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Executive Director

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Desk Appearance Tickets Among The Boroughs: 2013-2019

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This Research Brief is based on a study report about prosecuted Desk Appearance Tickets (DAT) issued in New York City from 2013 through 2019.¹ The study examined the composition of prosecuted DAT arrests and arrestees, and case processing and court outcomes, citywide and with borough comparisons. The report concluded with a discussion of the implications of the study's findings for DATs with the January 2020 implementation of bail reform legislation. This brief provides some key findings about borough differences; a separate Research Brief summarizes the citywide findings.

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 later date to appear for a Criminal Court arraignment.

Diversity among New York City's five counties, commonly known as boroughs, can be seen in the demographic and crime-type characteristics in each borough's Criminal Court's DAT caseload. The borough data also reflect the impact of differences in the policies and practices of stakeholders who form each court's set of workgroups—prosecutors, judges and defense attorneys. These variations occur even though all operate as part of a unified court system and follow the same set of criminal laws and statutory procedures.

Each borough's independently elected District Attorney (DA), is the driving force behind most post-arrest decisions in DAT cases, from whether to prosecute, offer pre-arraignment diversion, and set plea bargaining policies. These decisions are subject to change with the selection of new leadership in each DA's office, which occurred in all boroughs except for Manhattan during the years studied.

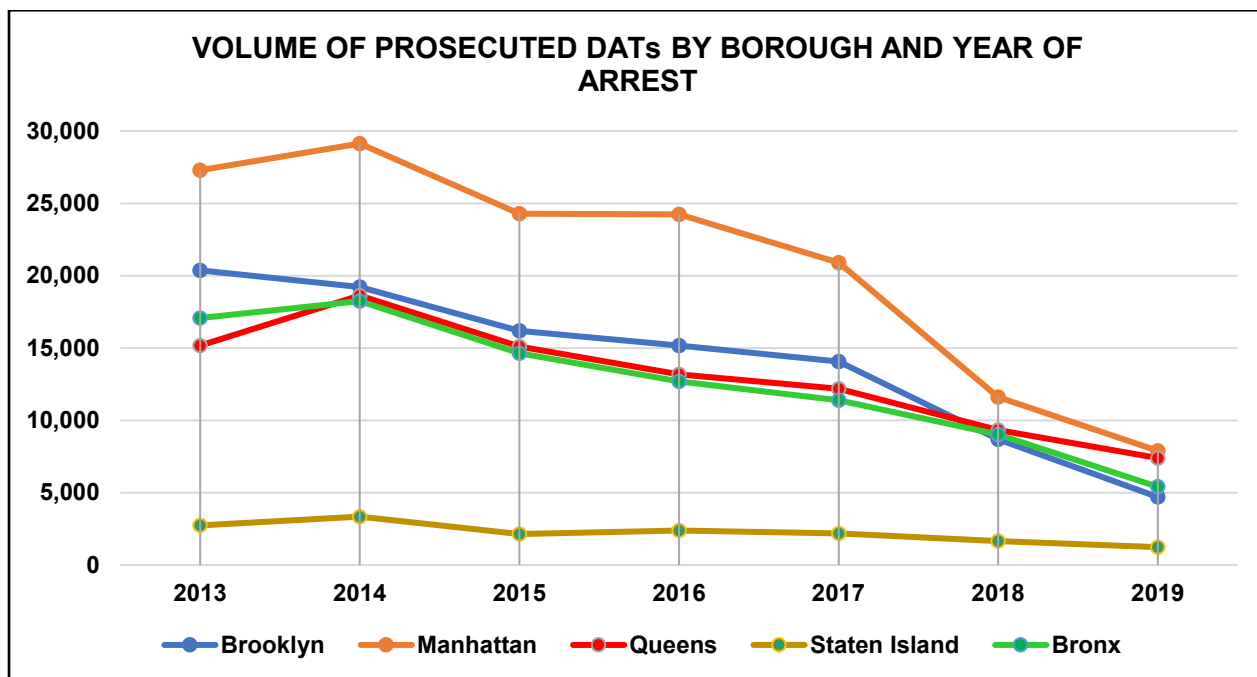
Further, DAs may craft or work in concert with other groups to develop alternatives-to-incarceration programs. The Bronx is an example where, in 2005, the Center for Court Innovation introduced Bronx Community Solutions which offers the Court programmatic alternatives to the traditional sentencing options of jail or fines in misdemeanor cases disposed at arraignment.

There are separate publicly supported defense organization in each borough whose attorneys exclusively represent defendants in that borough.

Arrest Volume

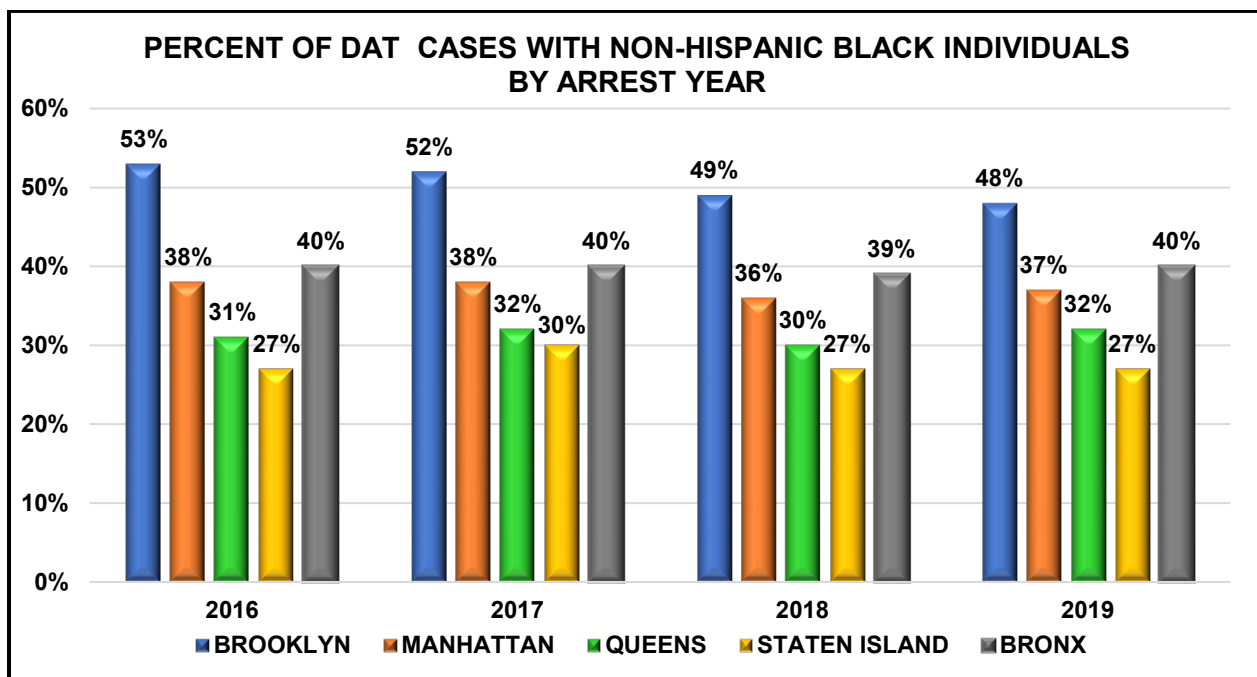
After highs in 2013 and 2014, the volume of prosecuted DAT arrests has been dropping in all boroughs. To some extent this reflects decisions not to prosecute low-level marijuana offenses and, in some boroughs, transit-fare evasion, and State legislation which raised the age of adult court responsibility from 16 to 18.

¹ Freda F. Solomon, **DESK APPEARANCE TICKETS: PRELUDE TO BAIL REFORM**, (New York: New York City Criminal Justice Agency, Inc.), June 2020, available at www.nycja.org .



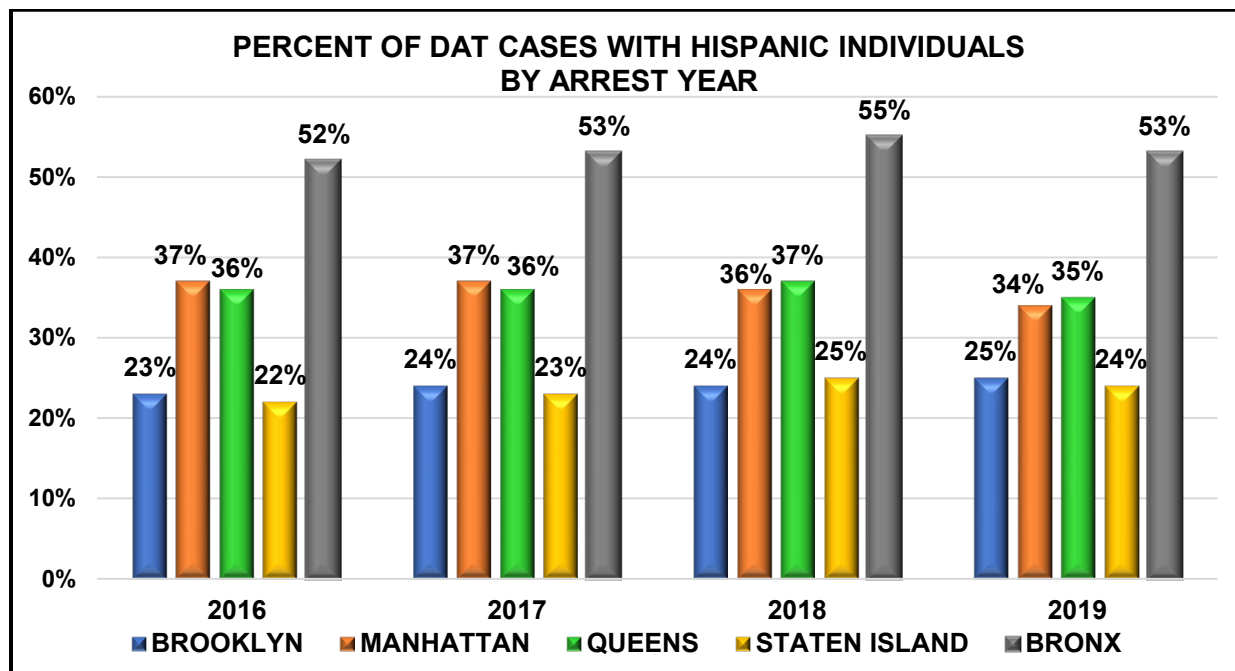
Defendant Characteristics in DAT Cases Among the Boroughs

In all boroughs the population among prosecuted DAT arrests was predominantly non-white. However, the relative proportions of non-Hispanic Black, Hispanic, and Asian defendants differed across the boroughs. For this purpose, comparisons are shown only for arrest years 2016 through 2019 because there were not great changes within borough patterns since 2013.

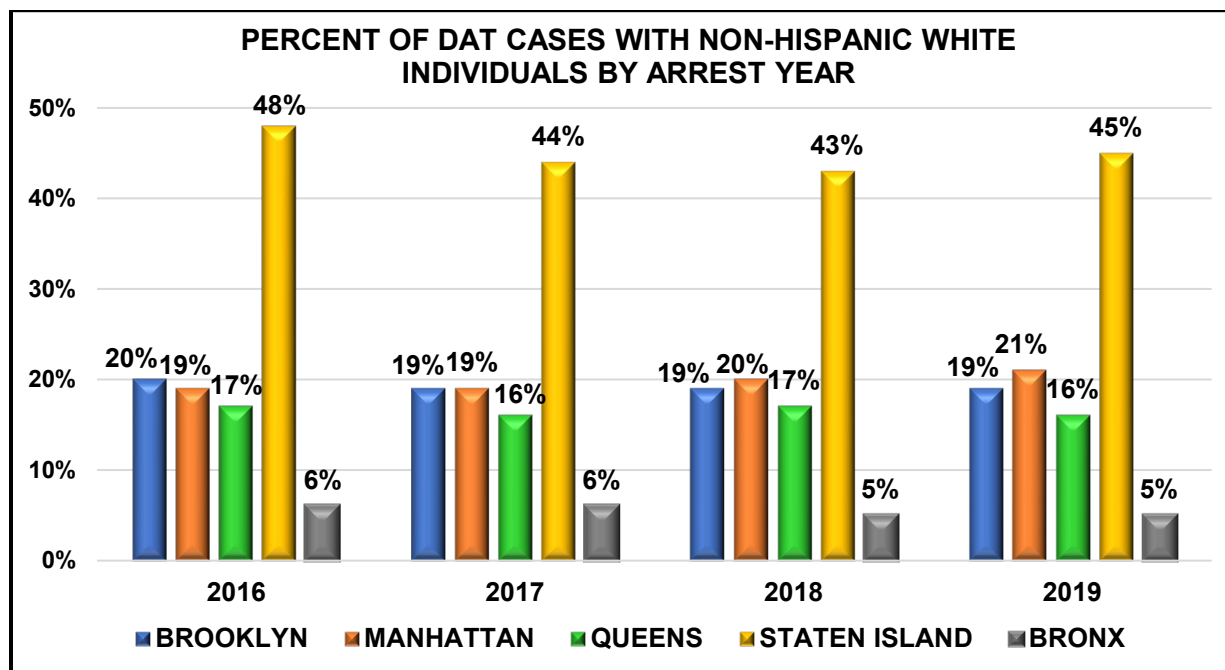


The greatest percentage of non-Hispanic Black arrestees was found among Brooklyn's prosecuted DATs, ranging from 53% in 2016 to 48% in 2019. Bronx cases had the second greatest percentage of non-Hispanic Black individuals, and Staten Island consistently the smallest at approximately 27-30 percent at most.

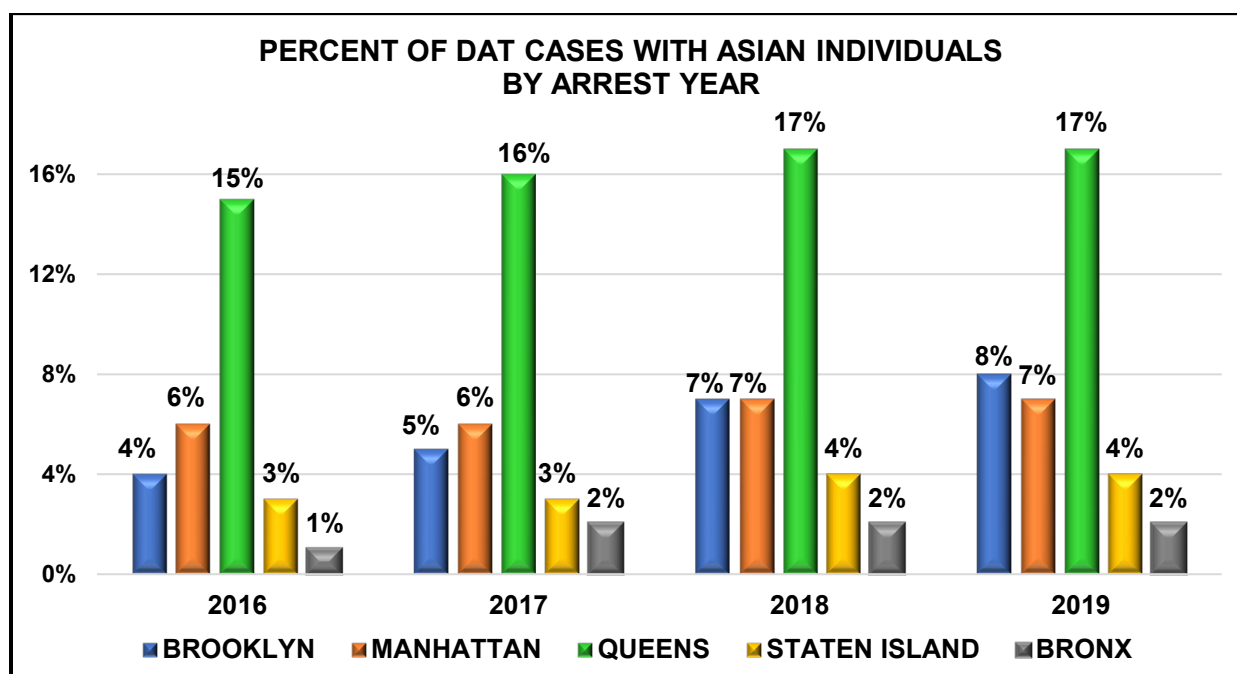
Hispanic individuals appeared in over half of the Bronx DATs in each year shown, a substantially larger percentage than was found in any other borough's caseload. In comparison, Hispanic individuals were found in only about a quarter of the DAT court populations in Brooklyn and Staten Island.



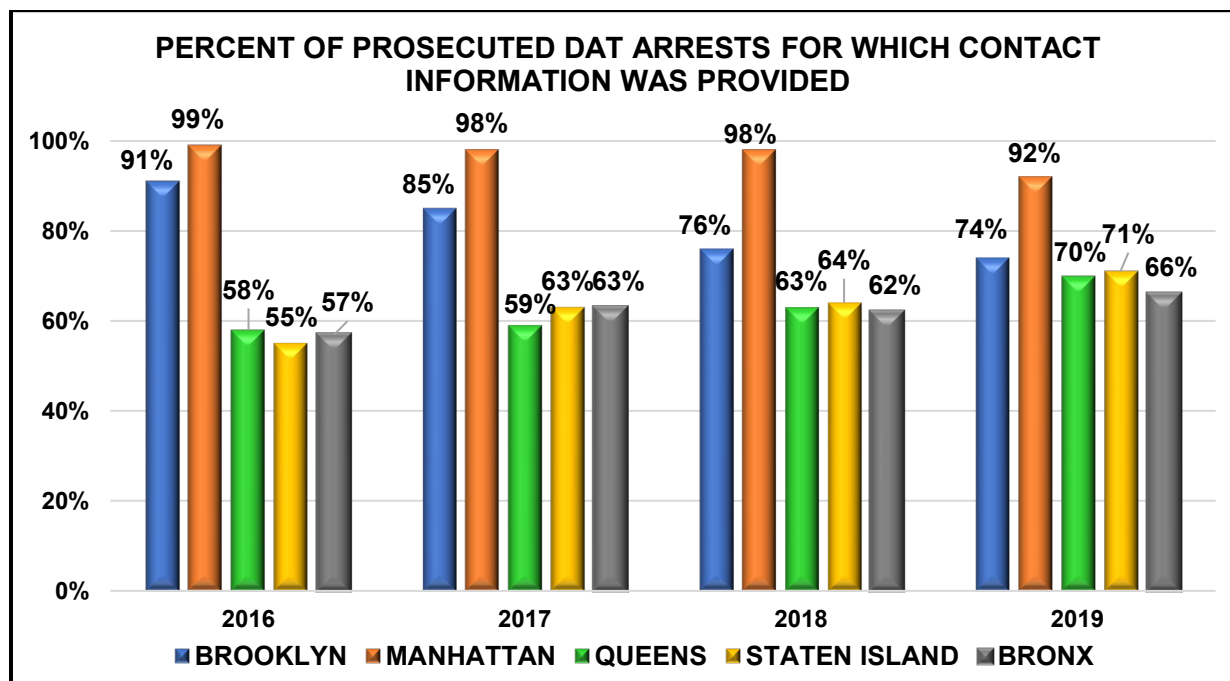
Non-Hispanic White individuals were found in no more than about a fifth of the prosecuted DAT arrests in four of the five boroughs. Non-Hispanic White individuals comprised only 5-6 percent of Bronx cases in any of the years shown. The Bronx demographic was in stark contrast with Staten Island where over 40% of the DAT defendant population was non-Hispanic White.



There has been an increasing presence of Asian individuals among prosecuted DAT arrests in recent years. However, they were only a small percentage of the DAT court population except in Queens where they have had the most noticeable presence.



Another illustration in the ways DAT populations differed among the boroughs was the extent to which CJA initially was provided with any contact information—address and/or phone—for the purposes of court appearance notification.



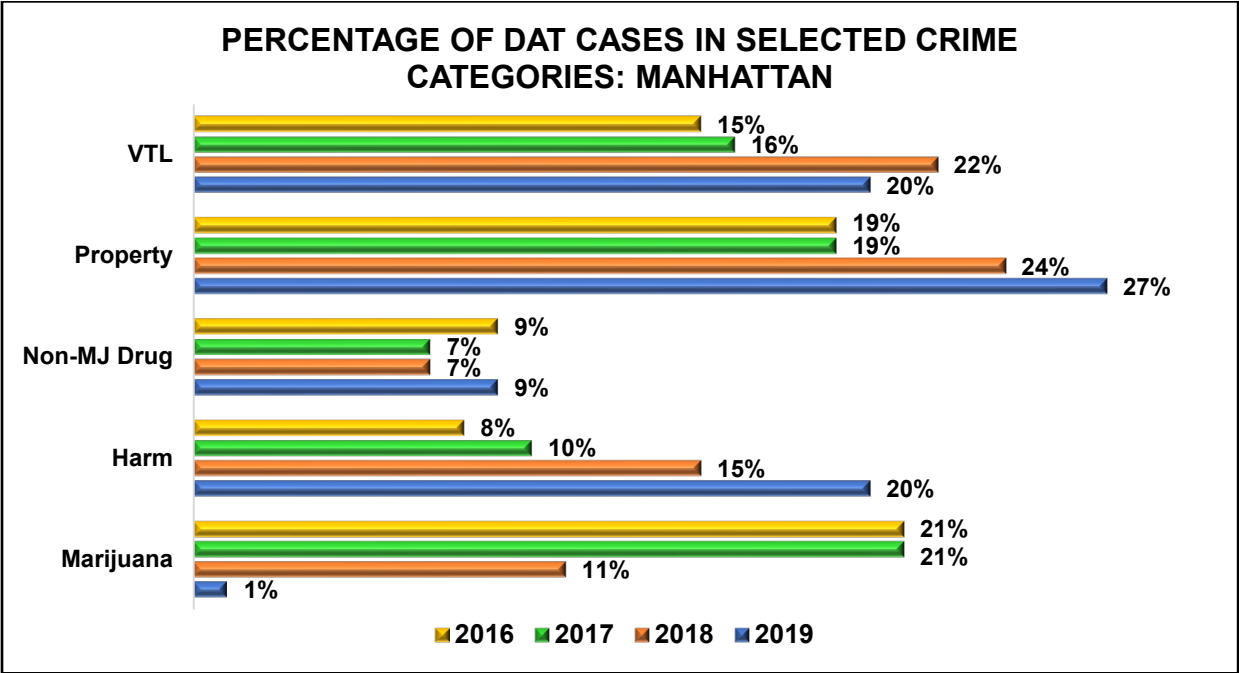
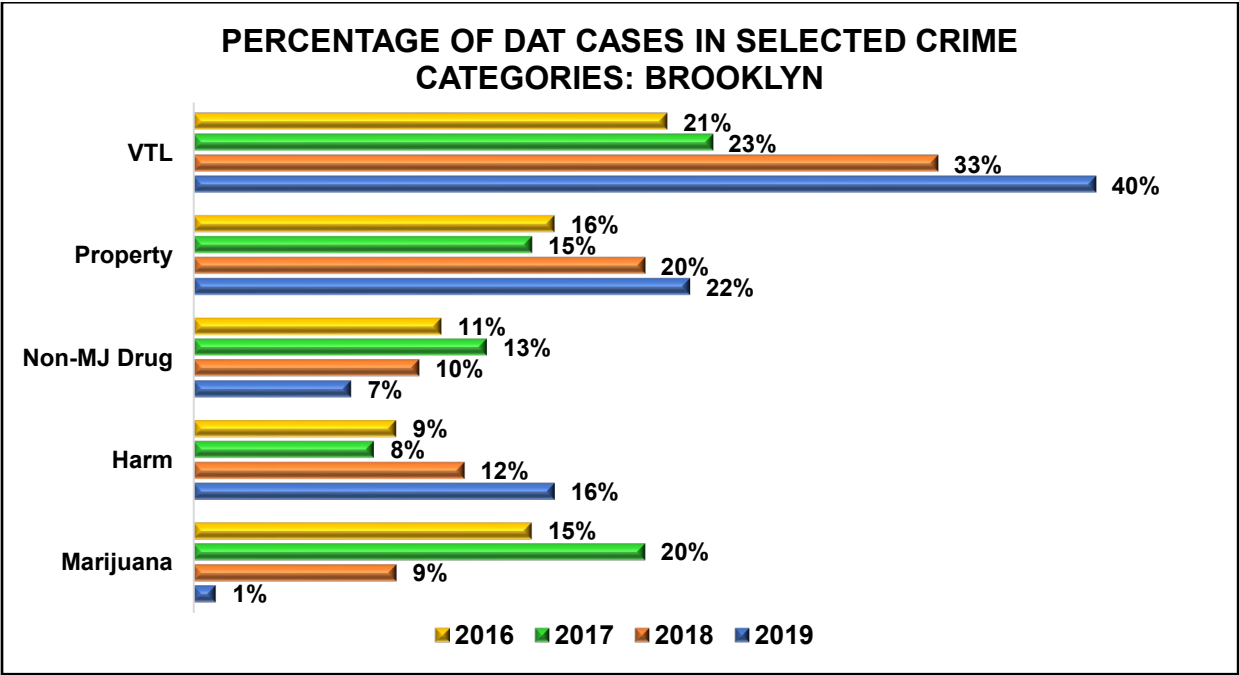
There was a noticeable upward trend in the percentages of prosecuted DATs with contact information found in Queens, Staten Island and the Bronx. There was some slippage in Manhattan although contact information was provided in over 90% of the cases. There is no ready explanation for the dramatic drop among Brooklyn's DATs. A contributing factor may have been the decision to not prosecute low-level marijuana possession and fare-evasion arrests, previously very prevalent among Brooklyn DAT arrests, with a youthful population which may have been better able to provide contact information.

Crime and Charge Composition

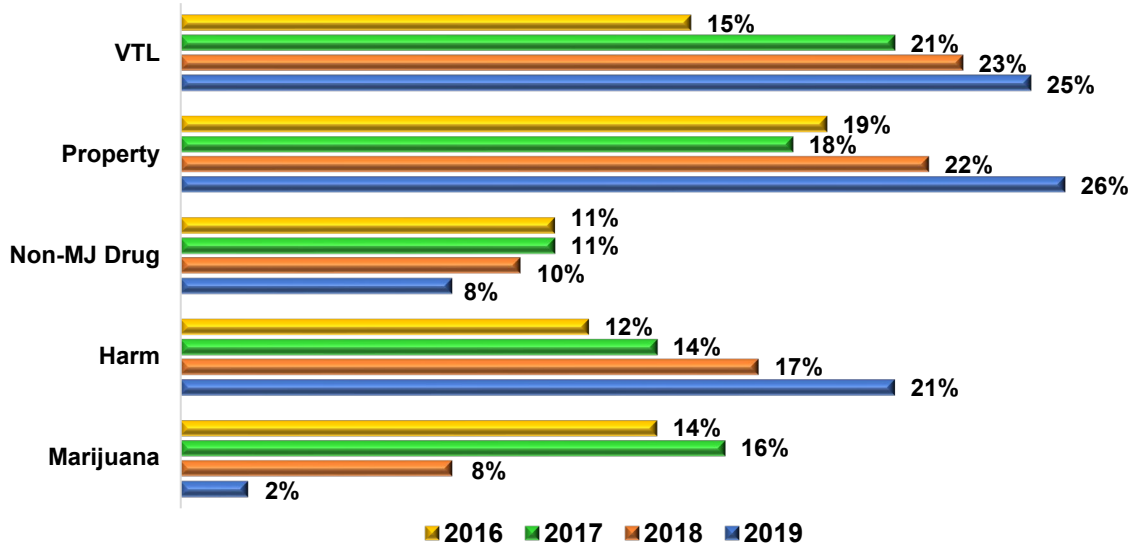
Even as the volume of DAT prosecutions declined, there were three crime categories with among the largest percentage of DAT cases—Vehicle and Traffic Law (VTL), Property (e.g. petit larceny) and non-Marijuana drug crimes—in every borough and in every year studied. However, the actual order and percentages in each category were different among the boroughs.

The relative distribution of cases among the crime categories was altered by policy changes regarding arrest and prosecution decisions for some DAT-eligible charges and a result of the Raise-the-Age legislation. Another consequence of these changes was to enlarge the proportion of cases in the harm category (e.g. misdemeanor assault) in the mix of prosecuted DAT arrests.

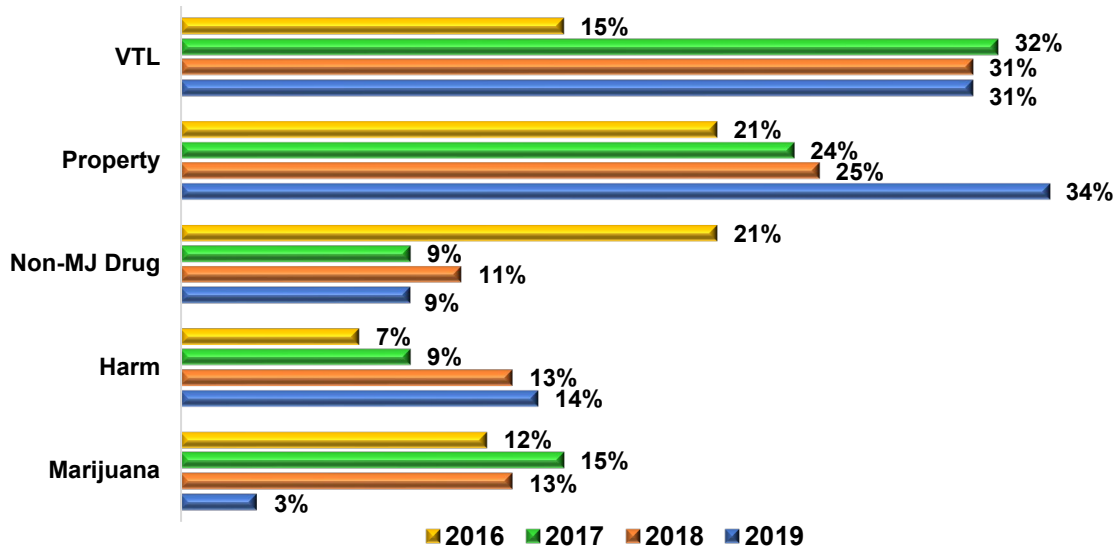
These aspects of the composition of DAT cases among the boroughs are shown in the next series of illustrations which provide the relative proportions of prosecuted DAT arrests, by major high-volume crime categories, in years 2016 through 2019. They also underscore comparative differences in the DAT caseloads among the boroughs.

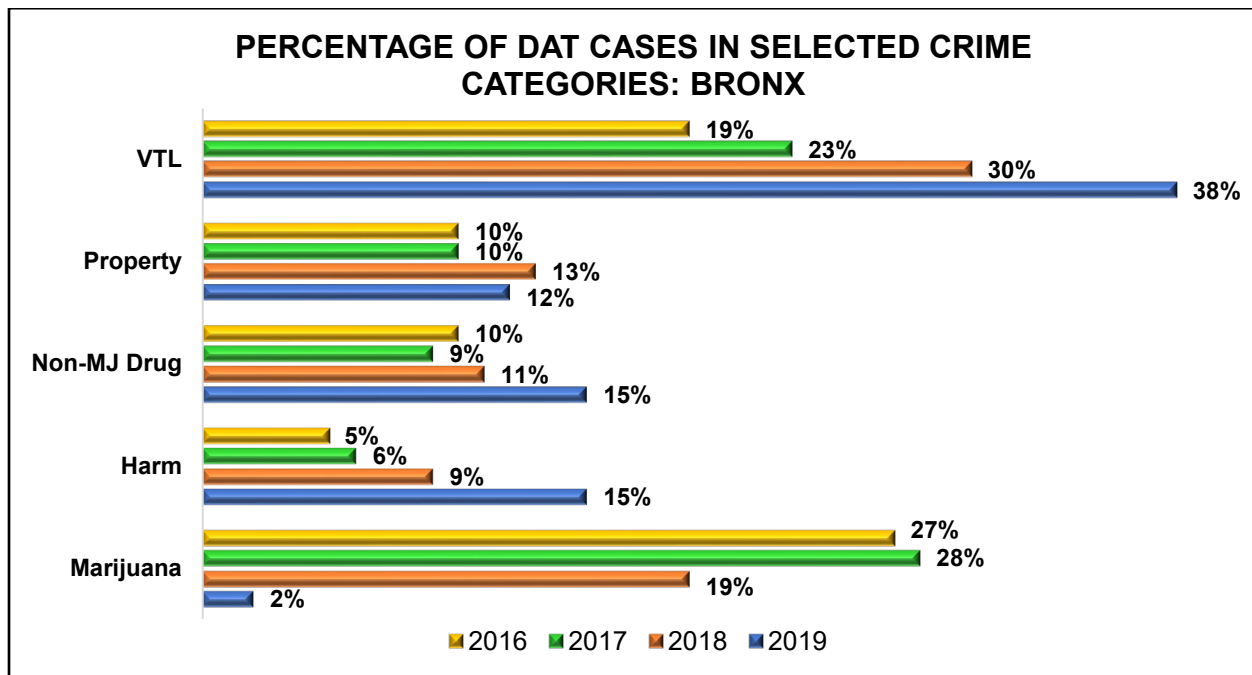


PERCENTAGE OF DAT CASES IN SELECTED CRIME CATEGORIES: QUEENS



PERCENTAGE OF DAT CASES IN SELECTED CRIME CATEGORIES: STATEN ISLAND

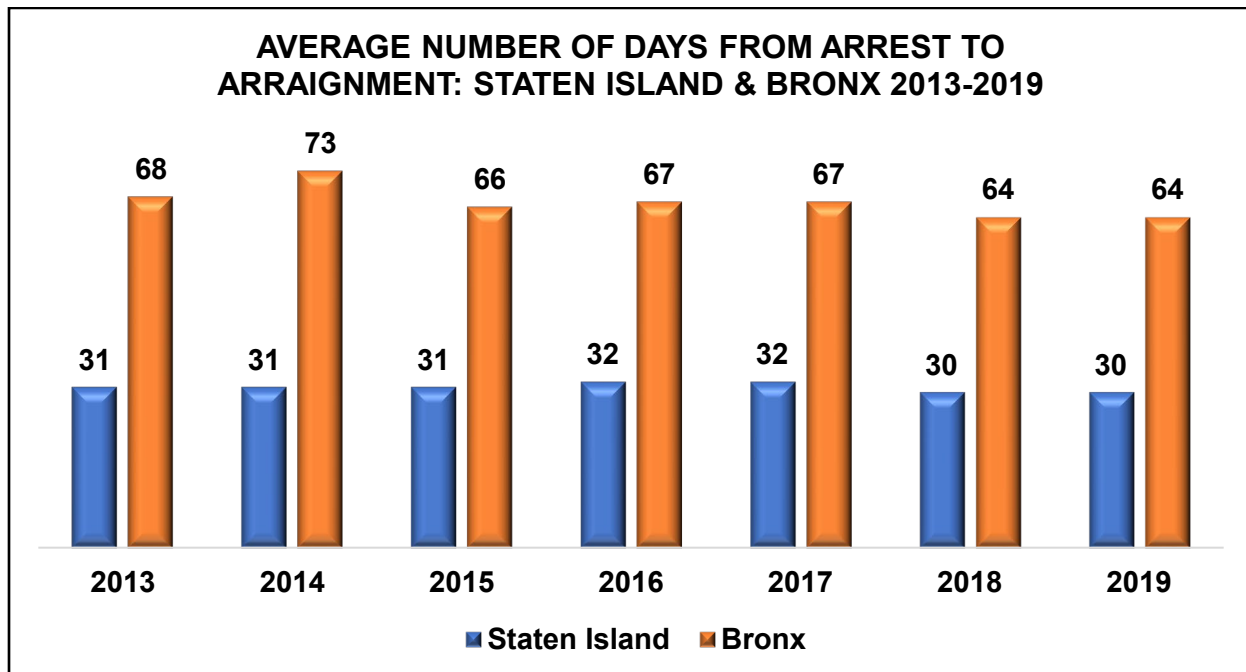




From Arrest to Arraignment

The time between arrest and the Criminal Court arraignment differed among the boroughs, measured as the average (mathematical mean) time within 180 days of arrest.

Staten Island consistently brought cases to arraignment within approximately one month's time. As a point of contrast, from 2013 through 2019, the Bronx consistently had the longest average times to arraignment, at least two months or longer depending on the year.

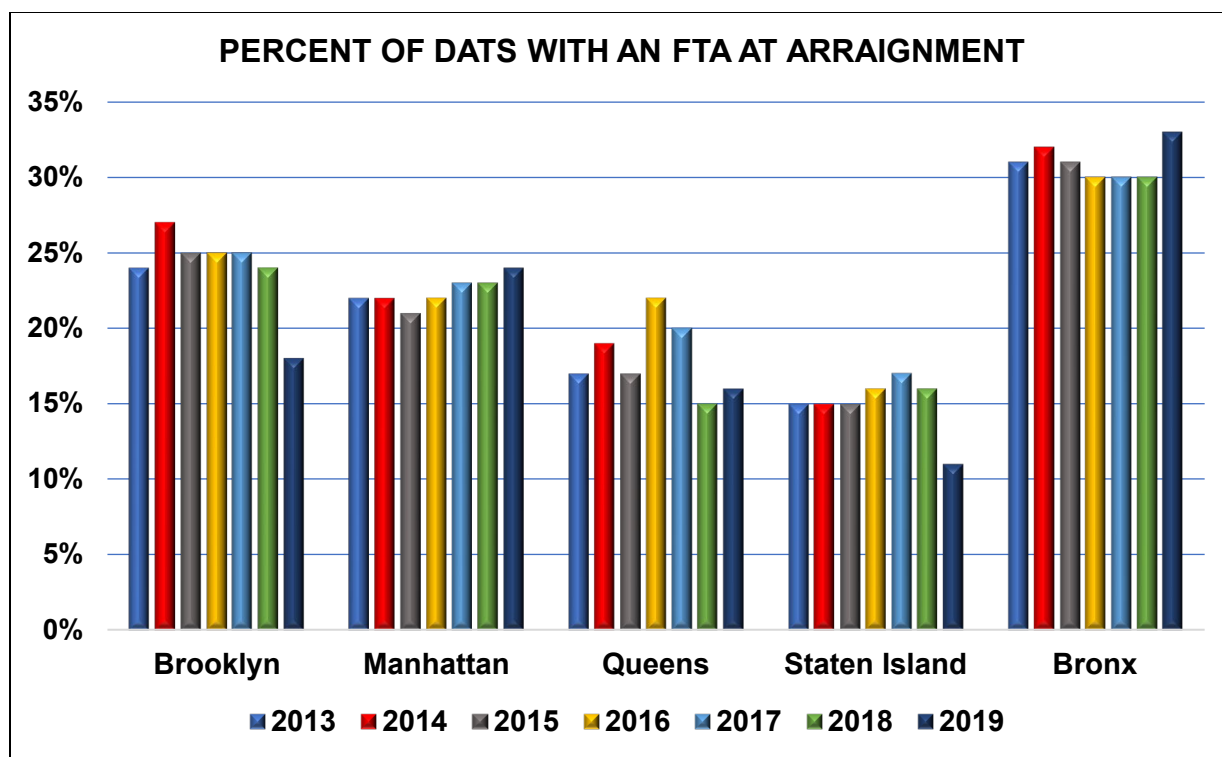


Forward from 2016, Manhattan’s average arrest-to-arraignment time did not appear to have declined commensurate with the dramatic decline in volume. In 2019, average Manhattan arrest-to-arraignment time was 53 days, one day longer than in 2016 when volume was three times greater. In comparison, Brooklyn reduced its average time of 63 days in 2017, to 48 days in 2018 and 38 days in 2019.

Appearance and Failure-to-Appear (FTA) rates

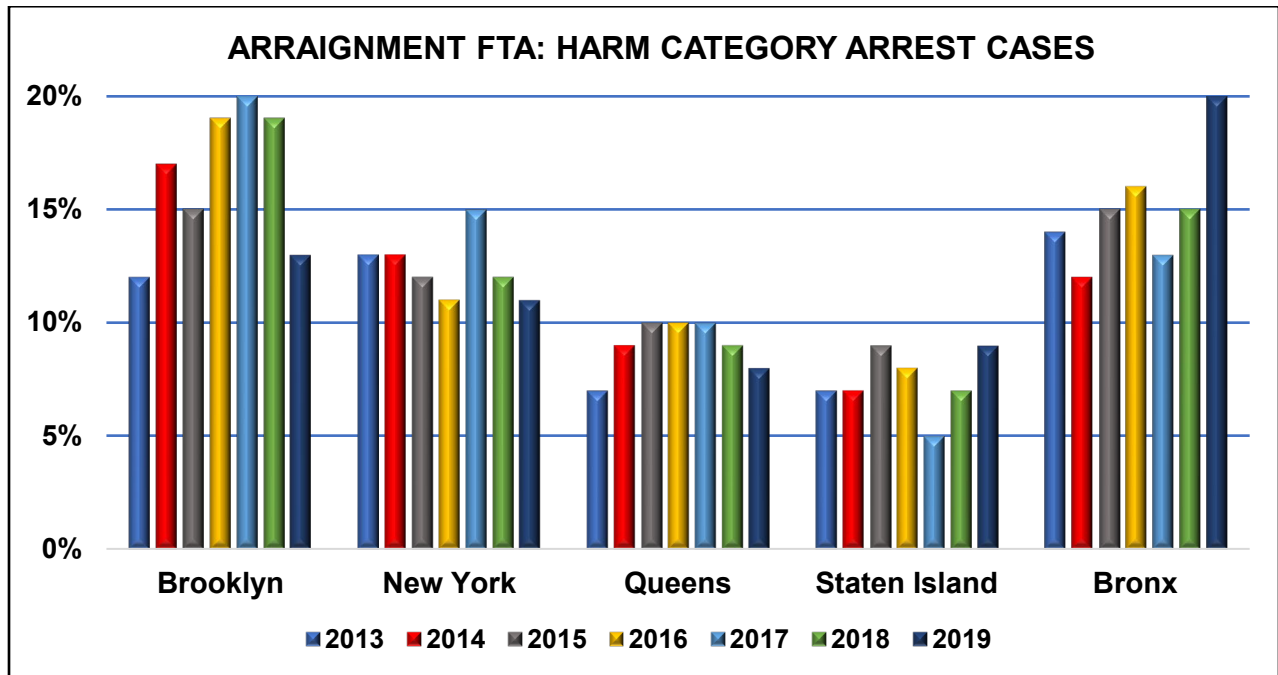
Appearance rates on the calendared Criminal Court arraignment date varied considerably among the boroughs. Overall arraignment appearance rates ranged from a high of 89% to a low of 67% depending on year and borough.

Among the boroughs, Staten Island consistently had the lowest, and the Bronx consistently the highest, FTA rates across the years. Queens showed the greatest fluctuations in FTA rates across the years.

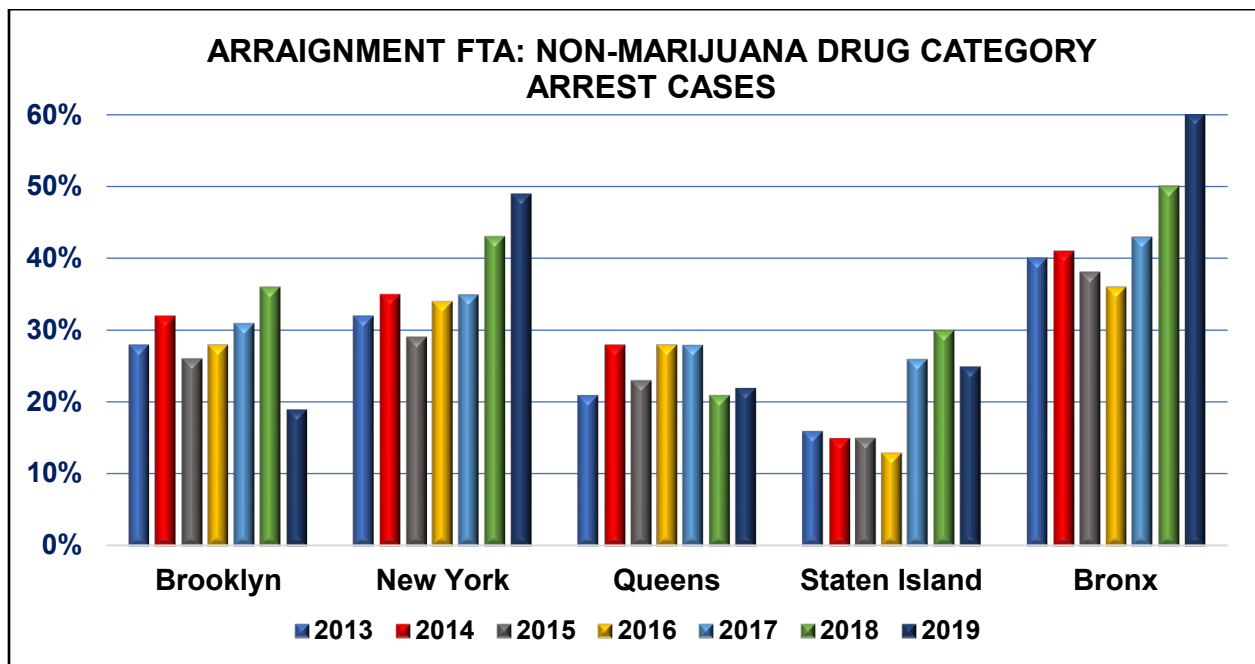


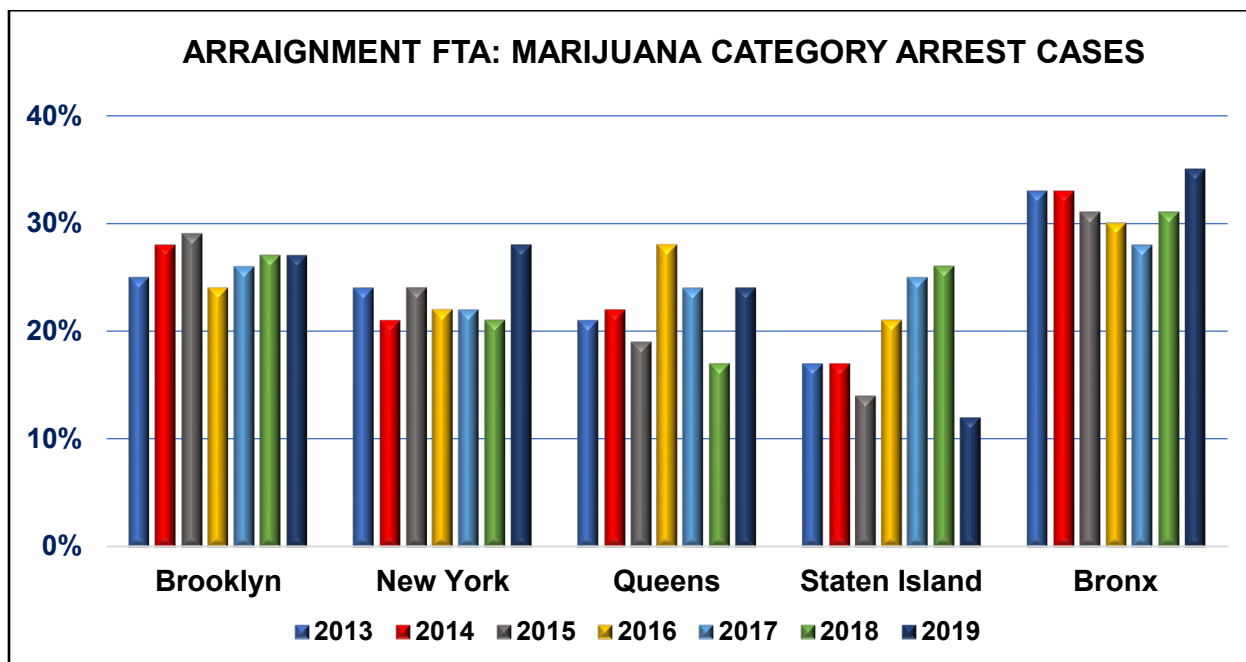
In every borough the FTA rates varied among the cases in the different crime categories. However, and with few exceptions, some common patterns were found.

Arraignments in the high-volume harm category (e.g. non-DV misdemeanor assault) always had among the lowest FTA rate in every borough. However, what constituted a low FTA rate differed among the boroughs. VTL arrests similarly had comparatively low FTA rates in almost every borough in every year in comparison with other crime categories.



The FTA rate at arraignment for non-marijuana drug arrests was almost always higher, and often dramatically so, than the FTA rate for marijuana arrest cases.

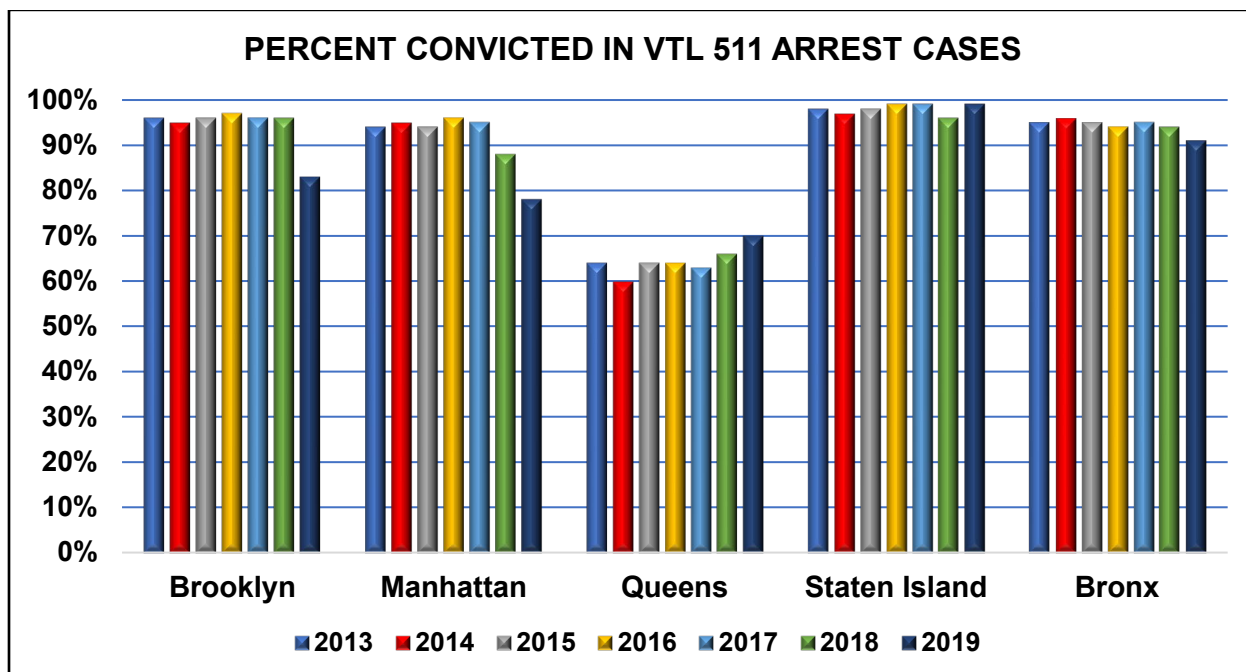




Case Processing and Outcomes

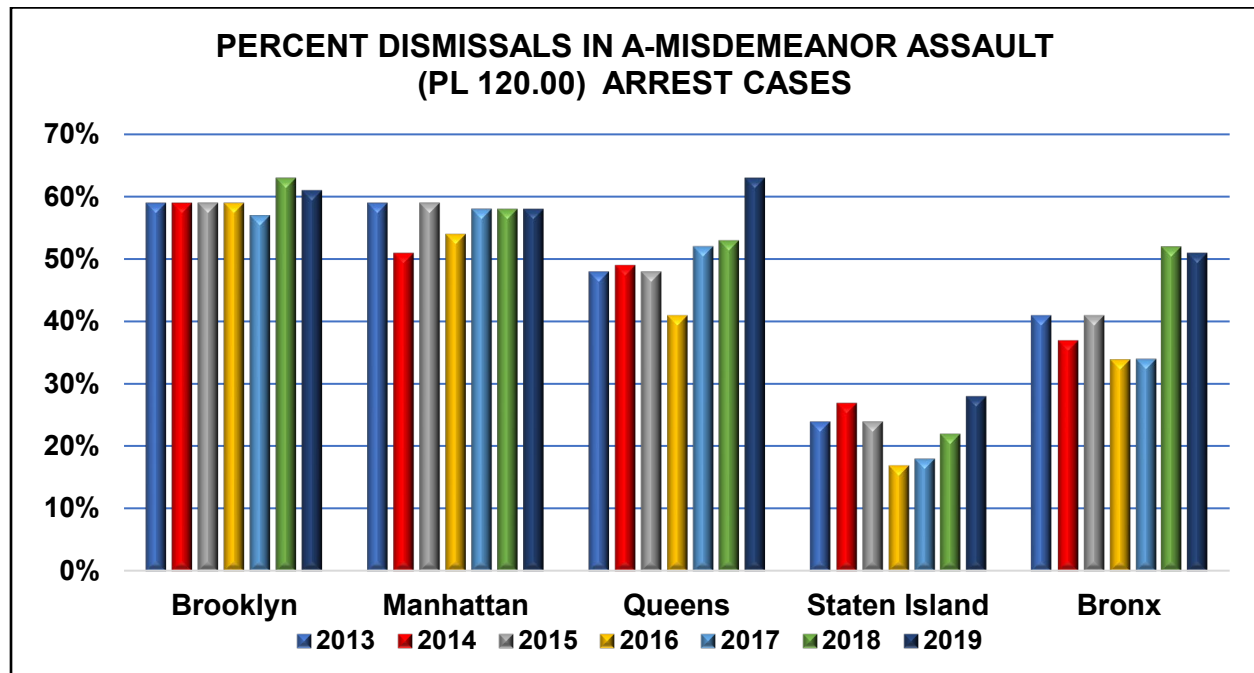
Disposition and continued rates, when defendants appeared on the scheduled arraignment date, varied for the most common charges across crime categories. They also fluctuated over the years within boroughs.

Among the high-volume crime categories examined, there were high conviction rates as a final disposition for cases in the VTL and non-marijuana drug categories. For example, in every borough except Queens it was common to find a 94% or higher conviction rate in VTL 511 arrest cases; in Queens it was generally around three-fifths to two-thirds. In 2019 there was a decrease in the Brooklyn and Manhattan conviction rates in these VTL arrest cases although they remained very high, 83% and 78% respectively.



Through 2018, over half the Brooklyn, Manhattan and Queens arrests for petit larceny in the property crime category ended with an ACD, with a rise in dismissals in Brooklyn and Manhattan in 2019.

In all court locations, except for Staten Island, the greatest proportions of A-misdemeanor assault arrest cases in the harm category most often ended with a dismissal, in comparison with convictions and ACDs, almost all of which occurred post-arraignment. Convictions were the most common outcome in Staten Island.



Conviction Sentencing

Sentencing patterns for convicted cases differed among the boroughs as well as for different types of crimes. The most noticeable difference among the boroughs was the larger percentage of convicted cases with conditional discharge sentences in the Bronx, where Bronx Community Solutions offers judges alternatives to the traditional jail or fine sanctions. (Data not shown)

Examining convictions for selected high-volume charges in different crime categories, Brooklyn exhibited the greatest tendency toward the imposition of imprisonment but these overwhelming were for time served. Monetary sanctions, although not as prevalent as imprisonment or conditional discharges, were found more often in Queens than in the other boroughs.

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. In addition, a list of DAT-ineligible charges has been removed from a revised New York Police Department's Patrol Guide.

However, not all types of DAT-eligible crimes will be equally affected by the presumption of the issuance of the DAT. Many disqualifying factors for DAT eligibility, which provide discretion to arresting officers according to the Patrol Guide, continue. It remains to be seen to what extent this will impact the shift from Summary to DAT arrests.

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 previously disqualified population with weaker community ties, and high FTA and re-arrest rates. 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 new law requires arraignments of DATs within 20 days of arrest. This requires the near immediate consultation between arresting officers and assistant district attorneys to complete the paperwork necessary for the Criminal Court arraignment. 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 had been adjudicated at the Criminal Court arraignment.