people with jobs were not arrested on workdays, only 21% of those who were employed at the time of their arrests reported missing work as a result of their arrests. (Notably, people who *did* miss work as a result of their arrests were detained by the police for an average of five hours before being released from the precinct, more than an hour longer than the general average—perhaps explaining why they were forced to miss work.) Fully 69% of people with jobs, however, were forced to miss work in order to come to their first court appearances, which regularly require spending hours in court. **In all, respondents missed a total of at least 76 days of work because of their arrests and court dates, losing an average of \$128.13 per day.** Moreover, the total lost wages for the study cohort were greater than all of the court-related costs (mandatory court surcharges and fines) combined.

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<sup>21</sup> The policy was formalized in NYPD Operations Order # 13, dated March 26, 2013.



The data also debunk a common myth—that cases resolved with an ACD (essentially, a deferred dismissal) amount to nothing more than minor inconveniences. Indeed, the data shows that respondents who received ACDs—and thus had no direct court-related costs—still experienced significant negative economic consequences: respondents who received ACDs accounted for almost two-thirds of the total number of missed days of work (50 in total), losing an average of \$132.41 in wages per day.

These numbers, however, do not fully capture the effects of these arrests on the friends and family of those arrested. In

addition to tracking the number of days of work missed by respondents, FFP also found that 30% of respondents were accompanied to court by a parent, friend, spouse/partner, or child, 40% of whom missed work in order to come to court. The effect was most prominent in cases involving teenagers: 64% of respondents between the ages of 16-18 were accompanied to court by a parent or family member, 35% of whom missed work in order to make it to court. In all, people accompanying respondents to court missed a total of 17 days of work, bringing the total number of missed days of work resulting from the 167 arrests represented in this report to 93.

## Putting the Pieces Together

Seen as a whole, the true scope of the costs associated with the City's marijuana enforcement policy begins to emerge. Despite the fact that the vast majority of respondents in the present study never pleaded guilty to anything—either accepting ACDs or choosing to fight their cases—the total costs associated with the 167 arrests represented in this study were close to \$14,000, or approximately \$84 per client.

### Financial Impact for Study Cohort

Court Surcharges		\$4,560
Violation Convictions	\$3,960	
Misdemeanor Convictions	\$600	
Fines		\$800
Lost Wages		\$8,585
<b>Total Financial Impact</b>		<b>\$13,945</b>

While, at first blush, these numbers might not shock the conscience, it is important to remember that the 167 respondents interviewed for this study represent only a small fraction of the 6,744 people arrested for low-level marijuana possession in the Bronx so far this year and the almost 240,000 arrested citywide since 2009.<sup>22</sup> Looking at the Bronx as a whole, the true scope of the hidden tax of marijuana arrests becomes plain. In 2013 alone, misdemeanor marijuana arrests cost Bronx residents almost \$1 million in fines, fees, and lost wages.<sup>23</sup> Looking back over a five-year period, the number jumps to almost \$7 million in the Bronx and a staggering \$24 million citywide.<sup>24</sup>

### Estimated Financial Impact for the Bronx 2013

Court Surcharges		\$436,280
Violation Convictions	\$320,280	
Misdemeanor Convictions	\$116,000	
Fines		\$64,709
Lost Wages		\$477,299
<b>Total Financial Impact</b>		<b>\$978,288</b>

<sup>22</sup> Data is current through October 21, 2014.

<sup>23</sup> Court-related cost estimates based on total number of violation and misdemeanor convictions reported by DCJS for calendar years 2009-2013, multiplied by mandatory court surcharge (\$120 and \$200, respectively). Fine estimates based on total number of sentences to fines reported by DCJS for calendar years 2009-2013, multiplied by average fine of \$30.77. Because DCJS does not report on amounts of fines, the average fine was imputed from study data. Lost wage estimates based on total number of arrests for P.L. § 221.10 reported by DCJS for calendar years 2009-2013 multiplied by average lost wage of \$60.88/arrest imputed from study data (controlling for missing data).

<sup>24</sup> For reasons discussed in greater depths below, these figures almost certainly underestimate the true direct financial impact of marijuana arrests.

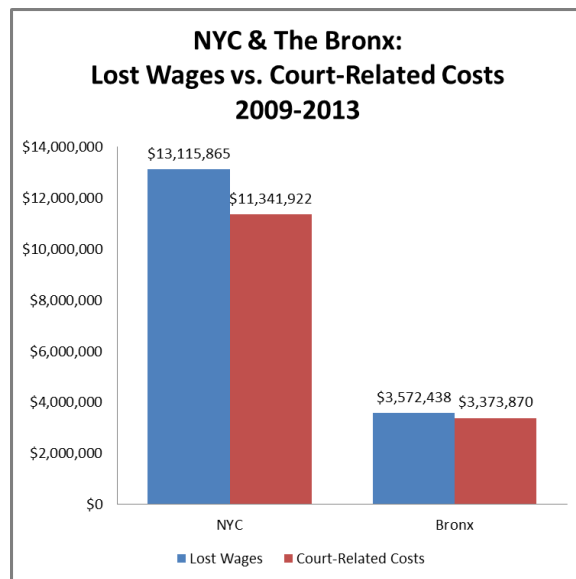
*Bronx & NYC Estimates: 2009-2013*

**Estimated Financial Impact for the Bronx  
2009-2013**

Court Surcharges		\$3,018,200
Violation Convictions	\$1,974,000	
Misdemeanor Convictions	\$1,044,200	
Fines		\$355,670
Lost Wages		\$3,572,438
<b>Total Financial Impact</b>		<b>\$6,946,308</b>

**Estimated Financial Impact for NYC  
2009-2013**

Court Surcharges		\$10,645,320
Violation Convictions	\$6,228,120	
Misdemeanor Convictions	\$4,417,200	
Fines		\$696,602
Lost Wages		\$13,115,865
<b>Total Financial Impact</b>		<b>\$24,457,787</b>



## The Bigger Picture: Economic Vulnerability

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Of course, the direct financial impact of the City's marijuana enforcement policies laid out above does not represent the panoply of negative economic and social consequences associated with the tremendous volume of marijuana cases processed in New York City courts every year. The costs associated with the NYPD's marijuana enforcement fall almost exclusively on young men of color in the city's low-income neighborhoods—communities and populations that are particularly vulnerable to economic shocks. The unexpected costs and seemingly minor disruptions associated with a marijuana case can easily destabilize a family living from paycheck to paycheck or on the edge of severe poverty or homelessness. This is especially true in communities like the South Bronx, where more than 60% of residents spend more than 30% of their income on housing expenses and homelessness is a constant threat.<sup>25</sup>

For many people, the threat of losing a job is the most immediate and pressing consequence of a marijuana arrest. The 167 arrests represented in this study resulted in at least 93 missed days of work between respondents and their families and friends. And, as noted above, the majority of those missed days were not the result of the arrest itself, but, rather, the need to appear in court for arraignment. For many of those forced to take a day off from work for court, a missed day of work means not only a lost day of wages but also an increased risk of losing a job completely. The data here strongly suggest that the people who are overwhelmingly and disproportionately the targets of the NYPD's marijuana arrests are also often among the most vulnerable people in the workforce, working without employment protections and guaranteed days off.<sup>26</sup>

For example, FFP found that 50% of respondents reported being employed at the time of their arrests. Of those, 55% had been at their jobs for a year or less. Moreover, approximately 20% of respondents who were employed either at the time of their arrests or on their scheduled court dates worked off the books. All of this suggests that the City's marijuana enforcement policies disproportionately affect precisely those people who are most vulnerable in their jobs—people who are only one missed day of work away from being laid off or fired. And while it is impossible to know exactly how many days of work are missed in the Bronx and across the city due to marijuana arrests, the data here suggest that thousands of workdays are lost in the Bronx and potentially tens of thousands citywide every year. The new summons policy does nothing to change this.

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<sup>25</sup> *A Bronx Tale* at 1.

<sup>26</sup> Unemployment rates among Black and Latino New Yorkers citywide, and among men in particular, consistently outpace the rates among white New Yorkers. This is especially true in the Bronx, where unemployment rates are regularly significantly higher than in the rest of the city. *See, generally*, Fiscal Policy Institute, *New York City in the Great Recession: Divergent Fates by Neighborhood and Race and Ethnicity* (Dec. 2009) available at [http://www.fiscalpolicy.org/FPI\\_NeighborhoodUnemployment\\_NYC.pdf](http://www.fiscalpolicy.org/FPI_NeighborhoodUnemployment_NYC.pdf).



The negative consequences of marijuana cases, moreover, extend well beyond employment. As the data collected by FFP shows, a single arrest can destabilize a person's life in a number of ways:

- **Education:** Nearly all of the 16-, 17-, and 18-year old respondents reported being enrolled in school at the time of their arrests, while 25% of respondents between the ages of 19 and 25 reported being enrolled. Because the arrests and arraignments represented in this study took place in late spring and summer, the data does not adequately reflect the full educational impact of the City's marijuana arrest policies. Even so, respondents reported missing 20 days of school as a result of their arrests and court appearances.
- **Childcare:** While only 6% of respondents with children reported experiencing childcare-related problems because of their arrests, 19% experienced problems on their court dates.
- **Immigration:** Over 9% of people interviewed faced potential negative immigration consequences due to their arrests.
- **Public Housing:** 21% of people interviewed were at risk of losing their public housing.

A single stop for low-level misdemeanor marijuana possession can wreak havoc on a person's life.<sup>27</sup> When these negative individual consequences are multiplied by tens of thousands of cases every year and concentrated in the New York City's most vulnerable neighborhoods and communities, however, the City's marijuana enforcement practices become a significant destabilizing force and obstacle to economic opportunity.

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<sup>27</sup> Additionally, failure to pay fines will result in a warrant for a person's arrest, while failure to pay mandatory court surcharges can damage a person's credit.

## Beyond Arraignments

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Because this report generally limits its analysis to the costs associated with the arrests, arraignments, and dispositions of marijuana cases, it necessarily overlooks a huge source of costs: the costs of fighting cases. While the majority of respondents in the study opted to resolve their cases at their first court dates, 12% chose to fight the charges they faced. The costs they will incur throughout the course of their cases will, in all likelihood, dwarf the costs discussed above. As FFP found in its 2013 report *No Day in Court*, due to court congestion and a culture of delay, marijuana cases in the Bronx regularly last many months, if not years, without any real promise of meaningful due process.<sup>28</sup> Clients are required to come back to court time after time, but rarely, if ever, are they afforded their day in court. Beyond the physical and psychological toll exacted by these delays, each postponement brings with it the potential for another missed day of work, lost wages, school absence, rescheduled medical appointment, financial hardship, or childcare emergency. Clients must pay for transportation to and from court. Repeated absences from work strain relationships with current employers, and potential employers are less likely to hire respondents when background checks reveal pending criminal cases. Clients working in the public sector or in jobs requiring state-issued licenses—such as security guards, home health aides, or cab drivers—are especially vulnerable, as an open case may lead to an immediate suspension without pay and, ultimately, termination.<sup>29</sup>

Here, of the respondents who did not resolve their cases at arraignment, 53% were employed as of their court dates and reported losing an average of \$131.78 in wages just on account of their court appearances. The costs associated with their cases—in lost wages and increased risk of losing jobs—will only multiply with each successive court date.

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At the heart of these findings are some basic questions: Has the City's unprecedented marijuana enforcement crusade—and its quality-of-life policing strategy more broadly—been worth the economic toll that it has exacted on low-income communities of color? How many jobs have been lost? How many days of school missed? And what does the City have to show for the almost 240,000 marijuana arrests since 2009?

Certainly, this report cannot answer all of these questions. But it does make clear that in order for policymakers to provide a satisfactory answer, they must take a holistic approach to the problem. Any reform to the City's marijuana enforcement policies must take into account these economic, educational, and social consequences. Marijuana stops do not occur in a vacuum. The costs associated with them act as a hidden regressive tax on the City's low-income communities of color, and it will likely take years to understand the full breadth of the economic and social toll that more than a decade of aggressive policing tactics have taken.

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<sup>28</sup> See The Bronx Defenders Fundamental Fairness Project, *No Day in Court: Marijuana Possession Cases and the Failure of the Bronx Criminal Courts* (May 2013) available at <http://www.bronxdefenders.org/no-day-in-court-a-new-report-by-the-bronx-defenders/>.

<sup>29</sup> See, e.g., Julie Dressner & Jesse Hicks, "A Marijuana Arrest," BuzzFeed (Dec. 2013) (short film) available at <https://www.youtube.com/watch?v=MEzZSDKOV4>.