



NEW YORK CITY

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Research Brief

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RE-ARRESTS OF HOMELESS DEFENDANTS IN NEW YORK CITY

By Richard R. Peterson, Ph.D.

Do homeless defendants have higher re-arrest rates than the non-homeless?

For what types of offenses are homeless defendants re-arrested?

Are street homeless defendants more likely to be re-arrested than those who live in shelters?

CJA is a not-for-profit corporation that provides a variety of criminal justice services under a contract with the City of New York.

CJA staff interview defendants arrested in New York City, make recommendations for pretrial release, and notify released defendants of upcoming court dates. CJA also operates two supervised release programs for nonviolent felony clients in Queens and Manhattan.

The Research Department conducts studies addressing a broad array of criminal justice policy concerns. The Research Brief series summarizes the results of some of these studies.

A previous research brief (#37) described the characteristics of homeless arrestees and provided information about how their court cases were processed. One notable finding was that the homeless had more extensive criminal histories than the non-homeless. Homeless people, particularly those who live on the street, are at risk of arrest for a variety of offenses related to inappropriate use of public space, failure to pay transit fares, panhandling, and other public order offenses. Those who are unemployed or who have substance abuse or mental health problems are also at risk of arrest for more serious offenses such as property crime, assault, and sale or possession of illegal drugs.

This research brief examines data on defendants in New York City to learn more about the re-arrests that compound the criminal records of homeless individuals. It reports on custodial re-arrest rates for the street and shelter homeless compared to the non-homeless, and provides data on re-arrest charges and on where the homeless are re-arrested. It also presents the results of a statistical model identifying the predictors of re-arrest among the homeless.

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Identifying Homeless Defendants

Previously (research brief #37), we examined data on homelessness for arrestees in 2013. Individuals were counted multiple times if they were arrested more than once during the year, and their homeless status may have changed from one arrest to another. For the analyses in this research brief, we focused on individual defendants rather than arrests. To identify defendants, we relied on the New York State Identification (NYSID) number, which is a unique identifier associated with a defendant's fingerprints. About 95% of the 2013 arrests had a NYSID available (the remaining 5% were arrested for non-fingerprintable offenses). Among arrestees with a NYSID, there were 176,979 defendants who were arrested 246,225 times.

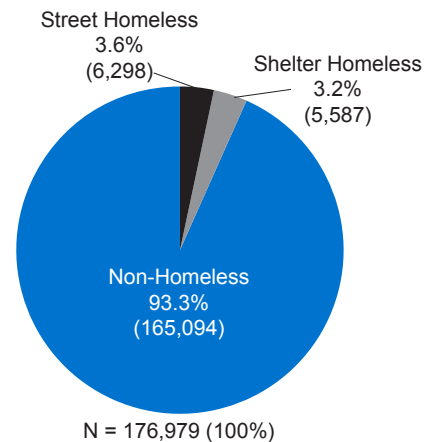
Defendants who were arrested more than once during 2013 may have reported different homeless statuses at different arrests. We classified a defendant as "street homeless" if she or he ever reported being street homeless at the time of an arrest during 2013. Some of the street homeless defendants also reported that they were shelter homeless, or not homeless, at the time of other arrests. We classified a defendant as "shelter homeless" if she or he ever reported living in a homeless shelter at the time of an arrest during 2013, and never reported being street homeless. Some of the shelter homeless defendants also reported that they were not homeless at the time of other arrests. Finally, we classified defendants as "non-homeless" if they never reported being homeless at the time of any of their arrests.

Figure 1 reports the distribution of defendants among these categories. About 3.6% of defendants arrested in 2013 reported living on the street at the time of at least one of their arrests. About 10% (N=652) of those who were street homeless also reported living in a shelter at the time of another arrest (data not shown). About 3.2% of defendants arrested in 2013 reported living in a shelter at least once, but never reported living on the street. The remaining defendants (over 93%) never reported being homeless.

The data presented in Figure 1 provide valuable information about the size of the street homeless population. The only estimate of the number of street homeless in New York City is based on a one-night census taken every year. On January 28, 2013, the one-night census counted 3,180 homeless individuals living on the street. However,

no agency collects data on the number of homeless individuals who live on the street over the course of a year. The data in the current study show that NYPD arrested at least 6,298 street homeless individuals during 2013, nearly double the number of street homeless reported in the one-night census.

Figure 1
Homeless Status of Defendants, 2013



Identifying Re-Arrests

For each defendant with a NYSID in our 2013 dataset, we identified re-arrests that occurred in 2013 or 2014 for a one-year period after the defendant's release from custody. We excluded 6,033 defendants who were never released from jail or prison between the time of their initial arrest and December 31, 2013, and who therefore did not have at least one year at risk of re-arrest during the period for which we had re-arrest data available.

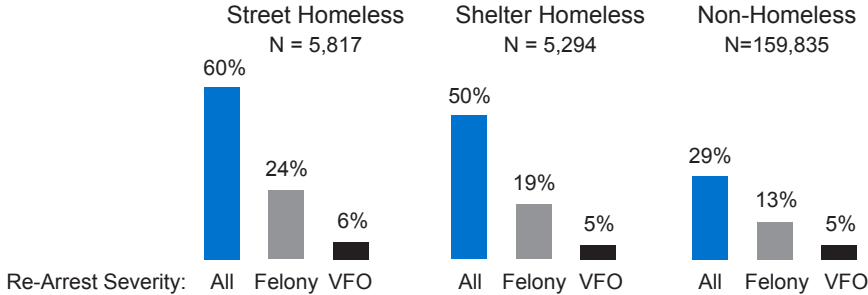
We tracked the remaining 170,946 defendants for one year to determine whether they had any re-arrests on the same NYSID number. For street homeless defendants, we tracked re-arrests after they were released on the first arrest during 2013 when they reported being street homeless. For shelter homeless defendants who never reported being street homeless, we tracked re-arrests after they were released on the first arrest during 2013 when they reported living in a shelter. For the non-homeless, we tracked rearrests after release on their first arrest during 2013. Depending on when the defendant was released, re-arrests may have occurred during the pretrial period, immediately after case disposition, or after the defendant completed any post-disposition incarceration.

Re-Arrest Rates By Homeless Status

Defendants who ever reported being homeless during 2013, particularly those who reported being street homeless, had higher rates of re-arrest than defendants who were non-homeless. About 60% of the street homeless were re-arrested within one year, compared to 50% of the shelter homeless, and 29% of non-homeless defendants (Figure 2).

The street homeless also had the highest rates of felony re-arrest (24%), followed by the shelter homeless (19%) and the non-homeless (13%). There were only small differences in the rates of re-arrest for a violent felony offense (VFO), which ranged between 5% and 6%.

Figure 2
Percent Re-Arrested Within One Year, By Severity of Re-Arrest and Homeless Status



Sources of Data

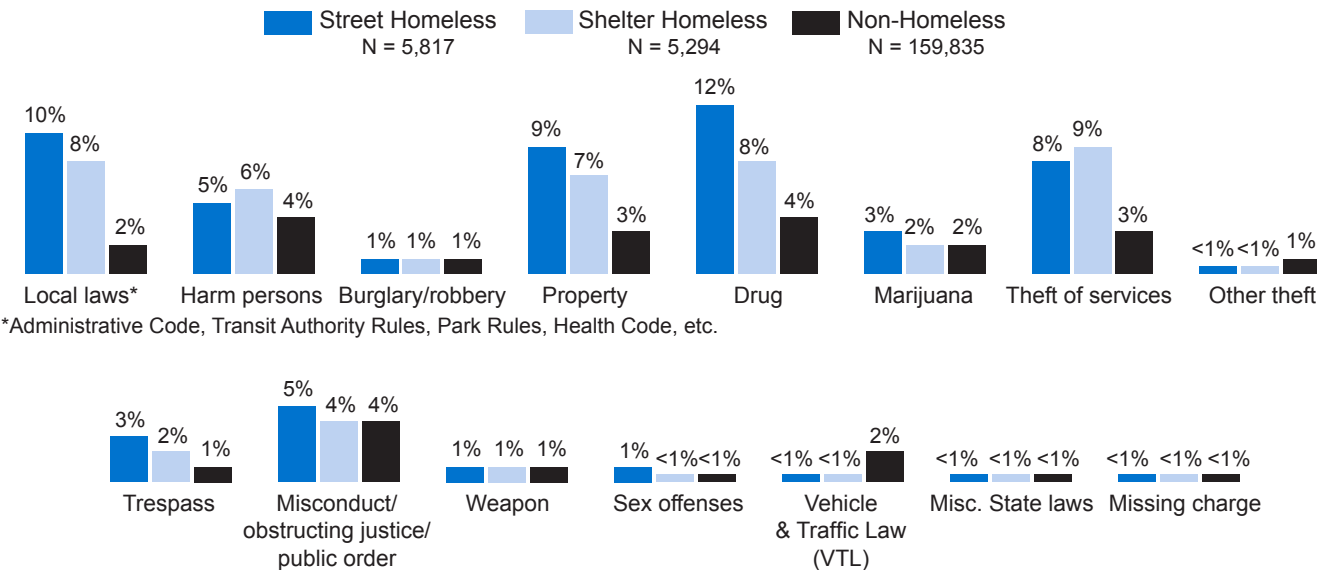
The analyses in this brief use data from the CJA database, including the CJA interview, NYPD arrest information, and court processing information from the New York State Office of Court Administration. The data on arrests and re-arrests include all docketed arrests in 2013 and 2014 of adults 16 and older who were held for criminal court arraignment and who reported an address or indicated they were homeless. The analyses exclude those who were issued Desk Appearance Tickets (DATs), whose cases were declined for prosecution, who were under 16, or whose records had no address information. Street homeless arrestees are rarely eligible for DATs, and shelter homeless arrestees are less likely to be eligible for DATs than the non-homeless.

Re-Arrest Charge Type By Homeless Status

Homeless defendants were re-arrested for different types of charges than non-homeless defendants (Figure 3). Homeless defendants were much more likely than the non-homeless to be re-arrested for local law charges, such as panhandling or blocking access in the transit system (10% and

8% among the street and shelter homeless vs. 2% among the non-homeless). They were also more likely to be re-arrested for drug charges, property crime (primarily petit larceny), and theft of services (primarily "fare-beating"). However, the homeless were only slightly more likely than the non-home-

Figure 3
Percent Re-Arrested Within One Year, By Top Re-Arrest Charge Type and Homeless Status



less to be re-arrested for crimes involving harm to persons, e.g., assault (5% and 6% for the street and shelter homeless vs. 4% for the non-homeless).

Re-arrest rates for felony drug charges were higher for the homeless (7% and 5% among the street and shelter homeless vs. 3% for the non-homeless; data not shown). The homeless were also slightly more likely to have felony re-arrests for property crime (4% and 3% for the street and shelter homeless vs. 2% for the non-homeless; data not shown).

Re-Arrest Location By Homeless Status

Nearly half of all re-arrests of the homeless occurred in Manhattan (see Figure 4), compared to one quarter of re-arrests of the non-homeless.

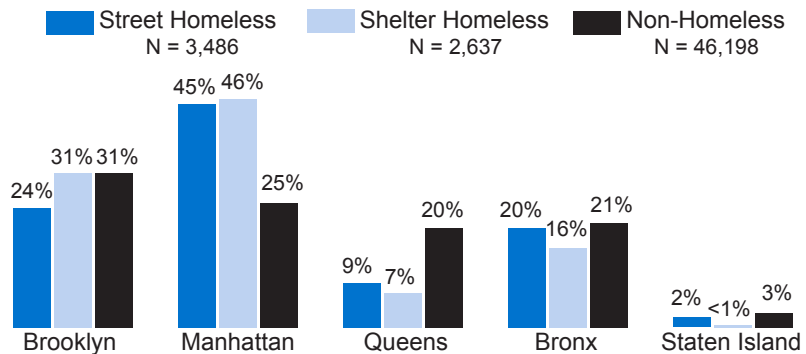
Most homeless defendants were re-arrested in the same borough where they were originally arrested (data not shown).

To provide a closer look at the location of re-arrests, we identified the top 5 precincts for re-arrests of the street homeless, the shelter homeless, and the non-homeless.

About 26% of the re-arrests of the street homeless occurred in the top 5 precincts (data not shown). Re-arrests of the street homeless were most likely to occur in the 14th precinct (Midtown South), followed by the 25th (East Harlem), 40th (Mott Haven, Melrose), 13th (Flatiron, Gramercy), and 28th (Central Harlem) precincts.

Re-arrests of the shelter homeless were most likely to occur in the 25th precinct, followed by the 14th, 75th (East New York), 73rd (Brownsville), and 40th precincts, accounting for nearly 30% of the re-arrests of the shelter homeless. There is a large

Figure 4
Borough of Re-Arrest By Homeless Status



homeless shelter population living in each of those precincts except the 14th.

Re-arrests of the non-homeless were most common in the 75th, 73rd, 14th, 40th, and 44th (Concourse/Highbridge) precincts, but these 5 precincts accounted for only 17% of the re-arrests of the non-homeless. The re-arrests of both street and shelter homeless individuals were more heavily concentrated in a few precincts. Results for the precinct of the original arrest were similar because re-arrests often occurred in the same precinct as the original arrest.

Predictors of Re-Arrest for Homeless Defendants

We examined a variety of possible predictors of re-arrest among homeless defendants, including homeless status, demographic characteristics, community ties, criminal history, arrest location, and arrest charge characteristics. All of these predictors were measured at the time of the original arrest, not the re-arrest. Our analysis combined the data for the street homeless and the shelter homeless, creating a sample of 11,111 homeless defendants.

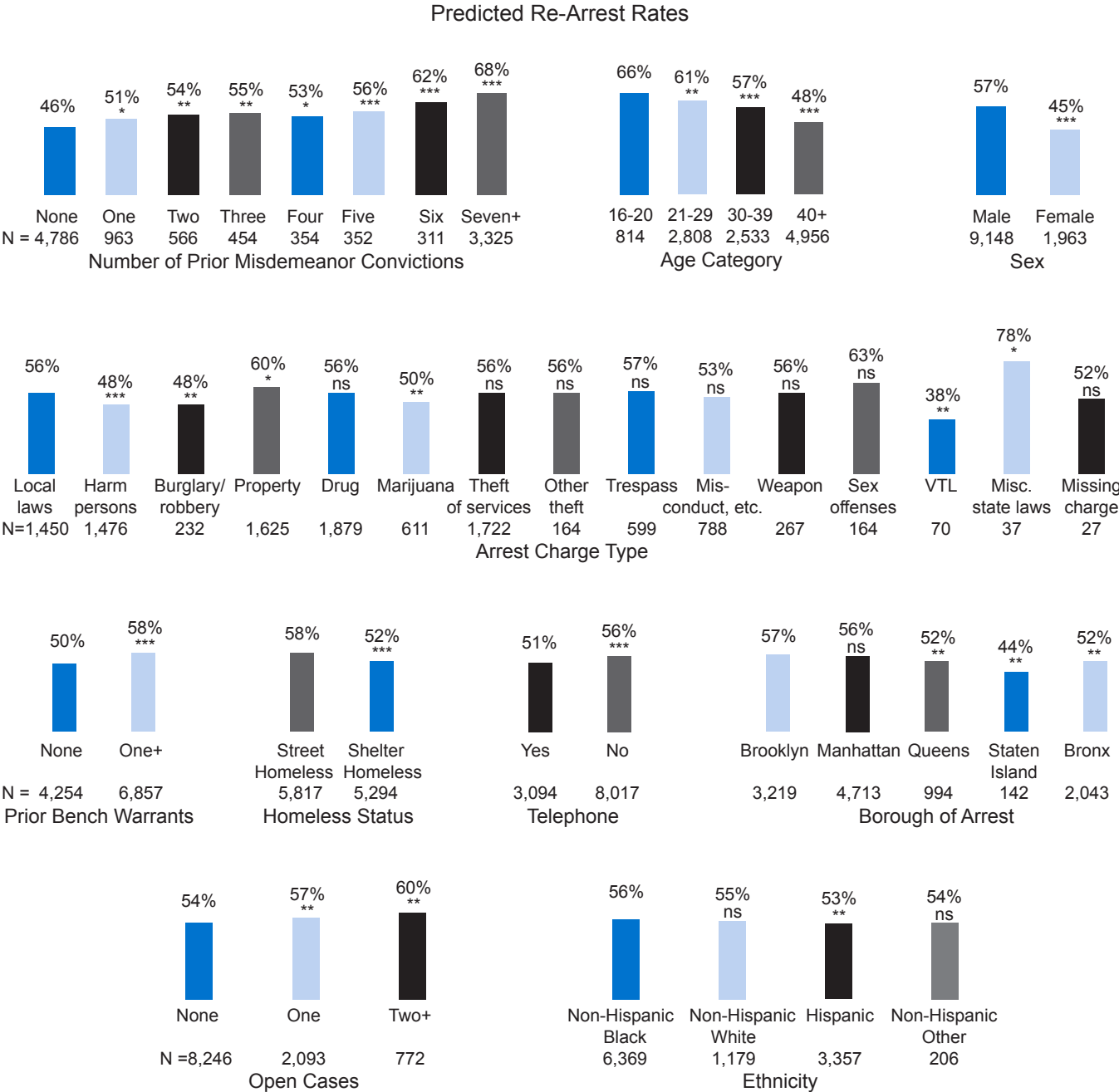
Figure 5 shows the results for the 10 statistically significant predictors of re-arrest identified in our analyses. The predicted re-arrest rate for each category takes into account the effects of all the

other predictors in the model. For each predictor, we evaluated the statistical significance of the categories when compared with the first listed category. For example, defendants in the age categories 21-29, 30-39, and 40 and over were compared to defendants in the age category 16-20.

Figure 5 lists the predictors in order of their explanatory power, from the most powerful predictor to the least powerful.

The strongest predictor of re-arrest, listed first, was the number of prior misdemeanor convictions. Generally, homeless defendants who had more prior misdemeanor convictions were more likely to (text continues on page 6)

Figure 5
 Model Predicting Homeless Defendants' Likelihood of Any Re-arrest Within One Year of Release
 (N=11,111)



* Statistically significant at $p < .05$ ** Statistically significant at $p < .01$ *** Statistically significant at $p < .001$
 ns Not statistically significant
 For each predictor, statistical significance tests compare the first category to each of the other categories.

Tests of Statistical Significance
 Statistical significance tests assess the likelihood that the differences observed in the sample could have occurred by chance alone. The tests take into account the size of the sample and the magnitude of the differences observed. Larger differences and differences based on larger samples are more likely to be statistically significant. In this report, following standard convention, significance levels less than .05 were considered statistically significant, indicating that the difference had less than a 5% likelihood of being due to chance alone.

be re-arrested. For example, those with no prior misdemeanor convictions had a predicted re-arrest rate of 46%, compared to 68% for those with seven or more prior misdemeanor convictions.

Homeless defendants who were between 16 and 20 years old had a significantly higher predicted re-arrest rate than those in older age categories, and predicted re-arrest rates declined with age. Although younger defendants are less likely to have criminal records, once the number of prior misdemeanor convictions is taken into account, young homeless defendants have a higher predicted re-arrest rate than older homeless defendants, as shown in Figure 5.

Homeless men were much more likely to be re-arrested than homeless women (57% vs. 45%).

Compared to those arrested on local law charges, homeless defendants arrested for marijuana offenses, harm to persons, burglary or robbery, and Vehicle and Traffic Law (VTL) offenses were less likely to be re-arrested (however, there were only 70 homeless defendants with VTL arrests). Homeless defendants arrested for property crimes had a significantly higher predicted re-arrest rate.

Homeless defendants who had one or more prior bench warrants were much more likely to be

re-arrested (58%) than those who did not (50%).

The predicted re-arrest rate for street homeless defendants was 58%, compared to 52% for those living in shelters. These predicted re-arrest rates differ from the actual re-arrest rates (60% and 50%, respectively) because the predicted rates take into account the effects of all the other predictors in the model.

The remaining variables in the model were less powerful predictors of re-arrest, although all were statistically significant. The predicted re-arrest rate for homeless defendants who had a telephone (primarily homeless defendants who lived in shelters) was lower than for those who did not (51% vs. 56%). Homeless defendants arrested in Queens, Staten Island, or the Bronx had lower predicted re-arrest rates than those arrested in Brooklyn or Manhattan. Homeless defendants who had open cases at the time of their arrest were more likely to be re-arrested than those who did not. Finally, Hispanic defendants were less likely to be re-arrested than non-Hispanic black defendants.

The predictors of felony re-arrest were substantially similar to those for any re-arrest (model not shown).

Summary

In 2013, NYPD arrested 6,298 individuals who identified themselves as living on the street at the time of at least one of their arrests during the year. An additional 5,587 individuals lived in a homeless shelter at the time of at least one of their arrests. Over 165,000 individuals were not homeless at the time of any of their arrests.

Among those released from custody by the end of 2013, re-arrest rates varied considerably by homeless status. Within one year of the date of their release, 60% of the street homeless and 50% of the shelter homeless were re-arrested, compared with 29% of the non-homeless. Felony re-arrest rates were also higher for the homeless. Nearly one quarter of street homeless arrestees and one fifth of shelter homeless arrestees were re-arrested for a felony within a year; only 13% of the non-homeless were re-arrested for a felony. Homeless defendants were more likely than the non-homeless to be re-arrested for local law offenses, drug charges, property crime, and theft of services.

Almost half of the re-arrests of the homeless occurred in Manhattan, compared with one quarter of the re-arrests of the non-homeless. Re-arrests of the street homeless were heavily concentrated in 4 precincts in Manhattan and one in the Bronx, and re-arrests of the shelter homeless were concentrated in 2 Manhattan precincts, 2 Brooklyn precincts, and one precinct in the Bronx. While re-arrests of the non-homeless were common in many of those same precincts, the top 5 precincts accounted for a smaller share of the re-arrests of the non-homeless.

The predictors of re-arrest among the homeless included many predictors commonly found in research on re-arrest, including criminal history, age, and sex. However, some predictors revealed patterns specific to the homeless population. First, homeless defendants arrested for harm to persons, burglary/robbery, and marijuana offenses had lower re-arrest rates than those arrested for local law offenses. Those arrested for property crime were more likely to be re-arrested than those arrested for local law offenses.

Second, the predicted re-arrest rate for the street homeless was 6 percentage points higher than for the shelter homeless (58% vs. 52%). Even after accounting for differences between street and shelter homeless (street homeless

were more likely to be male and less likely to have a telephone), street homeless defendants had a higher predicted re-arrest rate than those who reported living in shelters.

Policy Implications

The size of New York City's street homeless population is difficult to measure, and the subject of considerable debate. The census of the street homeless is widely viewed as an undercount of the prevalence of street homelessness because it is conducted every year on one night in the winter. It does not assess how many individuals live on the street over the course of a year. In New York City in 2013, the one-night count was 3,180, whereas the current study found that over the course of the year nearly 6,300 defendants reported living on the street. This number provides a lower bound for estimating the annual prevalence of street homelessness in New York City in 2013. An additional unknown number of individuals presumably also lived on the street during the course of the year while avoiding arrest. This suggests that the number of individuals who are street homeless in New York City at any time during the year is considerably larger than the number in the one-night census.

Why is the re-arrest rate of the homeless much higher than the re-arrest rate of the non-homeless? To a large extent, the higher re-arrest rate appears to be due to a cycle of custodial arrest and re-arrest for low-level offenses that are enforced primarily against the homeless. The homeless had much higher re-arrest rates than the non-homeless for misdemeanor and lesser offenses, and the re-arrest rates of homeless defendants were higher for specific types of offenses. Both street homeless and shelter homeless defendants were re-arrested more often than the non-homeless for local law offenses (e.g., panhandling, blocking access in the transit system, staying in parks after closing hours), drug offenses, property crime (primarily petit larceny), and theft of services (primarily "fare-beating"). The non-homeless were generally less likely to be arrested or re-arrested for public order offenses that are the focus of high-volume enforcement efforts.

The concentration of re-arrests of the homeless in Manhattan and in specific precincts in three boroughs (Manhattan, the Bronx, and Brooklyn) reflected both the concentration of street and shelter homeless in specific areas of the city and the enforcement practices in those areas. Precincts with a high concentration of homeless individuals and/or a high volume of arrests were likely to have a high volume of arrests of the homeless. In these precincts, enforcement of local laws disproportionately affects the homeless.

The lower re-arrest rate for shelter homeless vs. street homeless defendants suggests that living in a shelter is a protective factor for homeless defendants. The shelter homeless were less likely than the street homeless to be at risk of re-arrest for local law offenses involving transit rules, park rules, panhandling, and the health code. Street homeless defendants' higher risk of re-arrest for these offenses was the result both of the behavior of the street homeless and policing strategies that use local law offenses to regulate the behavior of the street homeless. Living in a shelter rather than sleeping on the street or in the parks or transit system reduced this risk. Of course, non-homeless defendants had much lower rates of re-arrest than either street or shelter homeless defendants, suggesting that avoiding homelessness is an even stronger protective factor.

The patterns identified in the current study provide an overview of some important issues regarding re-arrests of the homeless in New York City. A more comprehensive understanding of these issues would require information about defendants' mental and physical health, drug and alcohol abuse, and other factors beyond the scope of this study. Nevertheless the current study demonstrates that permanent housing is associated with a significantly lower re-arrest rate and that among the homeless, re-arrest rates are lower for those who live in shelters rather than on the street.

No. 39 (February 2016)
Re-Arrests of Homeless Defendants in New York City (Richard R. Peterson)

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TO:

The mission of the New York City Criminal Justice Agency, Inc.,
is to assist the courts and the City in reducing unnecessary pretrial detention.

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Forthcoming:

No. 40 (May 2016) *Misdemeanor Marijuana Arrests in NYC 2012-2014*
by Mary T. Phillips, Ph.D.

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- No. 36 (January 2015) *Impact of the Queens Supervised Release Program on Legal Outcomes* (Solomon)
- No. 35 (September 2014) *Paying For Bail On Credit* (Phillips)
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