May 21, 2020

**To:** NYC Council Public Safety Committee

**From:** Melissa Moore, New York State Deputy Director, Drug Policy Alliance

**Testimony for May 21, 2020 Hearing on Social Distancing Enforcement** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

The Drug Policy Alliance (DPA) advances evidence-based drug policy grounded in science, compassion, health, and human rights that is aimed at reducing harms both from drug prohibition and drug use. DPA is deeply concerned about our community members who are most vulnerable during the COVID-19 crisis, including people of color, people in jails, prisons, and immigrant detention centers, people otherwise enmeshed in the criminal legal system, people without housing, and people who use drugs, are accessing treatment, or are in recovery.

Communities such as these face unique challenges that put them at increased risk of various public health harms, including contracting and spreading COVID-19 and other infectious diseases or dying from preventable drug overdose, due to a number of intersecting social and structural risk factors. Racism, stigma, discrimination, and an inadequate social safety net, including barriers to healthcare, were impacting these communities long before COVID-19 but are amplified and compounded amid the current pandemic.

People who use drugs will face even more challenges to accessing life-saving harm reduction services and medications for treatment than before. The racialized punishment of people who use drugs has not stopped, and additional policing, surveillance, and criminalization is already on display.

**NYC Social Distancing**

Recent headlines data showing that [87% of social distancing arrests](https://www.nydailynews.com/coronavirus/ny-coronavirus-brooklyn-race-breakdown-social-distancing-arrests-20200508-tjdpe2pubrf5vhickiqwefgeqa-story.html) made in Brooklyn were of Black New Yorkers points to a worrying and dangerous indicator of race relations between the New York Police Department and the public.

As the NYPD has been charged with enforcing social distancing, we saw photos of officers handing out masks in a crowded Central Park to groups of young, predominately white residents. New Yorkers then [watched](https://www.facebook.com/daquan.owens.144/videos/3392564640788401/?t=0) on social media as an officer in a vastly different neighborhood grabbed a young Black man and proceeded to throw him on the ground and repeatedly punch his head. It wasn’t long before [another video circulated](https://gothamist.com/news/de-blasio-defends-another-violent-social-distancing-arrest-nypd-respect-goes-both-ways) showing another Black youth being arrested and abused, this time by multiple NYPD officers, for social distancing and failing to wear a mask.

While now carried out under the direction to enforce social distancing, these scenes mirror police behavior justified by marijuana possession, for which arrest rates are also disproportionately high for people of color despite similar rates of use.

Just before NYC shut down [another young man in Brooklyn](https://www.huffpost.com/entry/video-nypd-canarsie-brooklyn-arrest-marijuana_n_5e6125e6c5b69d641c0c4047) faced similar abuse and arrest by several police officers when he was alleged to be smoking a joint in a park. It would be blatantly obtuse to view these as separate, unconnected incidents when they continue to occur until the current circumstances of COVID-19 and the NYPD [refuses to seek](https://www.nydailynews.com/new-york/nyc-crime/ny-punch-20200504-pxs6vb5czzbozlggiansyu5mzm-story.html) punishment for those who commit these egregious acts.

Although marijuana possession was decriminalized across the state, decriminalized in New York City decades ago and directed to be deprioritized by the NYPD, it continues to be used by officers to justify their interactions.

In this time of social distancing, we see drugs - and other crimes of poverty like turnstile jumping or being without a mask - being used as an even further excuse for the use of unnecessary force, violence and arrests.

New York has decriminalized marijuana possession as much as possible, and while it works for white residents - the same young people we find in Central Park during quarantine - it is not working for New Yorkers of color.

Marijuana use is not a matter of public safety. At this moment, public safety means we should be taking actions to reduce, not increase community interactions with police, especially when they can prove to be fatal. We must take possession off the table as a justification they’ve relied on for too long.

We cannot continue to let law enforcement use it as a tool to target and bring violence against communities of color. In the first quarters of 2019 and 2020, the NYPD continued to arrest New Yorkers of color at extreme rates, with Black and Latinx people accounting for 90% and 88% of those arrested, compared with white people comprising less than 5 percent of arrests in both years. This is despite [data](https://www1.nyc.gov/site/doh/about/press/pr2019/health-department-releases-first-comprehensive-report-on-cannabis.page) from the NYC Department of Health and Mental Hygiene showing that in NYC white people use marijuana at a significantly higher rate than Black people and at twice the rate of Latinx people.

DPA analysis of NYPD data also shows arrests for drug possession continuing despite [COVID-19](https://twitter.com/hashtag/COVID19?src=hashtag_click) -- with extreme racial disparities. In Q1 2020, Black and Latinx New Yorkers accounted for 82% of drug possession arrests, even though people use at similar rates.

It’s time we legalize recreational adult-use marijuana in order to remove the discretion it gives law enforcement to criminalize some populations and not others, and for the NYPD to take enforcement of drug possession and other broken windows policing off the table.

Every day, we bear witness to the crushing stigma of prior and current drug criminalization, which prohibits individuals from fully participating in society, inhibiting their ability to keep their family together, get a job, continue their education, or secure stable housing. People are arrested by ICE, placed in immigration proceedings, and deported because of a single drug arrest. These impacts carry additional dire implications in this moment of both public health and financial instability and merit an urgent response. We must end senseless arrests and citations and remove drugs as a justification for law enforcement interaction with communities.

And we absolutely must remove police from the role of enforcing social distancing and other public health measures--as we’ve seen from decades of skewed marijuana enforcement we know that when there is discretion in how measures can be carried out there will be extreme disparity and disproportionate impact of communities of color in New York. Every day that we do not make these public health-centered policy changes, we risk events of police brutality and misconduct happening time and time again.

**Overdose**

I also want to highlight that New York was already experiencing an overdose crisis before the COVID-19 crisis hit our state, as we were losing a New Yorker every 6 hours to overdose death.

As we are discussing policy responses that protect public safety, we absolutely must take into account the added risk for a spike in overdose deaths amid the pandemic. This is the moment to scale up the harm reduction strategies that have been proven to be effective in fighting overdose – certainly not the time to criminalize such efforts, which will result in needlessly losing even more lives to preventable deaths.

We’re hearing reports from frontline harm reduction workers about participants in syringe exchange programs being harassed and arrested for paraphernalia. This makes absolutely no sense at any time – we know syringe exchange programs are incredibly effective at stemming the spread of HIV and Hepatitis C and connecting participants to social services. I have heard heartbreaking stories since the shelter in place order began of people reusing syringes (sometimes for weeks), sharing syringes which puts them at risk of contracting blood-borne illnesses that can take a lifetime toll, and attempting to sharpen dulled syringes on rusty surfaces. Because of law enforcement targeting, harm reduction frontline workers who are still showing up to work and doing everything in their power to keep our communities safe are faced with a gut-wrenching choice: load participants up with quantities of syringes and safe use supplies that will allow them to stay at home -- or dispense a smaller amount that will require them to come back much sooner amid risky circumstances because of the fear that police will target and arrest them for possession of paraphernalia.

Within this compounded public health crisis of overdose and COVID it’s absurd that health workers are having to deliberate such things.

**Homelessness**

Furthermore, the ongoing sweeps of homeless encampments and rounding up of people experiencing homelessness shows a callous disregard for their life. We support calls for NYC to provide safe housing for people experiencing homelessness in private rooms to reduce the spread of COVID-19 infection and death among homeless people and shelter staff. We know an overwhelming majority of these people facing this precarious situation are people of color. We know that in general we are in this position because of society’s refusal to invest in our communities.

Especially now, our policy priorities must center protecting public health, individual rights, and the dignity and well-being of those in our communities who are most harmed by structural inequities. Although DPA has advanced these goals for decades, COVID-19 makes their implementation imperative.

Thank you for your time today and your consideration of how to better protect New Yorkers from biased and harmful enforcement.

Melissa Moore

New York Deputy Director, Drug Policy Alliance