

# Pot as Pretext: Marijuana, Race and the New Disorder in New York City Street Policing

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## Abstract

Although possession of small quantities of marijuana has been decriminalized in New York State since the late 1970s, arrests for marijuana possession in New York City have increased more than tenfold since the mid-1990s, and remain high more than ten years later. This rise has been a notable component of the City's "Order Maintenance Policing" strategy, designed to aggressively target low-level offenses, usually through street interdictions known as "Stop, Question, and Frisk" activity. We analyze data on 2.2 million stops and arrests carried out from 2004 to 2008, and identify significant racial disparities in the implementation of marijuana enforcement. These disparities, present in both stops and arrests, are robust to controls for social structure, local crime conditions, and stop levels more broadly. The racial imbalance in marijuana enforcement in black neighborhoods suggest a "doubling down" of street-level policing in places already subject to heightened scrutiny in the search for weapons, a link which suggests that the policing of marijuana may be a pretext in the search for guns. Despite these ties, however, we show no significant relationship between marijuana enforcement activity and the likelihood of seizing firearms or other weapons. We also show that a large proportion of marijuana enforcement lacks constitutional justification under either federal or New York law. Marijuana stops are more prevalent in precincts where "other" and "high-crime area" justifications are more likely to be reported, two factors that are constitutionally insufficient to justify a street stop. The racial skew, questionable constitutionality, and limited efficiency of marijuana enforcement in detecting serious crimes suggest that non-white New Yorkers bear a racial tax from contemporary policing strategy, a social cost not offset by any substantial observed benefits to public safety.