Biased and Abusive:  
*The harmful effects of everyday NYPD practices*

Summer-Fall 2018
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INTRODUCTION

“Like a boil that can never be cured so long as it is covered up but must be opened with all its pus-flowing ugliness to the natural medicines of air and light, injustice must likewise be exposed, with all the tension its exposing creates, to the light of human conscience and the air of national opinion before it can be cured.”

Martin Luther King, Jr.

The New York Police Department’s quota-driven “broken windows” arrest practices regularly inflict hardship and harm on the most vulnerable New Yorkers, especially low income people of color, the homeless, and persons with mental illnesses. On a regular basis, New York’s district attorneys aggressively prosecute cases against black and brown people for engaging in mainly innocent or innocuous activities. On a regular basis, our city’s courts devote their considerable resources to the administration of injustice, applying sanctions in hundreds, if not thousands, of cases where the charges involve, at worst, petty infractions and where the defendants are almost always people of color, some of whom live on the margins of society.

We at the Police Reform Organizing Project (PROP) believe that increased awareness of these everyday injustices by the public, the press, and our political leaders will lead to a shift in the political landscape regarding policing and prosecution, putting pressure on the city’s policy makers to enact the sweeping reforms necessary to address and put an end to these shameful practices.

It is with this ultimate goal that we have prepared this document as a follow up to our previous eight publications: Broken Windows Policing: A True Tale of Two Cities (July 2014); Everyday: NYC’s Cops and Courts Inflict Harm and Hardship (October 2014); 90%: The Harm Continues (December 2015); No Equal and Exact Justice (April 2016); We Harm People Everyday (July 2016); The Persistence of Racist Policing Practices (March 2017); #ThatsHowTheyGetYou (April 2018), and Injustice for Many (July 2018). This report serves as another reminder that every day that NYC’s political leaders sidestep this issue, our so-called criminal justice system continues its abusive and discriminatory practices. It is a painful irony that the people targeted by “broken windows” policing make up the very constituency representing the political base of the city’s leaders proud to call themselves progressives, including Mayor Bill de Blasio, City Council Speaker Corey Johnson, Public Advocate Jumaane Williams, and City Councilpersons Brad Lander and Donovan Richards. It is time for this particular group to enact the fundamental reforms needed to fix our broken and unjust criminal justice system and to create a fair, safe, equitable, and inclusive city for all New Yorkers.
Notes on reading this report:

- All demographic information is from the US Census Bureau 2010 report. Therefore, “white” and non-white” categories are based on the Bureau’s categorizations.
- 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.
- Freed defendants left the courtroom for various reasons; for example:
  - The district attorney declined to prosecute.
  - The judge dismissed the charges, ruled time served, or granted an Adjournment in Contemplation of Dismissal (ACD: Adjournment in Contemplation of Dismissal means that the judge releases the defendant with the understanding that if he or she avoids trouble with the law for 3, 6, or 12 months, the charge(s) will be dismissed and the record sealed.)
  - The defendant rejected a plea offer and received a date to return to court
REPORT SUMMARY

Between the dates of June 27, 2018 and December 18, 2018, members of the Police Reform Organizing Project went to arraignment courts in Manhattan, the Bronx, Brooklyn, Queens, and Staten Island (for the first time in PROP history) a total of 35 times. PROP representatives observed and recorded 485 cases. Of the cases observed 422 or 87% involved New Yorkers of Color, or non-white New Yorkers (PROP uses these two terms interchangeably). Of all the defendants, 428 or 88%, walked out of the courtroom.

The three most common charges observed were, in the following order: (1) Assault in the 3rd degree (2) Driving with a suspended license (3) Petit larceny.

For reference, as stated on the 2010 US Census Bureau Report, the racial demographic of New York City is as follows:
44% White
25.5% Black
25.5% Latino or Hispanic
0.7% American Indian and Alaska Native
0.1% Native Hawaiian and Other Pacific Islander
13% Asian

Figure 0.1 shows the racial breakdown of New York City by white and non-white, per the 2010 U.S. Census Bureau Report. Figure 0.2 shows the racial breakdown of the 485 cases PROP observed in New York City, by white and non-white.
Of the 166 cases observed:
146, or 88% of the defendants were people of color
155, or 93% of the defendants walked out of the courtroom

For reference, as stated on the 2010 US Census Bureau Report, the racial demographic of Manhattan is as follows:
48% White  
15.6% Black  
11.3% Asian  
0.1% American Indian and Alaska Native  
0.2% Native Hawaiian and Other Pacific Islander  
25.4% Hispanic or Latino

Figure 1.1 shows the racial breakdown of Manhattan by white and non-white, per the 2010 U.S. Census Bureau report. Figure 1.2 shows the racial breakdown of the 166 cases PROP observed in Manhattan, by white and non-white.
June 27, 2018
Of the 10 cases observed:
8, or 80% of the defendants were people of color.
9, or 90% of the defendants walked out of the courtroom.
-Common charges included:
Aggravated harassment in the 2nd degree, Assault in the 3rd degree, Possession of a forged instrument in the 3rd degree, Possession of marijuana in the 5th degree, Reckless driving, Suspended license, Theft of services (usually fare evasion)

July 5, 2018
Of the 13 cases observed:
12, or 92% of the defendants were people of color.
13, or 100% of the defendants walked out of the courtroom
-Common charges included:
Assault in the 3rd degree, Suspended license, possession of marijuana in 5th degree, controlled substances in 7th degree

July 20, 2018
Of the 20 cases observed:
20, or 100% of the defendants were people of color.
20, or 100% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Criminal mischief in the 4th degree, Disorderly conduct, Open alcohol container, Petit larceny (usually shoplifting), Possession of a controlled substance in the 7th degree, Possession of stolen property in the 5th degree, Possession of weapon in the 4th degree (usually a gravity knife), Suspended license

July 26, 2018
Of the 7 cases observed:
7, or 100% of the defendants were people of color.
7, or 100% of the defendants walked out of the courtroom.
-Common charges included:
Aggravated harassment in the 2nd degree, Assault in the 3rd degree, Criminal mischief in the 4th degree, Possession of weapon in the 4th degree (usually a gravity knife), Suspended license, Trespassing

July 31, 2018
Of the 24 cases observed:
19, or 79% of the defendants were people of color.
24, or 100% of the defendants walked out of the courtroom.
-Common Charges included:
Possession of marijuana in the 5th degree, Suspended license, Assault in the 3rd degree
August 2, 2018
Of the 9 cases observed:
8, or 89% of the defendants were people of color.
9, or 100% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Criminal mischief in the 4th degree, Possession of a controlled substance in the 7th degree, Possession of a forged instrument in the 3rd degree, Suspended license

August 6, 2018
Of the 12 cases observed:
10, or 83% of the defendants were people of color.
12, or 100% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Disorderly conduct, Trespassing

September 29, 2018
Of the 15 cases observed:
14, or 93% of the defendants were people of color.
15, or 100% of the defendants walked out of the courtroom.
-Common charges included:
Petit larceny (usually shoplifting), Possession of a controlled substance in the 7th degree, Theft of services (usually fare evasion)

October 13, 2018
Of the 8 cases observed:
5, or 63% of the defendants were people of color.
3, or 38% of the defendants walked out of the courtroom.
-Common charges included:
Petit larceny (usually shoplifting), Possession of a controlled substance in the 7th degree

October 15, 2018
Of the 13 cases observed:
11, or 85% of the defendants were people of color.
13, or 100% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Petit larceny (usually shoplifting), Suspended license

October 20, 2018
Of the 7 cases observed:
6, or 86% of the defendants were people of color.
4, or 57% of the defendants walked out of the courtroom.
-Common charges included:
Menacing in the 2nd degree, Open alcohol container, Petit larceny (usually shoplifting), Suspended license

November 6, 2018
Of the 11 cases observed:
10, or 91% of the defendants were people of color.
9, or 82% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Petit larceny (usually shoplifting), Suspended license

November 13, 2018
Of the 17 cases observed:
16, or 94% of the defendants were people of color.
17, or 100% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Criminal mischief in the 4th degree, Suspended license

THE BRONX CRIMINAL COURT REPORTS

Of the 47 cases observed:
44, or 94% of the defendants were people of color.
35, or 74% of the defendants walked out of the courtroom.

For reference, Bronx’s racial demographic breakdown is as follows, per the 2010 US Census Bureau Report:
10.1% White
36.5% Black
53.5% Hispanic
3.6% Asian
1.3% American Indian and Alaska Native
0.1% Native Hawaiian and Other Pacific Island

Figure 2.1 shows the racial breakdown of The Bronx by white and non-white, based on the U.S. Census Bureau’s 2010 report. Figure 2.2 shows the racial demographic breakdown of the 47 cases PROP observed by white and non-white.
July 31, 2018
Of the 26 cases observed:
24, or 92% of the defendants were people of color.
24, or 92% of the defendants walked out of the courtroom.
-Common charges included:
Suspended license, Possession of marijuana in the 5th degree, Petit larceny, Disorderly conduct, Possession of a weapon in the 4th degree (usually a gravity knife)

October 12, 2018
Of the 6 cases observed:
6, or 100% of the defendants were people of color.
3, or 50% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Possession of a controlled substance in the 7th degree, Theft of services (usually fare evasion)

November 2, 2018
Of the 8 cases observed:
8, or 100% of the defendants were people of color.
4, or 50% of the defendants walked out of the courtroom.
-Common charges included:
Forgery, Possession of weapon in the 4th degree (usually a gravity knife)

November 9, 2018
Of the 7 cases observed:
6, or 86% of the defendants were people of color.
4, or 57% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Possession of marijuana in the 5th degree, Reckless driving, Theft of services (usually fare evasion)

BROOKLYN CRIMINAL COURT REPORTS

Of the 158 cases observed:
140, or 89% of the defendants were people of color.
141, or 89% of the defendants walked out of the courtroom.

For reference, Brooklyn’s racial demographic breakdown is as follows, per the 2010 US Census Bureau Report:
35.7% White
34.3% Black
19.8% Hispanic
10.5% Asian
.1% Native Hawaiian and Other Pacific Islander

Figure 3.1 shows the racial breakdown of Brooklyn by white and non-white, based on the U.S. Census Bureau’s 2010 report. Figure 3.2 shows the racial breakdown of the 158 cases PROP observed by white and non-white.
July 19, 2018
Of the 15 cases observed:
15, or **100%** of the defendants were people of color.
15, or **100%** of the defendants walked out of the courtroom.
- Common charges included:
  - Assault in the 3rd degree
  - Criminal mischief in the 4th degree
  - Disorderly conduct
  - Petit larceny (usually shoplifting)
  - Possession of a controlled substance in the 7th degree
  - Walking between subway cars

July 31, 2018
Of the 27 cases observed:
23, or **85%** of the defendants were people of color.
27, or **100%** of the defendants walked out of the courtroom.
- Common charges included:
Suspended license, Trespassing, Assault in the 3rd degree

September 18, 2018
Of the 13 cases observed:
11, or 85% of the defendants were people of color.
13, or 100% of the defendants walked out of the courtroom.
-Common charges included:
Petit larceny (usually shoplifting), Possession of a controlled substance in the 7th degree, Suspended license

September 22, 2018
Of the 11 cases observed:
10, or 91% of the defendants were people of color.
10, or 91% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Petit larceny (usually shoplifting), Possession of a controlled substance in the 7th degree

October 2, 2018
Of the 8 cases observed:
5, or 63% of the defendants were people of color.
6, or 75% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree

October 16, 2018
Of the 12 cases observed:
12, or 100% of the defendants were people of color.
12, or 100% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Suspended license

October 23, 2018
Of the 15 cases observed:
15, or 100% of the defendants were people of color.
10, or 67% of the defendants walked out of the courtroom.
-Common charges included:
Disorderly conduct, Suspended license

October 30, 2018
Of the 16 cases observed:
10, or 63% of the defendants were people of color.
16, or 100% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Driving while intoxicated (DWI), Suspended license
November 20, 2018
Of the 12 cases observed:
11, or 92% of the defendants were people of color.
9, or 75% of the defendants walked out of the courtroom.
-Common charges included:
    Assault in the 3rd degree, Criminal mischief in the 4th degree, Possession of stolen
    property in the 5th degree

November 27, 2018
Of the 10 cases observed:
10, or 100% of the defendants were people of color.
8, or 80% of the defendants walked out of the courtroom.
-Common charges included:
    Assault in the 3rd degree, Criminal mischief in the 4th degree

December 11, 2018
Of the 6 cases observed:
6, or 100% of the defendants were people of color.
6, or 100% of the defendants walked out of the courtroom.
-Common charges included:
    Driving while intoxicated (DWI), Petit larceny (usually shoplifting), Suspended license

December 18, 2018
Of the 13 cases observed:
12, or 92% of the defendants were people of color.
9, or 69% of the defendants walked out of the courtroom.
-Common charges included:
    Disorderly conduct, Suspended license, Trespassing

QUEENS CRIMINAL COURT REPORTS

Of the 83 cases observed
73, or 88% of the defendants were people of color.
76, or 92% of the defendants walked out of the courtroom.

For reference, Queens’ racial demographic breakdown is as follows, per the 2010 US Census
Bureau Report:
27.6% White
17.7% Black
27.5% Hispanic
22.8% Asian
.3% American Indian and Alaska Native

Figure 4.1 shows the racial breakdown of Queens by white and non-white, based on the U.S. Census Bureau’s 2010 Report. Figure 4.2 shows the racial breakdown of the 83 cases PROP observed, by white and non-white.

July 20, 2018
Of the 20 cases observed:
17, or 94% of the defendants were people of color.
18, or 90% of the defendants walked out of the courtroom.
-Common charges included:
Disorderly conduct, Possession of marijuana in the 5th degree,

July 31, 2018
Of the 27 cases observed:
25, or 93% of the defendants were people of color.
26, or 96% of the defendants walked out of the courtroom.
-Common charges included:
Disorderly conduct, Petit larceny, Trespassing

October 24, 2018
Of the 12 cases observed:
11, or 92% of the defendants were people of color.
12, or 100% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Petit larceny (usually shoplifting)

November 7, 2018
Of the 24 cases observed:
20, or 83% of the defendants were people of color.
20, or 83% of the defendants walked out of the courtroom.
-Common charges included:
Disorderly conduct, Driving while intoxicated (DWI), Suspended license, Trespassing

STATEN ISLAND CRIMINAL COURT REPORTS

For the first time in PROP history, we court monitored in Staten Island. We plan on taking more trips to this borough in the future.

Of the 31 cases observed:
19, or 61% of the defendants were people of color.
21, or 68% of the defendants walked out of the courtroom.

For reference, Staten Island’s racial demographic breakdown is as follows, per the 2010 US Census Bureau Report:
60.9% White
11.8% Black
18.6% Hispanic
9.5% Asian
0.6% American Indian and Alaska Native

Figure 5.1 shows the racial breakdown of Staten Island by white and non-white based on the U.S. Census Bureau's 2010 Census. Figure 5.2 shows the racial breakdown of PROP’s observed cases in Staten Island by white and non-white.

October 26, 2018
Of the 15 cases observed:
14, or 92% of the defendants were people of color.
12, or 80% of the defendants walked out of the courtroom.
-Common charges included:
Assault in the 3rd degree, Possession of marijuana in the 5th degree, Suspended license

November 8, 2018
Of the 16 cases observed:
5, or 31% of the defendants were people of color.
9, or 56% of the defendants walked out of the courtroom.
-Common charges included:
Petit larceny (usually shoplifting), Jostling

A CRIMINAL JUSTICE OFFICIAL SPEAKS OUT

“In the end, we will remember not the words of our enemies, but the silence of our friends.”
Martin Luther King, Jr.

In 2013, Noach Dear, a former New York State Criminal Court Judge, heard the case of Julio Figueroa, who had been charged with illegally drinking a cup of beer on a city sidewalk near his home in Greenwood Heights, Brooklyn. Mr. Figueroa was subsequently arrested on the basis of an outstanding warrant that later proved to be erroneous. He spent 22 hours in jail before coming before Judge Dear, who promptly dismissed the case. Additionally, Judge Dear issued a ruling that the “Sniff Test” (named after the process by which police determine if liquid in a container is, in fact, alcohol) is not enough to prove the alleged offender is actually committing a crime. He called for questionable beverages to be properly tested by certified technicians. A month after this ruling, Judge Dear was relieved from his duties at the Brooklyn Criminal Court, and reinstated as a Civil Court Judge.

In a New York Times interview, Judge Dear cited stark racial bias in NYPD practices as the basis for his “Sniff Test” challenge. He 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.” In fact, after having his staff review a month’s worth of summonses on all charges, Judge Dear discovered that 85% were issued to black or Latino persons, 4% to white people, and 11% to those falling into a variety of other racial categories. Many believe that his speaking out about the racial disparities in arrests for open alcohol container violations led to his dismissal from the criminal court system.

CONCLUSION

The findings of this report reflect an up-to-date-picture of NYPD arrest practices and document the continuing harmful and biased impact of the aggressive and needless application of quota driven “broken windows” policing.
PROP’S first court monitoring report – *Broken Windows: A True Tale of Two Cities* (July 2014) – reported that out of 636 cases seen, 590, or 92.8%, involved people of color. Our second document – *Everyday: NYC’s Cops and Courts Inflict Harm and Hardship* (October 2014) – reported that of the 191 cases observed, 173, or 90.6% involved people of color. Our third document – *90%: The Harm Continues* (December 2015) – reported that of the 524 cases observed, 484, or 90% involved people of color. Our fourth document – *No Equal and Exact Justice* (April 2016) – reported that of the 529 cases observed, 463, or 87.5% involved people of color. In *We Harm People Every Day* (August 2016), we reported that of the 423 cases seen, 378, or 89.4%, of the defendants were people of color. In *The Persistence of Racist Policing Practices* (March 2017), we found that of the 611 cases observed, 594, or 90.7% of the defendants were people of color. In *Injustice For Many* (June 2018) finds that out of 636 cases observed, 565, or 89% involved people of color. PROP’s combined nine reports have found that of the total 5,647 cases seen, 5,067, or 90%, involved New Yorkers of color (see figure 5). For reference, in 2010 57% of the population of New York City was recorded to be non-white.

Despite the innocuous nature of most of the charges, and the non-existent safety threat represented by most defendants, police had arrested all these individuals – cuffed and confined them, leaving most of them to sit in jail overnight. This type of policing – criminalizing activities that are victimless and considered harmless, and then disproportionately charging a single group as offenders – breeds cynicism, resentment, and resistance. It tears at the social fabric of our city and subverts any claim that we can make of being an inclusive and progressive metropolis. It is long past time that our city’s leaders
take aggressive steps to end quota-driven “broken windows” policing and establish a just and safe city for all New Yorkers.