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Executive Director

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# **Brief No. 47**

## **Desk Appearance Tickets: 2013-2019**

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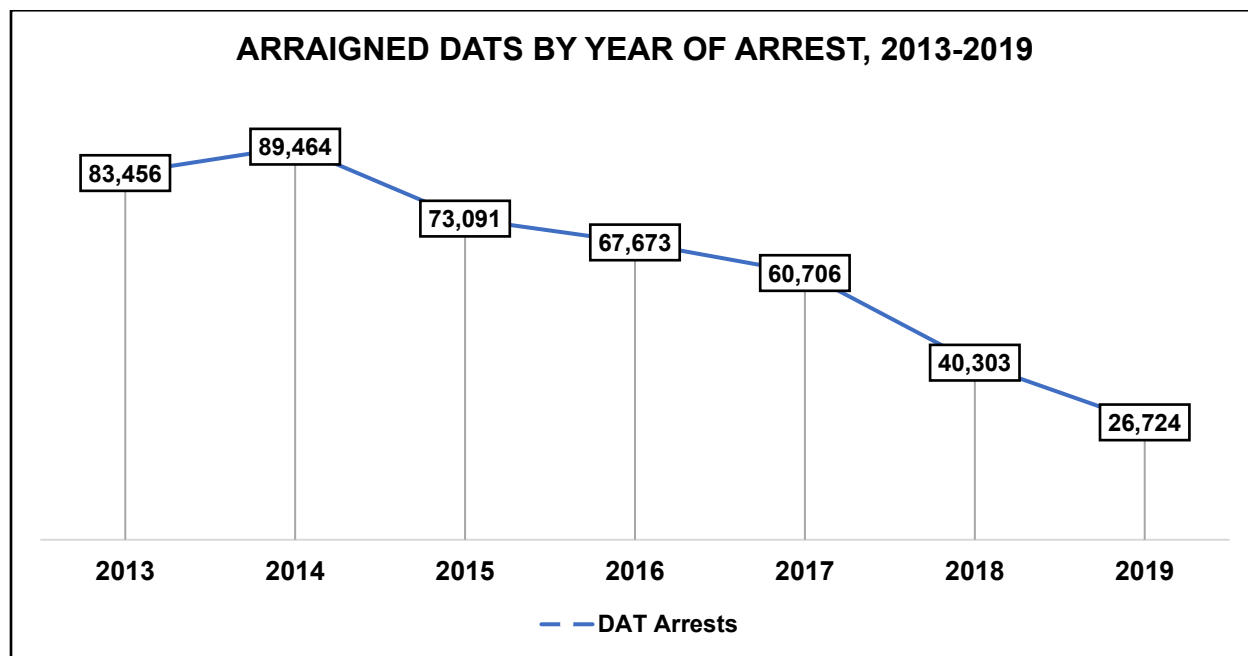
This Research Brief is based on the citywide portion of a study report about Desk Appearance Tickets (DAT) issued in New York City from 2013 through 2019. The study examined the composition of prosecuted arrests and arrestees, and case processing and court outcomes, citywide and by borough. It concluded with a discussion of the finding's implications for DATs with the January 2020 implementation of new bail reform legislation.

A Desk Appearance Ticket (DAT) can be issued for misdemeanor crimes, violation offenses, and some E-felonies. Issuance is determined by statute and written police guidelines. When a person is brought to a precinct location, they will be fingerprinted and photographed. If found DAT eligible they will be released on their own recognizance and given a ticket with a date to appear for a Criminal Court arraignment.

The Criminal Court's DAT caseload has fluctuated over the years, reflecting changes in state law, police and prosecution policies and practices, and changes which accompany new City administrations. In recent years these have included policies to eliminate arrests or prosecutions for possession of small quantities of marijuana and transit fare evasion, legislation which raised the age of criminal responsibility from 16 to 18, and pre-arraignment diversion programs.

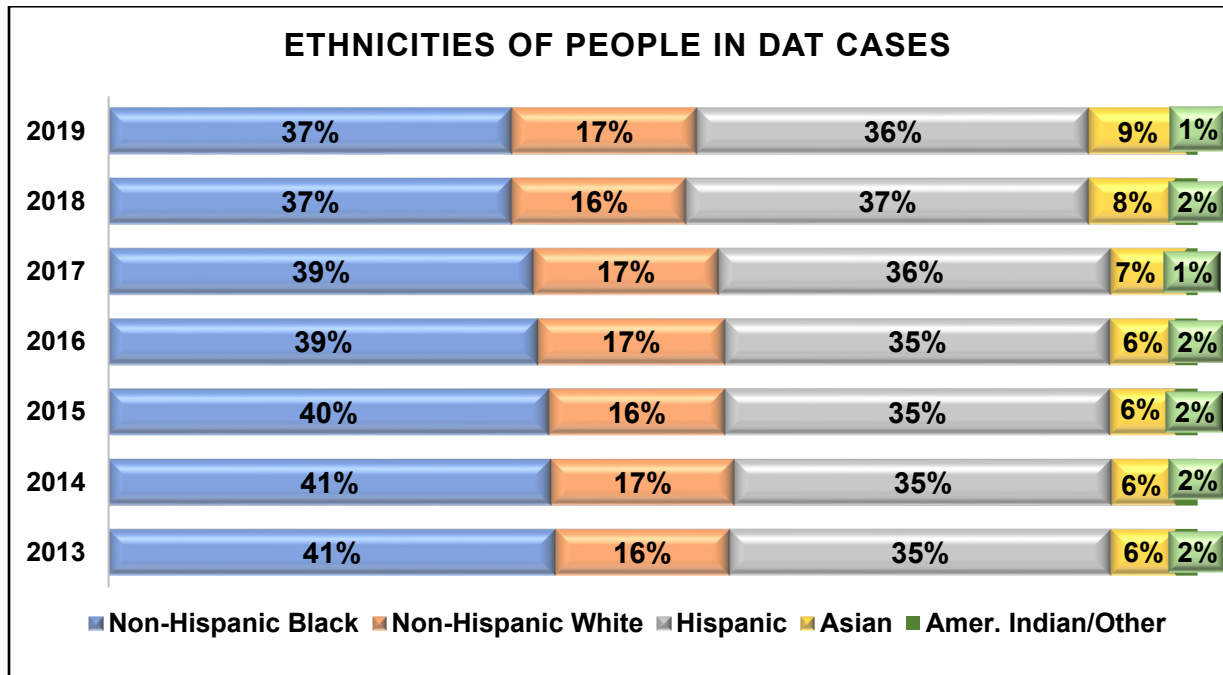
### **CITYWIDE ARRAIGNED DATS, 2013 THROUGH 2019**

Volume has declined from a high of over 80,000 annually in 2013, the study's first year, to 27,000 in 2019.



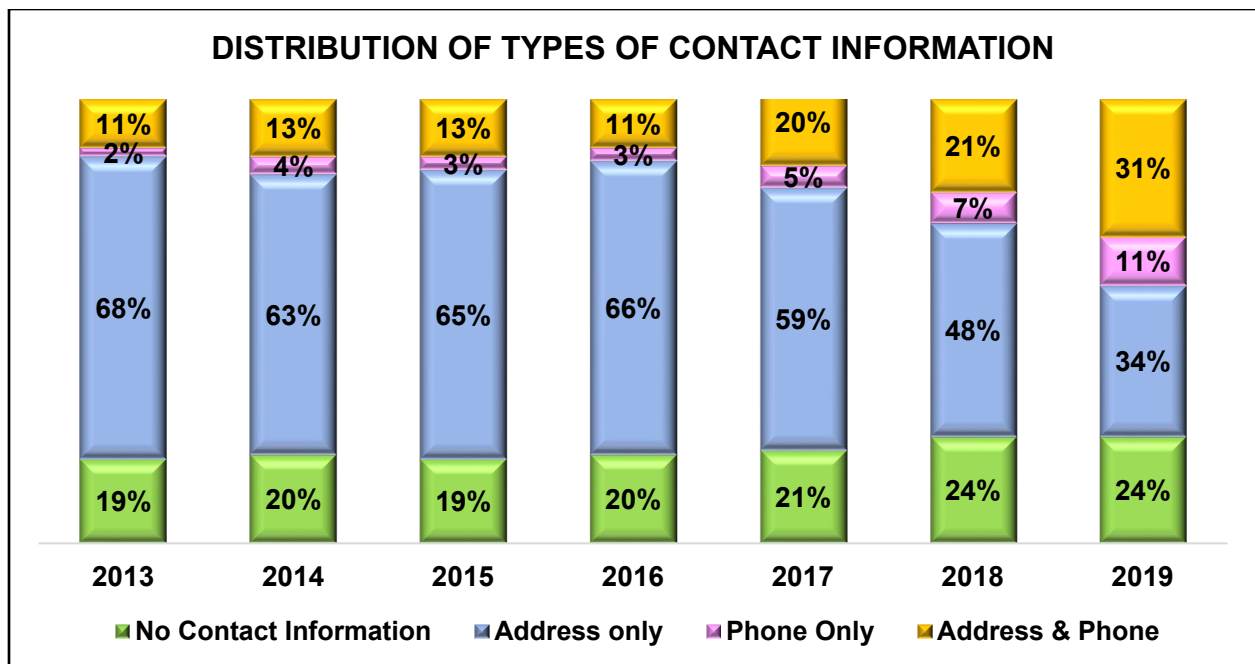
### DAT Demographics

Changes in arrest charge patterns have had only relatively small impacts on many of the demographic characteristics of arrestees. Individuals of color continue to dominate DAT arrests in all years examined.



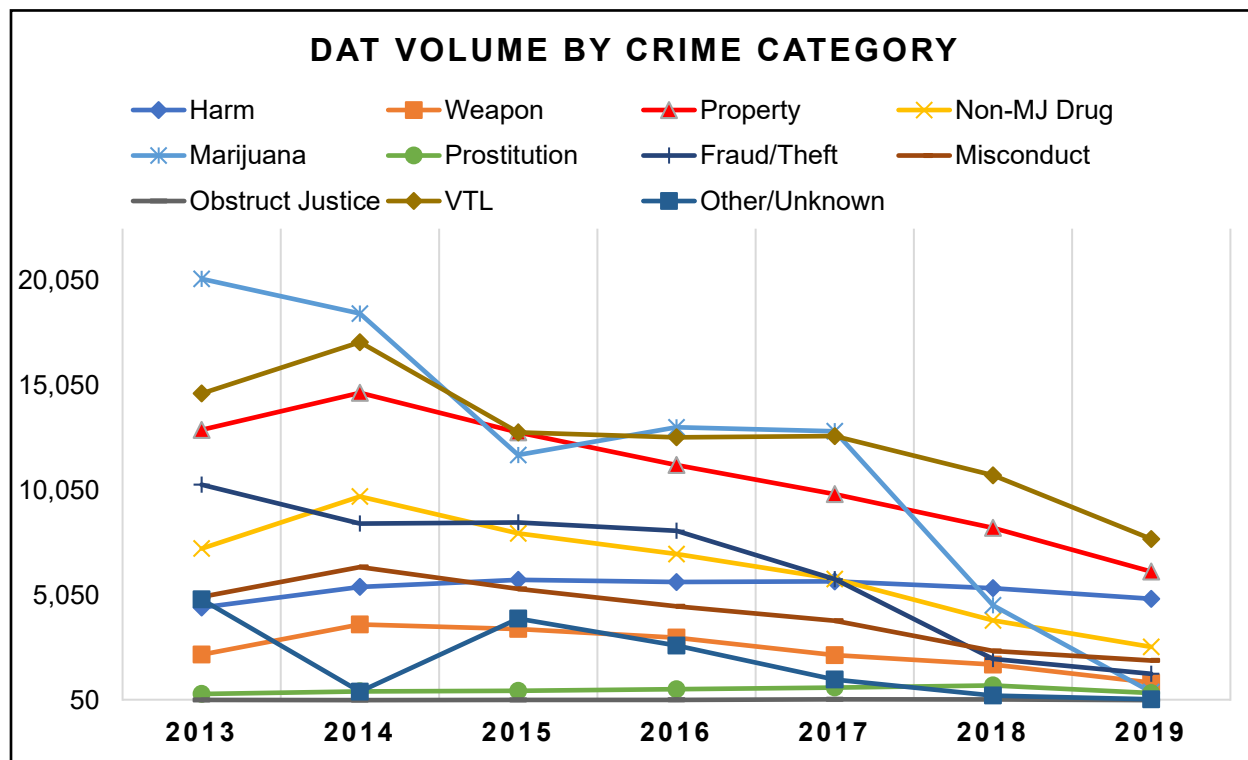
Males make up the overwhelming majority of the defendant population across the years examined, although there has been a small percentage point increase in women among the prosecuted arrests.

An important change evident in the data is the increasing proportions of arrests for which the police have obtained phone contact information to be used for court appearance notification. Research has shown that phone contact is more effective than letter as a method of notification.



## Crime and Charge Composition Among Prosecuted DAT Arrests

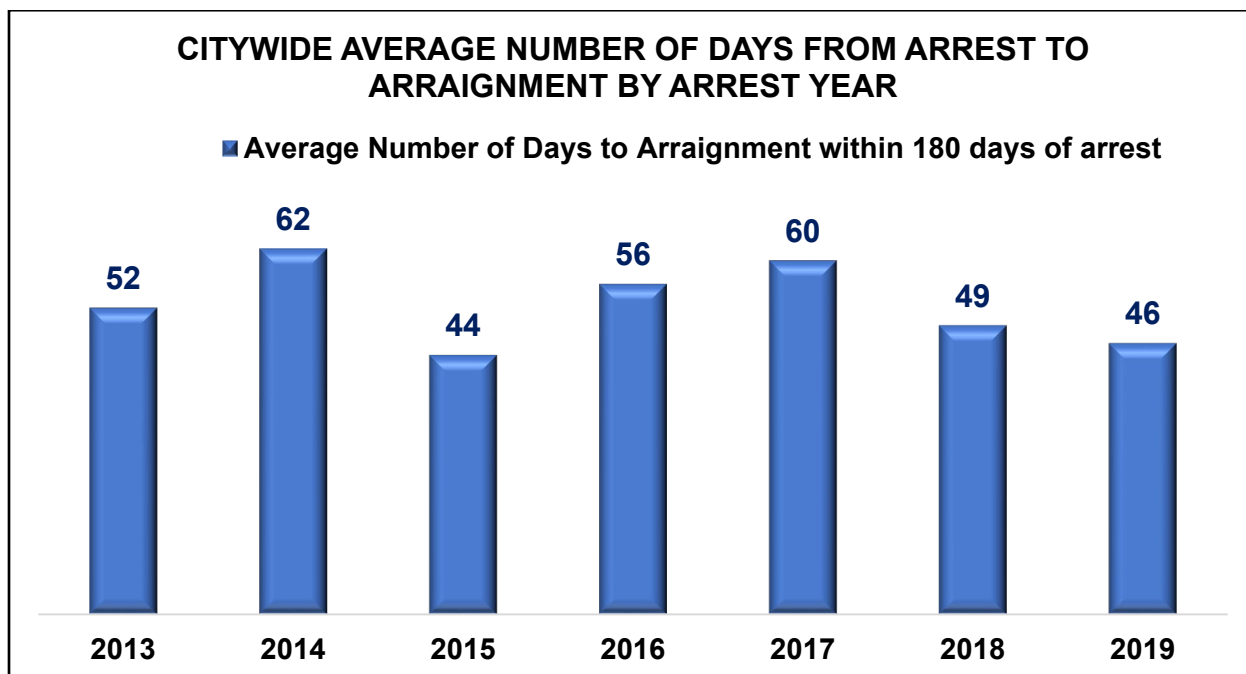
After accounting for the decline in low-level DAT marijuana and fare-evasion arrests, and the disproportionate volume of these arrests involving youth of color, there have been few other changes in the crime composition of the declining volume of DAT cases.



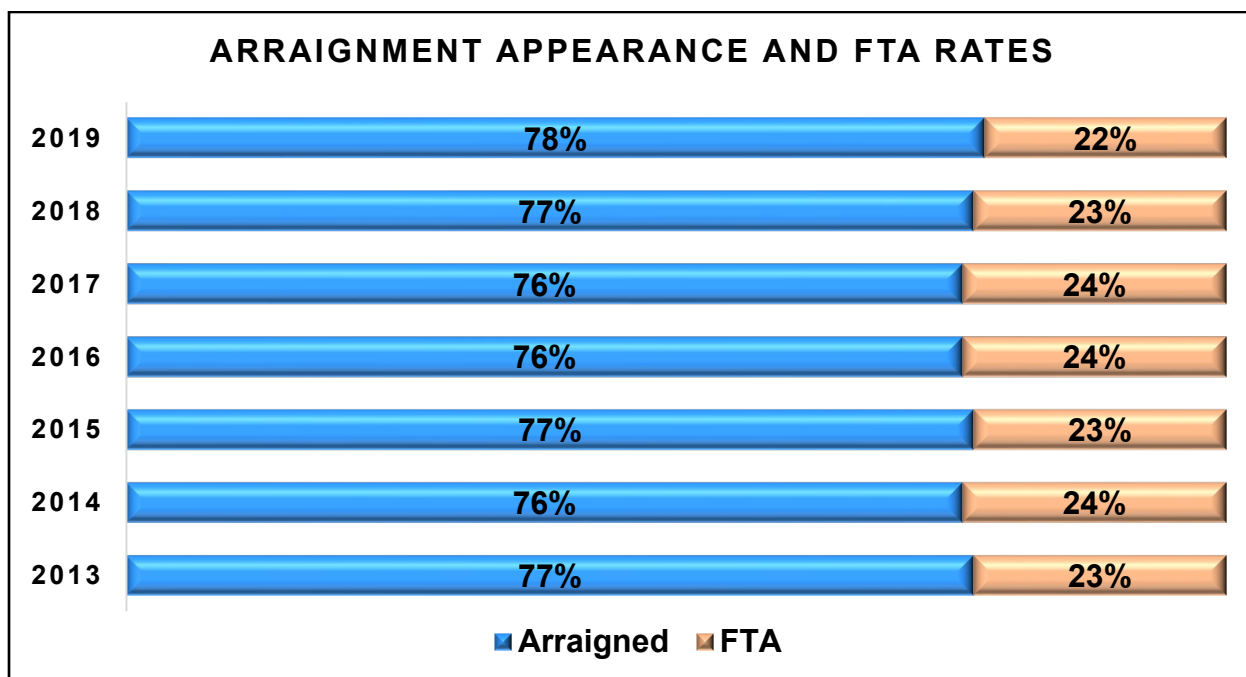
For example, A-misdemeanor assault, PL 120.00, is a consistent 80-83 percent of all cases in the harm category and PL 220.03, A-misdemeanor drug possession, comprises between 90 and 95 percent of all cases in the non-marijuana drug category. In a similar fashion, VTL 511, misdemeanor driving with a suspended license, comprises 95 to 96 percent of all DAT arrests in the VTL category. (Data not shown)

## From Arrest-to-Arraignment

Since 2017, time to arraignment has dropped along with the substantial decline in DAT arrests. However, the decline in time does not appear to be commensurate with the drop in volume. Citywide DAT arraignment volume in 2019 was less than half of 2017's volume yet average time to arraignment was reduced only by about one third, and still averaged 40+ days citywide in 2019.

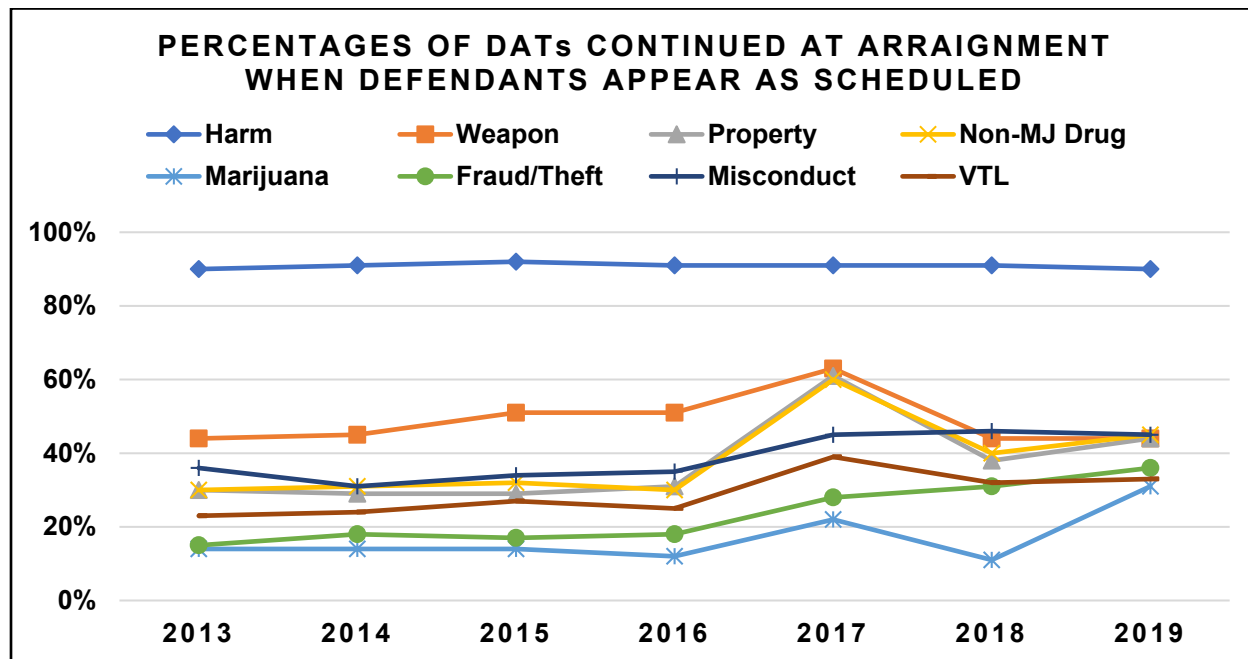


Citywide arraignment appearance and failure-to-appear (FTA) rates have varied little even as volume, and some charge and defendant characteristics, have changed. In every year over three-fourths of individuals in DAT cases appeared as scheduled for their Criminal Court arraignment.



The citywide DAT failure-to-appear (FTA rates) ranged from 24% to 22% during the study period. However, Criminal Court arraignment FTA rates differ among crime categories. In high volume categories, such as non-marijuana drugs, FTA rates were as high as a third or more, while the FTA rate for assault in the harm crime category never exceeded 14%.

Majorities of cases in most crime categories were adjudicated when individuals appear at the calendared arraignment. The most prominent exception was cases with arrests in the harm category, where over 90% were continued at the arraignment appearance and this high continued rate showed little variation across the years.



Defendants in 99% of arraignment continued cases were Released on Recognizance (ROR) in each of the years studied, with virtually no variation among crime categories. When ROR'd, over 92% returned as scheduled at the next court appearance.

### Dispositions

The types of disposition among DAT cases adjudicated at the Criminal Court arraignment differ among crime categories. In addition, case outcomes frequently differ when dispositions are compared between cases adjudicated at arraignment and those adjudicated subsequent to an arraignment FTA. In most instances, convictions and dismissals increased and Adjournments in Contemplation of Dismissals (ACD) decrease.

An ACD was a common arraignment outcome in many of the cases in the property, non-marijuana, fraud/theft (fare-evasion) and misconduct (public disorder charges) crime categories when defendants appear as scheduled. It was less common when defendants originally failed to appear at arraignment and their cases were disposed at a later court appearance after the defendants were returned on the warrant.

In the property crime category, the conviction rate increased by at least 20 percentage points when the disposition occurred after an arraignment FTA. The dismissal rate changed from single to double-digit rates. A similar pattern was found among the cases in the misconduct crime category between cases disposed at arraignment and those disposed post-arraignment on a return on warrant.

Dispositions in non-marijuana cases were characterized by high conviction rates regardless of when the disposition occurred. Here too, dismissal rates increased among cases disposed after an arraignment FTA.

A different pattern was found among cases in the few crime categories with high rates of being continued beyond arraignment, e.g. harm (assault) and weapon possession charges. These usually were the types of cases with evidentiary issues which preclude immediate disposition. As a result, a more accurate measure of court outcomes in these categories is to examine the final dispositions when the cases have been disposed.

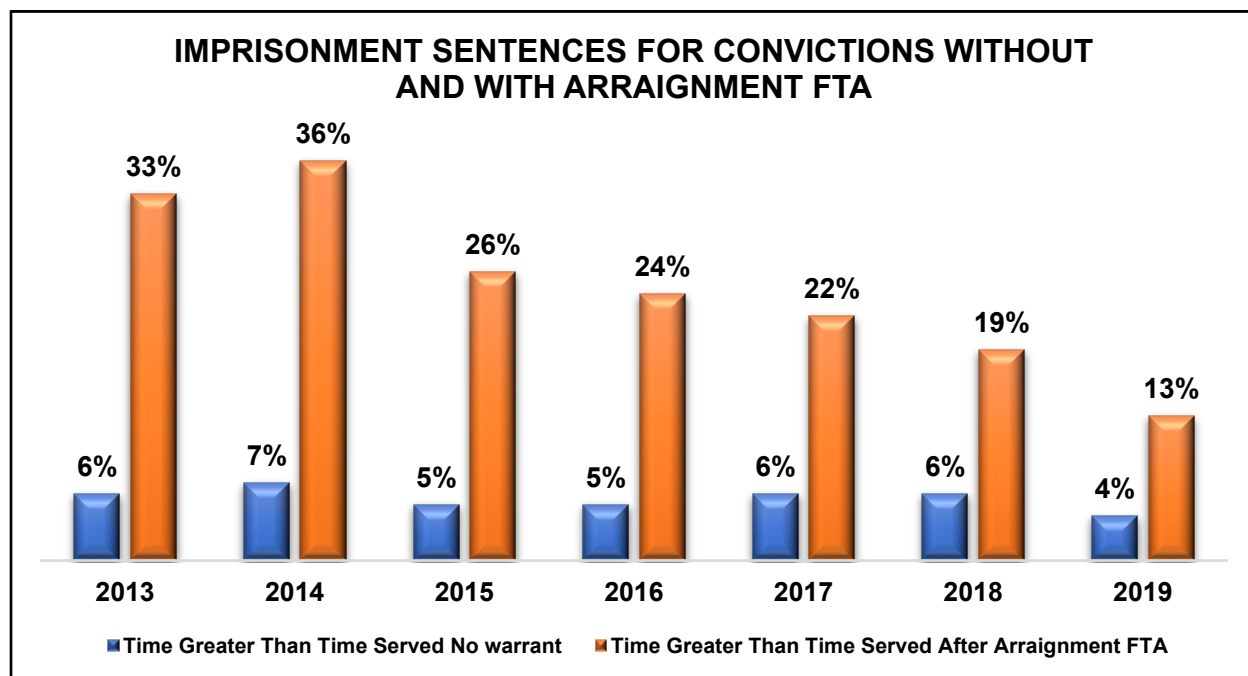
Dismissals dominate outcomes in harm category cases. In every year, the conviction rate was higher than ACDs among the remaining cases. Convictions were the most common outcome in weapon category cases although the percentages showed a decline in convictions and an increase in dismissals beginning in 2017.

### Sentences for Conviction

Types of sentences imposed differ among crime categories.

A Conditional Discharge (CD) sentence was most common for cases in the harm, property-crime and in almost cases of public order offenses. Almost all sentences in VTL cases had fines imposed.

Imprisonment sentences do not make up a majority of sentence types in any crime category. When it occurred, it most commonly was imposed for convictions in property and non-marijuana drug cases.



In almost every crime category, the likelihood of an imprisonment sentence increased, and a CD sentence decreased, if the conviction occurred after an arraignment FTA warrant. In addition, the likelihood of a sentence imposed greater than time served also increased.

## **PRELUDE TO BAIL REFORM: IMPLICATIONS FOR CHANGE**

On January 1, 2020, New York State experienced a dramatic transformation in its criminal legal system by the near elimination of monetary bail release conditions for all but some violent felony crimes. Other conditions of pretrial release also are affected through the statutory requirement of the issuance of a Desk Appearance Ticket for non-felony charges and selected E-felony crimes. This is unlike the previous statute which mandated a DAT for only a single charge, non-criminal marijuana possession (PL 221.05). Additionally, a list of ineligible charges has been removed from the revised New York Police Department's Patrol Guide.

The guidelines continue to articulate circumstances in which police can exercise discretion to make a Summary arrest decision in lieu of issuing a DAT. An unknown is the extent to which the DAT requirement will alter the balance between the current proportions of Summary (custodial) versus DAT arrests for DAT-eligible charges.

One set of discretionary factors involve family violence or danger to children. This will not likely create much of a transition from Summary to DAT arrests because most non-DV incidents involving these types of crime already are being issued DATs.

Another factor is VTL charges involving impaired driving or charges for which there can be a license suspension or revocation. This likely will result in few VTL Summary arrests for which police will use discretion to issue DATs.

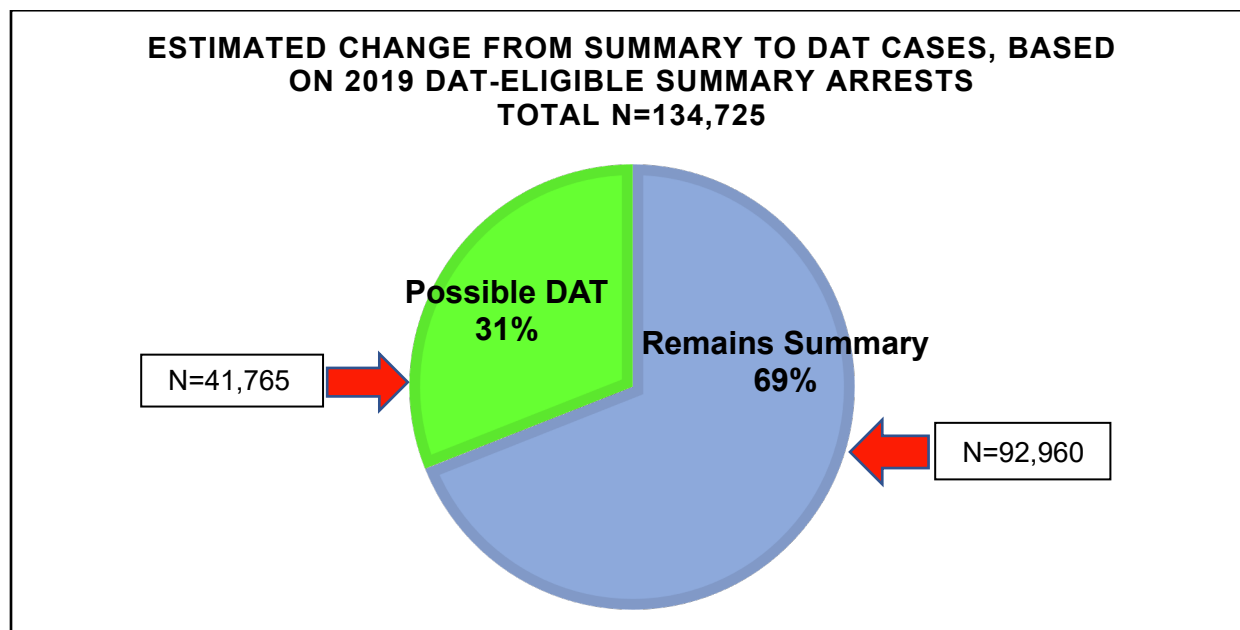
The new police guidelines remove pre-reform restrictions on issuing DATs based on prior misdemeanor convictions. The implications for this are potential increases in DATs, versus custodial arrests, in some crime categories with high arrest volumes and high non-appearance (FTA) rates among individuals with frequent prior contacts with the criminal legal system.

Warrant histories may mitigate some of this transformation from Summary to DAT arrests. Outstanding warrants, or a warrant issued within the past two years, will be another basis for choosing a Summary rather than a DAT arrest.

An inability or unwillingness to provide identification also will continue to bar the issuance of a DAT to an individual for an otherwise eligible charge.

The illustration which follows examines how the shift from Summary to DAT might have been allocated citywide had the new law and police procedures been in place in 2019. It is a rough and conservative estimate because it is not possible to estimate the extent to which discretionary factors will reduce otherwise DAT-eligible arrests, nor is there any guarantee that the volume and case composition of DAT-eligible charges will remain largely unchanged. However, the data suggest that approximately a third of 2019 Summary arrests citywide might have qualified for a DAT post-reform.





The new bail reform law contains additional provisions affecting DATs. The statute requires court-appearance notification. The continued ability of the police to maintain high contact information collection rates will be increasingly important. This is especially pertinent for phone numbers which have been demonstrated to be superior to letter notification. Of potential concern is the issuance of DATs to a population with weaker community ties. Changing defendant composition may require experimentation with the best ways to encourage court appearances.

The Criminal Court and all other stakeholders will need to adapt to new requirements and procedures. The law now requires prompt arraignments of DATs, within 20 days of arrest. As of 2019, no county arraigned many cases within this short window, nor was the Criminal Court organized to process large DAT volumes in short time spans from arrest to arraignment.

Another potential consequence may be the necessity to continue a greater percentage of cases in crime categories in which large proportions previously have been adjudicated at arraignment. This raises the curious question of why, in many crime categories, dismissals increase with post-arraignment adjudications.

## **WHAT ARE SOME CHANGES TO LOOK FOR IN THE POST-REFORM DAT LANDSCAPE?**

- What will be the relative increase in DAT volume relative to Summary arrest volume for DAT-eligible charges after accounting for disqualifying factors?
- How will the expansion of DAT eligibility change the charge composition of cases, and how will these changes be distributed among crime categories?
- How will expanded DAT eligibility change the demographics of the arrest population?
- How will the new court appearance notification requirements be met?
- How will it be possible to complete all legal requirements for DAT arraignments within the new 20-day window, especially in court locations with pre-reform average arrest-to-arraignment times of 60 or more days?
- Will the faster mandated time to arraignment have an impact on arraignment appearance and FTA rates, especially in pre-reform high-volume high-FTA rate crime categories?
- Will the 20-day arrest-to-arraignment requirement increase adjournment rates for cases frequently adjudicated at the arraignment or types of arraignment dispositions?
- Will any increase in adjournment rates change the extremely high post-arraignment appearance rates?
- Will a potential increase in arraignment continuances require alternatives to ROR for a changed defendant population?
- What will be the impact on the types of dispositions and sentencing patterns for convictions in comparison with those found for similar types of offenses pre-reform?
- How will the issues surrounding DATs with the implementation of the bail reform bill impact each borough's criminal court?