

Court Monitoring Project Report

Broken Windows Policing: A True Tale of Two Cities



July 2014

- a work in progress -

Police Reform Organization Project (PROP)

Mission Statement

August 2014

Young black and brown men are charged with criminal trespass and locked up for standing in front of their own building. People in psychiatric crisis, clearly disoriented, are thrown to the ground, handcuffed and locked up. LGBTQ persons are called derogatory names, questioned rudely, or inappropriately touched. Sex workers are arrested for simply carrying condoms or forced to have sex in return for their release. Street vendors are hassled, fined and arrested for violating arbitrarily enforced minor rules. Muslim individuals are harassed or unjustly surveilled. Homeless people are roughed up - their belongings often destroyed - and apprehended for begging on the subway or sleeping on a park bench.

Through research and analysis, policy advocacy, coalition building, and public education, PROP aims to:

- stop the current wasteful, ineffective, unjust, illegal, bullying, homophobic, transphobic, and racially biased practices of the NYPD.
- to promote the effectiveness of the newly established Inspector General's Office so that it can effectively monitor and assess NYPD practices and priorities.
- to abolish the NYPD's quota system that puts pressure on officers to make frivolous or false arrests and to hand out bogus summonses that result in criminalizing innocuous or innocent activities.
- to re-orient the NYPD away from applying harsh and punitive "broken windows" policing toward implementing local and collaborative problem solving measures that strengthen communities while reducing crime.

We seek to establish a Police Department that serves and protects all New Yorkers, especially the vulnerable people amongst us, and that works to create a more safe, fair and inclusive city for all its citizens.

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Introduction

Especially given his campaign pledges, the election of Bill de Blasio led many New Yorkers to expect not only a decline in the New York Police Department's (NYPD) use of the discredited stop and frisk tactic, but also changes in other abusive policing practices. We at the Police Reform Organizing Project (PROP), along with other police reformers, however, had a fundamental concern. Skeptical about mainstream elected officials' ability and willingness to follow through on their campaign promises, we worried that, even with stop and frisk receding in the city politic's rear view mirror, the "new" NYPD would not actually shift away from its fundamental approach to law enforcement. Often referred to as "broken windows" policing, initiated in the Giuliani years and expanded upon during the Bloomberg / Kelly tenure, this law enforcement strategy centers on excessively punitive practices like aggressively arresting and ticketing people living in low-income communities of color for minor infractions.

We at PROP decided that it was important for us advocates to develop methods to independently monitor NYPD practices on the ground and to assess whether the Department's policies have changed for better or for worse under the de Blasio / Bratton administration. To look beyond the public announcements made by city leaders, PROP developed its Court Monitoring Project. With this initiative, we carefully observe and record proceedings in New York City's (NYC) arraignment and summons parts and interview both public defenders that practice in those parts and defendants. PROP has thereby gained first-hand knowledge of current NYPD policies and practices. By identifying the most prevalent types of arrests and summonses coming through the criminal justice system and who is charged for those infractions, this report seeks to assess to what extent Bill de Blasio's administration and NYC Police Commissioner Bill Bratton have reformed the NYPD's harmful and counterproductive practices.

Court Monitoring Visit Reports

Court Information:

- “The New York City (NYC) Criminal Court handles misdemeanors (crimes punishable by fine or imprisonment of up to one year) and lesser offenses. The Court also conducts arraignments and preliminary hearings for felonies (crimes punishable by imprisonment of more than one year). The Criminal Courts of the City of New York are located in all five boroughs.”¹
- In the **Bench Trial Part (BTP)**, cases are put to trial with the judge assuming the role that a jury would have in a jury trial. Put simply, a bench trial is basically the same as a jury trial without the jury. Bench trials, however, are usually more informal than jury trials.
- An **arraignment** is a court proceeding during which a person is informed of the charges against him/her. In NYC’s Arraignment Parts, defendants either come to court because they have received a **Desk Appearance Ticket (DAT)**, a written notice that a police officer gives to a person arrested requiring him/her to appear in court at a later date for arraignment, or they are arrested, locked up, and are then brought to court for their arraignment.²
- **Midtown Community Court**, established in 1993, targets quality-of-life offenses such as prostitution, illegal vending, graffiti, shoplifting, farebeating, and vandalism. The court sentences low-level offenders to pay back the neighborhood through community service, while offering them help with the problems that underlie their actions. The court offers a variety of social service, drug treatment, and mental health programs.³
- In the **Manhattan Summons Part**, defendants appear before the court because they have received a **summons**, or a ticket requiring a defendant to appear before the court for arraignment.⁴

Report Summary:

¹ “New York City Criminal Court,” last modified June 3, 2014, <http://www.nycourts.gov/COURTS/nyc/criminal/>.

² “Glossary of Terms,” last modified May 29, 2013, <http://www.nycourts.gov/COURTS/nyc/criminal/glossary.shtml>.

³ “Midtown Community Court,” Center for Court Innovation, <http://www.courtinnovation.org/project/midtown-community-court>.

⁴ “Glossary of Terms.”

- Of the 747 total cases seen, 667 or **89%** of the defendants were people of color.
- Excluding the Midtown Community Court since its location, demographic, and focus makes it something of an outlier in comparison with New York City's other arraignment parts, the total number of cases PROP has observed is 657. Of these 657 cases, 571 or **93%** of the defendants were people of color.
- Of the 747 total cases seen, 692 or **93%** of the defendants walked out of the courtroom. Only 55 defendants, or **7%** of the total number of defendants, were held in custody after their arraignments.
- Of the 6 court visits that PROP was able to time, the average amount of time that the court spent on each case was approximately 2 minutes, 10 seconds. The longest case lasted 11 minutes, 47 seconds. The shortest case lasted 2 seconds.

Court Reports:

Bench Trial Part (BTP) 1 Manhattan Criminal Court

June 3rd, 2014

- Of the 26 cases seen, all of the defendants, **100%** were people of color.
- Common charges:
 - Trespass in the 3rd degree
 - Petit larceny
 - Disorderly conduct
 - Unlawful solicitation in the subway (usually refers to when a person asks another person to swipe them into subway)
- No one was held in custody after his / her case was heard. Every one walked out of the courtroom.

Arraignment Part Manhattan Criminal Court

June 18th, 2014

- Of the 46 cases seen, 42 or **91%** of the defendants were people of color.

- Common charges:
 - Marijuana possession
 - Driving without a license (or with a suspended license)
 - Disorderly conduct
 - No one was held in custody after his / her case was heard. Every one walked out of the courtroom.
-

Midtown Community Court

June 19, 2014

- Of the 50 cases seen, 35 or **70%** of the defendants were people of color.
- Common charges:
 - Subway offenses:
 - Theft of services (usually refers to when a person attempts to ride a subway without paying) and criminal trespass in the 3rd degree
 - Unlawful solicitation in the subway
 - Unsafe riding in restricted areas (usually refers to when a person walks between subway cars)
 - Pedicab offenses:
 - Storage of vehicle and other movable property parking (in this case, the defendant parked his pedicab in an illegal parking space)
 - Operating pedicab with more than 3 people in it
 - Pedicab license not visible
 - Operating a pedicab in a pedestrian plaza
 - Petit larceny and possession of stolen property in the 5th degree (usually refers to when a person knowingly possesses stolen property without intending to give it back to its owner)
 - Unlicensed general vending (UGV-- usually means vending without a license) and related offenses (like failure to display one's license)
 - Disorderly conduct
- No one was held in custody after his / her case was heard. Every one walked out of the courtroom.

**Arraignment Part
Queens Criminal Court**

June 24th, 2014

- Out of 15 cases seen, 14 or **93%** of the defendants were people of color.
- Common charges:
 - Marijuana possession
 - Assault in the 3rd degree
 - Driving without license (or with a suspended license)
- 2 defendants were held in custody after their cases were heard. 13 of the 15 defendants walked out of the courtroom.
 - One man received a sentence of 10 days jail for a marijuana possession charge.

**Arraignment Part AR-2
Manhattan Criminal Court**

June 25th, 2014

- Of the 34 cases seen, 33 or **97%** of the defendants were people of color.
- Common charges:
 - Driving without a license (or with a suspended license)
 - Marijuana possession
 - Aggressive begging
 - Theft of services
 - Unlicensed general vending (UGV)
- No one was held in custody after his / her case was heard. Every one walked out of the courtroom.

**Arraignment Part
Manhattan Criminal Court**

June 27th, 2014

- Of the 37 cases seen, 33 or **89%** of the defendants were people of color.
- Common charges:

- Disorderly conduct
 - Petit larceny
 - Theft of services
 - Driving without a license (or with a suspended license)
 - Marijuana possession
 - No one was held in custody after his / her case was heard. Every one walked out of the courtroom.
-

Arraignment Part 2
Bronx Supreme Criminal Court

July 2, 2014

- Of the 45 cases seen, 44 or **98%** of the defendants were people of color.
 - Common charges:
 - Marijuana possession
 - Driving without license (or with a suspended license)
 - 8 defendants were held in custody after their cases were heard. 37 of the 45 defendants walked out of the courtroom.
-

Arraignment Part Room 105
Brooklyn Criminal Court

July 8th, 2014

- Out of the 16 cases seen, all of the defendants, **100%** were people of color.
- Common charges:
 - Assault in the 3rd degree
 - Driving without a license (or with a suspended license)
 - Other minor violations like possession of fireworks, smoking on a subway platform, and bike on a sidewalk.
- No one was held in custody after his case was heard. Every one walked out of the courtroom.

- The average amount of time that the court spent on each case was 4 minutes, 8 seconds. The longest case lasted 10 minutes, 40 seconds. The shortest case lasted 31 seconds.*
-

Arraignment Part
Night Court (Felony and Misdemeanor)
Bronx Criminal Court

July 10, 2014

- Out of the 34 cases seen, all of the defendants, **100%** were people of color.
 - Common charges:
 - Robbery
 - Controlled substances offenses (usually means possessing either crack or heroin)
 - Assault and related offenses
 - Offenses involving marijuana
 - Larceny
 - 16 defendants were held in custody after their cases were heard. 18 of the 34 defendants walked out of the courtroom.
 - The average amount of time that the court spent on each case was 3 minutes, 7 seconds. The longest case lasted 11 minutes, 47 seconds. The shortest case lasted 1 minute, 26 seconds.
-

Manhattan Summons Part
Manhattan Criminal Court (346 Broadway)

July 14, 2014

- Of the 21 cases seen, all of the defendants, **100%** were people of color.
- Common charges:
 - Open alcohol container
 - Public urination
 - Failure to display a taxi or limousine license
 - Loud exhaust

* PROP was able to time cases on only a limited number of court monitoring visits.

- No one was held in custody after his / her case was heard. Every one walked out of the courtroom.
 - The average amount of time that the court spent on each case was 1 minute, 30 seconds. The longest case lasted 2 minutes, 59 seconds. The shortest case lasted 2 seconds.
-

Arraignment Part 2 (DAT Part)
Manhattan Criminal Court

July 14, 2014

- Of the 80 cases seen, 61 or **76%** of the defendants were people of color.
 - Common charges:
 - Aggravated unlicensed operation of a motor vehicle in the 3rd degree (usually refers to when a person operates a motor vehicle while license is suspended or revoked)
 - Trespass in the 2nd degree
 - Marijuana possession
 - Possession of a controlled substance
 - Unlicensed general vending (UGV)
 - Theft of services
 - No one was held in custody after his / her case was heard. Every one walked out of the courtroom.
-

Midtown Community Court

July 14, 2014

- Of the 40 cases seen, 21 or **53%** of the defendants were people of color.
- Common charges:
 - Disorderly conduct
 - Unlicensed general vending
 - Public urination
 - Petit larceny
 - Theft of services

- No one was held in custody after his / her case was heard. Every one walked out of the courtroom.
-

Arraignment Part 2
Bronx Criminal Court

July 16, 2014

- Of the 27 cases seen, 26 or **96%** of the defendants were people of color.
 - Common charges:
 - Aggravated unlicensed operation of a motor vehicle
 - Marijuana possession
 - Trespass
 - Possession of a controlled substance
 - One defendant was held in custody after his / her case was heard. 26 of the 27 defendants walked out of the courtroom.
 - The average amount of time that the court spent on each case was 2 minutes, 30 seconds. The longest case lasted 7 minutes, 31 seconds. The shortest case lasted 36 seconds.
-

Arraignment Part 2
Brooklyn Criminal Court

July 16, 2014

- Of the 37 cases seen, all of the defendants, **100%** were people of color.
- Common charges:
 - Criminal possession of a weapon in the 4th degree (usually refers to possession of a gravity knife)
 - Theft of services
 - Marijuana possession
 - Assault in the 3rd degree
 - Restricted areas and activities (usually refers to when a person walks between subway cars)

- Three defendants were held in custody after their cases were heard. 34 of the 37 defendants walked out of the courtroom.
 - The average amount of time that the court spent on each case was 2 minutes, 8 seconds. The longest case lasted 7 minutes, 50 seconds. The shortest case lasted 30 seconds.
-

Arraignment Part 2
Manhattan Criminal Court

July 17, 2014

- Of the 58 cases seen, 49 or **84%** of the defendants were people of color.
 - Common charges:
 - Theft of services
 - Trespass in the 2nd and 3rd degree
 - Petit larceny, criminal possession of stolen property in the 5th degree
 - Aggravated unlicensed operation of a motor vehicle in the 2nd and 3rd degree
 - Marijuana possession
 - Possession of a controlled substance in the 7th degree
 - Five defendants were held in custody after their cases were heard. 53 of the 58 defendants walked out of the courtroom.
 - Of the 38 cases timed, the average amount of time that the court spent on each case was 2 minutes, 20 seconds. The longest case lasted 6 minutes, 30 seconds. The shortest case lasted 20 seconds.
-

Arraignment Part 2
Brooklyn Criminal Court

July 21, 2014

- Of the 50 cases seen, 49 or **98%** of the defendants were people of color.
- Common charges:
 - Assault in the 3rd degree
 - Possession of marijuana
 - Open alcohol container

- Driving without a license (or with a suspended license)
 - Three defendants were held in custody after their cases were heard. 47 of the 50 defendants walked out of the courtroom.
-

**Arraignment Part
Bronx Criminal Court**

July 21, 2014

- Of the 33 cases seen, 31 or **94%** of the defendants were people of color.
 - Common charges:
 - Theft of services
 - Disorderly conduct
 - Public urination
 - Marijuana possession
 - Driving without a valid license
 - Two of the defendants were held in custody after their cases were heard. 31 of the 33 defendants walked out of the courtroom.
-

**Arraignment Part 2
Queens Criminal Court**

July 21, 2014

- Of the 7 cases seen, 6 or **86%** of the defendants were people of color.
 - Common charges:
 - Aggravated unlicensed operation of a motor vehicle
 - Possession of a weapon in the 4th degree
 - Assault in the 3rd degree
 - Operating a motor vehicle while under the influence of alcohol or drugs
 - Two of the defendants were held in custody after their cases were heard. 5 of the 7 defendants walked out of the courtroom.
-

Arraignment Part 2
Queens Criminal Court

July 22, 2014

- Of the 11 cases seen, 11 or **100%** of the defendants were people of color.
 - Common charges:
 - Assault in the 3rd degree
 - Possession of a forged instrument in the 3rd degree (usually means possessing a forged drivers license)
 - Sale of marijuana in the 4th degree
 - Public consumption of alcohol
 - No one was held in custody after his / her case was heard. Every one walked out of the courtroom.
-

Arraignment Part 2
Brooklyn Criminal Court

July 22, 2014

- Of the 35 cases seen, 34 or **97%** of the defendants were people of color.
 - Common charges:
 - Assault in the 3rd degree
 - Theft of services
 - Petit larceny
 - Various Administrative Code violations:
 - Open container
 - Littering
 - Unattended vehicle
 - Bicycle on the sidewalk
 - Three defendants were held in custody after their cases were heard. 32 of the 35 defendants walked out of the courtroom.
-

Arraignment Part
Bronx Criminal Court

July 25, 2014

- Of the 45 cases seen, 44 or **98%** of the defendants were people of color.
- Common charges:
 - Possession of marijuana
 - Possession of a controlled substance
 - Driving with a suspended license
 - Assault in the 3rd degree
 - Open container
- Ten defendants were held in custody after their cases were heard. 35 of the 45 defendants walked out of the courtroom.

Arrest Statistics

As part of our effort to determine whether the NYPD's arrest practices have changed during the first months of the de Blasio / Bratton era, PROP's court monitoring project obtained relevant statistics from the New York State Division of Criminal Justice Services (DCJS). As per the charts below, these figures show that the NYPD's arrest practices in the first five months of 2013 and 2014, in terms of the charges and of the race of the defendants, have remained remarkably similar. Here, for example, are several specific examples applied to the first five months of 2013 compared to the first five months of 2014:

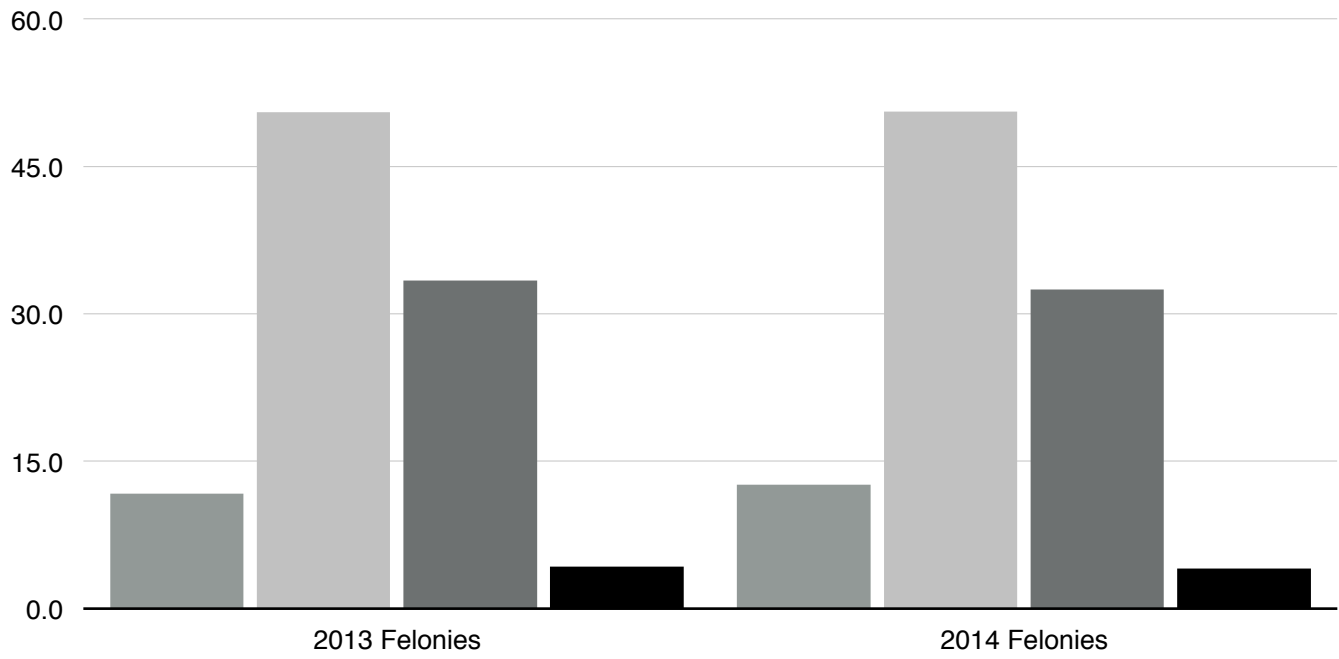
- Total misdemeanor arrests for New York City in 2013: 97, 243; in 2014: 97,487
- Percentage of persons charged with misdemeanors who are people of color: 86.8% in 2013; 86.0 in 2014
- Percentage of persons charged with felonies who are black people: 50.5% in 2013; 50.6% in 2014

These and other relevant data demonstrate that the NYPD's arrest practices, which are marked by a stark racial disproportion, have not yet shown any signs of changing under the city's new leadership.

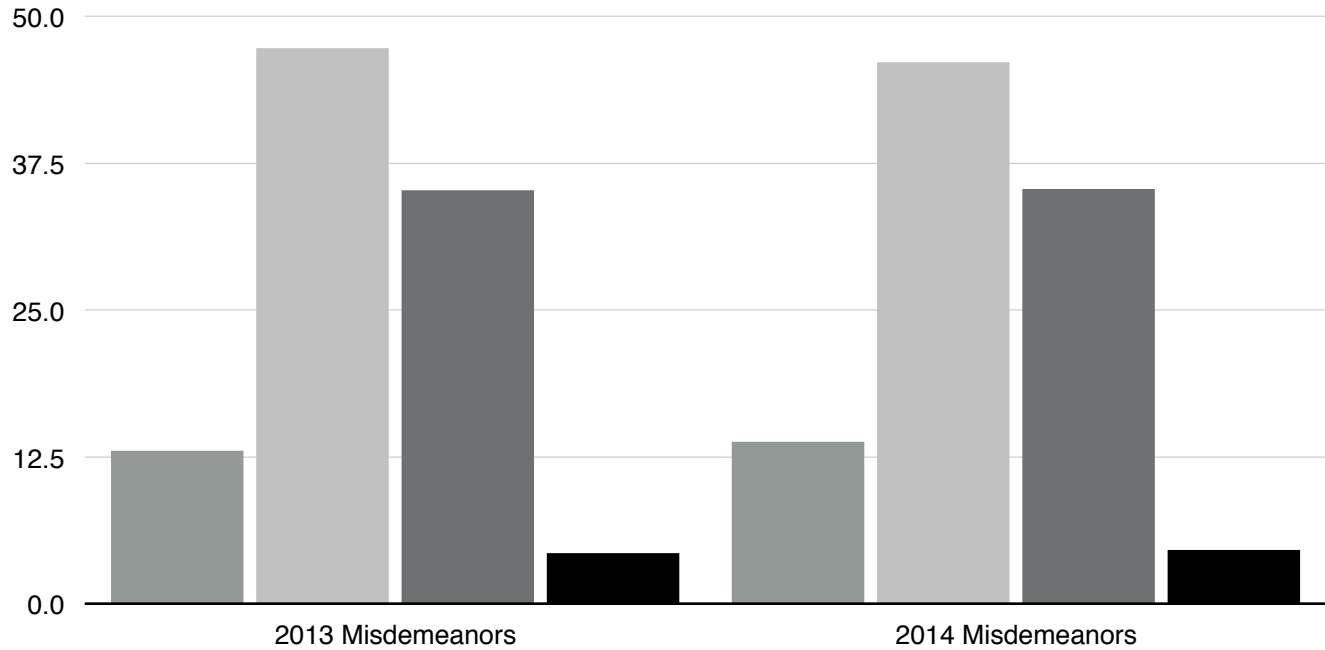
DCJS Arrest Statistics (Percentages* from January–May 2013 and 2014)

| Race/Ethnicity | 2013 Felonies (Total: 39,236) | 2014 Felonies (Total: 37,842) | 2013 Misdemeanors (Total: 97,243) | 2014 Misdemeanors (Total: 97, 487) |
|-----------------------|---|--|--|---|
| White | 11.7 | 12.6 | 13.0 | 13.8 |
| Black | 50.5 | 50.6 | 47.3 | 46.1 |
| Hispanic | 33.4 | 32.5 | 35.2 | 35.3 |
| Asian/Indian | 4.3 | 4.1 | 4.3 | 4.6 |
| | * Individual Ethnicity Totals/All Ethnicity Totals | | | |
| | * Percentages exclude data where race/ethnicity was uncertain | | | |
| Total POC | 88.2 | 87.2 | 86.8 | 86.0 |

NYC Felonies (By Race/Ethnicity %)



NYC Misdemeanors (By Race/Ethnicity %)



Court Monitoring Project Stories

Police officers arrested a construction worker on a weapon charge because he had a painting knife, which was covered in paint, sticking out of his pocket. He now has a criminal record.

Police officers arrested a Chinese woman who has a license to sell flowers because she had two artificial flowers on her cart for decorative purposes.

Undercover drug officers gave two different people \$20 to inform them of drug dealers in their neighborhood. Both people pocketed the money and went home. The officers followed them home, knocked on their doors, and arrested them on petit larceny charges.

A Chinese couple has operated a food cart for years in Chinatown. This food cart is the couple's only means of support for their family. The license is in the husband's name, not in the wife's, and he has contracted an illness and is confined to a wheelchair. She then began to handle the business with him sitting by the side of the cart. In 2007, she began applying for a license to the City's Department of Consumer Affairs, a bureaucracy notoriously slow in processing such applications. Police officers have arrested her eleven times since September 2013 on the charge of vending without authorization, cuffing and confining her in a cell each time.

A police officer arrested an African-American woman in her mid-60s for the first time in her life for smoking a joint on her stoop. When the case was brought to night court in Manhattan, an angry Legal Aid lawyer confronted the officer who explained that fifteen years ago his sergeant would've punched him out for making such an arrest, but now it's expected of him.

A police officer arrested a young man for having his backpack on the seat next to him.

A police officer arrested a young man for using his girlfriend's MetroCard.

A police officer arrested a young man of color for walking between the cars of a stopped subway train.

A police officer arrested a 16-year-old Latino boy on two different occasions for trespass while the boy was standing in the hallway of the building he lives in.

A police officer stopped a young boy who forgot his MetroCard and arrested him for unlawful solicitation after he asked someone approaching the turnstile for a swipe so he could get to school on time.

A police officer arrested a young man, presenting no medical or psychiatric issues, on the charge of possession of a bottle of cognac in a paper bag. This young man had never been arrested before and was locked up for 49 hours.

Two police officers arrested a Latino veteran in the Times Square area on the charge of aggressive begging on eight separate occasions. In one instance, his lawyer has found an exculpatory video that shows him behaving politely and not pressuring walkers-by. The man refused to plead and is taking the case to trial.

Police officers arrested four men, all black, on the charge of aggressive begging. The four men spent the night locked up. On June 25th in the Manhattan arraignment court, the judge gave three of the men ACDs and insisted that one man, probably because of his record, plead guilty to the charge.

Two police officers stopped and questioned a black fourteen-year-old girl while she was on her way to school – she was only one block away. When she protested, the officers arrested her and charged her with truancy. She understood, as many people in her community who are treated similarly do, that her real offense was “insisting on her rights.”

On a Saturday night in May, a Legal Aid lawyer in the Manhattan arraignment part represented four defendants in a row who had been arrested for having a foot up on a subway seat. One case stood out for the attorney: a twenty-two-year-old black male college student with a part-time job, an appropriate ID, and no criminal record, had to spend well over 24 hours in jail. A police officer arrested him when the train was only four stops away from his house.

A 50-year-old man was caught up in a “lucky bag” sting. He picked up a handbag left on a bench in Sara Roosevelt Park in Manhattan. The handbag contained a wallet with \$3.00 and when the man brought it to an officer, the officer arrested him on the charge of possession of stolen property.

A police officer arrested and gave a DAT to a middle-aged Chinese woman for putting vegetables in her handbag as she was shopping in Whole Foods. She had only been living in the U.S. for four months, so she explained to the officer that she was following the custom in her home country. Obviously frail and disoriented in the courtroom, she reported having a kind of nervous breakdown after the incident, having spent two months in bed before appearing before the judge who then dismissed the case.

An officer stopped a woman walking on her way to the subway in Brownsville, Brooklyn. She had gone through the well-lit side of a park because she thought it was safer. The officer charged her with being in the park after dusk. The woman pointed out that the park closes at 9 PM and that it was 8:49 PM at the time. The officer stalled her for 11 minutes before issuing her the summons. The officer also told the woman not to worry about the ticket because it would be dismissed.

The police arrested a Congolese man for sitting on a playground bench in Brooklyn without the accompaniment of a child. He was a refugee who did not speak English well and did not have identification on him. After being arrested, he spent 48 hours in jail waiting for an interpreter. The judge dismissed his case in the interest of justice.

In Brooklyn neighborhoods, Yemenis often own the local bodegas. They often do not have a license to sell cigarettes and are repeatedly the target of police raids. The person arrested is almost never the owner of the store. Whoever is behind the counter selling the cigarettes is taken into police custody. In one instance at a Bedford-Stuyvesant bodega, a police officer arrested a 70-year-old employee. The man was processed through the system and ordered to pay fines that he could not afford for a business that he did not own. This kind of police action is a very common occurrence in low-income Brooklyn neighborhoods.

A police officer arrested an undocumented Mexican immigrant on an open alcohol container charge. There was a warrant out on him for failure to appear for a summons, which was also for an open alcohol container. The young man was then deported.

A police officer arrested and gave a DAT to a young black man for having a pair of handcuffs on the passenger seat of his car.

A police officer arrested a young black man for smoking in an unauthorized public space. This young man spent a night in jail before he was arraigned.

The police stopped a young black man who was riding his bicycle on a sidewalk in Brooklyn. As is the custom, the officer ran a background check on the man and found an outstanding warrant for an open alcohol container from 2008. As is the NYPD policy, the officer cuffed and arrested the man who spent the night in jail before receiving an ACD from the arraignment part judge.

A police officer arrested a Brooklyn man in May 2014 on charges of contempt for allegedly violating an order of protection after the officer assumed the woman he called was the protected party. In truth, the man was the protected party. Nonetheless, the District Attorney's Early Case Assessment Bureau accepted the charges, and the man was put through the system and spent the night in jail. The arraignment part judge dismissed the case after demanding that the District Attorney look at the true nature of the order of protection in court.

A police officer stopped and searched a young man because she claimed she saw, in plain view, a small particle of a green leafy substance that she recognized to be marijuana on the teenager's shirt. She found a small bag of marijuana in his pocket. The young teen was later charged with possession of a small amount of marijuana.

A 21-year-old black man dressed in casual business clothing walked into his Harlem housing project, passed undercover detectives on the way inside his building and entered his apartment. He changed into a hoodie and jeans, and while exiting his apartment building, the detectives stopped him and asked him to present his ID. The young man asked the detectives if they knew that he was the same person who had passed them earlier, and surprised, they replied no.

A lawyer working in the Brooklyn arraignment part on a recent Saturday night reported handling five jaywalking cases. Each case involved a man of color; each man was cuffed and arrested; three of the men had outstanding warrants for minor incidents; two of the men had no criminal record.

A man was in the yard of the public housing project in the Bronx where he grew up and where several of his family members lived. The address of the building is tattooed prominently on his forearm. After police searched him illegally and found no drugs or contraband on him, they arrested him for trespass in spite of the protests of family members. He was released after spending the night in jail, but the prosecution refused to immediately dismiss the case. Instead, the case was dismissed months later when he appeared on his scheduled court date with one of his relatives, who proved that he was not trespassing.

On February, 15th 2014, correction officers discovered the lifeless body of inmate Jerome Murdough in a 101 degree Rikers Island jail cell in the facility's mental observation unit. Police officers had arrested him for sleeping on the rooftop of a NYC public housing project in Harlem; they charged him with trespass. Over the years, Murdough, a 56-year-old former Marine, had been detained a number of times for minor infractions. Due to this accumulated record, the judge did not release him on his own recognizance and set a \$2,500 bail, which Murdough could not afford to pay. Murdough was then transferred to a jail on Rikers Island. He suffered from bipolar disorder and was on anti-psychotic and anti-seizure medication that caused him to have sensitivity to heat; the extreme heat condition of his cell was the direct cause of his death. This incident was the result of a common police and criminal justice practice – harmless, homeless man never charged with a predatory offense is locked up for trespass. Police regularly arrest and confine highly vulnerable people who engage in innocuous / innocent activity. In this case, a man died alone in a Rikers Island jail cell.

A lawyer working in the arraignment part in Brooklyn reports that the same police officers have arrested and locked up her client, a middle-aged black man, on five separate occasions on the charge of selling loose cigarettes. Unusually, he has persisted in rejecting an ACD or a plea. He has denied the charges, insisting on his innocence and stating that the officers are "flaking" him -- planting evidence and lying about it. He plans to take all five open cases to trial.

A case of double jeopardy: Police arrested a black man in the subway while on his way home from a lower Manhattan criminal court. On the previous night, other officers had arrested him near his home in uptown Manhattan on a minor trespass charge. He was heading to the precinct uptown to pick up his belongings, which the first set of arresting officers had confiscated. He did not have money on him to pay the fare. He walked through the subway door as there was no one at the booth to ask to allow him to ride on the train. The police stopped him and ran a check on him, finding an outstanding warrant. In a video of the incident, the man standing with his hands cuffed behind his back expresses his frustration at having just left the courthouse where the warrant should have been cleared. "I'm just trying to go home," he says.

A man and his nine-year-old daughter entered a Brooklyn subway station. He accidentally swiped her school-pass MetroCard and she swiped his. The police arrested the man, charging him with theft of services for using his child's card.

On May 30th, 2014 at about 4 AM, police arrested a black man for sleeping on the subway while on his way home from work. The incident occurred on a northbound F train at the 57th street station in Midtown Manhattan. The train car was mostly empty. The police claimed that the man was lying down asleep, which according to Sections 1050.7 (10) and (5) of the Metropolitan Transit Authority's (MTA) Rules of Conduct is

prohibited only “if it is hazardous or interfering with fellow passengers.” The video of the arrest that surfaced on YouTube on July 3rd shows an empty train and a brutal altercation between the man and police officers as he resisted the arrest that seemed unnecessary and unlawful. He is heard saying, “I’m coming from work, and they fuck with me because I’m sleeping.” A spokesperson for the NYPD reported that the man was arrested and charged with resisting arrest, obstructing governmental administration and “violation of local law,” meaning, apparently, the MTA Rules of Conduct.

Shades of Jean Valjean: This July, in Brooklyn, the police arrested a hungry, homeless man for taking a container of orange juice from a Dunkin’ Donuts store.

Pedicab Stories

Undercover cops have arrested a twenty-one year old man on two separate occasions during his three years as a pedicab driver. Both times he had an outstanding warrant and was handcuffed and brought to the precinct. He said that he felt like 'he was going on trial for murder'. The first time, he spent 30 hours locked up waiting for a lawyer who spoke his language. This charge was dismissed. On the second charge, he received an ACD after spending 20 hours in custody. Officers have also given him summonses for moving violations. He believes that "cops don't protect us, they hate us". An officer once issued him a summons and told him, "Sorry, but I have to give you a ticket because my supervisor is watching me."

A twenty-seven year old man has worked as a pedicab driver for three years. He has never been arrested but has been ticketed for moving violations including, for example, driving in the bike lane. Once, when he was taking a break, he was ticketed for “smoking and drinking coffee” which was the actual language used as the charge on the summons. Once, when given a ticket, the officer reassured him that “it’ll get dismissed.”

In his one year of being a pedicab driver, a twenty-three year old man has been arrested once for entering the Hilton Hotel parking lot. He was cuffed, brought to the precinct, and locked up for 17 hours. The judge dismissed the case. He has been issued many summonses for moving violations and was once charged with disorderly conduct. Usually, he gets ACDs or community service. Regardless of the charge or verdict, the court always takes his fingerprints and picture so that they remain in the system.

One pedicab driver's summonses are usually for safety and moving violations. A police officer once told him, "Sorry, I have to give you a ticket. I'm missing one."

In his three years of working as a pedicab driver, a twenty-five year old man has been arrested only once. Two undercover officers stopped him, charged him with trespass, and arrested him. He received an ACD. He has also been issued about 20 summonses for moving and safety violations. These charges were dismissed or given ACDs. Sometimes he has received 'yellow tickets' which are fines with no court appearance needed.

A young pedicab driver had been arrested for parking in an area designated for meter parking even though there is no legal place for pedicab drivers to park. He had started recording the proceedings and was told to put the camera away because it could have, the officer said, been used as a weapon. He has also been ticketed for minor reasons such as having an out-of-state license even though his pedicab license had been issued with his New Jersey license. This charge was dismissed.

In November 2013, four police officers approached seven pedicab drivers and told the drivers that they each needed an arrest. Since there were more drivers than officers, the officers told the drivers to play a game to determine who would be arrested. The drivers were arrested for unauthorized parking and were locked up for 15 hours.

A twenty-six year old man, who has been working as a pedicab driver for three years, has been arrested three times in two years, always in the Times Square area where officers know that pedicab drivers wait for people exiting Broadway shows. The officers claim that they need to inspect the pedicab bikes. For two of the arrests, he had an outstanding warrant; once he was arrested for having an out-of-state license. Each time he was arrested, he was cuffed and spent time in jail. He was given an ACD for each charge. He has also been issued about 20 summonses, mostly for moving or safety violations such as driving in a bike lane or with a burnt out headlight. Usually, these charges end up with an ACD or a dismissal. However, he has done community service twice for driving more than three people and for unauthorized parking.

A twenty-one year old pedicab driver received 9 tickets in 1 month, one involving a fine of \$1000 because his information card displaying his rates was too small. Usually, however, he gets stopped for safety violations such as burnt head lights or because the sign advertising his rates isn't visible. These violations often get dismissed in court if they are fixed before the court date. He has also been arrested three times, twice in 2014: once for entering the Hilton Hotel's parking property and two because of outstanding warrants for minor infractions.

Things People Get Arrested For

NYC police officers arrest people, usually low income individuals of color, cuff and confine them, for these activities:

- Walking between subway cars, sometimes even when the train is stopped
- Riding a bicycle on the sidewalk
- Holding an open alcohol container, though the detained person often claims that it was soda or water
- Occupying two seats on a subway even when the train is mostly empty or is not crowded
- Putting a foot on a subway seat
- Putting a backpack on a subway seat
- Using a loved one's metro card to enter the subway
- Asking another person to swipe you onto the subway
- Possessing fireworks
- Asking people for a handout while holding open a door to an ATM
- Sleeping on the subway
- Sleeping on a park bench
- Begging on the subway or in other public places
- Standing in front or in the lobby of your own building
- Driving with a suspended license even if the driver is not aware that the license is suspended
- Insisting on your rights when stopped and questioned for no apparent reason
- Filming/recording, while not interfering with, a police activity such as ticketing or arresting a street vendor or roughing up a detained person
- Being a street vendor and not locating your cart the prescribed distance from the curb or not properly displaying your license or displaying artificial flowers when your license is for selling only real flowers
- Being a pedicab driver and parking in an unauthorized space or not properly displaying your rates
- Being homeless and hungry and taking a small amount of food or drink from a store

- Jaywalking
- Selling loose or untaxed cigarettes

One Criminal Justice Official Speaks Out

In recent years, one New York judge has challenged the stark racial bias in NYPD practices. Noah Dear, a New York State Civil Court Judge, was relieved from his duties at the Brooklyn Criminal Court in July 2013, a month after ruling that the Sniff Test (the act by police officers of simply smelling a beverage to determine if it in fact contains alcohol) is not enough to prove the alleged offender is actually committing a crime. Under this ruling, Judge Dear's plan was to have the beverages in question sent to labs to be tested by technicians. The judge made this decision after he received the case of Julio Figueroa, who was charged with illegally drinking a cup of beer on a city sidewalk near his home in Greenwood Heights, Brooklyn. Officers arrested Mr. Figueroa because they said that he had an outstanding warrant. Officials later told Mr. Figueroa that it had been a mix-up and there was no warrant. After spending 22 hours in jail, he went before Judge Dear, who dismissed the case and subsequently made the ruling regarding the Sniff Test.

In a *New York Times* interview, Judge Dear explained that, "the Department singles out blacks and Hispanics when issuing public drinking summonses. As hard as I try, I cannot recall ever arraigning a white defendant for such a violation." The judge had his staff review a month's worth of summonses and discovered that 85% of them were issued to black or Latino persons, 4% to white people and 11% to individuals falling into the "other" category. Observers have speculated that his speaking out about the racial disproportion in the arrests for public drinking could have led court authorities to let him go. "The judge was, in fact, volunteering on the weekends because of a resource shortage, but at this point his services are no longer needed," said court spokesperson David Bookstaver.

Conclusion

The senseless death of Eric Garner at the hands of NYPD officers – and the video recording of the incident – has shocked many New Yorkers. It has returned the problem of abusive policing to the mainstream policy-making and media arena and has led to increased pressure on de Blasio / Bratton to re-orient the city's approach to law enforcement away from "broken windows" policing to a more collaborative model. Perversely ironic, of course, that it took the death of by all accounts a good man to bring about this potentially constructive outcome.

The findings of PROP's ongoing court monitoring project documents the harmful and biased impact of the aggressive and needless application of the NYPD's "broken windows" approach. In most of the cases that PROP observed, the accused walked out of the courtroom with the charge dismissed or a minor sanction applied. The court had clearly decided that the person was not a risk to the community. In many cases, we saw the defendant shaking his head or mumbling under his breath in apparent anger or frustration.

This kind of policing -- effectively criminalizing activities that are victim less, and seen by most people as harmless, and disproportionately charging one group of persons as offenders -- breeds cynicism, resentment, and resistance and can lead, in a worst case scenario, to senseless injury and death as in the tragic case of Eric Garner.