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**SUMMARY AND ANALYSIS:
Trends in Case and Defendant
Characteristics, and Criminal Court
Processing and Outcomes, in
Non-Felony Arrests Prosecuted
In New York City's Criminal Courts**

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FOREWARD

By the early 1990s, the New York City criminal justice system was embarking on a new era. The size of the police department was beginning to be increased, and new initiatives were begun that focused on different types and approaches to community crime issues. With the inauguration of Rudolph Giuliani as mayor, and the installation of William Bratton as Police Commissioner, a rapidly expanding police department, aided by new technologies, would dramatically shift its policies, deployment strategies and tactics. Using as its ideological underpinnings the belief in an interrelationship between disorder, fear and crime, policing in New York City beginning in the mid-1990s began to emphasize the use of the police power to enforce laws regulating conduct that was seen as harming community quality of life. Many of the resulting arrests were for behaviors statutorily defined in the New York State Penal Law, or in City ordinances, as being of misdemeanor or lesser severities.

One result of the full implementation of these new enforcement initiatives was that the Criminal Courts of the City of New York were faced with a surging volume of non-felony cases. Over the course of several years it became apparent that high-volume enforcement of misdemeanor crimes and lesser-severity offenses would remain the norm in the City's criminal justice system into the foreseeable future. In response, the New York City Criminal Justice Agency began to develop a research agenda to investigate the nature of these cases, the composition of the defendant population, and Criminal Court responses. In the spring of 2001 the first report, *TRENDS IN CASE AND DEFENDANT CHARACTERISTICS, AND CRIMINAL COURT PROCESSING AND OUTCOMES OF PROSECUTED ARRESTS FOR MISDEMEANOR AND LESSER-SEVERITY OFFENSES, IN NEW YORK CITY*, was completed. The final report for this study was released in December 2001. This report examined changes in the composition of case and defendant characteristics, and court processing and case outcomes, comparing prosecuted non-felony arrests of defendants held for Criminal Court arraignment in 1989 and 1998. The current report is designed to highlight the major findings of the study, examine in greater depth than in the earlier report how changes between these two periods represented a number of specific philosophical, strategic and tactical decisions, and their policy implications for the City's criminal justice system.

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Many current and former members of the Criminal Justice Agency's Research and Information Systems' Departments participated in the creation of the data sets analyzed in this study. Among them special mention is due to Dr. Qudsia Siddiqi, Senior Research Analyst, who directed the 1989 data set project, assisted in the creation of the 1998 data set, and has continued to provide both methodological assistance and guidance in regard to the construction of data elements in each. Ms. Barbara Diaz, Director of the Information Systems' Department, and members of her staff, were instrumental in the development of the data sets, created for other research purposes, which were used in this study. Mr. Robert Shea, formerly of the Information Systems' Department, was the principal programmer for the 1989 data set project, and Mr. Wayne Nehwadowich, Senior Programmer/Analyst, was responsible for the 1998 data set. Special thanks also are due to Dr. Mary A. Eckert, formerly CJA's Research Director, who actively participated in the creation of the 1989 and 1998 data sets, and who helped in the development of this project.

While this project benefited greatly from the assistance of others, the author alone is responsible for the study's design, analysis and conclusions, as well as any errors or omissions.

INTRODUCTION

Over the course of more than a decade there have been a number of changes in the criminal justice system in New York City. These changes have been brought about by a confluence of events that have occurred in almost all component organizations of the criminal justice system. Prominent among these changes are those that have occurred in policing, ranging from expansion of the size of the New York City Police Department, the use of new technologies that permit better tracking of crime patterns and allow for expedited pre-arraignment processing of arrestees thereby increasing the numbers of arrestees who can be held for court arraignment, and different deployment policies such as renewed attention to disorder crimes. At the other end of the criminal justice system have been changes in the targeting and delivery of alternative-to-incarceration programs, while increasing incarcerative sentences for some types of offenses and offenders. In the middle is the enormous impact of the changes in arrest policies and practices on the criminal courts, and how these may have led not merely to an increased volume of arrests, but also to substantial changes in the composition of the caseloads and characteristics of defendants being brought into the criminal courts for prosecution for misdemeanor and lesser-severity offenses.

How the criminal justice system handles non-felony offenders and their cases, and spotlighting the work of lower criminal courts, is a topic that episodically is brought to the fore in both academic scholarship and public debate. Often organized as separate entities designated as courts of inferior and limited jurisdiction, lower criminal courts are normally accorded less status and fewer resources than felony-jurisdiction courts, although they commonly handle a substantial part, even the majority, of the criminal caseload. For non-felony defendants, the lower severity of the charges under statutory schemes of punishment frequently means being processed as part of large numbers of defendants in a routinized, managerial fashion, and with most convictions resulting from quickly negotiated guilty pleas. For the non-felony defendant who is convicted, judges often have few if any meaningful sanctioning choices between probation and jail. In addition, the arrest-to-arraignment process for defendants held in custody can be sufficiently unpleasant as to be seen as constituting sufficient punishment for the charged offense. "The process is the punishment" is the way one social scientist summarized, and titled, his investigation into the workings of lower criminal courts.¹

The 1967 release of the President's Commission on Law Enforcement and Administration of Justice found the conditions in lower courts to be among its most "disquieting" findings, and said in part:

The commission has been shocked by what it has seen in some lower courts. It has seen cramped and noisy courtrooms, undignified and perfunctory procedures.... It has seen dedicated people who are frustrated by huge case loads, by the lack of opportunity to examine

¹ Malcolm M. Feeley, *The Process Is The Punishment*, (New York: Russell Sage Foundation, 1979).

cases carefully, and by the impossibility of devising constructive solutions to the problems of offenders. It has seen assembly-line justice.²

One can also look back to this presidential commission as marking what would be a more than thirty-year period in which the issue of crime and social order would remain a point of focus of American national and state politics, result in an enormous expansion of criminological research by the academic community, and lead to a sustained period of federal and local governmental activity in the criminal justice field. All of these elements continue to this day. But by the late 1970s the principal focus on crime and criminal justice turned to addressing felony-severity crimes as concerns mounted about rising rates of violent crime and the effect of drugs in American society. In response, most criminal justice system initiatives during the early 1980s and into the early 1990s focused on investing the greatest resources in the apprehension, adjudication and punishment of offenders charged with felony-severity drug and violent crimes.

These events are well mirrored in an examination of the New York City criminal justice system. As shown on **Table 1**, from the mid- to late-1970s, felony arrests increased from 40 percent of all arrests to over half of all arrests made by the New York City Police Department, with a drug crime being the most serious arrest charge in ten percent or fewer of all reported arrests.³ From the early through the mid-1980s felony arrests once again were in the 40 percent range of all arrests, and drug crimes began to make up an increasing proportion of the top arrest charges, rising from about 15 percent of all arrests in 1982, to over 20 percent of all arrests in 1985. In 1987, the year in which arrest volume would exceed 300,000 for the first time in New York City's history, a drug charge was the most severe arrest charge in over 25 percent of all arrests. At the end of the 1980s, and in the midst of drug-enforcement initiatives aimed at the disruption of street-level drug markets, the top arrest charge was of felony severity for over half of all arrests in 1989, with drug arrests accounting for over 30 percent of the arrests in that year.⁴

Beginning in the early 1990s the percentage of all arrests that were of felony severity began to fall, although still over half of all arrests in 1992. The percentage of all arrests that involved a drug charge also fell in 1992. In the mid-1990s, as arrest volume increased, the percentage of arrests that were felonies continued to decline, while the percentage of all arrests involving a drug crime began to rebound.⁵ The relative

² President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Courts*, (Washington, D.C.: U.S. Government Printing Office, 1967), excerpted in part from David W. Neubauer, *America's Courts and the Criminal Justice System*, sixth edition, (Belmont, CA: Wadsworth Publishing Company, 1999), pp. 465-466.

³ These calculations are derived from the published statistics of the Police Department of the City of New York found in, *Statistical Report: Complaints and Arrests*, Office of Management Analysis and Planning, Crime Analysis Unit, 1975-1979.

⁴ *Ibid.*, 1982, 1985, 1987 and 1989.

⁵ *Ibid.*, 1991, 1992, 1994 and 1998.

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Table 1

**Arrest Volume in New York City in Selected Years
Between 1975 and 1998***

Year	Total Arrests	Felony Arrests	Percent Felonies	Total Drug Arrests	Percent of All Arrests
1975	253,324	102,390	40.4%	17,207	6.8%
1977	237,311	115,121	48.5%	21,922	9.2%
1979	204,982	104,415	50.9%	18,079	8.8%
1982	217,807	106,439	48.9%	33,296	15.3%
1985	257,627	112,995	43.9%	56,017	21.7%
1987	300,591	139,657	46.5%	78,688	26.2%
1989	308,164	163,385	53.0%	94,490	30.7%
1992	269,191	135,484	50.3%	64,895	24.1%
1994	328,782	139,228	42.3%	83,056	25.3%
1998	376,316	129,359	34.4%	121,661	32.3%

* Source: Police Department of the City of New York, "Statistical Report: Complaints and Arrests," Office of Management Analysis and Planning, Crime Analysis Unit.

proportions of misdemeanor and felony severity drug arrests, of total arrests on drug charges, are illustrated on **Figure 1**. This figure shows how the volume of drug arrests increased throughout the 1980s, and how felony-severity drug arrests began to be an increasing part of drug-enforcement strategies in that time, exceeding misdemeanor drug arrests for the first time in 1989. Total drug arrests overall decreased in 1992, and then once again began to rise, accompanied by an increase in misdemeanor-severity drug arrests. By the mid-1990s changes in law enforcement strategies for addressing issues of crime in New York City were underway. Both overall arrest volume and drug arrests were on the rise, but a shift in emphasis began to dramatically change the relative distribution between felony and non-felony severity charges, as illustrated by the example of drug cases.

The rise in the volume of arrests being brought into the criminal courts for prosecution, and the changes in the composition of the caseload entering the courts, most especially the enormous shift toward addressing an increased volume of cases involving non-felony crimes, also can be seen from information provided in the New York City Criminal Justice Agency's (CJA) *Semi-Annual Reports*.⁶ For example, in 1989, CJA reported a total of 263,274 prosecuted cases, of which about 91 percent (238,310) were the cases of defendants held in custody pending Criminal Court arraignment, (i.e., 'summary' or 'on-line' arrest cases), with the remaining cases being arraignments of defendants issued Desk Appearance Tickets (DATs). In 1994, the volume of prosecuted cases had risen to 272,292 cases, 79 percent (215,065) of which were summary arrest cases. In 1998, CJA reported a volume of 368,478 prosecuted cases of which 86 percent (315,897) were cases of defendants held for arraignment.

Using both the published CJA *Semi-Annual Reports*, and unpublished database reports used in the preparation of the semi-annual report series, **Table 2** presents: the citywide volume of prosecuted summary arrests in 1989, 1994 and 1998; the number and percent of summary-arrest cases (i.e., cases only of defendants held for Criminal Court arraignment) in each year by the severity classification of the most serious charge at Criminal Court arraignment; and the percentage change in the distribution of arraignment charge severities between the years.⁷ This table shows both how the volume of summary-arrest cases in 1998 was substantially larger than in 1989 or 1994, and the change in the severity of prosecuted charges at Criminal Court arraignment. Unfortunately, volume comparisons with 1994 are problematic because of missing information in CJA's computerized database for all cases arraigned at the Midtown

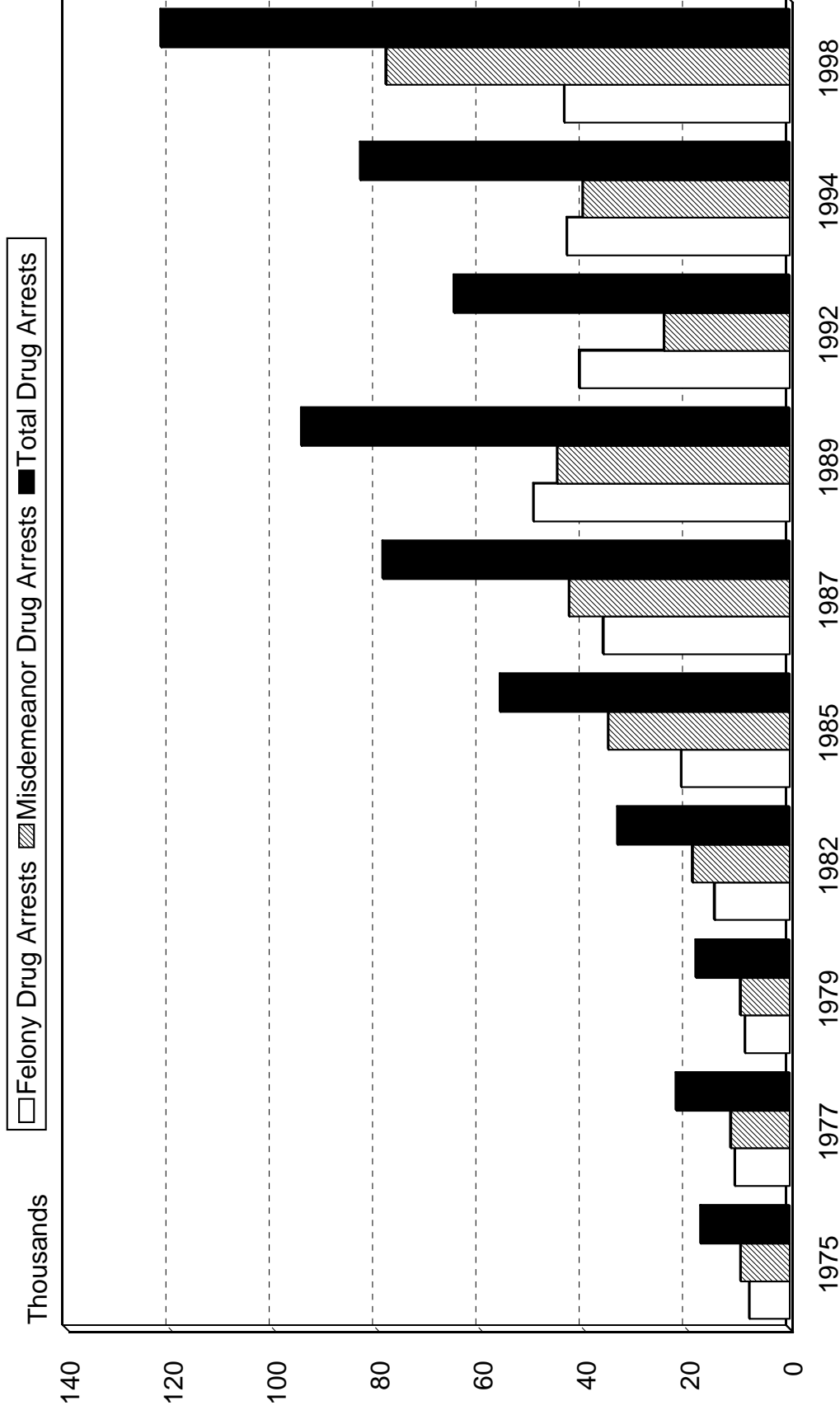
⁶ The New York City Criminal Justice Agency, Inc. (CJA), is a not-for-profit organization that provides a variety of criminal justice services under a contract with the City of New York. In order to perform these functions CJA maintains a computerized database containing arrest and defendant information, and case-processing and court-outcome data. As part of its routine reports, CJA provides semi-annual information about trends in prosecuted arrests and Criminal Court arraignment outcomes in New York City's Criminal Courts.

⁷ The volume figures reported by CJA in its semi-annual reports are based only on prosecuted cases, and categorize those cases based on court, not arrest, charges. In addition, CJA does not receive information for a small percentage of cases in any given year. For these reasons, volume and case characteristics will differ from those reported by the New York City Police Department, and other official sources of information on arrests and prosecution of criminal cases in New York City.

New York City Criminal Justice Agency

Figure 1

Felony and Misdemeanor Drug Arrest Volume in Selected Years Between 1975 and 1998*



* Source: Police Department of the City of New York, "Statistical Report: Complaints and Arrests," Office of Management Analysis and Planning, Crime Analysis Unit.

Manhattan Community Court in that year. Because this Manhattan courtroom is designed to arraign only non-violent cases with an arrest and prosecution charge less severe than a felony, the percentage increases of non-felony cases after 1989 is somewhat underestimated.⁸ In addition, this table only illustrates patterns in regard to summary-arrest cases, thereby excluding the different numbers of cases in each of these years in which defendants were issued DATs, almost always for non-felony arrest charges.

As shown on **Table 2**, in 1989, the volume of prosecuted summary-arrest cases was about evenly divided between cases arraigned on a felony-severity, and non-felony severity, charge. In 1994, more than half of all prosecuted summary-arrest cases had an arraignment charge less severe than a felony, and in 1998 the proportion of cases with a non-felony arraignment-severity charge had increased to almost three-fourths of total citywide arraignment volume of cases of defendants held for Criminal Court arraignment. Conversely, where in 1989 about half of all summary-arrest cases had a felony severity charge at Criminal Court arraignment, only slightly more than one-fourth had an arraignment charge of felony severity in 1998. In examining the figures shown on **Table 2** it is important to remember that what is represented is the severity classification of the most severe charge at arraignment, regardless of the severity of the top arrest charge. However, even if patterns in prosecutorial decisions in regard to the appropriate severity of court charges in relation to arrest charges were different in each of the three years shown, the arrest information already discussed strongly suggests that a larger portion of the criminal courts' caseload was being derived from arrests for conduct of less than felony severity.

Table 2 also shows that while the proportion of prosecuted summary-arrest cases arraigned on a felony charge was smaller in 1994 and 1998 in comparison to 1989, the percentage of all arraigned cases with an A-misdemeanor severity charge was increasing. In 1994 the total number of cases arraigned on a felony severity charge was about 25,000 fewer than in 1989, and was about 10,000 fewer in 1998 than in 1994. By contrast, the number of cases with an arraignment charge of A-misdemeanor severity was less than 2,000 cases smaller in 1994 than in 1989, and then almost doubled in volume in 1998. In 1998, the total number of all cases arraigned on an A-misdemeanor charge, 152,523, was greater than the number of all summary-arrest cases with a felony charge at arraignment in that year, 83,211, or the number of all cases arraigned on a felony charge in 1989, 119,165, a year in which half of all summary-case arraignments were for a charge of felony severity.

In terms of percentage change comparing 1994 and 1998 with 1989, the largest proportional increases in the severity classification of cases by the prosecuted charge at Criminal Court arraignment were for charges less severe than A-misdemeanors, although the numbers of such cases were far smaller than either all cases of felony

⁸ CJA provides pretrial services to defendants at the Midtown Court, that began operation in October 1993, but computerized court processing and case outcome data were not available to CJA from this Manhattan arraignment courtroom until 1996. For this reason the data for 1998 are unaffected by missing Midtown Court information, as are the data for 1989 that predates the creation of this arraignment court part.

severity, or those arraigned on an A-misdemeanor severity charge. For example, the number of cases arraigned on a B-misdemeanor severity charge were only several hundred fewer in 1994 than in 1989, but in 1998 the number of such cases was three-times larger than in either of these two previous years.

Textbook descriptions often use a funnel analogy to illustrate the flow of cases through the criminal justice system, explaining how the component parts of the system must find ways to modulate the flow as arrests begin to pour into the system. This is an apt analogy as one examines how New York City's criminal justice system confronted changing circumstances in the 1980s and into the early 1990s. In this period, the City's criminal justice system was faced with a dramatic increase in arrests at both the felony and non-felony severity levels, legal challenges to lengthening arrest-to-arraignment times, a changed composition in the caseload of the courts from the rise in law-enforcement activity aimed at the sale and possession of controlled substances, a court system under stress and without an infusion of resources to meet the courtroom workgroup needs, and a rising jail population of both pretrial detainees and convicted defendants serving local jail time or awaiting transfer to state prison. The numbers of convicted offenders being sent into the state prison system was exacerbated by New York State's mandatory sentencing provisions previously put in place in the early 1970s as part of the Rockefeller administration's legislative initiatives regarding drug and recidivist felony offenders.

When faced with the need to move more cases through the criminal justice system, the response from the gatekeepers at each critical decision point is to search for ways to redirect resources toward the more serious cases and offenders. For the police, this may mean greater use of Desk Appearance Tickets (DATs), a statutory means by which defendants may be released from police custody with a summons to appear for a scheduled arraignment at a later date, rather than keeping arrestees in custody pending criminal court arraignment. Prosecutors may create screening mechanisms leading to increased rates of declined prosecutions or motions to dismiss, or more generous plea offers for low-level offenses and offenders. More defendants in pending cases may need to be released from pretrial detention in order to relieve jail overcrowding and to preserve limited trial courtroom space to meet speedy-trial law requirements for detained defendants deemed more serious or facing the more serious charges. One can find examples of all of these mechanisms being used in New York City at various times. But what underlies all these strategies is that offenders who engage in what is perceived to be less serious criminal conduct are the most likely to be treated leniently and expeditiously in the process.

While the spotlight for most of the last quarter of the twentieth century was on the pursuit of offenders engaged in violent and drug crime activities usually of felony severity, conditions of disorder and fear of crime were leading to a call for other types of community-oriented initiatives to address the plethora of behaviors perceived as disruptive to neighborhoods but eclipsed by crimes defined as more severe by the penal laws. Out of this movement came community policing in the 1980s, and following in its wake a whole emerging community-justice movement in the early 1990s.

As a backdrop to these more recent events, one can look to a body of literature that sought to review criminal justice developments that had emerged out of the 1960s' civil rights movements. In this earlier era, questions were raised about the order-maintenance function of police, especially the police role in addressing "victimless crimes," (what we today think of as "quality-of-life offenses"). How police handled situations involving what were perceived as relatively harmless crimes was seen as a principal source of unfettered police discretion inconsistent with the emerging emphasis on individual rights and due process. This gave rise to professional policing's emphasis on a crime-control model of law enforcement, which better fit procedural rules and rising concerns about violent crime. Revisiting these developments, a new body of work began to emerge that questioned whether law enforcement had lost sight of the nexus between disorder and crime.

Two formative works that illustrate this connection were those written by Hermann Goldstein, and by James Q. Wilson and George Kelling. Goldstein, in his 1979 article, "Improving Policing: A Problem-Oriented Approach," argued that in the course of focusing on means—on improving patrol and arrest strategies, and improving the professionalism of departments through better internal management, training and equipment— police departments had begun to lose sight of the end product, namely solving the community problems they are called upon to handle.⁹ For Goldstein, among the problems to be addressed by police were not only incidences of serious crime, but also the types of disorderly behaviors that give rise to a *fear* of crime. In this regard he further asserted that it would be misguided policy to divest the criminal justice system, and the police in particular, of dealing with categories of victimless crimes such as prostitution, gambling, vagrancy, and possession of small quantities of drugs. Decriminalization was not an effective solution as these were problems communities wanted solved and to which neighborhood residents would continue to look to the police for assistance. Nonetheless, the problems would not be solved simply by relying on the criminal justice system. Instead, he argued that police agencies must identify the potential problem-solving contributions that could be made by other public and private entities, and elicit their collaboration on the neighborhood and city level.

This theme of the continuing need for an order-maintenance function for police can be found in the Wilson and Kelling article, "Broken Windows: The Police and Neighborhood Safety."¹⁰ Like Goldstein's writing several years earlier, these authors argued that citizen anxiety about crime stems from both a fear of serious, violent crime and a fear generated by a sense of disorder in streets and other public spaces. In the opinion of Wilson and Kelling, one should not overlook the fact that a source of fear in public spaces comes from "the fear of being bothered by disorderly people. Not violent people, nor necessarily criminals, but disreputable or obstreperous or unpredictable people: panhandlers, drunks, addicts, rowdy teenagers, prostitutes, loiterers, the

⁹ Herman Goldstein, "Improving Policing: A Problem-Oriented Approach," *Crime and Delinquency* 25 (1979), pp. 236-258.

¹⁰ James Q. Wilson and George L. Kelling, "Broken Windows: The Police and Neighborhood Safety," which originally appeared in *The Atlantic Monthly*, 249 (March, 1982), pp. 29-38. Reprinted in *Community Policing: Classical Readings*, edited by Willard M. Oliver, (Upper Saddle River, N.J.: Prentice Hall, 2000).

mentally disturbed.”¹¹ In addition, they emphasized the need to recognize the relationship between disorder and crime. Analogous to the situation where an unrepaired broken window invites further vandalism, Wilson and Kelling contended that when disorder begins to affect public spaces, if left untended a breakdown begins to occur in community controls over acceptable behavior. This in turn leads to a perception that crime is on the rise and people adjust their behavior accordingly, further abandoning public spaces and creating the conditions for even more serious crime to flourish.

For some who began to advocate renewed police involvement in order maintenance, the goal was for police to help communities find solutions to neighborhood problems, without necessarily relying solely on the formal institutional structures of the criminal justice system. For others, it meant actively focusing the law-enforcement role inherent in policing on low-level offenses. It is largely this latter strategy, what might be characterized as order maintenance through strategic law enforcement, which was adopted in New York City in the mid-1990s. Among the elements in this law-enforcement strategy were announcements of unacceptable behavior and a more visible police presence intended to have a deterrent effect, backed by concerted, visible police activity directed at specific types of behaviors or in specific geographic areas. Using all existing penal laws and city ordinances police sought to reclaim public spaces abandoned from fear generated by a sense of disorder; focusing on minor law violations also gave police a procedural means for proactively seeking to deter those who might otherwise be emboldened to engage in more serious crimes. The philosophy of targeted, proactive policing was aided by the use of new computer technologies that helped police better manage information about crime and local command responses, and also handle the pre-arraignment processing of defendants more efficiently.

While these changes in police policies and practices often are credited with a citywide reduction in reported incidences of serious crime, these policies created a substantial increase in arrest volume and its attendant implications for the work of the criminal courts. In New York City’s two-tiered court system, the lower, Criminal Court has original jurisdiction over most prosecuted cases but the power to try, convict and sentence defendants only in cases involving misdemeanor or lesser-severity charges. Cases sustained with felony-severity charges after preliminary Criminal Court review must be transferred to the superior, Supreme Court for adjudication. Current events suggest that there once again is an emerging focus on the work of the criminal courts, a debate emerging as a result of dissatisfaction from both within and outside the court system over existing policy and practices in responding to the influx of defendants accused of lesser-severity crimes. For some, existing sanctions have been inadequate to deter repeat offending, leading to calls for lengthening periods of incarceration for recidivist misdemeanants. For others, existing sanctions are inappropriate for many within the offender population, and unresponsive to the harm done to communities by what used to be seen as “victimless” crimes.

¹¹ Kelling and Wilson, as reprinted in *Community Policing: Classical Readings*, (op. cit.) p. 4.

As has already been shown, it is undisputed that the New York City Criminal Court system has been confronted by increased caseload volume, the result of increasing enforcement of behaviors statutorily classified as being of less than felony severity. But beyond documenting the pattern of increasing volume of cases, one of the first research issues examined in the May 2001 report (revised October 2001) was the composition of these cases, by charge severity and crime type. A second issue was the impact of changes in both volume and case composition on both Criminal Court processing and case outcomes for misdemeanor and lesser-severity cases. To examine these issues, the analysis reported in this study focused only on cases of defendants held for Criminal Court arraignment, referred to throughout the report as “summary-arrest cases.” In addition, and unlike the trends analysis discussed earlier, which were drawn from CJA’s Semi-Annual Reports and unpublished data used in the preparation of this report series, only cases in which both the *arrest and prosecuted* charge at Criminal Court arraignment were of misdemeanor or lesser severity were analyzed.

Drawing on the funnel analogy, did an increase in prosecuted misdemeanor and lesser-severity summary-arrest cases lead to changes in the proportion or types of dispositions in non-felony cases at Criminal Court arraignment, thereby modulating the flow of cases beyond this critical decision point? Did the overall pattern of Criminal Court outcomes in misdemeanor and lesser-severity summary-arrest cases change? Have there been changes in the types of sentences imposed after conviction, especially jail sentences? Another issue examined is the extent to which the non-felony arrestee population changed, especially within crime categories, in regard to demographic characteristics such as age or sex, or in regard to criminal history.

In order to compare changes in the citywide characteristics of cases and defendants held for Criminal Court arraignment after an arrest for misdemeanor and lesser-severity crimes, the analysis was conducted on two existing CJA data sets.¹² For a variety of reasons there were dissimilarities in the two data sets, including that each was created for other research purposes, and in the intervening years there were changes in the penal laws, and changes in the way CJA collected both arrest and court information. The 1989 data set is a *random sample* of cases found in the CJA database of defendants held for Criminal Court arraignment (referred to as summary-arrest cases). This data set contains 14,934 prosecuted cases, representing a 6.3 percent random sample of all prosecuted summary arrests in calendar year 1989.¹³ The 1998 data set was created by selecting all recorded prosecuted arrests in the CJA database in the third quarter of 1998 (July 1 through September 30, 1998). This *quarterly* data set originally contained the cases of 89,504 defendants, of which 85,657 were

¹² CJA maintains an arrest-based (rather than a defendant-based) database, collecting information about defendants and court-case processing, when available, for each arrest eligible for prosecution in the Criminal Court. For this reason the same defendant may appear in more than one case in each study period. Because this occurred in a very small percentage of these cases, and because case attributes and many defendant characteristics in each arrest event are unique, the term defendants and cases are used interchangeably.

¹³ New York City Criminal Justice Agency, *Semi Annual Report*, First Half and Second Half of 1998.

summary-arrest cases, and 3,847 of which were arraigned cases of defendants issued Desk Appearance Tickets (DATs).¹⁴

In order to make the two sets of data as comparable as possible, only prosecuted cases of defendants held for arraignment, where both the top arrest and top prosecuted (affidavit) charge at Criminal Court arraignment were charges of misdemeanor or lesser-severity in the New York State Penal Law or local law sources such as the City's Administrative code, were selected for analysis. Cases with a non-felony arrest or affidavit charge found in the Vehicle and Traffic Law (VTL) were excluded. Having thus selected comparable cases to the extent possible, it became possible to examine the proportional distribution of cases between the two periods along a variety of case and defendant characteristics. However, because the data represented very different proportions of the annual population, numeric comparisons on the data in this form were not possible.

In order to examine the proportional differences in terms of volume changes, each data set was transformed to numerically approximate annual volume. Because the 1989 data set represented a 6.3 percent random sample of cases of defendants held for Criminal Court arraignment, this meant that each sampled cases was representative of 15.96 cases in the full year's population recorded by CJA in its automated database. Therefore, weighting each case by a factor of 15.96 creates a data set that closely approximates in numbers, in the characteristics of cases and defendants, and in court decision-making, the full volume of prosecuted cases in that year.

By contrast, the 1998 data set was comprised of all prosecuted cases in a three-month period. After eliminating all Desk Appearance Ticket (DAT) cases, the 3rd quarter 1998 data set represented 27.1 percent of the annual volume of prosecuted summary-arrest cases found in CJA's database for that year. Therefore, multiplying each case by a factor of 3.69 creates a data set of approximately the annual volume of cases in 1998. However, the resulting data set is not completely representative of the composition of prosecuted cases and defendants in the year. This is because of known factors such as seasonal variation in type as well as volume of arrests, or increasingly restrictive police policy regarding the issuance of DATs that occurred during 1998, and less well documented considerations such as changes in the deployment of police for geographic and other tactical reasons. In addition, a comparison of CJA's Semi-Annual Reports for the first and second halves of 1998, and review of unpublished CJA data, do suggest that there were modest changes in the composition of prosecuted cases by arrest-charge severities and crime categories, and in Criminal Court decision making, such as a slightly higher percentage of adjournments in contemplation of dismissal (ACD) and outright dismissals at arraignment in the later half of 1998. In the aggregate, however, there is nothing to suggest substantial changes between the third quarter and the other

¹⁴ A Desk Appearance Ticket (DAT) is a written notice issued by the NYPD or another authority for the defendant to appear in the Criminal Court for arraignment at a future date. Under the New York State Criminal Procedure Law (CPL 150.20) a DAT may be issued for any non-felony and some non-violent E-felony arrest charges. The NYPD imposes some additional restrictions, for example denying DATs to defendants found to have outstanding warrants, or to most defendants arrested on any of a class of charges known as photographable offenses.

quarters of 1998 in strategic programmatic efforts by law enforcement, or in the broad patterns of Criminal Court case dispositions. One still should keep in mind in reading the comparisons between the estimated volumes in 1989 and 1998 that the annualized data for 1998 are a less precise approximation of the year than are the data for 1989.

In addition, changes in police practices in regard to the issuance of DATs affect the volume and distribution by charge severity and crime type of prosecuted summary-arrest cases. This is an important factor in a study of non-felony case processing and court outcomes because almost all DATs are issued for misdemeanor or lesser-severity offenses, and changes in police practices regarding the issuance of DATs led to a considerable reduction in their use in the period prior to the third quarter of 1998. In 1989, an additional 9.5 percent of Criminal Court volume citywide was the arraignment of Desk Appearance Ticket cases, while in the third quarter of 1998 DAT cases were only 4.3 percent of the citywide arraignment volume of the Criminal Court. By excluding DATs in both time periods this research provides an examination of the case and defendant characteristics of those arrested on non-felony charges and detained until brought into the Criminal Court for arraignment, but is not representative of *all* non-felony cases and defendants arrested and prosecuted in the respective time periods.

Comparing data from two points in time almost a decade apart, 1989 and the 3rd quarter of 1998, does not provide a longitudinal picture of changes occurring over time. But these time periods do permit an opportunity to examine arrest, court-processing and case-outcome patterns, under greatly changed circumstances in criminal justice policy in the City of New York. In 1989, the development of police initiatives designed to disrupt street-level drug markets, principally through undercover buy-and-bust operations, and address violent and weapon crimes frequently associated with the illegal drug trade, were well underway. The concentration of programmatic efforts by police in these areas primarily resulted in felony-severity arrests. In 1998, by contrast, New York City had a developed criminal justice policy characterized by strategic, concentrated enforcement of quality-of-life offenses, frequently involving arrests on charges of misdemeanor or lesser severity.

In the 1989 random sample data set, a total of 58.9 percent (8,798) of all sampled prosecuted arrests of persons held for Criminal Court arraignment had a felony severity charge as the top arrest charge, 36.4 percent (5,440) had a misdemeanor or lesser-severity top charge at arrest and at Criminal Court arraignment, with the remaining 4.7 percent (706) of the sampled cases involving defendants arrested or prosecuted for an unclassified misdemeanor charge under the Vehicle and Traffic Laws (VTL), where a non-felony arrest charge had a felony charge at Criminal Court arraignment, or where the arrest charge was unknown. In the 3rd quarter 1998 data, 34.8 percent (29,798) of the summary-arrest cases had a top arrest charge of felony severity, and 55.8 percent (47,813) were cases in which the defendant was arrested and prosecuted for a misdemeanor or lesser-severity offense,¹⁵ with the remaining 9.4

¹⁵ CJA's database is programmed to identify and characterize by crime type and severity each charge found in the statewide Penal and Vehicle and Traffic Laws, but not the array of offenses in local law sources such as the City's Administrative Code that are processed in the City's Criminal Court. For those charges CJA developed a separate coding system that identifies the local law source of the charge and whether it carries the equivalent of violation, or lesser-severity charge penalties. In the 1989 data set this

percent (8,046) being unclassified misdemeanor VTL arrests, cases with unknown arrest and court charges, or cases in which a non-felony arrest had a felony prosecuted charge at arraignment. Including VTL cases, most of which are designated of misdemeanor-equivalent severity but often carry punishments that differ from penal law misdemeanors, was beyond the scope of this research. However, the difference in the proportions of unclassified misdemeanor VTL cases in the 1989 and 1998 data reflects to some extent changes in law-enforcement practices in the two time periods. In the later period traffic law enforcement was one of the tools used by the police in its order-maintenance efforts.

In addition, although this study selected for analysis only cases in which both the top arrest and Criminal Court arraignment charge were of non-felony severity, it is of some interest that in the full 1989 random sample data set the rate of severity charge reduction between a felony arrest and non-felony Criminal Court arraignment charge was noticeably lower than similar charge reduction in the 3rd quarter 1998 data set. In the 1989 data set 16.8 percent of all cases of defendants arrested on a felony-severity charge and held for arraignment had an affidavit charge at the Criminal Court arraignment less severe than a felony, while in the 1998 dataset 30.5 percent of all cases in which a defendant was arrested on a felony charge and held for arraignment had an arraignment-affidavit charge less severe than a felony. These figures indicate that in comparison with 1989, in 1998 the proportion of non-felony cases processed in New York City's Criminal Court system was even greater than would be suggested by an examination of non-felony cases selected by the severity characteristics of arrest charges.

The remainder of this report is divided into three sections. Section 1 provides, in summary form, the major findings of the citywide analysis of both the proportional and annualized data.¹⁶ The next section provides a discussion that elaborates on some of these findings. The final section of the report analyzes how these changes reflect programmatic efforts implemented in the mid-1990s, and discusses some of the resulting policy implications facing the City's criminal justice system.

coding scheme permitted a distinction between cases with an arrest charge that either was truly missing or unidentifiable, distinct from arrests for offenses in local law codes. However, beginning in 1992, CJA began to electronically receive notification of arrests from the New York City Police Department from which neither the source nor charge severity can be identified for arrests for violations of local laws. In the 1998 data set, therefore, all such arrests appeared without categorization as to the charge type or severity. For the purposes of this research project all such prosecuted summary arrests were included in the analysis if, based on an examination of the Criminal Court arraignment-affidavit charge on the docket with the most severe arraignment charge, the case appeared to have an unidentified or missing arrest charge because it was based on a local law code.

¹⁶ Unlike the original study that analyzed the data citywide and by borough, only the citywide analysis is reviewed in this report.

SUMMARY OF THE KEY FINDINGS OF THE CITYWIDE ANALYSIS COMPARING CASE AND DEFENDANT CHARACTERISTICS, AND COURT PROCESSING AND OUTCOMES, IN NON-FELONY SUMMARY-ARREST CASES IN 1989 AND 1998

There were more than twice as many arrests for non-felony offenses in 1998 than in 1989, and there were differences in the composition of the cases.

- In 1998 the estimated volume of prosecuted misdemeanor and lesser-severity summary-arrest cases was more than twice as large as it had been in 1989, 176,432 versus 86,822.
- There were substantial changes in the composition of the cases between the two time periods, reflective of different enforcement emphases. This resulted in changes in the relative proportions, and volume, of cases among crime categories, and differences in the proportional distribution of cases among charges within some crime categories.

There were changes in the charge-severity distribution of prosecuted summary-arrests for non-felonious offenses.

- A-misdemeanor severity charges constituted over three-fourths of all non-felony summary-arrest cases in 1989, and over two-thirds of the cases in 1998. The estimated annual volume of A-misdemeanor cases was 66,587 in 1989, and 120,685, or less than double, in 1998.
- In 1989 approximately one in every five cases involved a charge of B-misdemeanor severity, in comparison to one in four in 1998. The estimated annual volume of B-misdemeanor summary-arrest cases went from 9,208 in 1989, to 43,540 in 1998, an almost five-fold increase.
- The increase in B-misdemeanor severity volume was in large measure a result of changes in the type of drug crime arrests prosecuted in the later time period, principally an increase in arrests for possession of marijuana in the 5th degree, a B-misdemeanor severity crime. In other crime categories charge severity patterns were largely unchanged in the two time periods, although in a few categories there was a greater percentage of A-misdemeanor severity, than charges of lesser severity, in 1998 than in 1989.

More than merely doubling arrest volume, the crime characteristics of prosecuted non-felony arrests were different between the two periods, with varying representation of types of crimes, and different mixes of charges within some examined crime categories.

- In both time periods over 40 percent of the non-felony summary-arrest cases involved a drug charge, but the composition of the cases differed substantially. Among the 1989 cases over 95 percent of all non-felony drug cases were of A-

misdemeanor severity, and about three-fourths of all non-felony drug arrests were for the A-misdemeanor severity charge of possession of drugs other than marijuana. In the 1998 data, only about 56 percent of the non-felony drug cases had an A-misdemeanor severity charge, and only somewhat more than two-fifths were for the non-marijuana possession charge. Another two-fifths of the 1998 drug cases involved the B-misdemeanor severity marijuana possession charge, which had been less than 3 percent of all non-felony drug cases in 1989.

- In 1989 charges in CJA's property crime category constituted the second largest group of arrests, but only the fifth largest crime category of non-felony summary-arrest cases in 1998. In both time periods almost all such cases were for a limited number of A-misdemeanor offenses, almost two-thirds of which in 1989, and almost three-fourths of which in 1998, involved arrests for petit larceny (i.e., shoplifting). There was some variation in the distribution of cases among the remaining charges, with possession of burglar's tools or possession of stolen property more common in 1989, and criminal mischief more common in 1998.
- One of the greatest shifts among prosecuted non-felony arrests occurred in the fraud category, where over three-fourths of the cases in 1989, and over ninety percent in 1998, involved the A-misdemeanor severity arrest charge of theft of services, the vast majority of which were fare-beating arrests. Fraud cases made up one of the smallest crime categories in 1989, with 2,187 cases representing 2.5 percent of the volume, in comparison with being the second largest crime category in 1998, with 24,579 or 13.9 percent of the cases in 1998, a more than ten-fold difference.
- Sex crimes is a category in which there was both a change in charge characteristics and a *decrease* in both the volume and percentage representation of cases in 1998 in comparison to 1989. In 1989 there were an estimated 10,087 arrests for charges in the sex-crimes category, representing the third largest category of prosecuted non-felony arrests, about 90 percent of which involved charges of either prostitution or loitering for the purposes of prostitution. In 1998 sex crimes, with a volume of only 7,764, was the seventh largest crime category, of which almost a quarter were for patronizing a prostitute in the 4th degree.
- The CJA misconduct category, which contains a variety of public order offenses including disorderly conduct and unlawful assembly, and criminal trespass, had an increase in volume, charge changes, and increased severity of the charges in 1998 in comparison to 1989. In the 1989 data, the misconduct category had a volume of 7,868 cases of which almost two-thirds were for charges of B-misdemeanor or lesser severity. In 1998, the volume of 17,214 cases was a more than two-fold increase, and over half the cases involved a charge of A-misdemeanor severity. In both years criminal trespass constituted the largest arrest volume in this crime category, but there was a larger percentage and volume of such cases in 1998. In addition, a far greater percentage of criminal trespass arrests in 1998 were of A-misdemeanor severity, while in 1989 they were more commonly of B-misdemeanor severity.

- There was a greater than two-fold increase in the number of cases in the harm-to-persons crime category in 1998 in comparison to 1989. Over 95 percent of the arrests in both time periods were of A-misdemeanor severity, the majority of which were cases with an assault arrest charge, although the percentage of menacing charges among the remaining cases was greater in 1998 than in 1989.
- Weapons charges, a small percentage of prosecuted non-felony severity arrests in both time periods, had both a smaller number and percentage of estimated annual volume in 1998, with 2,049 cases representing 1.5 percent of total non-felony summary-arrest volume, in comparison to 2,330 cases, or 2.7 percent of case volume, in 1989.

Changes in enforcement strategies and the resulting arrest patterns led to noticeable differences in defendant characteristics including criminal record, age, ethnicity, and sex.

- Among the cases for which defendant adult criminal record was known, defendants in the 1998 data were less likely than those in 1989 to have had a record of prior adult criminal convictions. Of 164,865 cases in 1998 in which defendants' adult criminal history was known, 54.1 percent (89,132) had not previously been convicted of a crime of either misdemeanor or felony severity. In 1989, defendants in 49.4 percent (38,160) out of 77,182 cases had no prior adult criminal convictions.
- Among those cases in which defendants had a record of prior criminal convictions, defendants in 1989 were more likely to have previously been convicted only of misdemeanor severity crime, while defendants in the 1998 cases were more likely to have previously been convicted of crimes of both misdemeanor and felony severity. Out of 39,022 cases in 1989 in which defendants had an adult criminal record, 20,604 (52.8%) had only prior misdemeanor convictions, and 14,795 (37.9%) were cases in which defendants had convictions for crimes of both misdemeanor and felony severities. By contrast, out of 75,733 cases in 1998, 30,896 (40.8%) had a record of conviction only for crimes of misdemeanor severity and 35,313 (46.6%) had previously been convicted of both misdemeanor and felony severity crime.
- The mean (mathematical average) and median (midpoint) number of prior convictions for defendants with prior convictions only for crimes of misdemeanor, or only for crimes of felony severity, were similar in both time periods, although the average number of such convictions differed by crime category.
- The mean and median number of prior convictions for defendants with prior convictions for crimes of both misdemeanor and felony severity was greater among defendants in the 1998 cases, but in both time periods most such defendants had only one prior felony conviction. The average number of prior criminal convictions varied by crime category within and between the two studied years.

- The percentage of defendants with an outstanding bench warrant from a case pending in the adult court system at the time of the studied arrest was almost twice as large in 1989 as in 1998. In 1989 defendants in more than one of every five non-felony summary-arrest cases were found to have a bench warrant in comparison to less than one of about eight in the 1998 cases.
- Defendants in the 1998 cases were most likely to be either in the youngest, 16 to 20 age group, or in the oldest (41 and older) age bracket. By contrast, defendants in the 1989 cases were most commonly between twenty-six and thirty-five years of age. This overall pattern could be found in almost every crime category.
- Age and criminal record tend to be related, but the disproportionate increase in the arrest of young adults without adult criminal records and recidivist offenders in the oldest age group, most likely also were affected by differences in policing strategies and tactics in the two time periods.
- While the volume of cases involving defendants in the 16-20 age group in 1998 was two and a half times larger than in 1989, the number of cases of 16-20 year old defendants without prior convictions was more than *five times greater* in 1998 than in 1989, 27,217 versus 5,123.
- In the 1998 annualized data there were less than two and a half times more cases in which defendants had prior adult convictions for crimes of both misdemeanor and felony severities than in 1989, (35,244 versus 14,779), but the number of cases of defendants 41 and older with this type of criminal history was almost *six times greater* in 1998 than in 1989, (10,207 versus 1,724).
- The bifurcated age and criminal history pattern that emerged in the 1998 data was especially noticeable in the drug, property and fraud crime categories.
- Defendants in both periods were most likely to be male, 77.5 percent in 1989 and 82.6 percent in 1998, and about the same percentage (52%) were Black in both years' cases. There was a somewhat greater percentage of Hispanic defendants in the 1998, so that the number of cases with Hispanic defendants was more than two times greater in 1998, 55,870, than in 1989, 23,222.

The court appearance at which cases were completed, and the types of dispositions, differed in the two time periods.

- In a system long characterized by substantial arraignment disposition rates in non-felony cases, an even larger percentage of the cases in 1998 were disposed at the Criminal Court arraignment. In 1998 72.7 percent, in comparison to 61.9 percent in 1989, of the cases had a determinative outcome reached at the Criminal Court arraignment.
- The conviction rate at arraignment was lower in the 1998 cases, and the use of adjournment in contemplation of dismissal (ACD) was greater, than in 1989, a pattern replicated when examining case outcomes at and post-arraignment combined.

- Overall, there was a conviction outcome, almost entirely by guilty pleas in both time periods, in over 72 percent of all cases in 1989 in comparison to 59.2 percent in 1998. There were a larger percentage of dismissal outcomes in 1989 (11.6%) than in 1998 (8.9%). Because of the greater volume of cases in 1998 than in 1989, there still were almost 42,000 more cases in 1998 in which there was a conviction outcome, and over 5,000 more cases dismissed.
- The most important changes in case dispositions between the two time periods occurred in the use of adjournments in contemplation of dismissals (ACDs), a legal procedure by which defendants can have the case disposed after a statutorily set period of time (usually six months) providing they meet agreed upon conditions during the pendency of the adjournment. In the 1989 cases only 11.4 percent (9,895 cases) were disposed by an ACD, only slightly more than half of which occurred at the Criminal Court arraignment appearance. In the 1998 cases, 30 percent (52,956) of the cases were disposed by an ACD, over 80 percentage of which occurred at the arraignment outcome.
- A higher percentage of cases with an ACD outcome in 1998 than in 1989 were found in every examined crime category except for cases in the harm-to-persons and the weapon categories, regardless of whether, or to what extent, there was a lower conviction rate.
- Although there was a lower conviction rate in 1998, the lower outright dismissal rate and the substantially higher ACD rate for case disposition meant that defendants in a substantially larger percentage of the cases in 1998 than in 1989 remained subject to some sort of criminal justice system supervision after the initial disposition of their cases.
- The pattern of lower conviction and dismissal rates, and substantially higher use of the ACD, was found in almost every crime category.

There were differences in the patterns of change between arrest and conviction charge severities in comparing cases in which defendants were convicted in the two periods.

- In cases in which there was a conviction there was an overall greater likelihood of a charge change between the severity of the arrest and conviction charge in 1998 than in the earlier, 1989 cases. In the 1989 cases in which there was a conviction, slightly over half (53%) had an arrest and conviction charge of the same severity, in comparison to about 46 percent of the cases in 1998 in which the arrest and conviction charge was of the same severity.
- There was a fairly comparable, although a slightly higher, percentage of cases in 1998 in which both the arrest and conviction charges were of A-misdemeanor severity, but there were some variations by crime category.

- When there was charge reduction for conviction for an A-misdemeanor arrest charge, the conviction charge severity was somewhat more likely to be reduced below the misdemeanor level necessary for a “criminal” conviction under New York State law in 1998 than in 1989.
- Charge reduction in cases in which convicted defendants had B-misdemeanor arrest charges was far more prevalent in 1998 than in 1989. There was a charge reduction in 1998 in about two-thirds of the cases of defendants with a B-misdemeanor arrest charge, but in only somewhat more than one-third of the cases in 1989. The extent of the difference in charge-severity change in B-misdemeanor cases between 1989 and 1998 varied by crime category.

Case outcomes were affected by defendants’ criminal record.

- Defendants without prior convictions were least likely to be convicted, and most likely to have an ACD disposition, in both time periods, but the pattern was dramatically different between the two years.
- There was a conviction outcome in 61.5 percent of cases of defendants without prior adult criminal convictions in 1989, but in only 40.7 percent of the 1998 cases. However, because of the much larger volume and greater percentage of cases of defendants without prior convictions in 1998, the twenty percentage point lower conviction rate still resulted in a fifty percent increase in the actual number of cases in which defendants in this criminal history category were convicted, 23,445 in 1998 versus 36,262 in 1989.
- In 1989 only 19.1 percent of cases of defendants without prior adult convictions were disposed by an ACD, in comparison to 47.2 percent in 1998. This resulted in almost six times more cases of defendants without prior adult criminal convictions having an ACD outcome in 1998, 42,092 in comparison to 7,278 in 1989.
- There was a higher conviction rate in 1998 in the cases of defendants with combined prior convictions for crimes of both misdemeanor and felony severity, 85.4 percent in comparison to 77.6 percent in 1989.
- In cases in which there was a conviction, the adult criminal history of defendants was an important factor in charge severity reduction between arrest and conviction charges in both time periods, although the likelihood of charge reduction generally was greater in 1998 than in 1989.
- Charge reduction was far more likely to occur for defendants without prior convictions in the 1998, than in the 1989, cases. The extent of charge reduction in most crime categories was more similar between the two periods for defendants with comparable types of prior criminal conviction records.

There were differences in the two time periods in the use of jail sentences for cases in which defendants were convicted.

- A jail sentence, including time served and post-conviction jail time, was imposed in a greater percentage of the cases in which defendants were convicted in 1989 than in 1998. Out of approximately 62,515 cases with a conviction outcome in 1989, jail was the most severe sentence in 36,436 or 58.3 percent of the cases. In 1998, in which there were approximately 103,995 cases of convicted defendants, a jail sentence was imposed in 51,774 or 49.8 percent of the cases.
- The pattern of higher jail-sentence rates in 1989 was found in almost every crime category except for drug-crime cases, although the proportions of cases in which convicted defendants received a jail sentence, and the percentage differences between 1989 and 1998, varied by the arrest-offense crime category.
- Among those receiving a jail sentence, a sentence of post-conviction jail time was *more likely* to be imposed in the 1998 in cases. Post-conviction jail sentences were imposed in over a third (36.8%) of the cases in 1989, and in over two-fifths (42.6%) of the cases in 1998, in which convicted defendants received a jail sentence. Translated into annual volume, there were 13,408 cases in 1989, and 22,077 cases in 1998, in which a post-conviction jail sentence was imposed.
- The average number of jail days of post-conviction jail time was less in 1998 than in 1989. This pattern was found in many, but not all crime categories.
- In both time periods convicted defendants sentenced to jail with no prior convictions received shorter post-conviction jail sentences, and those with prior convictions for crimes of both misdemeanor and felony severity received the longest post-conviction jail sentences.

DISCUSSION

Volume and Case Characteristics

Figure 2 shows the proportional distribution of all non-felony, non-VTL, summary-arrest cases among the ten CJA crime categories analyzed in the original 1989 random sample and 3rd quarter 1998 data sets. Table 3 displays the differences in volume in 1989 and 1998, and the different distribution of the cases among the crime types and charge severities within crime categories, when those data sets were annualized to estimate total volume in each year.

Table 3 illustrates many of the findings already highlighted regarding the differences in case composition between the two studied periods. In a citywide volume that was more than twice as large in 1998 than in 1989, drug arrests remained the most frequent type, and of fairly comparable percentage, of prosecuted arrests, but the charge-severity composition was substantially different. The CJA harm-to-persons-and-property crime category, in which almost every charge is of felony severity, was the smallest category in both years and had so few cases relative to volume in 1998 as to not appear even as a fractional percentage (due to rounding). The relative ordering and proportions of all the other crime categories between drugs (the first) and harm-to-persons-and-property (the tenth) changed. This table also shows that in both years, A-misdemeanor charges were the most common in almost every crime category, and there was noticeable change in the distribution of charge severities in only some crime categories such as drugs, misconduct and fraud. (The apparently large shift in the severity of charges in the sex-crimes category is in part due to the large percentage of cases in 1989 in which the severity of the arrest charge could not be identified.)

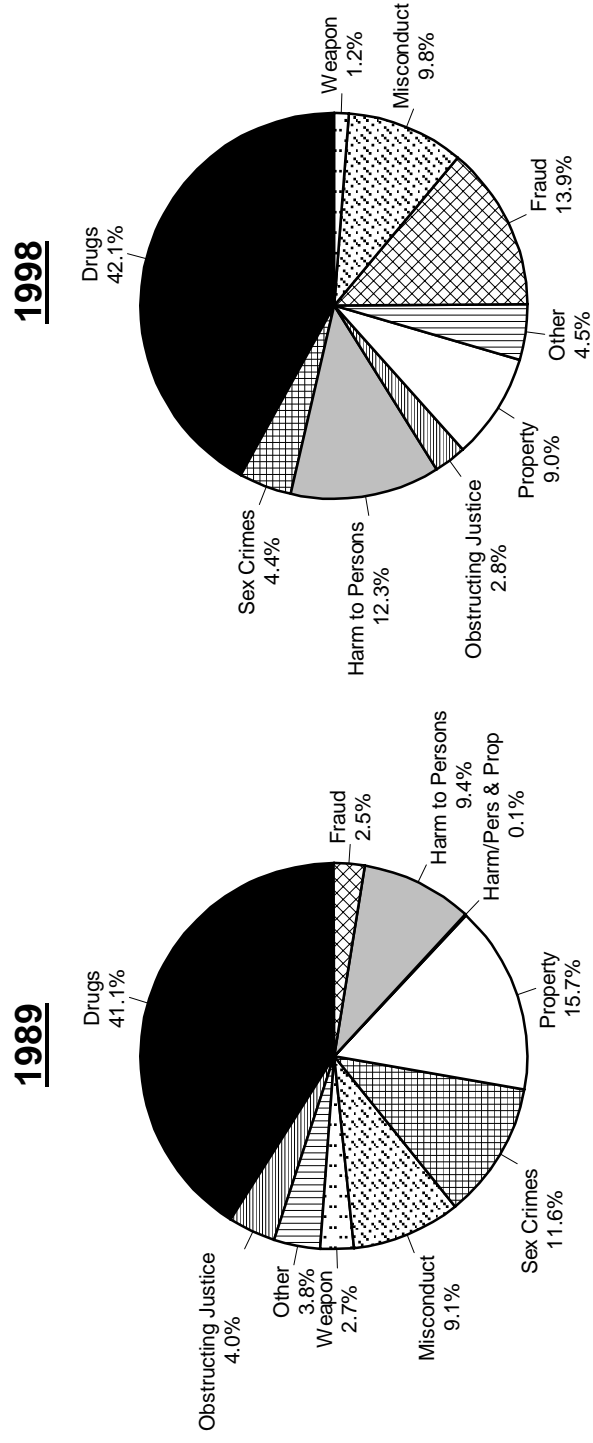
Tables 4 through 10 allow a closer examination of the charge patterns within selected crime categories. Table 4 displays the estimated annualized number and percentage of the most frequently charged non-felony **drug** offenses in 1989 and 1998, by charge severity. The most important difference in drug-crime arrest patterns lies in the enormous change in the relative proportions of arrests between the A-misdemeanor non-marijuana drug possession charge and the B-misdemeanor marijuana possession charge. Because of this change, there was only about a twenty percent (or one-fifth) increase in the number of cases in 1998 in which defendants were charged with A-misdemeanor drug possession, while the volume of B-misdemeanor marijuana possession arrests was almost thirty-four times greater in 1998 (31,735 cases) in comparison to 1989 (928 cases).

Both the relative volume and the composition of charges in the **property** crime category, shown on Table 5, were different in 1989 and 1998. The second largest crime category in 1989, property crime was only the fifth largest category in the later period, with only about 2,500 more cases in 1998 than in 1989. In both years almost all charges were of A-misdemeanor severity, and the largest percent involved the charge of petit larceny (i.e., shoplifting). However, the percentage of shoplifting and criminal mischief charges were larger in 1998, while there were larger percentages of arrests for possession of stolen property and burglar's tools in 1989.

New York City Criminal Justice Agency

Figure 2

Distribution of Non-Felony, Non-VTL, Summary-Arrest Cases, by CJA
Arrest Crime Category in the 1989 Random Sample and 3rd Quarter 1998 Data



New York City Criminal Justice Agency

Table 3

**Distribution of Non-Felony, Non-VTL, Summary-Arrest Cases, by CJA
Crime Category and Charge Severities: Annualized 1989 and 1998 Data**

1989 Crime Type

	Total		A Misdemeanor		B Misdemeanor		Violation		Other/Unknown	
	N	%	N	%	N	%	N	%	N	%
Drugs	35,702	41.1%	34,282	96.0%	1,133	3.2%	287	0.8%	---	---
Property	13,598	15.7%	13,598	100.0%	---	---	---	---	---	---
Sex Crimes	10,087	11.6%	527	5.2%	4,884	48.4%	---	---	4,676	46.4%
Harm to Persons	8,155	9.4%	7,884	96.7%	271	3.3%	---	---	---	---
Misconduct	7,868	9.1%	2,905	36.9%	2,665	33.9%	2,282	29.0%	16	0.2%
Obstructing Justice	3,479	4.0%	3,272	94.1%	207	5.9%	---	---	---	---
Other	3,320	3.8%	---	---	---	---	64	1.9%	3,256	98.1%
Weapon	2,330	2.7%	2,330	100.0%	---	---	---	---	---	---
Fraud	2,187	2.5%	1,963	89.8%	48	2.2%	---	---	176	8.0%
Harm-to-Persons- and-Property	96	0.1%	96	100.0%	---	---	---	---	---	---
Total*	86,822	100.0%	66,857	77.0%	9,208	10.6%	2,633	3.0%	8,124	9.4%

1998 Crime Type

	Total		A Misdemeanor		B Misdemeanor		Violation		Other/Unknown	
	N	%	N	%	N	%	N	%	N	%
Drugs	74,321	42.1%	41,653	56.0%	31,738	42.7%	930	1.3%	---	---
Fraud	24,579	13.9%	24,254	98.7%	325	1.3%	---	---	---	---
Harm to Persons	21,634	12.3%	20,579	95.1%	1,048	4.8%	7	0.0%	---	---
Misconduct	17,214	9.8%	9,118	53.0%	4,897	28.4%	3,199	18.6%	---	---
Property	15,863	9.0%	15,719	99.1%	144	0.9%	---	---	---	---
Other/Not Available	8,019	4.5%	---	---	---	---	26	0.3%	7,993	99.7%
Sex Crimes	7,764	4.4%	2,546	32.8%	5,181	66.7%	37	0.5%	---	---
Obstructing Justice	4,956	2.8%	4,749	95.8%	196	4.0%	11	0.2%	---	---
Weapon	2,049	1.2%	2,041	99.6%	4	0.2%	4	0.2%	---	---
Harm-to-Persons- and-Property	33	0.0%	26	78.8%	7	21.2%	---	---	---	---
Total*	176,432	100.0%	120,685	68.4%	43,540	24.7%	4,214	2.4%	7,993	4.5%

* Totals may not equal 100.0% due to rounding.

New York City Criminal Justice Agency

Table 4

**Penal Law Charge Distribution and Severity of
Non-Felony Summary-Arrest DRUG Cases:
Annualized 1989 and 1998 Data**

Penal Law Charge	Charge Description	1989 (N=35,702)		1998 (N=74,321)	
		N	%	N	%
<u>A Misdemeanor:</u>					
220.03	Possession Controlled Substance 7	26634	74.6%	32627	43.9%
220.45	Criminal Possession Hypodermic Needle	2571	7.2%	669	0.9%
220.50	Using Drug Paraphernalia 2	1035	2.9%	818	1.1%
221.40	Sale of Marijuana 4	3677	10.3%	7283	9.8%
Subtotal		33917	95.0%	41397	55.7%
<u>B Misdemeanor:</u>					
221.10	Possession of Marijuana 5	928	2.6%	31140	41.9%
221.35	Sale of Marijuana 5	179	0.5%	595	0.8%
Subtotal		1107	3.1%	31735	42.7%
<u>Violation:</u>					
221.05	Marijuana-Possession	286	0.8%	892	1.2%
Subtotal		286	0.8%	892	1.2%
<u>Other:</u>					
Subtotal		428	1.2%	297	0.4%
Total*		35738	100.1%	74321	100.0%

* Total may not equal 100% due to rounding.

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Table 5

**Penal Law Charge Distribution and Severity of
Non-Felony Summary-Arrest PROPERTY CRIME Cases:
Annualized 1989 and 1998 Data**

Penal Law Charge	Charge Description	1989 (N=13,598)		1998 (N=15,863)	
		N	%	N	%
<u>A Misdemeanor:</u>					
155.25	Petit Larceny	8268	60.8%	11707	73.8%
165.40	Possession of Stolen Property 5	1577	11.6%	698	4.4%
145.00	Criminal Mischief 4	952	7.0%	2221	14.0%
145.15	Criminal Tampering 2	122	0.9%	412	2.6%
145.60	Making Graffiti	0	--	190	1.2%
140.35	Possession of Burglar's Tools	2040	15.0%	286	1.8%
110-155.30	Attempted Grand Larceny 4	286	2.1%	174	1.1%
Subtotal		13244	97.4%	15689	98.9%
<u>Other:</u>					
Subtotal		367	2.7%	174	1.1%
Total*		13612	100.1%	15863	100.0%

* Total may not equal 100% due to rounding.

Among the greater relative changes in volume can be found in the **fraud** category, shown on **Table 6**, which was the second smallest in 1989 and the second largest crime category in 1998, with about eleven times more cases in the later time period. Over three-fourths of the cases in 1989, and over ninety percent in 1998, were for the crime of theft of services, most of which were fare-beating arrests, a high priority crime in the City's quality-of-life initiative begun in the mid-1990s. The result of targeting fare beating was that there were over thirteen times more theft-of-services charges among cases in 1998 than there were in 1989.

There are several interesting aspects to changes in volume and charge composition in the **sex-crimes** category, **Table 7**. The third largest category in 1989, it had only the seventh largest percentage of non-felony cases in 1998, with an estimated volume in 1998 only about three-fourths as large as it has been in 1989. In addition, almost a quarter of all arrests in 1998 in this crime category were for the B-misdemeanor crime of patronizing a prostitute, a charge that was less than one percent of prosecuted prostitution-related arrests in 1998. In terms of estimated annual volume, there were about twenty-three times more arrests for this charge in 1998, in a crime category with an overall smaller number of cases.

Table 8 shows the charge distribution in the **harm-to-persons** category, which was the fourth largest category in 1989 and the third largest in 1998, and which had an estimated annual volume more than two and one-half times larger in 1998. Over 95 percent of the prosecuted non-felony arrests in this category were of A-misdemeanor severity, and the vast majority were for the crime of assault in the 3rd degree in both time periods. The statutory addition in 1992 of the A-misdemeanor charge of menacing in the 2nd degree contributed substantially to the change in charge distribution in the latter time period. At least some of the increase in arrest volume in this crime category should be attributed to statutory and other policy changes in the area of domestic violence.

The CJA **misconduct** category, shown on **Table 9**, contains an array of charges from different parts of the New York State Penal Law. Among the charges are different forms of criminal trespass found in Article 140 of the Penal Law, public order offenses such as loitering, disorderly conduct and harassment found in Article 240, and gambling crimes found in Article 225. There was a different distribution of cases among some charges in this crime category, most especially the disproportionately greater percentage of criminal trespass cases, and the introduction in 1992 of the charge of aggravated harassment in the 2nd degree. This resulted in an overall proportional shift toward a greater percentage of defendants charged with A-misdemeanor severity crimes in this crime category in 1998 than in 1989. Among B-misdemeanor arrests there was a shift between the proportions arrested for criminal trespass in the 2nd degree, a charge for which there were statutory changes between 1989 and 1998, and the unlawful assembly charge. Although statutory change contributed to some of the changes in the distribution among charges and charge severities, some of the differences between 1989 and 1998 undoubtedly also were the result of different law enforcement strategies and tactics in the two time periods.

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Table 6

**Penal Law Charge Distribution and Severity of
Non-Felony Summary-Arrest FRAUD Cases:
Annualized 1989 and 1998 Data**

Penal Law Charge	Charge Description	1989 (N=2,187)		1998 (N=24,579)	
		N	%	N	%
<u>A Misdemeanor:</u>					
165.15 *	Theft of Services	1693	77.4%	22686	92.3%
165.71 **	Trademark Fake 3	0	N/A	860	3.5%
170.20	Possession Forged Instrument 3	15	0.7%	246	1.0%
190.25	Criminal Impersonate 2	256	11.7%	344	1.4%
Other Charges		0	--	123	0.5%
Subtotal		1964	89.8%	24259	98.7%
<u>B Misdemeanor:</u>					
190.23 ***	False Personation	0	N/A	320	1.3%
Other Charges		48	2.2%	0	--
Subtotal		48	2.2%	320	1.3%
<u>Lesser Severity:</u>					
165.15 *	Theft of Services	175	8.0%	0	--
Subtotal		175	8.0%	0	0.0%
Total		2187	100.0%	24579	100.0%

* The severity classification of this charge varies by the nature of the behavior. In addition, there were changes and additions to the conduct covered by this statute in the intervening years.

** This charge was added to the Penal Law in 1992.

*** This charge was added to the Penal Law in 1997 and became effective January 1, 1998.

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Table 7

**Penal Law Charge Distribution and Severity of
Non-Felony Summary-Arrest SEX CRIMES Cases:
Annualized 1989 and 1998 Data**

Penal Law Charge	Charge Description	1989 (N=10,087)		1998 (N=7,764)	
		N	%	N	%
<u>A Misdemeanor:</u>					
240.37 *	Loitering/Prostitution Offense	383	3.8%	2446	31.5%
Other Charges		141	1.4%	101	1.3%
Subtotal		525	5.2%	2547	32.8%
<u>B Misdemeanor:</u>					
230.00	Prostitution	3924	38.9%	2283	29.4%
230.03	Patronize Prostitute 4	81	0.8%	1863	24.0%
240.37 *	Loitering/Prostitution 2nd Offense	797	7.9%	582	7.5%
245.00	Public Lewdness	61	0.6%	411	5.3%
Other Charges		20	0.2%	39	0.5%
Subtotal		4882	48.4%	5179	66.7%
<u>Violation:</u>					
240.37 *	Loitering/Prostitution 1st Offense	4680	46.4%	0	--
245.01	Exposure of a Person	0	--	31	0.4%
Subtotal		4680	46.4%	31	0.4%
Total**		10087	100.0%	7756	99.9%

* The severity classification of this charge varies by the nature of the behavior and/or prior conviction record of the offender.

** Total may not equal 100% due to rounding.

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Table 8

**Penal Law Charge Distribution and Severity of
Non-Felony Summary-Arrest HARM TO PERSONS Cases:
Annualized 1989 and 1998 Data**

Penal Law Charge	Charge Description	1989 (N=8,155)		1998 (N=21,634)	
		N	%	N	%
<u>A Misdemeanor:</u>					
120.00	Assault 3	7168	87.9%	15663	72.4%
120.14 *	Menacing 2	0	N/A	2574	11.9%
120.20	Reckless Endangerment 2	269	3.3%	519	2.4%
260.10	Endanger Child Welfare	318	3.9%	1536	7.1%
Other Charges		130	1.6%	281	1.3%
Subtotal		7886	96.7%	20574	95.1%
<u>B Misdemeanor:</u>					
120.15 **	Menacing 3	163	2.0%	606	2.8%
130.55	Sexual Abuse 3	82	1.0%	346	1.6%
110-120.00	Attempted Assault 3	33	0.4%	87	0.4%
Subtotal		277	3.4%	1038	4.8%
Total***		8163	100.1%	21612	99.9%

* Charge added to the Penal Law in 1992

** Charge modified in 1992

*** Total may not equal 100% due to rounding.

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Table 9

**Penal Law Charge Distribution and Severity of
Non-Felony Summary-Arrest MISCONDUCT Cases:
Annualized 1989 and 1998 Data**

Penal Law Charge	Charge Description	1989 (N=7,868)		1998 (N=17,214)	
		N	%	N	%
<u>A Misdemeanor:</u>					
140.15	Criminal Trespass 2	716	9.1%	4665	27.1%
165.05	Unauthorized Use Vehicle 3	94	1.2%	207	1.2%
165.30	Fraudulent Accosting	47	0.6%	86	0.5%
195.05	Obstructing Government Admin 2	700	8.9%	964	5.6%
225.05	Promote Gambling 2	574	7.3%	138	0.8%
225.15	Possess Gambling Records 2	110	1.4%	379	2.2%
225.30	Possess Gambling Device	354	4.5%	843	4.9%
240.30 *	Aggravated Harassment 2	205	2.6%	1756	10.2%
240.55	Falsify Report Incident 2	31	0.4%	34	0.2%
Other Charges		94	1.2%	69	0.4%
Subtotal		2927	37.2%	9141	53.1%
<u>B Misdemeanor:</u>					
140.10 **	Criminal Trespass 3	1353	17.2%	3856	22.4%
240.10	Unlawful Assembly	1227	15.6%	344	2.0%
240.25 ***	Harassment 1	0	N/A	258	1.5%
240.36	Loitering 1	0	--	241	1.4%
240.50	Falsify Report Incident 3	47	0.6%	103	0.6%
Other Charges		31	0.4%	86	0.5%
Subtotal		2659	33.8%	4889	28.4%
<u>Violation and Lesser Severity:</u>					
140.05	Trespass	527	6.7%	275	1.6%
240.20	Disorderly Conduct	1243	15.8%	2565	14.9%
240.25 ***	Harassment 1	189	2.4%	0	N/A
240.26	Harassment 2	0	--	155	0.9%
240.35	Loitering	307	3.9%	189	1.1%
Other charge		16	0.2%	0	--
Subtotal		2282	29.0%	3185	18.5%
Total		7868	100.0%	17214	100.0%

* Changed in 1992 to include defendants previously convicted of lesser-severity charge of PL 240.25

** Changed in 1992 and 1997 to expand behavior included in this charge

*** Severity classification of this charge was increased in 1992.

As the eighth largest category in 1998, the **obstruction-of-justice** crime category had a smaller proportion of cases than in 1989 when it was the sixth largest crime category, and an estimated volume in 1998 that was less than 1,500 cases greater than in 1989. (Table 10) Almost all of the non-felony charges in this crime category are of A-misdemeanor severity, and most charges are for a limited number of crimes relating to behaviors that interfere with the operation of components of the criminal justice system such as resisting arrest (PL 205.30) or criminal contempt (PL 215.50). There was, however, a change in the proportions of cases in which defendants were charged with these two crimes, with a larger percentage in 1989 being charged with resisting arrest (53.7%) than in 1989 (45.5%), while a greater percentage in 1998 were charged with criminal contempt (41.9%) than in 1989 (36.2%). Because the criminal contempt charge involves behaviors that disrupt courtroom or courthouse activities, or that occur in violation of a court mandate, a likely explanation for the larger presence of the criminal contempt charge in the 1998 data lies in both arrest and court processing policies in regard to domestic violence cases because this charge is part of the body of laws actively being used in this policy area.

CJA's "**other**" charges crime category (not shown) is comprised almost entirely of charges found in local law sources, such as the City's Administrative Code or Alcohol Beverage Control (ABC) Act, and almost all such offenses are of the least severity and penalties among charge classifications. One of the types of behavior commonly found in Administrative Code case is unlicensed peddling, and carrying an opened alcoholic beverage container outside a permit area is the most frequently charged ABC violation. Because of changes in the mid-1990s in the way arrest information is transmitted to CJA, it was not possible in 1998 even to identify the law source of these charges. As a proportion of arrests, these non-penal law offenses were the seventh largest category of charges in 1989, and the six largest in 1998.

At the non-felony level, almost all cases in the CJA **weapon** category involve the single, A-misdemeanor charge of possession of a weapon in the 4th degree. The eighth largest crime category in 1989, and the ninth and next to last in 1998, weapons cases contributed fewer than three percent in 1989, and only a little over one percent in 1998, to total non-felony volume of prosecuted arrests in these years. Interesting to note, perhaps, is that in 1998 the actual number of such cases was about two hundred *fewer* than in 1989 as can be seen on Table 3 shown earlier in this report section.

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Table 10

**Penal Law Charge Distribution and Severity of
Non-Felony Summary-Arrest OBSTRUCTION OF JUSTICE Cases:
Annualized 1989 and 1998 Data**

Penal Law Charge	Charge Description	1989 (N=3,479)		1998 (N=4,956)	
		N	%	N	%
<u>A Misdemeanor:</u>					
205.30	Resisting Arrest	1868	53.7%	2255	45.5%
215.50	Criminal Contempt 2	1259	36.2%	2077	41.9%
215.55	Bail-Jumping 3	0	--	282	5.7%
Other Charges		143	4.1%	129	2.6%
Subtotal		3270	94.0%	4743	95.7%
<u>B Misdemeanor:</u>					
240.45	Criminal Nuisance 2	209	6.0%	178	3.6%
Other Charges		0	--	20	0.4%
Subtotal		209	6.0%	198	4.0%
<u>Violation:</u>					
Other charge		0	--	10	0.2%
Subtotal		0	0.0%	10	0.2%
Total		3479	100.0%	4951	99.9%

Defendant Attributes

These differences in the composition of crimes and charges brought into the criminal justice system in 1989 and 1998 were accompanied by changes in the characteristics of defendants. Figure 3a displays the relative percentages, and Figure 3b the estimated annual volume, of the characteristics of age, ethnicity, sex, and criminal history among defendants in the non-felony cases in each of the two years. They serve to illustrate how the cases in 1998 involved defendants with differing attributes than those in 1989, especially in regard to age group and prior adult criminal conviction characteristics.

The expected trajectory of criminal careers involves onset at a relatively young age, peak activity in the twenties, and then cessation for most except those who become career criminals. This pattern can be found in the age-group distributions in 1989, but not in 1998 where the largest proportion of arrestees are in the youngest and oldest age groups. Only part of the explanation may lie in the differences in criminal record and the interaction between age and criminal history, notably the larger percentages of defendants without prior adult criminal convictions and with convictions of both misdemeanor and felony severities in 1998 in comparison to 1989.

Tables 11 and 12 show the percentage and volume distributions, respectively, of age group and criminal history for selected crime categories and for all cases. (The percentage distributions shown on Table 11 varies somewhat from those on Figure 3a because it excludes cases of defendants for which criminal history was not known, which affected a greater percentage of cases in 1989 than in 1998.) These tables suggest that forces beyond the interaction of age and criminal record were affecting the characteristics of the defendant population in the cases in 1989 and 1998. There were about two and one-third more cases of defendants without prior criminal convictions in 1998 than in 1989, (88,921 versus 38,129), but greater than five times more defendants in the 16-20 year age bracket in this criminal history category in 1998 (27,217) than in 1989 (5,123). There also were almost three times more defendants 41 and older without prior criminal convictions in 1998 (13,007) than there had been in 1989 (4,357). The differences in the other age categories were much smaller.

The larger percentages and numbers of cases in 1998 in which defendants had no prior adult criminal convictions who fell into the 16-20 year age group is particularly striking in some of the crime categories. For example, in the drug crime category, which had the largest volume of cases in both years, but in which the charges and their severities were differently distributed, there were about twice as many cases in 1998 (37,748) than in 1989 (18,577) in which defendants had no prior criminal convictions. However, there were more than five and a half times as many defendants without criminal convictions in the 16-20 year age bracket, 12,686 in 1998 and 2,218 in 1989, but very similar numbers of cases in which defendants fell between the ages of 26-30 and 31-35.

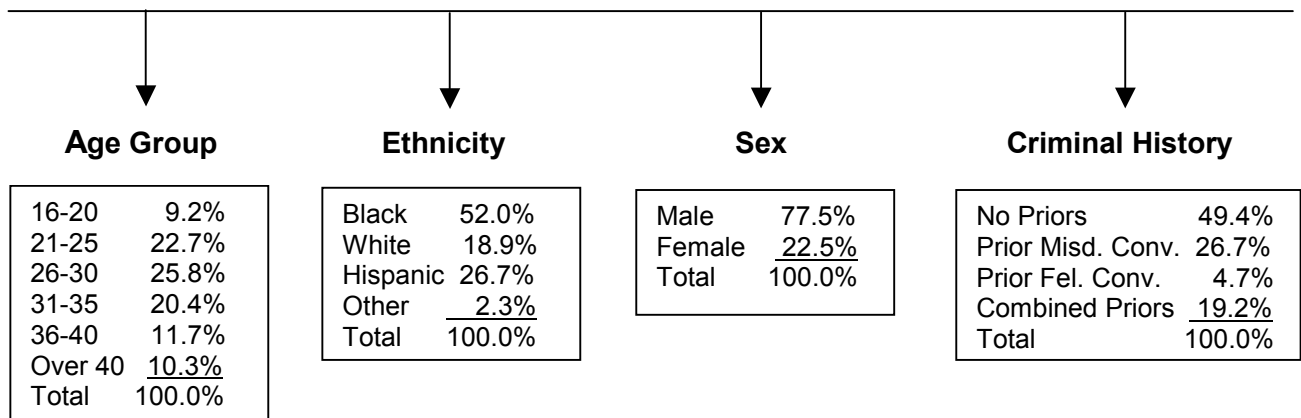
The property crime category provides another example of the increase of arrests of more youthful defendants in 1998 in cases in which defendants had no prior criminal convictions. In this crime category, in which a majority of defendants were charged with the A-misdemeanor crime of shoplifting, it is unlikely that the change in the distribution

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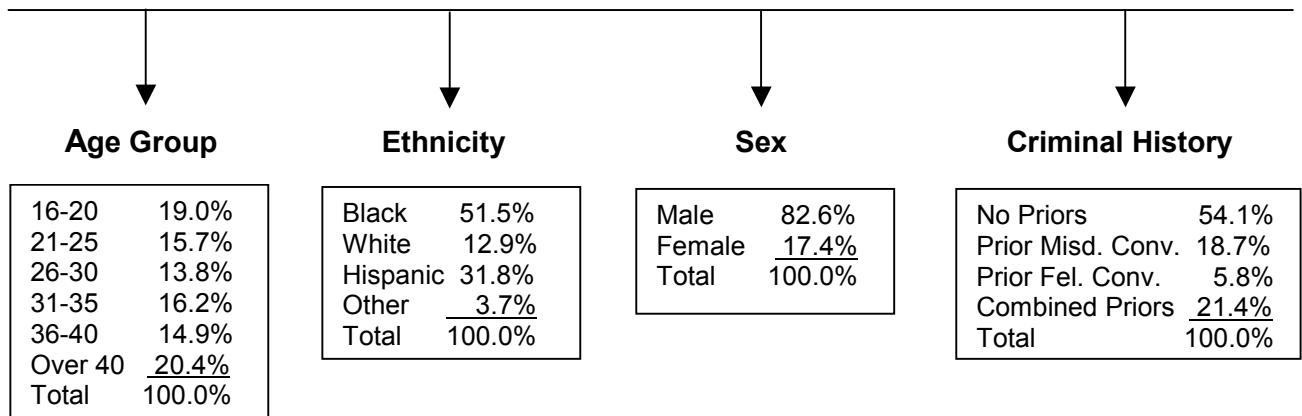
Figure 3a

Percentage Distribution of Defendant Characteristics in Non-Felony, Non-VTL, Summary-Arrest Cases in 1989 and 1998

1989



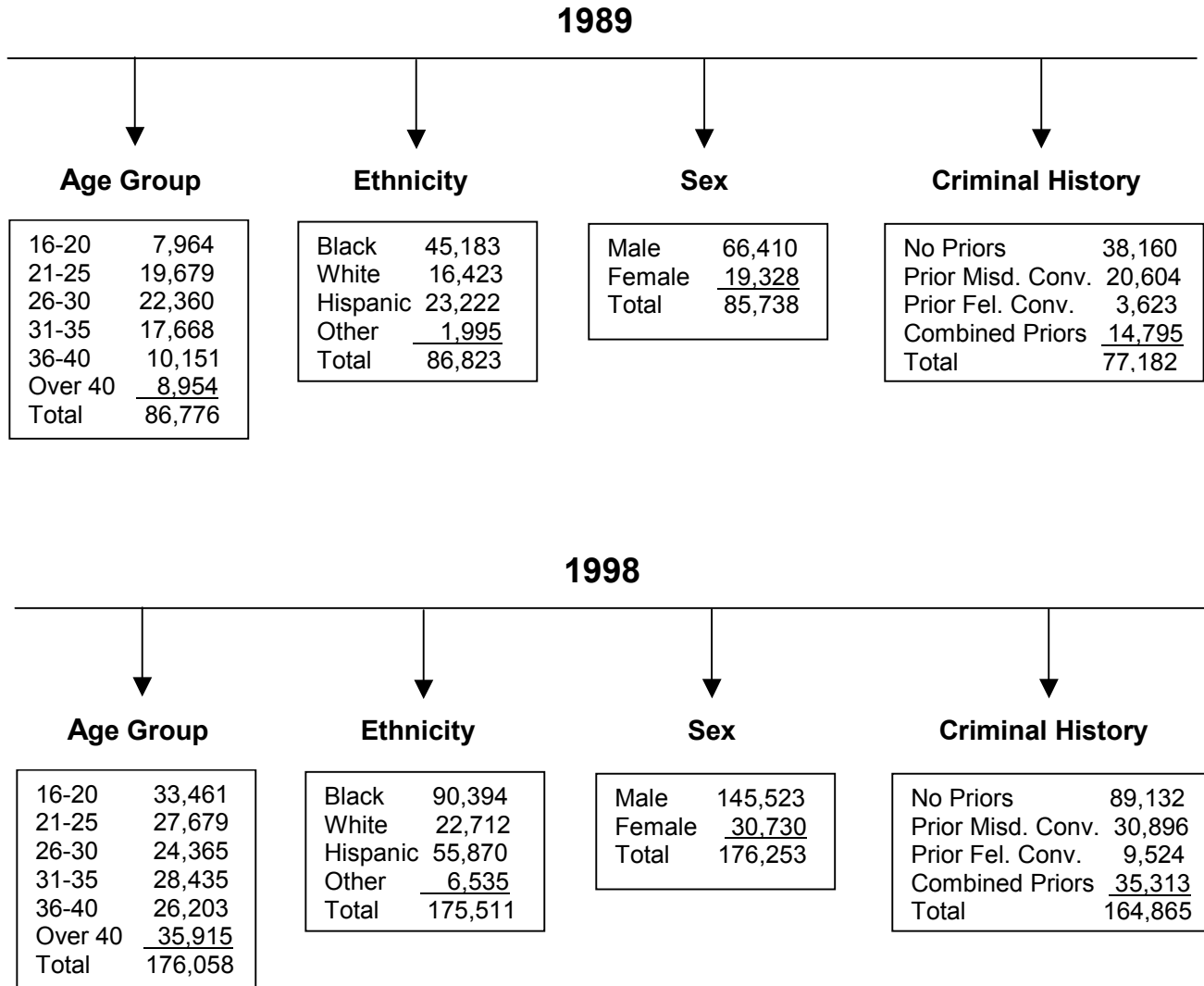
1998



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Figure 3b

Characteristics of Defendants in Non-Felony, Non-VTL, Summary-Arrest Cases, Estimated Annual Volume 1989 and 1998*



* Estimated annual volume in each category may vary due to the effects of weighting and missing data.

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Table 11

**Distribution of Defendants in Non-Felony, Non-VTL, Summary-Arrest Cases
by Age Group and Criminal History in Selected Crime Categories in 1989 and 1998***

Charge- Type Category	Prior Adult Convictions									
	No Prior Convictions		Prior Misdemeanor Only		Prior Felony Only		Combined Priors		Total	
	1989	1998	1989	1998	1989	1998	1989	1998	1989	1998
<u>Drugs:</u>										
16-20	11.9%	33.6%	6.2%	7.7%	7.3%	9.5%	1.6%	2.0%	8.4%	20.3%
21-25	21.9%	21.5%	19.8%	13.2%	19.1%	23.4%	21.6%	7.7%	21.2%	17.0%
26-30	24.2%	12.3%	28.0%	12.8%	23.6%	17.8%	24.6%	14.9%	25.1%	13.3%
31-35	20.5%	10.3%	22.8%	17.8%	23.6%	18.6%	24.9%	22.4%	22.1%	14.9%
36-40	11.1%	9.4%	14.7%	18.9%	18.2%	13.4%	15.5%	23.8%	13.1%	14.6%
41 and older	10.3%	12.9%	8.5%	29.6%	8.2%	17.4%	11.7%	29.1%	10.1%	19.8%
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Total	52.8%	53.1%	22.9%	17.8%	5.0%	6.5%	19.3%	22.6%	100.0%	100.0%
<u>Property:</u>										
16-20	15.2%	38.0%	7.6%	8.0%	17.9%	13.8%	2.8%	1.0%	9.3%	20.8%
21-25	24.9%	17.3%	20.7%	10.6%	21.4%	12.2%	15.6%	4.8%	20.9%	12.3%
26-30	26.3%	14.9%	27.3%	14.7%	25.0%	21.1%	29.4%	15.7%	27.4%	15.3%
31-35	18.0%	10.6%	24.3%	21.3%	10.7%	24.4%	25.2%	29.3%	21.9%	18.4%
36-40	8.0%	7.5%	11.5%	22.6%	17.9%	15.4%	19.3%	23.8%	12.5%	15.4%
41 and older	7.6%	11.7%	8.6%	22.8%	7.1%	13.0%	7.8%	25.3%	8.0%	17.8%
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Total	34.4%	48.4%	36.2%	22.0%	3.3%	3.0%	26.0%	26.6%	100.0%	100.0%
<u>Fraud:</u>										
16-20	10.6%	43.5%	5.7%	7.9%	1	7.3%	10.3%	1.2%	9.7%	24.8%
21-25	34.8%	19.2%	17.1%	10.2%	1	21.5%	17.2%	4.8%	26.1%	14.1%
26-30	27.3%	10.9%	37.1%	8.8%	1	20.1%	10.3%	12.9%	25.4%	11.4%
31-35	19.7%	9.4%	22.9%	20.0%	1	20.8%	24.1%	24.9%	21.6%	15.7%
36-40	4.5%	7.2%	2.9%	20.7%	1	15.6%	27.6%	24.7%	9.7%	14.4%
41 and older	3.0%	9.9%	14.3%	32.4%	1	14.6%	10.3%	31.5%	7.5%	19.6%
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Total	49.3%	52.3%	26.1%	18.7%	3.0%	4.6%	21.6%	24.5%	100.0%	100.0%

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Table 11 (continued)

**Distribution of Defendants in Non-Felony, Non-VTL, Summary-Arrest Cases
by Age Group and Criminal History in Selected Crime Categories in 1989 and 1998***

Charge- Type Category	Prior Adult Convictions									
	No Prior Convictions		Prior Misdemeanor Only		Prior Felony Only		Combined Priors		Total	
	1989	1998	1989	1998	1989	1998	1989	1998	1989	1998
<u>Sex:</u>										
16-20	10.5%	16.4%	7.0%	12.9%	1	2.9%	8.9%	0.4%	8.7%	12.9%
21-25	22.1%	22.6%	25.4%	24.1%	1	23.5%	42.4%	6.0%	36.6%	20.9%
26-30	27.9%	14.5%	40.4%	17.5%	1	20.6%	29.7%	26.3%	31.5%	17.1%
31-35	23.3%	15.6%	18.4%	20.3%	1	23.5%	14.1%	27.2%	16.0%	18.7%
36-40	12.8%	12.4%	6.1%	13.4%	1	2.9%	4.4%	24.6%	5.9%	14.1%
41 and older	3.5%	18.5%	2.6%	11.8%	1	26.5%	0.5%	15.5%	1.3%	16.2%
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Total	13.6%	53.9%	18.1%	30.8%	0.6%	2.0%	67.7%	13.3%	100.0%	100.0%
<u>Harm To Persons:</u>										
16-20	12.5%	18.1%	6.2%	7.6%	12.5%	8.8%	4.5%	1.3%	10.4%	14.0%
21-25	20.4%	18.4%	22.2%	14.1%	25.0%	24.5%	15.2%	9.6%	20.2%	17.3%
26-30	19.8%	17.1%	19.8%	12.4%	41.7%	18.6%	28.8%	16.5%	22.0%	16.5%
31-35	17.1%	16.4%	23.5%	18.4%	12.5%	20.3%	22.7%	25.2%	18.6%	18.0%
36-40	12.5%	11.8%	17.3%	18.1%	8.3%	12.7%	13.6%	22.0%	13.2%	13.9%
41 and older	17.7%	18.1%	11.1%	29.3%	0.0%	15.0%	15.2%	25.3%	15.4%	20.2%
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Total	65.7%	67.7%	16.2%	13.0%	4.8%	7.3%	13.2%	12.0%	100.0%	100.0%
<u>Misconduct:</u>										
16-20	22.3%	26.4%	5.8%	9.2%	7.4%	8.9%	2.4%	1.2%	13.1%	15.9%
21-25	21.4%	15.7%	21.2%	9.9%	29.6%	24.2%	23.2%	6.3%	22.1%	12.9%
26-30	19.5%	12.8%	24.1%	12.8%	29.6%	18.1%	22.0%	14.0%	21.9%	13.4%
31-35	14.1%	14.1%	13.1%	18.8%	14.8%	18.1%	24.4%	23.3%	15.7%	17.5%
36-40	8.6%	12.0%	11.7%	18.2%	7.4%	13.5%	13.4%	25.2%	10.3%	16.4%
41 and older	14.1%	18.9%	24.1%	31.0%	11.1%	17.1%	14.6%	30.0%	17.0%	23.8%
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Total	47.2%	49.9%	29.4%	20.5%	5.8%	6.6%	17.6%	23.0%	100.0%	100.0%

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Table 11 (continued)

**Distribution of Defendants in Non-Felony, Non-VTL, Summary-Arrest Cases
by Age Group and Criminal History in Selected Crime Categories in 1989 and 1998***

Charge- Type Category	Prior Adult Convictions									
	No Prior Convictions		Prior Misdemeanor Only		Prior Felony Only		Combined Priors		Total	
	1989	1998	1989	1998	1989	1998	1989	1998	1989	1998
<u>Obstruction of Justice:</u>										
16-20	16.7%	22.4%	7.1%	7.3%	8.3%	10.7%	5.7%	2.2%	11.7%	15.2%
21-25	20.6%	17.6%	19.6%	11.1%	25.0%	22.7%	14.3%	9.3%	19.5%	15.2%
26-30	16.7%	15.1%	28.6%	12.8%	33.3%	16.0%	28.6%	15.9%	22.9%	14.9%
31-35	16.7%	14.2%	19.6%	14.1%	0.0%	16.0%	22.9%	27.0%	17.6%	16.6%
36-40	15.7%	11.8%	14.3%	22.2%	25.0%	8.0%	11.4%	18.1%	15.1%	14.7%
41 and older	13.7%	18.8%	10.7%	32.5%	8.3%	26.7%	17.1%	27.4%	13.2%	23.4%
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Total	49.8%	57.0%	27.3%	18.8%	5.9%	6.0%	17.1%	18.2%	100.0%	100.0%
<u>Other:</u>										
16-20	5.8%	11.0%	0.0%	2.9%	12.5%	8.9%	0.0%	1.0%	3.4%	6.4%
21-25	17.3%	16.1%	13.5%	8.7%	12.5%	16.7%	4.5%	3.5%	13.4%	11.1%
26-30	21.2%	13.8%	27.0%	7.0%	37.5%	17.8%	18.2%	10.6%	23.5%	11.5%
31-35	28.8%	15.0%	27.0%	16.2%	0.0%	16.7%	31.8%	22.2%	26.9%	17.1%
36-40	9.6%	17.3%	10.8%	25.6%	12.5%	8.9%	22.7%	21.9%	12.6%	20.1%
41 and older	17.3%	26.7%	21.6%	39.6%	25.0%	31.1%	22.7%	40.8%	20.2%	33.7%
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Total	43.7%	44.2%	31.1%	25.6%	6.7%	5.6%	18.5%	24.6%	100.0%	100.0%
<u>All Cases:</u>										
16-20	13.4%	30.6%	6.4%	8.1%	9.3%	9.4%	2.6%	1.6%	9.3%	18.9%
21-25	22.3%	19.5%	20.6%	12.7%	22.0%	22.5%	19.1%	6.8%	21.2%	15.7%
26-30	23.1%	13.3%	28.1%	12.5%	27.8%	18.5%	25.8%	14.9%	25.2%	13.8%
31-35	19.2%	12.0%	21.8%	18.5%	17.2%	19.4%	24.3%	24.0%	20.8%	16.2%
36-40	10.6%	9.9%	12.5%	19.4%	15.4%	13.1%	16.5%	23.7%	12.5%	14.9%
41 and older	11.4%	14.6%	10.6%	28.8%	8.4%	17.2%	11.7%	29.0%	11.1%	20.5%
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Total	49.4%	54.1%	26.7%	18.7%	4.7%	5.8%	19.2%	21.4%	100.0%	100.0%

* Percentage distributions are based only on cases in which both age and criminal record were known. Cases for which criminal history was unknown or missing are excluded.

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Table 12

Distribution of Defendants in Non-Felony, Non-VTL, Summary-Arrest Cases by Age Group and Criminal History in Selected Crime Categories in 1989 and 1998

Charge-Type Category	Prior Adult Convictions									
	No Prior Convictions		Prior Misdemeanor Only		Prior Felony Only		Combined Priors		Total	
	1989	1998	1989	1998	1989	1998	1989	1998	1989	1998
<u>Drugs:</u>										
16-20	2,218	12,686	495	982	128	439	112	321	2,953	14,428
21-25	4,070	8,103	1,596	1,675	335	1,077	1,468	1,244	7,469	12,099
26-30	4,501	4,642	2,250	1,624	415	819	1,676	2,395	8,842	9,480
31-35	3,814	3,897	1,835	2,258	415	860	1,692	3,598	7,756	10,613
36-40	2,059	3,546	1,181	2,395	319	616	1,053	3,823	4,612	10,380
41 and older	1,915	4,874	686	3,749	144	801	798	4,672	3,543	14,096
Total	18,577	37,748	8,043	12,683	1,756	4,612	6,799	16,053	35,175	71,096
<u>Property:</u>										
16-20	702	2,734	367	262	80	63	96	41	1,245	3,100
21-25	1,149	1,244	1,005	347	96	55	543	192	2,793	1,838
26-30	1,213	1,074	1,325	480	112	96	1,021	624	3,671	2,274
31-35	830	764	1,181	697	48	111	878	1,162	2,937	2,734
36-40	367	542	559	738	80	70	670	945	1,676	2,295
41 and older	351	841	415	745	32	59	271	1,004	1,069	2,649
Total	4,612	7,199	4,852	3,269	448	454	3,479	3,968	13,391	14,890
<u>Fraud:</u>										
16-20	112	5,273	32	343	16	77	48	70	208	5,763
21-25	367	2,325	96	443	16	229	80	273	559	3,270
26-30	287	1,317	207	380	0	214	48	734	542	2,645
31-35	207	1,144	128	867	16	221	112	1,410	463	3,642
36-40	48	871	16	897	16	166	128	1,399	208	3,333
41 and older	32	1,199	80	1,402	0	155	48	1,786	160	4,542
Total	1,053	12,129	559	4,332	64	1,062	464	5,672	2,140	23,195

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Table 12 (continued)

Distribution of Defendants in Non-Felony, Non-VTL, Summary-Arrest Cases by Age Group and Criminal History in Selected Crime Categories in 1989 and 1998

Charge-Type Category	Prior Adult Convictions									
	No Prior Convictions		Prior Misdemeanor Only		Prior Felony Only		Combined Priors		Total	
	1989	1998	1989	1998	1989	1998	1989	1998	1989	1998
<u>Sex:</u>										
16-20	144	568	128	255	0	4	0	4	272	831
21-25	303	782	463	476	32	30	64	52	862	1,340
26-30	383	502	734	347	32	26	112	225	1,261	1,100
31-35	319	539	335	402	0	30	48	232	702	1,203
36-40	176	428	112	266	0	4	32	210	320	908
41 and older	48	638	48	232	0	33	16	133	112	1,036
Total	1,373	3,457	1,820	1,978	64	127	272	856	3,529	6,418
<u>Harm To Persons:</u>										
16-20	654	2,520	80	203	48	133	48	33	830	2,889
21-25	1,069	2,568	287	376	96	369	160	236	1,612	3,549
26-30	1,037	2,384	255	332	160	280	303	406	1,755	3,402
31-35	894	2,291	303	491	48	306	239	620	1,484	3,708
36-40	654	1,649	223	483	32	192	144	542	1,053	2,866
41 and older	926	2,520	144	782	0	225	160	624	1,230	4,151
Total	5,234	13,932	1,292	2,667	384	1,505	1,054	2,461	7,964	20,565
<u>Misconduct:</u>										
16-20	782	2,085	128	299	32	92	32	44	974	2,520
21-25	750	1,236	463	321	128	251	303	229	1,644	2,037
26-30	686	1,011	527	413	128	188	287	509	1,628	2,121
31-35	495	1,114	287	609	64	188	319	849	1,165	2,760
36-40	303	948	255	590	32	140	176	919	766	2,597
41 and older	495	1,494	527	1,004	48	177	192	1,092	1,262	3,767
Total	3,511	7,888	2,187	3,236	432	1,036	1,309	3,642	7,439	15,802

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Table 12 (continued)

Distribution of Defendants in Non-Felony, Non-VTL, Summary-Arrest Cases by Age Group and Criminal History in Selected Crime Categories in 1989 and 1998

Charge-Type Category	Prior Adult Convictions									
	No Prior Convictions		Prior Misdemeanor Only		Prior Felony Only		Combined Priors		Total	
	1989	1998	1989	1998	1989	1998	1989	1998	1989	1998
<u>Obstruction of Justice:</u>										
16-20	271	587	64	63	16	30	32	18	383	698
21-25	335	461	176	96	48	63	80	77	639	697
26-30	271	395	255	111	64	44	160	133	750	683
31-35	271	373	176	122	0	44	128	225	575	764
36-40	255	310	128	192	48	22	64	151	495	675
41 and older	223	491	96	280	16	74	96	229	431	1,074
Total	1,626	2,617	895	864	192	277	560	833	3,273	4,591
<u>Other:</u>										
16-20	48	292	0	44	16	30	0	15	64	381
21-25	144	424	80	133	16	55	16	52	256	664
26-30	176	365	160	107	48	59	64	155	448	686
31-35	239	395	160	247	0	55	112	325	511	1,022
36-40	80	458	64	391	16	30	80	321	240	1,200
41 and older	144	705	128	605	32	103	80	598	384	2,011
Total	831	2,639	592	1,527	128	332	352	1,466	1,903	5,964
<u>All Cases*:</u>										
16-20	5,123	27,217	1,309	2,487	335	893	383	554	7,150	31,151
21-25	8,491	17,365	4,245	3,930	798	2,137	2,825	2,395	16,359	25,827
26-30	8,794	11,845	5,793	3,841	1,005	1,756	3,814	5,247	19,406	22,689
31-35	7,326	10,668	4,501	5,712	622	1,845	3,591	8,472	16,040	26,697
36-40	4,038	8,819	2,570	5,993	559	1,251	2,442	8,369	9,609	24,432
41 and older	4,357	13,007	2,187	8,867	303	1,635	1,724	10,207	8,571	33,716
Total	38,129	88,921	20,605	30,830	3,622	9,517	14,779	35,244	77,135	164,512

* Includes cases in all crime categories including those not shown.

of cases among the age groups for defendants without prior criminal convictions could be accounted for by modest changes in charge characteristics. Overall there were about one and one-half times more cases in 1998 than in 1989 in which defendants in property-crime cases had no prior adult criminal convictions. However, there were almost four times as many defendants in the 16-20 year age group in 1998 (2,734) than in 1989 (702), while the actual number of defendants in the 26-30 and 31-35 age groups was actually less in 1998 than in 1989, among cases in which defendants had no prior criminal convictions.

At the other end of the criminal history spectrum, where among all cases there were less than two and a half times more cases in which defendants had prior adult convictions for crimes of both misdemeanor and felony severities than in 1989 (32,244 versus 14,779 respectively), the number of cases in which defendants were in the 41 and older age group was almost six times larger in 1998 than in 1989 (10,207 versus 1,724). The drug and property crime categories again illustrate the pattern seen in a number of crime categories, that recidivist defendants, especially among those with prior convictions for crimes of both misdemeanor and felony severities, were proportionately older in 1998 than in 1989.

As part of its pre-arraignment interview process to determine if there are sufficient community ties to make a release-on-recognizance (ROR) recommendation, CJA staff review defendants' criminal histories to determine if there are any outstanding bench warrants from pending cases in the adult court system. As a matter of Agency policy the presence of such a warrant precludes any release-recommendation determination. **Table 13** compares the annualized numbers and percentages of cases in which CJA designated defendants ineligible for a release recommendation because of a bench warrant, for all cases and for cases within selected crime categories.

The overall warrant rate in 1989 was almost twice that of 1998, 24.4 percent versus 13.2 percent, and this difference was sufficiently great that there were only about 3,200 more cases in 1998 than in 1989 in which a defendant was found to have a bench warrant at the time of the studied arrest. A larger warrant rate in 1989 than in 1998 was found in every category except "other crimes." There was great variation in warrant rates within crime categories in each year, and between the two years. In 1989, the largest percentage of cases with defendants with bench warrants was in the property crime category (41.5%) and the smallest was in the other-crimes category. In the 1998 data, other crimes had the largest percentage of cases with outstanding bench warrants (23.5%) and defendants in sex-crimes cases had the lowest warrant rate.

When the data were annualized, the greatest number of cases of defendants with bench warrants in both years was in the drug category, but the far smaller percentage of such cases resulted in only about 1,500 more defendants in drug cases in 1998 being found with an outstanding bench warrant. The fraud category, in which fare evasion was the most commonly charged offense, shows the greatest numerical difference in the number of bench warrant cases. Because of volume differences between the two years in this crime category, the smaller percentage of bench warrant cases in 1998 still resulted in the number of defendants with bench warrants that was more than seven times greater in 1998 than in 1989, 3,646 and 495, respectively.

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Table 13

**Bench Warrant Characteristics of Defendants
in Non-Felony, Non-VTL, Summary-Arrest Cases:
Annualized 1989 and 1998 Data**

Crime Category	1989		1998	
	N	%	N	%
Drug	7,980	22.6%	9,553	13.2%
Property	5,634	41.5%	2,111	13.7%
Fraud	495	23.0%	3,646	15.2%
Sex Crimes	702	21.6%	601	9.1%
Harm To Persons	1,181	14.7%	1,601	7.7%
Misconduct	1,724	22.2%	2,332	14.0%
Obstructing Justice	591	17.1%	679	14.7%
Other Crimes	463	14.0%	1,823	23.5%
Weapon	495	21.4%	162	8.1%
All Cases*	19,296	24.4%	22,516	13.2%

* Includes cases in all crime categories including those not shown.

Case Processing: Criminal Court Dispositions

Table 14 shows the differences between the two years in regard to both the type of final disposition, and whether cases were completed at or subsequent to the Criminal Court arraignment. Although in total a greater number of defendants in prosecuted non-felony summary-arrest cases were convicted in the 1998 (104,357) than in the 1989 annualized data (62,468), the conviction rate was thirteen percentage points smaller in 1998 (59.2%) than in 1989 (72.2%). In 1989 convictions were about three times, and in 1998 almost four times, more likely to occur by a guilty plea at arraignment than by a post-arraignment conviction, virtually all of which also were pleas rather than trial findings of guilt. (There were trial findings of guilt in only 1,469, or 2.4%, of the cases with a conviction outcome in 1989, and in 1,739, or 1.7% of the cases in the annualized 1998 data.)

Table 14 also illustrates the extent to which the use of the ACD was far more prevalent, and its proportionally greater use as a means of case disposition at arraignment, in 1998 than in 1989. In 1998, 52,956, or 30 percent of the cases were disposed by an ACD, more than four of every five of which occurred at the arraignment appearance. In comparison, in the annualized 1989 data, 9,895, or 11.4 percent, of the study cases had an ACD, and the occurrence of this outcome was only slightly more likely at, rather than post, arraignment. By contrast, outright dismissals were most likely to occur at a post-arraignment appearance in both time periods, and there were only several thousand more dismissals in the 1989 cases than in the 1998 cases, even though there were a smaller percentage of dismissals in the later period.

Table 15 shows the type of final Criminal Court outcome in each year (excluding the small number of cases for which the outcome was unknown), and then for each of the ten CJA crime categories used to characterize cases by arrest charge in this research project. In spite of an overall lower conviction rate in 1998 in comparison to 1989, given the larger volume of cases in 1998 than in 1989, almost 42,000 more cases in the latter time period had a conviction outcome. This pattern, of larger numbers of cases in 1998 than in 1989 resulting in a Criminal Court conviction even though the percentage of cases with a conviction was smaller, was replicated in all but three crime categories. Only in the harm-to-persons and weapon categories were the conviction rates higher in the annualized 1998 cases, and in the latter category the actual number of cases in which defendants were convicted was greater in 1989 than in 1998, due in part to the somewhat larger number of summary-arrest cases in this crime category in the earlier time period.

In addition, because of the far greater prevalence of ACD outcomes in the 1998 data, more than five times as many prosecuted non-felony cases in the annualized 1998 data, than in the 1989 data, had an ACD outcome; 52,956 cases in 1998 in comparison to 9,894 cases in 1989. By contrast, there were fewer than 6,000 more cases with a disposition of an outright dismissal in 1998 than in 1989, 15,745 versus 10,040. These comparisons help to underscore the differences in outcomes between the two periods. Because there were about twice as many prosecuted non-felony summary-arrest cases in 1998 than in 1989, if disposition patterns had remained unchanged, the number of cases in each disposition category would have been about twice as large in 1998 than in 1989.

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Table 14

**Criminal Court Outcomes in
Non-Felony, Non-VTL, Summary-Arrest Cases:
Annualized 1989 and 1998 Data**

OUTCOMES	1989		1998	
	N	%	N	%
Conviction				
Arraignment	46,747	54.1%	82,280	46.6%
Post-Arraignment	15,721	18.2%	22,077	12.5%
Subtotal Convictions	62,468	72.2%	104,357	59.2%
ACD				
Arraignment	5,442	6.3%	43,273	24.5%
Post-Arraignment	4,453	5.1%	9,683	5.5%
Subtotal ACDs	9,895	11.4%	52,956	30.0%
Dismissal				
Arraignment	1,596	1.8%	2,860	1.6%
Post-Arraignment	8,443	9.8%	12,885	7.3%
Subtotal Dismissals	10,039	11.6%	15,745	8.9%
Other Dispositions				
Warrant Order	3,846	4.4%	2,155	1.2%
Pending	192	0.2%	1,096	0.6%
Other Outcomes*	32	0.0%	107	0.1%
Subtotal Other Dispositions	4,070	4.7%	3,358	1.9%
Total**	86,472	100.0%	176,416	100.0%

* This category includes all transfers to other court jurisdictions, such as the Family Court, which may have occurred at or subsequent to the Criminal Court arraignment appearance, but excludes the small number of cases with an unknown case status at the time the data sets were created.

** Total may not equal 100.0% due to rounding.

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Table 15

**Criminal Court Outcomes,
by Arrest Crime Category, in Non-Felony, Non-VTL,
Summary-Arrest Cases in the Annualized 1989 and 1998 Data¹**

Crime Category	1989		1998	
	N	%	N	%
<u>Drugs:</u>				
Conviction	27,946	78.3%	45,941	61.8%
ACD	3,016	8.4%	24,764	33.3%
Dismissal/Acquittal	2,953	8.3%	2,900	3.9%
Other*	1,788	5.0%	715	1.0%
Total ²	35,703	100.0%	74,320	100.0%
<u>Property Crime:</u>				
Conviction	10,773	79.5%	12,088	76.2%
ACD	766	5.7%	2,642	16.7%
Dismissal/Acquittal	1,229	9.1%	738	4.7%
Other	782	5.8%	395	2.5%
Total	13,550	100.0%	15,863	100.0%
<u>Fraud:</u>				
Conviction	1,740	79.6%	15,550	63.3%
ACD	303	13.9%	8,539	34.7%
Dismissal/Acquittal	96	4.4%	362	1.5%
Other	48	2.2%	129	0.5%
Total	2,187	100.0%	24,580	100.0%
<u>Sex Crimes:</u>				
Conviction	9,209	91.3%	6,007	77.4%
ACD	431	4.3%	1,395	18.0%
Dismissal/Acquittal	367	3.6%	196	2.5%
Other	80	0.8%	167	2.2%
Total	10,087	100.0%	7,765	100.0%
<u>Harm to Persons:</u>				
Conviction	2,426	29.7%	7,262	33.6%
ACD	2,362	29.0%	5,210	24.1%
Dismissal/Acquittal	2,809	34.4%	7,989	36.9%
Other	559	6.9%	1,173	5.4%
Total	8,156	100.0%	21,634	100.0%

¹ The numbers of cases shown, and the percentage calculations, exclude the small number of cases for which the court outcome was not known.

² The total in each category may not equal 100.0% due to rounding.

* "Other" outcome in each crime category includes non-disposed cases, most of which had a warrant ordered for the defendant, as well as cases transferred to other court jurisdictions for final disposition.

Table 15 (continued)
Criminal Court Outcomes,
by Arrest Crime Category, in Non-Felony, Non-VTL,
Summary-Arrest Cases in the Annualized 1989 and 1998 Data

Crime Category	1989		1998	
	N	%	N	%
<u>Misconduct:</u>				
Conviction	4,964	63.1%	9,952	57.8%
ACD	1,468	18.7%	5,136	29.8%
Dismissal/Acquittal	1,165	14.8%	1,793	10.4%
Other	271	3.4%	332	1.9%
Total	7,868	100.0%	17,213	100.0%
<u>Obstruction of Justice:</u>				
Conviction	2,011	57.8%	2,358	47.6%
ACD	702	20.2%	1,399	28.2%
Dismissal/Acquittal	575	16.5%	930	18.8%
Other	192	5.5%	270	5.4%
Total	3,480	100.0%	4,957	100.0%
<u>Other Crimes:</u>				
Conviction	2,282	69.1%	4,111	51.3%
ACD	351	10.6%	3,432	42.8%
Dismissal/Acquittal	303	9.2%	387	4.8%
Other	368	11.1%	85	1.1%
Total	3,304	100.0%	8,015	100.0%
<u>Weapon:</u>				
Conviction	1,085	46.5%	1,066	52.1%
ACD	479	20.5%	432	21.1%
Dismissal/Acquittal	543	23.3%	450	22.0%
Other	224	9.6%	99	4.8%
Total	2,331	100.0%	2,047	100.0%
<u>Harm to Persons and Property:</u>				
Conviction	80	83.3%	22	66.7%
ACD	16	16.7%	7	21.2%
Dismissal/Acquittal	0	0.0%	0	0.0%
Other	0	0.0%	4	12.1%
Total	96	100.0%	33	100.0%
<u>All Cases:</u>				
Conviction	62,516	72.1%	104,357	59.2%
ACD	9,894	11.4%	52,956	30.0%
Dismissal/Acquittal	10,040	11.6%	15,745	8.9%
Other	4,312	5.0%	3,369	1.9%
Total	86,762	100.0%	176,427	100.0%

It also is interesting to note how the differences in the two time periods in the relative percentage of cases among the crime categories affected the annualized volume and the comparative numbers of cases in the different disposition categories. For example, the number of cases in the property crime category, which had the second largest proportion of prosecuted misdemeanor and lesser-severity summary-arrest cases in the 1989 data, but the fifth largest proportion of cases in the 1998 data, had an estimated annual volume of only several thousand fewer cases in 1989. In addition, the conviction rate was fairly comparable in both time periods. This is in striking comparison to the fraud category, which had the second smallest percentage of cases in 1989, but the second largest percentage of cases in the 1998 data. In annualized numbers, this represents a volume of cases in 1998 that was more than ten times larger than in 1989. In the sex-crimes category, which had the third largest proportion of prosecuted non-felony summary-arrest cases in the 1989 data, in comparison to being only the seventh largest category in the 1998 data, there were still almost two and one-half times more cases in 1998 than in 1989, and almost twice as many cases in which defendants were convicted in the later period even though there was a lower conviction rate.

Criminal history also is a factor in the likelihood of conviction. As shown on Table 16, in cases for which defendant criminal history was available, defendants without prior criminal convictions were least likely to be convicted in both time periods. However, given the far larger number of cases of defendants without prior convictions in the 1998 data, the twenty percentage point lower conviction rate still resulted in a more than fifty percent increase in the actual number of cases in which defendants in this criminal history category were convicted in 1998 in comparison to 1989, 36,262 in 1998 versus 23,445 in 1989. Conversely, cases of defendants with prior adult convictions for crimes of both misdemeanor and felony severity were the most likely to be convicted. With larger volume, greater proportion of cases which had defendants with prior convictions of both felony and misdemeanor severity, and on average more combined total convictions which may contribute to even higher conviction rates, there were more than two and a half times more cases of convicted defendants in this criminal history category in the 1998 annualized set in comparison to 1989, 30,166 cases in 1998 in comparison to 11,475 cases in 1989.

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Table 16

**Criminal Court Outcome for Non-Felony, Non-VTL, Summary-Arrest Cases
by Defendant Criminal History: Annualized 1989 and 1998 Data**

Charge- Type Category	Prior Adult Convictions									
	No Prior Convictions		Prior Misdemeanor Only		Prior Felony Only		Combined Priors		Total	
	N	%	N	%	N	%	N	%	N	%
<u>1989</u>										
Conviction	23,445	61.5%	17,364	84.3%	2,426	67.0%	11,475	77.6%	54,710	70.9%
ACD	7,278	19.1%	782	3.8%	271	7.5%	606	4.1%	8,937	11.6%
Dismissal	4,995	13.1%	1,899	9.2%	654	18.1%	2,043	13.8%	9,591	12.4%
Not Disposed	2,346	6.2%	559	2.7%	255	7.0%	670	4.5%	3,830	5.0%
Other	48	0.1%	0	0.0%	16	0.4%	0	0.0%	64	0.1%
Total	38,112	100.0%	20,604	100.0%	3,622	100.0%	14,794	100.0%	77,132	100.0%
	49.4%		26.7%		4.7%		19.2%		100.0%	
<u>1998</u>										
Conviction	36,262	40.7%	25,085	81.2%	6,450	67.7%	30,166	85.4%	97,963	59.4%
ACD	42,092	47.2%	2,982	9.7%	1,653	17.4%	2,221	6.3%	48,948	29.7%
Dismissal	8,956	10.0%	2,314	7.5%	1,203	12.6%	2,358	6.7%	14,831	9.0%
Not Disposed	1,771	2.0%	509	1.6%	202	2.1%	554	1.6%	3,036	1.8%
Other	48	0.1%	7	0.0%	15	0.2%	15	0.0%	85	0.1%
Total	89,129	100.0%	30,897	100.0%	9,523	100.0%	35,314	100.0%	164,863	100.0%
	54.1%		18.7%		5.8%		21.4%		100.0%	

Case Processing: Charge Change in Cases with a Conviction Outcome

An issue related to conviction is the different consequences defendants face depending upon the severity of the conviction charge. First, the severity of the conviction charge affects the maximum amount of jail time and other potential sanctions. In New York State's Penal Law, misdemeanor crimes are classified as being of either A- or B-severity, and conviction for an A-misdemeanor crime can result in a jail sentence of up to one year, while conviction for a B-misdemeanor crime can result in a jail sentence no longer than three months. Violation severity charges in the Penal Law, and lesser-severity offenses classified in law sources such as City codes and ordinances, may carry a maximum period of incarceration of no more than fifteen days. Maximum fine amounts, other financial penalties such as court fees, and length of other sanctions or periods of continued supervision by the criminal justice system, also vary in relation to the severity of the charge, with A-misdemeanor crimes carrying the highest potential penalties.

Second, a conviction for a "crime" that becomes part of an offender's official criminal record requires that the severity of the conviction charge be at least of misdemeanor (or misdemeanor-equivalent) severity; conviction charges of lesser severity in the Penal Law, VTL, or in local law codes, normally result in the sealing of all arrest and court records of the case after compliance with all sanctions imposed for the conviction.

Table 17A displays the severity of the disposition charge for the cases in 1989 and 1998 in which defendants were convicted, and their relationship to the arrest-charge severity. If one combines the percentages of cases in each period in which defendants were convicted of a "crime," i.e., by a conviction charge severity of an A- or B-misdemeanor, the somewhat lower percentage in 1998—44.8 percent, in comparison to 47.6 percent in 1989— still yields an actual number of cases with a criminal conviction that is more than fifty percent greater in 1998 than in 1989; 46,742 cases in the annualized 1998 data versus 29,781 cases in the annualized 1989 data.

It is interesting to note the similarities for A-misdemeanor cases in the two time periods in the overall proportion of cases in which there was an A-misdemeanor severity conviction charge, and the percentage of cases in which both the arrest and conviction charge severities were of A-misdemeanor severity. Among the cases in which the defendants were convicted, there was an overall A-misdemeanor severity conviction charge in 34.4 percent of the cases with a conviction in 1989, and in 35.8 percent of the cases in 1998, and the percentage of cases in which the A-misdemeanor severity arrest charge resulted in a conviction of a charge of the same severity was 44.6 percent in 1989 and 46.0 percent in 1998. However, because of the much larger volume of cases in 1998, the actual number of convictions for a crime of A-misdemeanor severity was about seventy percent (or almost 16,000 cases) greater, 21,498 cases in 1989 versus 37,318 cases in 1998.

Unlike the A-misdemeanor cases there were noticeable differences in the patterns between the two time periods in regard to B-misdemeanor severity cases. A smaller proportion of the annualized 1989 non-felony summary-arrest cases had a B-misdemeanor severity conviction charge, and the likelihood of charge reduction for

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Table 17A

Change Between Arrest-Charge and Conviction-Charge Severities for Prosecuted
Non-Felony, Non-VTL, Summary-Arrest Cases: Annualized 1989 and 1998 Data

1989 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	21,051	44.6%	3,447	7.3%	22,041	46.7%	559	1.2%	112	0.2%
B Misdemeanor	176	2.5%	4,325	61.4%	1,979	28.1%	559	7.9%	0	0.0%
Violation/Infraction	16	1.0%	128	7.6%	1,165	69.5%	367	21.9%	0	0.0%
Unknown/Not Available	255	3.9%	383	5.8%	1,564	23.7%	4,389	66.6%	0	0.0%
Total**	21,498	34.4%	8,283	13.2%	26,749	42.8%	5,874	9.4%	112	0.2%
									47,210	100.0%
									7,039	100.0%
									1,676	100.0%
									6,591	100.0%
									62,516	100.0%

1998 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	36,830	46.0%	3,424	4.3%	39,468	49.3%	177	0.2%	200	0.2%
B Misdemeanor	458	2.4%	5,911	31.5%	12,288	65.6%	55	0.3%	30	0.2%
Violation/Infraction	30	2.1%	85	6.1%	1,125	80.2%	162	11.6%	0	0.0%
Unknown/Not Available	0	0.0%	4	0.1%	2,749	67.1%	1,343	32.8%	0	0.0%
Total**	37,318	35.8%	9,424	9.0%	55,630	53.3%	1,737	1.7%	230	0.2%
									80,099	100.0%
									18,742	100.0%
									1,402	100.0%
									4,096	100.0%
									104,339	100.0%

* Other disposition charge severities include cases in which the conviction charge severity was for an unclassified misdemeanor or was missing.

** Totals may not equal 100.0% due to rounding.

conviction of a B-misdemeanor severity arrest charge was far greater in the 1998 annualized data. Overall, the percentage of cases with a B-misdemeanor conviction charge was 13.2 percent in the 1989 data in comparison to 9.0 percent in the 1998 data. In addition, cases with a B-misdemeanor arrest-charge severity were almost twice as likely to remain at this severity level upon conviction in 1989 than in the B-misdemeanor severity cases in the 1998 period, 61.4 percent in 1989 versus 31.5 percent in 1998. These proportional differences were sufficiently great that there was only about a ten percent increase in the actual number of cases in 1998 in which defendants were convicted of a B-misdemeanor severity charge.

Although the overall trends for A-misdemeanor severity cases are comparatively more similar than for B-misdemeanor severity cases, there are differences in patterns when arrest and conviction charge severities are compared within arrest crime categories. Tables 17B through 17H show the relationship between arrest and conviction charge severities in the cases in which defendants were convicted in selected crime categories in 1989 and 1998. For example, Table 17B examines the relationship between arrest and conviction charge severities in the annualized cases in the drug crime category. One finds that about the same proportion of drug cases had defendants convicted of A- or B- severity conviction charges combined, 45.4% in 1989 and 46.3% in 1998. However, because of the volume difference between the two years, the effect was about a seventy percent larger number of cases in 1998, in comparison to 1989, in which defendants had a new adult conviction for a crime as a result of the conviction in the study case, 21,258 and 12,627 respectively. This table also shows that in the 1998 drug cases convicted defendants prosecuted in A-misdemeanor summary-arrest cases were *more* likely to have an A-misdemeanor conviction charge than convicted defendants in A-misdemeanor drug cases in 1989. However, convicted defendants in prosecuted B-misdemeanor drug cases in 1998 were far *less* likely than in 1989 to have a misdemeanor-severity conviction charge.

Tables 17C and 17D, showing charge severity change in cases in which defendants were convicted in the property and fraud categories, respectively, present a different contrast between the two time periods. As previously noted, these were two crime categories in which there were substantial changes in volume. In 1989 the proportion of property crime cases, the majority of which were arrests for the A-misdemeanor severity crime of shoplifting, was far greater than in 1998. Conversely, the proportion of fraud crime category cases was substantially greater in the later time period, and over 90 percent of these arrests in 1998, and over 75 percent in 1989, were for the A-misdemeanor theft-of-services charge. Because of the different volume, and the different percentages for which the conviction was for a "crime," i.e., of A- or B-misdemeanor severity, there were about 1,200, or about 15 percent, *fewer* cases in 1998 in the property crime category in which the convicted defendant had a new conviction for a crime, but 7,500, or almost *eleven times, more* cases in which defendants were convicted of a crime in the fraud crime category in 1998 in comparison to 1989.

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Table 17B

Change Between Arrest-Charge and Conviction-Charge Severities for
Prosecuted Non-Felony DRUG Cases: Annualized 1989 and 1998 Data

1989 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	9,991	36.7%	2,314	8.5%	14,811	54.4%	64	0.2%	64	0.2%
B Misdemeanor	32	5.1%	319	51.3%	271	43.6%	0	0.0%	0	0.0%
Violation/Infraction	0	0.0%	16	20.0%	64	80.0%	0	0.0%	0	0.0%
Total**	10,023	35.9%	2,649	9.5%	15,146	54.2%	64	0.2%	64	0.2%
									27,946	100.0%

1998 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	16,398	47.6%	1,258	3.7%	16,668	48.4%	33	0.1%	104	0.3%
B Misdemeanor	170	1.5%	3,376	30.3%	7,579	68.0%	4	0.0%	15	0.1%
Violation/Infraction	4	1.2%	52	16.0%	232	71.4%	37	11.4%	0	0.0%
Total**	16,572	36.1%	4,686	10.2%	24,479	53.3%	74	0.2%	119	0.3%
									45,930	100.0%

* Other disposition charge severities include cases in which the conviction charge severity was for an unclassified misdemeanor or was missing.

** Totals may not equal 100.0% due to rounding.

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Table 17C

Change Between Arrest-Charge and Conviction-Charge Severities for
Prosecuted Non-Felony PROPERTY Cases: Annualized 1989 and 1998 Data

1989 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	7,629	70.8%	495	4.6%	2,617	24.3%	32	0.3%	0	0.0%
B Misdemeanor	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total**	7,629	70.8%	495	4.6%	2,617	24.3%	32	0.3%	0	0.0%
									10,773	100.0%
									0	0.0%
									0	0.0%
									10,773	100.0%

1998 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	6,402	53.4%	458	3.8%	5,085	42.4%	18	0.2%	18	0.2%
B Misdemeanor	33	31.1%	18	17.0%	55	51.9%	0	0.0%	0	0.0%
Total**	6,435	53.2%	476	3.9%	5,140	42.5%	18	0.1%	18	0.1%
									11,981	100.0%
									106	100.0%
									12,087	100.0%

* Other disposition charge severities include cases in which the conviction charge severity was for an unclassified misdemeanor or was missing.

** Totals may not equal 100.0% due to rounding.

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Table 17D

Change Between Arrest-Charge and Conviction-Charge Severities for
Prosecuted Non-Felony FRAUD Cases: Annualized 1989 and 1998 Data

1989 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	654	40.6%	64	4.0%	814	50.5%	80	5.0%	0	0.0%
B Misdemeanor	16	50.0%	0	0.0%	16	50.0%	0	0.0%	0	0.0%
Unknown/Not Available	32	33.3%	0	0.0%	64	66.7%	0	0.0%	0	0.0%
Total**	702	40.3%	64	3.7%	894	51.4%	80	4.6%	0	0.0%
									1,740	100.0%

1998 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	8,055	52.5%	244	1.6%	6,970	45.4%	63	0.4%	15	0.1%
B Misdemeanor	7	3.5%	18	8.9%	159	78.7%	11	5.4%	7	3.5%
Unknown/Not Available	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total**	8,062	51.8%	262	1.7%	7,129	45.8%	74	0.5%	22	0.1%
									15,549	100.0%

* Other disposition charge severities include cases in which the conviction charge severity was for an unclassified misdemeanor or was missing.

** Totals may not equal 100.0% due to rounding.

Sex crimes is a category in which volume, composition of cases, and defendant characteristics were different in 1989 and 1998. In the proportionately larger volume of cases in this crime category in the 1989 data about half of the arrests were for loitering for the purposes for prostitution and about two-fifths were for the A-misdemeanor charge of prostitution. By contrast, in the 1998 cases, almost a quarter of the prosecuted summary-arrests were for the B-misdemeanor charge of patronizing a prostitute, in which cases the defendants were far less likely to have an adult criminal history. Although in absolute numbers there were fewer cases with a conviction in 1998 in comparison with 1989, and fewer cases in which defendants were convicted of a charge constituting a crime in spite of a much higher conviction rate, these differences in defendant characteristics may explain the substantially higher rate at which A-misdemeanor charges resulted in an A-misdemeanor conviction charge and a substantially higher rate of charge reduction upon conviction in a B-misdemeanor severity arrest cases in 1998 in comparison to the 1989 cases in the sex crimes category. (Table 17E)

In the harm-to-persons category, Table 17F, convicted defendants in A-misdemeanor cases in 1998 were less likely than in 1989 to have an A-misdemeanor severity conviction charge, although because of volume changes there still were almost one and a half times more cases in 1998 in which there was an arrest and conviction charge of A-misdemeanor severity. In both time periods there was a fairly comparable, and large, proportion of B-misdemeanor cases in which the conviction charge was reduced below misdemeanor severity.

In addition to the likelihood of conviction, prior criminal record also affected the likelihood of charge change, in almost all cases a reduction, between arrest-charge and conviction-charge severities. Table 18 shows the extent of charge change between arrest and conviction for the study cases in which there was a conviction, and for which defendant prior criminal conviction was available. Among cases in which convicted defendants had no prior adult criminal convictions, the vast majority in both 1989 and 1998 had a conviction charge severity less severe than a misdemeanor crime. In the annualized data for 1989, only somewhat more than a fifth (21.5%) of all convicted defendants with a prosecuted A-misdemeanor arrest charge also had an A-misdemeanor conviction charge, and the comparable proportion was little more than a tenth (11.8%) of all such cases in the 1998 data. Among cases in which convicted defendants had prior convictions for crimes of misdemeanor severity only, and were prosecuted for an A-misdemeanor severity offense, over two-thirds in both years also had an A-misdemeanor conviction charge. There also was only a small percentage of cases in both time periods in which convicted defendants prosecuted for an A-misdemeanor arrest charge, who had prior adult convictions for crimes of misdemeanor and felony severity, were convicted of a charge less severe than an A-misdemeanor. Although there were a higher percentage of cases with a charge reduction below misdemeanor severity when the conviction occurred in cases with a B-misdemeanor severity arrest charge, the percentages of cases with charge reduction varied by the criminal history category of the defendants.

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Table 17E

Change Between Arrest-Charge and Conviction-Charge Severities for
Prosecuted Non-Felony SEX CRIME Cases: Annualized 1989 and 1998 Data

1989 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	80	17.9%	16	3.6%	80	17.9%	271	60.6%	0	0.0%
B Misdemeanor	32	0.7%	3,543	79.0%	383	8.5%	527	11.8%	0	0.0%
Violation/Infraction	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Unknown/Not Available	96	2.2%	351	8.2%	192	4.5%	3,639	85.1%	0	0.0%
Total**	208	2.3%	3,910	42.5%	655	7.1%	4,437	48.2%	0	0.0%

1998 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	1,273	57.0%	391	17.5%	568	25.4%	0	0.0%	0	0.0%
B Misdemeanor	100	2.7%	1,469	38.9%	2,196	58.2%	0	0.0%	8	0.2%
Violation/Infraction	0	0.0%	0	0.0%	4	100.0%	0	0.0%	0	0.0%
Unknown/Not Available	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total**	1,373	22.8%	1,860	31.0%	2,768	46.1%	0	0.0%	8	0.1%

* Other disposition charge severities include cases in which the conviction charge severity was for an unclassified misdemeanor or was missing.

** Totals may not equal 100.0% due to rounding.

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Table 17F

Change Between Arrest-Charge and Conviction-Charge Severities for
Prosecuted Non-Felony HARM TO PERSONS Cases: Annualized 1989 and 1998 Data

1989 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	766	33.3%	192	8.4%	1,325	57.6%	0	0.0%	16	0.7%
B Misdemeanor	0	0.0%	32	25.0%	96	75.0%	0	0.0%	0	0.0%
Violation/Infraction	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total**	766	31.6%	224	9.2%	1,421	58.5%	0	0.0%	16	0.7%
									2,427	100.0%

1998 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	1,284	18.8%	624	9.1%	4,904	71.7%	0	0.0%	30	0.4%
B Misdemeanor	26	6.3%	85	20.5%	303	73.2%	0	0.0%	0	0.0%
Violation/Infraction	0	0.0%	0	0.0%	4	100.0%	0	0.0%	0	0.0%
Total**	1,310	18.0%	709	9.8%	5,211	71.8%	0	0.0%	30	0.4%
									7,260	100.0%

* Other disposition charge severities include cases in which the conviction charge severity was for an unclassified misdemeanor or was missing.

** Totals may not equal 100.0% due to rounding.

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Table 17G

Change Between Arrest-Charge and Conviction-Charge Severities for
Prosecuted Non-Felony MISCONDUCT Cases: Annualized 1989 and 1998 Data

1989 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	846	45.7%	80	4.3%	926	50.0%	0	0.0%	0	0.0%
B Misdemeanor	96	6.1%	383	24.2%	1,085	68.7%	16	1.0%	0	0.0%
Violation/Infraction	16	0.0%	112	0.0%	1,069	0.0%	335	0.0%	0	0.0%
Total**	958	19.3%	575	11.6%	3,080	62.0%	351	7.1%	0	0.0%

1998 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	2,513	42.4%	173	2.9%	3,218	54.3%	7	0.1%	15	0.3%
B Misdemeanor	111	3.7%	934	31.4%	1,893	63.7%	33	1.1%	0	0.0%
Violation/Infraction	26	2.5%	33	3.1%	878	83.2%	118	11.2%	0	0.0%
Total**	2,650	26.6%	1,140	11.5%	5,989	60.2%	158	1.6%	15	0.2%

* Other disposition charge severities include cases in which the conviction charge severity was for an unclassified misdemeanor or was missing.

** Totals may not equal 100.0% due to rounding.

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Table 17H

Change Between Arrest-Charge and Conviction-Charge Severities for
Prosecuted Non-Felony OBSTRUCTION OF JUSTICE Cases: Annualized 1989 and 1998 Data

1989 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	654	35.9%	112	6.2%	926	50.9%	96	5.3%	32	1.8%
B Misdemeanor	0	0.0%	48	25.0%	128	66.7%	16	8.3%	0	0.0%
Violation/Infraction	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total**	654	32.5%	160	8.0%	1,054	52.4%	112	5.6%	32	1.6%
									2,012	100.0%

1998 Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	616	27.6%	199	8.9%	1,358	61.0%	37	1.7%	18	0.8%
B Misdemeanor	11	8.8%	11	8.8%	96	76.8%	7	5.6%	0	0.0%
Violation/Infraction	0	0.0%	0	0.0%	4	100.0%	0	0.0%	0	0.0%
Total**	627	26.6%	210	8.9%	1,458	61.9%	44	1.9%	18	0.8%
									2,357	100.0%

* Other disposition charge severities include cases in which the conviction charge severity was for an unclassified misdemeanor or was missing.

** Totals may not equal 100.0% due to rounding.

Table 18

**Relationship Between Arrest-Charge and Conviction-Charge Severity, By Criminal History of Defendants
in Prosecuted Non-Felony, Non-VTL, Summary Cases: Annualized 1989 and 1998 Data**

No Prior Convictions:

Arrest-Charge Severity 1989	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	4,389	21.5%	1,341	6.6%	14,635	71.5%	32	0.2%	64	0.3%
B Misdemeanor	48	3.1%	495	32.3%	926	60.4%	64	4.2%	0	0.0%
Violation/Infraction	0	0.0%	16	3.2%	367	74.1%	112	22.6%	0	0.0%
Unknown/Not Available	48	5.0%	0	0.0%	447	46.7%	463	48.3%	0	0.0%
Total**	4,485	19.1%	1,852	7.9%	16,375	69.8%	671	2.9%	64	0.3%
1998										
A Misdemeanor	3,240	11.8%	716	2.6%	23,372	85.2%	30	0.1%	74	0.3%
B Misdemeanor	81	1.1%	697	9.4%	6,660	89.4%	4	0.1%	7	0.1%
Violation/Infraction	4	1.4%	7	2.4%	269	91.2%	15	5.1%	0	0.0%
Unknown/Not Available	0	0.0%	4	0.4%	889	81.9%	192	17.7%	0	0.0%
Total**	3,325	9.2%	1,424	3.9%	31,190	86.0%	241	0.7%	81	0.2%

Prior Misdemeanor Convictions Only:

1989	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
A Misdemeanor	8,730	63.1%	1,101	8.0%	3,639	26.3%	335	2.4%	32	0.2%
B Misdemeanor	64	3.7%	894	51.9%	495	28.7%	271	15.7%	0	0.0%
Violation/Infraction	0	0.0%	48	9.1%	287	54.5%	192	36.4%	0	0.0%
Unknown/Not Available	80	6.3%	16	1.3%	303	23.7%	878	68.8%	0	0.0%
Total**	8,874	51.1%	2,059	11.9%	4,724	27.2%	1,676	9.7%	32	0.2%
1998										
A Misdemeanor	13,103	66.6%	1,011	5.1%	5,435	27.6%	74	0.4%	59	0.3%
B Misdemeanor	170	4.2%	1,982	49.5%	1,827	45.7%	15	0.4%	8	0.2%
Violation/Infraction	22	5.6%	55	14.0%	262	66.5%	55	14.0%	0	0.0%
Unknown/Not Available	0	0.0%	0	0.0%	531	53.5%	461	46.5%	0	0.0%
Total**	13,295	53.0%	3,048	12.2%	8,055	32.1%	605	2.4%	67	0.3%

* Other disposition charge severities include cases in which the conviction charge severity was for an unclassified misdemeanor or was missing.

** Totals may not equal 100.0% due to rounding.

Table 18 (continued)

**Relationship Between Arrest-Charge and Conviction-Charge Severity, By Criminal History of Defendants
in Prosecuted Non-Felony, Non-VTL, Summary Cases: Annualized 1989 and 1998 Data**

Prior Felony Convictions Only:

Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
1989										
A Misdemeanor	734	34.9%	223	10.6%	1,117	53.0%	32	1.5%	0	0.0%
B Misdemeanor	32	16.7%	32	16.7%	128	66.7%	0	0.0%	0	0.0%
Violation/Infraction	0	0.0%	0	0.0%	48	100.0%	0	0.0%	0	0.0%
Unknown/Not Available	0	0.0%	0	0.0%	64	80.0%	16	20.0%	0	0.0%
Total**	766	31.6%	255	10.5%	1,357	55.9%	48	2.0%	0	0.0%
1998										
A Misdemeanor	1,413	31.1%	221	4.9%	2,886	63.6%	7	0.2%	11	0.2%
B Misdemeanor	11	0.7%	461	27.5%	1,196	71.4%	0	0.0%	7	0.4%
Violation/Infraction	0	0.0%	0	0.0%	96	96.0%	4	4.0%	0	0.0%
Unknown/Not Available	0	0.0%	0	0.0%	89	65.0%	48	35.0%	0	0.0%
Total**	1,424	22.1%	682	10.6%	4,267	66.2%	59	0.9%	18	0.3%

Both Prior Misdemeanor and Prior Felony Convictions Combined:

Arrest-Charge Severity	Disposition-Charge Severity									
	A Misdemeanor		B Misdemeanor		Violation/Infraction		Unknown		Other*	
	N	%	N	%	N	%	N	%	N	%
1989										
A Misdemeanor	6,767	67.3%	766	7.6%	2,394	23.8%	128	1.3%	0	0.0%
B Misdemeanor	32	5.1%	287	46.1%	287	46.1%	16	2.6%	0	0.0%
Violation/Infraction	0	0.0%	48	12.0%	303	75.9%	48	12.0%	0	0.0%
Unknown/Not Available	32	8.0%	32	8.0%	160	40.0%	176	44.0%	0	0.0%
Total**	6,831	59.5%	1,133	9.9%	3,144	27.4%	368	3.2%	0	0.0%
1998										
A Misdemeanor	17,343	70.9%	1,184	4.8%	5,834	23.9%	59	0.2%	37	0.2%
B Misdemeanor	162	3.8%	2,192	51.4%	1,867	43.8%	37	0.9%	4	0.1%
Violation/Infraction	0	0.0%	18	4.3%	332	79.0%	70	16.7%	0	0.0%
Unknown/Not Available	0	0.0%	0	0.0%	535	52.3%	487	47.7%	0	0.0%
Total**	17,505	58.0%	3,394	11.3%	8,568	28.4%	653	2.2%	41	0.1%

* Other disposition charge severities include cases in which the conviction charge severity was for an unclassified misdemeanor or was missing.

** Totals may not equal 100.0% due to rounding.

The Use of Jail in the Sentencing Decision

In the 1989 cases in which there was a conviction, the most severe sentence did not include jail time in 41.7 percent of the cases, while a jail sentence (including both time served and post-conviction jail time) was imposed in 58.3 percent of the cases. Out of an estimated annual volume of 62,515 cases in 1989 in which defendants were convicted, defendants in a total of 26,079 cases did not receive a sentence of jail, while 36,436 did have a jail sentence. In the 1998 cases in which there was a conviction, no jail sentence was imposed in 50.2 percent of the cases and the most severe sentence included jail time in the other 49.8 percent of the cases. In annualized volume terms, there were an estimated 103,995 cases in which defendants were convicted in 1998, of which the most severe sentence did not include jail time in 52,221 cases, and 51,774 cases in which the most severe sentence included jail time. Compared another way, the differences in volume and percentages receiving jail sentences means that no jail sentence was imposed in about twice as many cases of convicted defendants in 1998 in comparison to 1989, while the number of cases in which there was a jail sentence was less than one and a half times as large in 1998 than in 1989. (Data Not Shown)

However, the percentage of cases in which convicted defendants received a sentence of post-conviction jail time, versus those receiving a time-served sentence, was larger among the 1998 cases in which convicted defendants received a jail sentence. Converted into estimated annual numbers, a far larger number of convicted defendants in the 1998 than in the 1989 cases in which a jail sentence was imposed, received a sentence of post-conviction jail time, 22,077 in 1998 in comparison to 13,408 in 1989. By contrast, only several thousand more defendants in 1998 than in 1989, in cases in which convicted defendants received jail time, had a sentence only of time served, 29,698 in 1998 in comparison to 23,032 in 1989. (Data Not Shown)

Criminal history also influenced the use of jail in the sentencing decision. Among the cases in which defendant criminal history was known, there were a total of 97,963 convictions in the annualized 1998 data, an almost eighty percent greater number of cases with a Criminal Court conviction outcome than the 54,710 cases in the annualized 1989 data among cases in which the criminal history was available. A somewhat greater percentage of convicted defendants in the 1989 cases received a jail sentence (including time-served sentences) in every criminal history category, in comparison to sentences of jail for convicted defendants in each criminal history category in the 1998 cases. However, the overall likelihood of a time-served versus a post-conviction jail sentence among cases with a conviction outcome for which defendant criminal history was known was almost identical. In both 1989 and 1998 about 57 percent of all convicted defendants with a jail sentence received a sentence of time served, while the other 43 percent had a sentence of post-conviction jail time.

Table 19 displays in terms of the annualized number of cases, in how many cases convicted defendants received a sentence of post-conviction jail time, the “yes” column, and what percentage of the cases of defendants sentenced to jail this represents, by defendant criminal record. There are several items of note in comparing the percentages. First is the similarity in most crime categories in the percentage of cases in which convicted defendants receiving a jail sentence had a sentence of post-conviction jail time. Second, less than a quarter of convicted defendants sentenced to jail who had no prior convictions received a sentence of post-conviction jail time in both time periods. Convicted defendants with a jail sentence who had prior criminal convictions were more likely receive a sentence of post-conviction jail time, the most likely being those with prior convictions of both misdemeanor and felony severity.

In terms of annual volume, of particular interest in this table is that the estimated number of cases of convicted defendants without prior conviction sentenced to post-conviction jail time was almost the same in 1989 and 1998. Because of the far larger volume of cases in 1998 in which defendants had no prior criminal convictions, this suggests that in the later time period the likelihood of conviction, or a sentence of jail if convicted, was considerably less for those without prior convictions in 1998 than in 1989. This was not what appears to have occurred in the later time period for defendants with prior convictions for crimes of both misdemeanor and felony severity, where the number of defendants sentenced to post-conviction jail time was more than two times larger in 1998 (10,299) than in 1989 (4,820).

The likelihood of post-conviction jail time also varied by the crime category of the arrest offense. Defendants in property crime cases who were convicted and given a jail sentence were among the most likely to receive a sentence of post-conviction jail time, over three-fourths of all cases in both time periods. In 1989 the property crime category had the largest number of cases in which a post-conviction jail sentence was imposed, and the second largest number of cases in 1998. Although small in terms of estimated annual volume, defendants convicted in cases in the harm-to-persons category also had a high likelihood of receiving a post-conviction jail sentence in both 1989 and 1998, overall and in each criminal record category. In both time periods the other-crimes category had both the smallest number and percentage of cases with a post-conviction jail sentence. In many of the crime categories in 1998 there were a larger percentage of cases with post-conviction jail sentences than in 1989, and the greatest difference between the two times periods was in the sex-crimes category in which almost one of every two (48.7%) of the convicted defendants with jail sentences received post-conviction jail time in comparison to only somewhat more than one of seven (13.9%) in 1989.

Although in almost every crime category a greater number and percentage of convicted defendants sentenced to jail in 1998 than in 1989 received a post-conviction jail sentence, the average amount of jail time was almost always less in cases of convicted defendants in the 1998 data. As can be seen in Table 20, the overall mean number of post-conviction jail days for all cases in the 1989 random sample was almost twice as long as the mean number of jail days imposed in cases in the original 3rd quarter 1998 dataset. In addition, the median number of jail days was different, and in most cases lower, in almost every crime category.

New York City Criminal Justice Agency

Table 19

**Sentence of Post-Conviction Jail Time for Defendants Convicted
and Sentenced to Jail in Non-Felony, Non-VTL, Summary-Arrest Cases for
Selected Crime Categories by Criminal History: Annualized 1989 and 1998 Data**

Crime-Type Category	Post-Conviction Jail Time									
	No Prior Convictions		Prior Misdemeanor Only		Prior Felony Only		Combined Priors		Total	
	Yes	%*	Yes	%	Yes	%	Yes	%	Yes	%
Drugs										
1989	1,149	22.1	1,772	44.4	144	26.5	1,772	52.1	4,837	36.8
1998	1,111	25.3	2,863	42.8	524	32.4	4,690	49.9	9,188	41.6
Property										
1989	750	47.0	2,777	85.3	112	70.0	2,075	87.8	5,714	77.5
1998	332	42.3	1,664	85.4	81	56.4	2,262	87.2	4,339	79.3
Fraud										
1989	64	16.0	112	31.8	16	¹	144	42.9	336	30.0
1998	369	20.2	1,077	41.0	107	23.0	1,613	42.8	3,166	36.4
Sex										
1989	96	12.2	255	16.5	0	¹	16	6.3	367	13.9
1998	170	28.2	712	56.9	7	25.0	303	53.6	1,192	48.7
Harm to Persons										
1989	48	60.0	128	57.1	80	(100.0)	287	90.0	543	77.3
1998	192	70.3	292	82.3	74	76.9	406	84.6	964	80.1
Misconduct										
1989	48	6.5	207	21.3	48	30.0	160	23.8	463	18.2
1998	155	10.7	432	28.2	63	18.7	683	34.3	1,333	25.1
Obstruction of Justice										
1989	112	36.8	144	31.0	16	¹	144	47.4	416	37.1
1998	48	20.0	151	53.2	26	50.0	181	57.6	406	45.6
Other										
1989	16	4.2	16	4.0	0	¹	48	20.0	80	7.6
1998	37	5.3	63	8.9	0		96	12.7	196	8.6
Weapon										
1989	64	44.4	80	71.4	0	¹	160	76.9	304	65.5
1998	41	44.0	44	63.2	11	33.3	66	54.5	162	51.2
All Cases**										
1989	2,346	24.3	5,490	48.4	415	37.1	4,820	59.4	13,071	43.3
1998	2,454	23.7	7,299	47.2	893	31.0	10,299	51.5	20,945	43.0

¹ Insufficient cases for comparison

* Indicates the percentage of cases in which a post-conviction jail sentence was imposed on convicted defendants who received either time served or a post-conviction jail time sentence.

** Includes cases in all crime categories including those not shown.

New York City Criminal Justice Agency

Table 20

**Mean and Median Number of Post-Conviction Jail
Days for Convicted Defendants in Non-Felony, Non-VTL,
Summary-Arrest Cases, by Arrest Crime Category:
1989 Random Sample and 3rd Quarter 1998 Data**

Crime-Type Category	1989		1998	
	Mean	Median	Mean	Median
Drugs*	24.5	10.0	12.4	7.0
Property*	55.7	30.0	37.7	20.0
Fraud	7.7	5.0	6.9	5.0
Sex Crimes	6.5	5.0	10.8	7.0
Harm to Persons	54.1	30.0	66.1	30.0
Misconduct	18.8	15.0	14.9	5.0
Obstruction of Justice	52.4	30.0	48.8	15.0
Other*	20.4	20.0	6.7	5.0
Weapon	34.4	9.1	26.2	15.0
Harm to Persons and Property	1	1	1	1
All Cases*	39.1	20.0	20.1	7.0

¹ Insufficient cases for comparison

* Difference between the means is statistically significant at or below the .05 level

The amount of jail time imposed, and differences between the two years, once again varied by crime category. Convicted defendants in the harm-to-persons category, who were among the most likely to receive post-conviction jail sentences, had the second longest sentence length in 1989, and the longest sentence length in 1998, with a median of 30 days in both years. The second smallest amount of post-conviction jail time imposed on convicted defendants in both 1989 and 1998 was in the fraud category, and the mean and median number of jail days was very similar in both years. Convicted defendants in the sex-crimes category, who were more likely to receive a sentence of post-conviction jail time in 1998, also had a longer average sentence imposed in 1998 than in 1989. In the “other” crime category, where only small numbers and percentages of convicted defendants received post-conviction jail time, the average mean and median number of jail days in 1998 was considerably shorter than in 1989. In the drug category, where a greater percentage of jail-sentenced defendants received sentences of post-conviction jail time in 1998 than in 1989, the mean number of days of jail time was about half the sentence length in 1998 than it had been in 1989.

ANALYSIS

New York City entered into a new era of criminal justice in the mid-1990s. Authorization and funding to expand the New York Police Department (NYPD) had been accomplished (NYPD) under the Safe Streets, Safe City initiative of the Dinkins Administration.¹ An expanding police department, augmented in 1995 by the incorporation of the Transit and Housing Police authorities into the NYPD, would create under a single command a force of almost 40,000. New technology would contribute to changes in arrest, deployment, and accountability policies and practices. These included modernized means of checking arrestee identification and criminal records that made possible, among other things, faster pre-arraignment processing of defendants permitting more defendants to be held for Criminal Court arraignment within the court-mandated twenty-four hour period, and permitted instituting more restrictive policies that led to an enormous reduction in the percentages of arrestees charged with low-level offenses being released with Desk Appearance Tickets (DATs). This new technology also created the means for tracking crime, led to new practices such as Compstat for disseminating this information, and in combination led to the creation and rapid deployment of strategies and tactics to respond to identified crime hotspots. Compstat also became a mechanism for reviewing and holding accountable precinct commanders, who were being given increasing authority for responding to, and reducing, neighborhood crime. These were just a few of the features of an internal reorganization occurring at the time.²

But this large force, with a changing organizational structure, and better tools for fighting crime, also was undergoing another critical transformation. Rudolph Giuliani, who was inaugurated as Mayor in January 1994, had made crime a key issue in his election campaign, especially targeting panhandlers, the infamous “squeegee men,” and other behaviors that negatively impacted on the city’s quality-of-life. His (first) Police Commissioner, William Bratton, entirely embraced Mayor Giuliani’s goals of addressing low-level offenders and offenses in public spaces. Crime control through order maintenance was consistent with Bratton’s belief in the relationship among disorder, public safety fears, and serious crime. The philosophical underpinning of this belief was drawn from the oft-cited Wilson and Kelling “Broken Windows” article. Bratton had been further influenced by George Kelling’s continued research and teaching around this theme, and his own previous experiences in developing policing strategies and tactics around order maintenance goals in Boston, and in New York in the early 1990s as head of the City’s Transit Authority (TA) Police.³

¹ *Safe Streets, Safe City: An Omnibus Criminal Justice Program for the City of New York*, (New York City, Office of the Mayor, 1990.)

² Eli B. Silverman, *NYPD Battles Crime: Innovative Strategies in Policing*, (Boston: Northeastern University Press, 1999). For a brief overview of Department changes during the Bratton administration in the mid-1990s, see William J. Bratton and William Andrews, “What We’ve Learned About Policing,” *City Journal*, Spring 1999, Vol. 9, No. 2, available online at <http://www.city-journal.org>.

³ William Bratton, with Peter Knobler, *Turnaround: How America’s Top Cop Reversed the Crime Epidemic*, (New York: Random House, 1998).

The essential premise that would guide New York City policing throughout the eight years of the Giuliani administration would be that disorder and the disorderly in public spaces instill fear of crime, and citizen behavior in response is to abandon streets and public spaces, creating opportunities for more and more serious crime. Developing and implementing strategies that would restore public confidence and order, and bring down the City's crime rate, became the linchpins of the transformation in the NYPD's approach to crime. To achieve these ends, Commissioner Bratton also brought to the job a well honed management style that included input from all ranks in the Department, selection of key personnel best suited for positions, development of strategic goals and policies, and then giving responsibility for implementation to local commanders who would be held accountable for performance. As sketched out by Bratton's deputy Jack Maple, the essence of a successful crime control strategy involved: map crime to provide "accurate and timely intelligence" as to where and when crimes occur; "rapid deployment of personnel and resources" in response to crime locations; develop "effective tactics" that are comprehensive and adaptable to evolving crime trends; and "relentless follow-up and assessment" to ensure that tactics are accomplishing the strategic goals.⁴

In keeping with this management model, after a department-wide review ten strategy papers were issued. The first five, all of which were promulgated in the six-month period between March and July of 1994, addressed issues of guns, youth violence in schools, drugs, domestic violence, and reclaiming public spaces from quality-of-life disorder. The impact of the latter three strategy documents remained very much in evidence in the 1998 data studied for this research project.

Each of these strategy papers described the nature of the problem, specific types of behaviors at the source, and the strategies and tactics that were to be pursued by law enforcement in the issue area. To achieve the goals of each, greater autonomy was given to local police commanders to implement the policies. Among other items, this involved loosening centralized control over a number of enforcement programs, especially in the areas of vice such as drugs and prostitution that in previous years had been taken away from local control because of the fears of corruption. Seven years later, a report prepared by the NYPD's Office of Management Analysis and Planning would say:

Individually and collectively, these comprehensive strategies chart the course the Department pursued to reduce crime and to improve the quality of life enjoyed by our city's residents and visitors, and each strategy was developed after careful analysis of the scope and dimension of the problems they address...The strategies had been carefully crafted to permit precinct and patrol borough commanders the flexibility they needed to respond effectively to local community issues...affecting the neighborhoods within their jurisdiction. Precinct and patrol commanders throughout the city followed the overall guidelines and policies outlined in the strategy documents, but were given

⁴ Ibid., p. 224

wide latitude in determining the specific tactical approaches they took to solving community crime and disorder problems.⁵

These strategy papers help explain some of the differences found in non-felony arrest patterns between 1989 and 1998. For example, Police Strategy No. 4: Breaking the Cycle of Domestic Violence (April 26, 1994) makes clear that police officers are to pursue a vigorous policy of arrest for acts of domestic violence (DV) or violations of orders of protection. Recognizing that previously instituted mandatory arrest policies were not consistently being followed, new accountability procedures were created including tracking of all domestic violence calls for service, special forms to be completed by officers after responding to each DV incident, and the maintenance of specialized computer database for program development and reporting. The strategy also called for additional training of all personnel as well as for specialized DV investigators. Additional statutory and police policy changes after the release of Strategy No. 4 would further broaden mandatory arrest policies in domestic violence cases. The combined effect of these changes should have, and could be argued did, result in changes in the composition of prosecuted summary-arrests, including among non-felony offenses, after 1994. This lends support to the explanation that at least some of the increase in the 1998 data in the number and proportion of non-felony arrests overall in the harm-to-persons crime category, and increases in that category for the A-misdemeanor charges of endangering child welfare, or the charge of menacing in the 2nd degree, and for the charge of criminal contempt in the 2nd degree in the obstruction-of-justice category, could be attributed to more intensive enforcement of arrest policies in domestic violence situations.

Some of the larger volume in 1998 for charges of assault and menacing also may well be attributed to tactics used against the disorderly, just a few of the charges described in Strategy Paper No. 5: Reclaiming Public Spaces (July 18, 1994). It is this strategy paper more than any of the others that most broadly encompasses disorder offenses including aggressive panhandlers, street peddling and prostitution to name just a few. It also contains some of the clearest statements about giving greater responsibility for implementation of crime control strategies, and holding accountable, local police commanders.

For example, one clear link between the implementation of the Bratton strategy initiatives and differences in the data between 1989 and 1998 is in the area of prostitution-related arrests. Street prostitution is one of the offense areas covered in Strategy Paper No. 5, even though by the time of its release prostitution-related arrests were on the decline citywide, driven by a decline in Manhattan where the largest number of such arrests historically had been made.⁶ But this strategy sought not

⁵ "Summary of Reengineering Initiatives for the Fiscal 2001: Mayor's Management Report," (New York City Police Department, Office of Management Analysis and Planning, 2001).

⁶ Robert R. Weidner, *"I Won't Do Manhattan": Causes and Consequences of a Decline in Street Prostitution*, (New York City: LFB Scholarly Publishing LLC, 2001).

merely to disrupt street-level prostitution by arrests of those engaging in, or soliciting for, the purposes of prostitution. The use of decoy operations, and car forfeiture operations against patrons of prostitutes, were tactics encouraged to be employed under the directives of this strategy document. In addition, the role of the public morals squads was redefined to largely a training and supervisory role, so that local commanders became able to initiate these strategies without having to request that these special detail units conduct such operations within a precinct. This permitted more rapid response to street-level prostitution hotspots and more such initiatives being conducted citywide at any given time. The effect of this can be seen in the 1998 data, where patronizing prostitution arrests rose substantially citywide among sex-crime charges in 1989, even though the total number of sex-crimes category arrests were fewer in 1998 than in 1989.

As in the example of the array of tactics to target prostitution, the guidelines found in the strategy papers combined make clear that local commanders were expected to use all available laws to disrupt disorder in public spaces, and to use low-level offenses as a means to “pedigree” individuals (i.e., check identification and criminal records) as a deterrent to both minor and more serious crimes. This policy is complementary with the new restrictions detailed in Strategy Paper No. 5 on the issuance of Desk Appearance Tickets, including more intensive screening of criminal records for warrants and prior convictions for low-level offenses that would preclude eligibility for a DAT.

Although not specifically mentioned in this strategy paper, intensive scrutiny of fare-beating offenders was a key initiative from Commissioner Bratton’s experience with the formerly independent Transit Authority Police. Early in his tenure with the TA he came to believe that there was clear link between fare evasion, disorder and crime in the subway system. A fare evasion mini-sweep had revealed that one of every seven arrestees had an outstanding warrant, and one of twenty-one was carrying some sort of weapon.⁷ Jack Maple, then a member of the TA police force who had become a principal assistant to Bratton, “emphasized the need for volume” in fare-beating arrests, and that by instituting this policy system wide large numbers of at-large criminals would be intercepted and more serious crime deterred.⁸ As Police Commissioner, leading a Department that now incorporated the TA police, it is of little surprise that fare-beating (theft-of-services) arrests found in the CJA fraud crime category rose in the 1990s, and that large volumes of such arrests have become an enduring part of the non-felony caseload of the criminal courts.

Limiting eligibility for DATs, careful checking of criminal records for outstanding warrants, aggressive activity by the police warrant squad, and substantial arraignment disposition rates, all contribute to substantially reducing pretrial failure to appear FTA. This is quite evident in the data analyzed in the current study in which the FTA rate was almost half as large in 1998 as it had been in 1989. And in 1998 in which the volume of

⁷ Bratton and Knobler, *Turnaround*, (op. cit.), pp. 158-168.

⁸ Ibid., p. 168.

over 176,000 prosecuted cases was almost twice as large as in 1989, there were only about 3,200 more defendants found to have an outstanding bench warrant in 1998 (22,516) than in 1989 (19,296). Interestingly, defendants in fraud category cases, that include the fare-evasion theft-of-services charge, continued to have one of the highest FTA rates in 1998 (15.2%), but one that was substantially lower than in 1989 (23.0%). However, because of the enormous increase in fraud category arrests, the number of cases in this crime category in which defendants had outstanding bench warrants was six times larger in 1998 than it had been in 1989.

One of the most controversial components of the quality-of-life strategy has been the ability to restrict panhandling and other types of unpleasant interactions between seemingly disorderly or derelict populations and other citizens in public spaces. Statutes attempting to control these interactions have been subject to constitutional challenge because of fears of arbitrary or discriminatory enforcement by police.⁹ As even Wilson and Kelling acknowledged in their 1982 article, not all disorderly behavior is necessarily criminal, and they specifically cited panhandling as an example. Part of the challenge, then, to creating such ordinances is that "...disorder frequently involves more than behavior; the location and circumstances of the activity in question, its intent, and how others react to it, all must somehow be included in defining what is unlawful."¹⁰ Absent these elements of specificity, statutes such as those prohibiting loitering, soliciting for prostitution, panhandling, and disorderly conduct have been successfully challenged for vagueness or for being overly broad. This debate about the degree of acceptable police discretion, and individual rights versus controlling behaviors that might seem disorderly to some, was echoed during the City Council's ultimately successful passage of legislation to restrict squeegee men, beggars in a variety of public locations, and aggressive panhandling.¹¹

Another hurdle to full implementation of some of the quality-of-life strategies, that relied on city ordinances rather than state penal law statutes and which were less severe than misdemeanor crimes, was the forum in which they would be answerable. Almost all of these offenses are found in the CJA 'other' crime category, which rose from the seventh largest in 1989 to the sixth largest category in 1998, with a volume increase almost two and a half times greater in 1998 than in 1989. Faced with an enormous influx of such cases and resource limitations, the state court leadership in concert with the state legislature sought to have ordinance offenses less severe than misdemeanor-equivalent crimes heard in city administrative hearings rather than in the state-funded criminal courts. By being able only to issue summonses for such petty

⁹ An extensive discussion of the constitutional challenge to such statutes, and the interplay of the needs of the "broken windows" thesis with constitutionally protected rights, can be found in the article by Debra Livingston, "Police Discretion and the Quality of Life in Public Places: Courts, Communities, and the New Policing," 97 *Columbia Law Review* 551

¹⁰ Wesley G. Skogan, *Disorder and Decline: Crime and the Spiral of Decay in American Neighborhoods*, (Berkeley, CA: University of California Press, 1990), p. 164.

¹¹ Clifford H. Levy, "Council Approves Restrictions on Beggars," *New York Times*, Sept. 12, 1996, p. B3.

offenses, (such as public urination or carrying an open liquor container outside a permit area), police authority to detain and question, and check identification and criminal backgrounds, of some low-level offenders would have been curtailed. In opposition, the City Council began to upgrade some ordinance violations to misdemeanor-equivalent offenses to undercut the State statute. The City successfully challenged the state statute, and these cases remained within the jurisdiction of the Criminal Court.¹² But this conflict over resource utilization may be illustrative of a sense within the criminal court system, on the part of prosecutors, defense attorneys and judges, that many petty offenses and offenders are not “really criminal” for whom traditional penalties such as several days of jail are appropriate.

Differentiating among defendants may also apply to the processing of a very changed composition of offenders and offenses in the non-felony drug cases in 1998 in comparison to 1989. Drug enforcement remained a high priority in both time periods, and was the subject of the third strategy document prepared in 1994. Drug crime was the largest category of non-felony summary-arrest cases, with somewhat over 40 percent in both years, although this resulted in a more than doubling of such cases because of the difference in volume between 1989 and 1998. The primary goal of the strategy for addressing drug crime originally developed early in 1994, and that would be revised with additional initiatives over the next few years, was aimed at buyers and sellers. While some of the strategies enumerated in this policy document involved using civil law and penalties, criminal law enforcement still involved for the most part strategies and tactics that would lead to felony severity charges.

But as with the other strategy plans, the drug plan reiterated that all personnel were to act against narcotics activity, that local precinct and borough commanders were being given greater authority and flexibility to engage in drug enforcement activities, and that drug laws were part of the means for controlling and deterring crime in public places. In combination with a resurgence in the appeal of marijuana among young people,¹³ the large numbers of young offenders charged with the B-misdemeanor crime of possession of small quantities of marijuana in the 1998 data, may have as much to do with using low-level drug crime as a tactic to disrupt gatherings of young people in public places as with a strategy to attack drug trafficking.

Reviewing strategy documents from the mid-1990s makes clear that all available state laws and city ordinances were to be used to control disorder in public places. In addition, it lays out the expectations from police management that local commanders were expected to apply these strategies and tactics as applicable to particular conditions of disorder in local communities. Both the citywide and borough data reported in the original CJA study, and the citywide analysis covered in this summary report, indicate that there was implementation of these policy directives throughout all of New York City beginning in the mid-1990s and continuing to the present. The enormous difference in volume between 1998 and 1989, and the increase in the

¹² Daniel Wise, “Criminal Court Retains Violation Jurisdiction,” *New York Law Journal*, Dec. 12, 1995, p. 1.

¹³ Andrew Golub and Bruce D. Johnson, “The Rise of Marijuana as the Drug of Choice Among Youthful Adult Arrestees,” *National Institute of Justice: Research in Brief*, June 2001.

proportion of all summary-arrests that involved non-felony charges in the latter period, are consistent with the initiatives in policing begun in the mid-1990s. But there is little in these documents, or in writings about the City's quality-of-life initiative to indicate an expectation that large numbers of young people, without prior adult convictions, would be swept up by the tactics implemented throughout New York City in the mid-1990s. Recidivist misdemeanants were certainly part of the expected population, and in fact among those with prior adult criminal records those in the 1998 cases were more likely to be older and have more prior offenses than those in the 1989 cases. But some of the most important findings of this research agenda are that a greater percentage and number of defendants in non-felony cases had no prior adult convictions, and disproportionate numbers of late adolescent aged youths became part of the offender population in 1998, in comparison to 1989.

The extent to which the strategy of order maintenance through aggressive policing should be credited with the decline in serious crime in New York City, and whether the New York experience empirically demonstrates the causal link between disorder and serious crime, is a subject of ongoing debate.¹⁴ Whatever one's opinion in this debate, it is clear that New York has had success in reclaiming public spaces, and in creating among residents and visitors a perception of a safer and more orderly city. Auto travelers are no longer swarmed by squeegee men, beggars no longer greet customers at bank teller machines, nor are they in large numbers to be found panhandling in the subway system. Far fewer homeless and derelict populations are found in the subways or in open public spaces such as parks, and there is seemingly greater police control of public areas in and outside of housing projects. Police continue to sweep through neighborhood areas to clear the streets of unlicensed peddlers. Prostitution arrests continue on the decline. Noise abatement strategies directed at cars and late-night commercial establishments have reduced this source of complaint in many neighborhoods. In using whatever legal means are available, some of the strategies have involved the use of the civil laws, such as nuisance abatement ordinances that allow the closing of night clubs and bodegas when they can be proven to be places of drug activity, or car forfeiture for patrons of prostitutes or drunken drivers. But the mainstay of restoring order has been the use of criminal laws and city ordinances carrying criminal penalties, for which there have been a variety of consequences.

First, community relations, which supposedly should have been improved by police efforts to restore order and civility in neighborhoods, have lagged far behind the achievement of order maintenance goals. The strained nature of police-community

¹⁴ For the view in support of this position see for example, George L. Kelling & Catherine M. Coles, *Fixing Broken Windows*, (New York: The Free Press, 1996) or Dan M. Kahan, "Between Economics and Sociology: The New Path of Deterrence," 95 *Michigan Law Review* 2477, 1997. In opposition, Bernard E. Harcourt, "Reflections on the Subject: A Critique of the Social Influence Conception of Deterrence, The Broken Windows Theory, and Order-Maintenance Policing New York Style," 97 *Michigan Law Review* 291, 1998 or Andrew Karmen, *New York Murder Mystery*, (New York: New York University Press, 2000).

relations has been recognized by the NYPD leadership, which has been developing since 1996 new initiatives to improve these relationships, once again through a system of local command responsibility and accountability.¹⁵ Addressing police-community relations almost certainly will be a continuing issue for the new City administration to be inaugurated in January 2002.

Second, what began as innovation has become the norm in policing in New York. Arrest volume continues to rise and a substantial majority of these arrests are for non-felony offenses. Police in precincts throughout the city have adopted the same tactics of arrests for fare beating, low-level marijuana possession, various trespass ordinances, and other low-level offenses to accomplish the goals of order maintenance and deterrence. But these tactics also create a criminal record for large numbers of residents, often young minority males, as well as sweeping into the criminal courts older, chronic low-level offenders. Controlled and answerable to a centralized management structure, it is not clear the extent to which local police commanders can or would choose to risk trying new ideas to respond to neighborhood conditions of disorder, especially ones that might rely less extensively on arrest.

Third, the arrest policies initiated in the mid-1990s have had a major impact on the criminal court system. As this research has shown, volume, and court processing and outcomes in 1998 were different than in 1989. In a volume of non-felony cases twice as large in 1998 as it had been in 1989 the court system adapted by disposing of even greater percentages and numbers of cases at the Criminal Court arraignment. A majority of defendants were convicted, almost entirely by negotiated guilty pleas, in both time periods. Even though the percentage of cases disposed by a conviction was thirteen percentage points smaller in 1998 there still were over 40,000 more cases with a conviction outcome than in 1989. In addition, while the conviction rate for defendants without prior convictions was lower in 1998 than in 1989, it was higher in 1998 for defendants previously convicted of misdemeanor and felony crimes. In 1998 dismissal rates were substantially lower leading to only several thousand more dismissals in 1998 than there had been in 1989. A point of particular difference in court outcomes was an enormous expansion of the use of the ACD for case disposition, leading to a difference of over 43,000 more cases with an ACD outcome in 1998, a change that most affected the court outcome for defendants without prior convictions.

Charge severity change between arrest and conviction was fairly similar for prosecuted A-misdemeanor severity arrests, but convicted defendants prosecuted for a B-misdemeanor charge were far more likely to have a conviction charge of lesser severity in 1998 than in 1989. There were different sentencing patterns in regard to the use of jail, and whether or not jail sentences imposed would be for time served or post-conviction jail time. A smaller proportion of convicted defendants in the 1998 cases received a jail sentence, but once sentenced to jail there was a greater likelihood of post-conviction jail time, although on average of shorter duration in 1998 than in 1989. All of these trends varied by the type of crime and defendant characteristics, most especially the record of prior adult criminal convictions, although in both periods

¹⁵ See for example, *Summary of Reengineering Initiatives for Fiscal 2001*, (op. cit.), pp. 13-15.

defendants without prior convictions were least likely to be convicted, while those with prior convictions of both misdemeanor and felony severity were the most likely to be convicted.

The finding about the volume, nature of cases and offenders, and court system responses, raise issues about whether and how existing criminal laws and punishment can respond to this changed mix of cases and defendants. Among the disorderly and derelict defendants arrested for minor offenses are an older population with myriad social problems, such as chemical addictions including alcoholism, mental and physical health problems, homelessness, low educational achievement, and limited employment opportunities. Other research presents evidence of treatment needs for substance abuse in the defendant population, but it is unclear whether young adults arrested for possessing small quantities of marijuana have substance abuse problems that may lead to more and more serious criminal activity, or are simply engaging in adolescent social behavior, equivalent to the illegal social drinking of alcohol in public areas. As the court system grapples with how to respond to a burgeoning criminal caseload, with large volumes of low-level offenders and offenses, attention is once again focusing on the work of the lower, criminal courts. In response, an expanding number of new court initiatives have been taking place in New York City, using as models the drug court movement dating to the late 1980s, and Manhattan's Midtown Community Court, which opened in 1993, each of which pre-date the mid-1990s

Drug treatment courts are proliferating throughout court jurisdictions in both New York City and State, now reaching beyond the criminal courts into the juvenile and family court systems. Moving the criminal courts into a drug-treatment model is not only a response to a more than decade long increase in drug-offense cases, but also is premised on a drug-crime connection by which treatment of addicted offenders will reduce both drug and non-drug crime, and more effectively deal with recidivist misdemeanants who often are cycled through the criminal courts.¹⁶ Courtrooms dedicated to other types of crime and offender populations, such as specialized court parts for domestic violence and the mentally ill have either been created or are in the planning stages. This growth of specialized courts and courtrooms for designated types of cases and defendants are part of what has recently been labeled the "problem-solving court" movement, that is poised to transform the very nature of criminal courts, and create dramatically different legal processes and courtroom activity.¹⁷ This raises not only management and resource issues for the court system, but also a fundamental issue of whether the criminal courts can and should become responsible for solving the social problems often presented by offenders and offenses being brought into the courts through statutory and police policy changes.

¹⁶ *Confronting the Cycle of Addiction and Recidivism*. A report to Chief Judge Judith S. Kaye by the New York State Commission on Drugs and the Courts, (June 2000), pp. 13-15.

¹⁷ Carl Baar and Freda F. Solomon, "The Role of Courts: The Two Faces of Justice," *The Court Manager*, Volume 15, Number 3 (2000). See also the *Court Review: The Journal of the American Judges Association*, Volume 37, Issue 1, Spring 2000.