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# **Desk Appearance Tickets: Prelude to Bail Reform**

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## INTRODUCTION

There are three types of arrests in use in New York City. The most restrictive is the Summary arrest in which persons are held in custody until brought before a judge for a Criminal Court arraignment. The least restrictive is the Summons issued almost immediately at or proximate to the site of an arrest. A person who receives a Summons isn't taken to a police station and is neither photographed nor fingerprinted. In New York, Summonses can be issued for some misdemeanor and violation charges defined in law sources outside of the Penal or Vehicle and Traffic (VTL) laws, and for some Penal Law violations.

Between these two arrest types is the Desk Appearance Ticket (DAT) which can be issued for misdemeanor crimes, violation offenses, and some E-felonies. In these instances, a person is brought to a precinct location, fingerprinted and photographed and, if found eligible, subsequently released on their own recognizance with a ticket with an appearance date for the Criminal Court arraignment.

Eligibility for either a Summons or DAT is based on statute and written police guidelines.

Throughout its history the New York City Criminal Justice Agency, Inc. (CJA) has been documenting trends in the issuance of Desk Appearance Tickets through routine and special topic reports. These reports have shown how the volume, composition and arraignment appearance rates have fluctuated over time. Many factors account for these variations, most prominently differences across City administrations in approaches to criminal justice issues, and differences in police and prosecution policies and practices.

A CJA study examined DATs through calendar year 2012.<sup>1</sup> This study predated dramatic changes which were about to occur regarding the arrest and prosecution of low-level marijuana charges, part of a larger context of challenges and changes in stop-question-frisk practices in New York City.<sup>2</sup> It also predated New York State's legislation raising the age of adult criminal responsibility. The current report picks up the DAT story in subsequent years—2013 through 2019. This period serves as a prelude to New York's Bail Reform Law, effective as of January 1, 2020, which is another major milestone which will alter the DAT landscape.

The first section of this study report examines citywide patterns in the years from 2013 through 2019. The volume of prosecuted DATs has seen dramatic declines in the most recent years. Among the drivers of this are changes in policing policies with regard to stop-question-frisk, police and District Attorney policies with respect to arrest and

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<sup>1</sup> Mary T. Phillips, "DESK APPEARANCE TICKETS: Their Past, Present, and Possible Future" *Research Brief* series, No. 34, May 2014, (New York: New York City Criminal Justice Agency, Inc.)

<sup>2</sup> Mary T. Phillips, "MARIJUANA POSSESSION ARRESTS IN NEW YORK CITY—HOW TIMES HAVE CHANGED" *Research Brief* series, No. 40, May 2016, (New York: New York City Criminal Justice Agency, Inc.)

prosecution for low-level marijuana possession and transit fare-evasion charges, and legislation which has raised the age of criminal responsibility from 16 to 18. The impact of these factors on the population of prosecuted DATs is explored, including changes in defendant characteristics and charge composition. In addition to demographic factors, another element examined over time is the extent and type of collection of contact information, critical for providing court appearance notification.

The first step in court processing is bringing cases to the Criminal Court arraignment and the decrease in prosecuted arrest volume has been accompanied by an overall decline in arrest-to-arraignment time. However, the decline in time is not commensurate with the volume drop, suggesting that there are factors other than just volume which can impact how long it may take to complete all necessary pre-arraignment materials.

Citywide arraignment appearance and failure-to-appear (FTA) rates, along with adjudicated outcomes at- and post-arraignment are examined, as are sentencing patterns for convictions. How these aspects of court processing and outcomes differ among crime categories and charges are explored

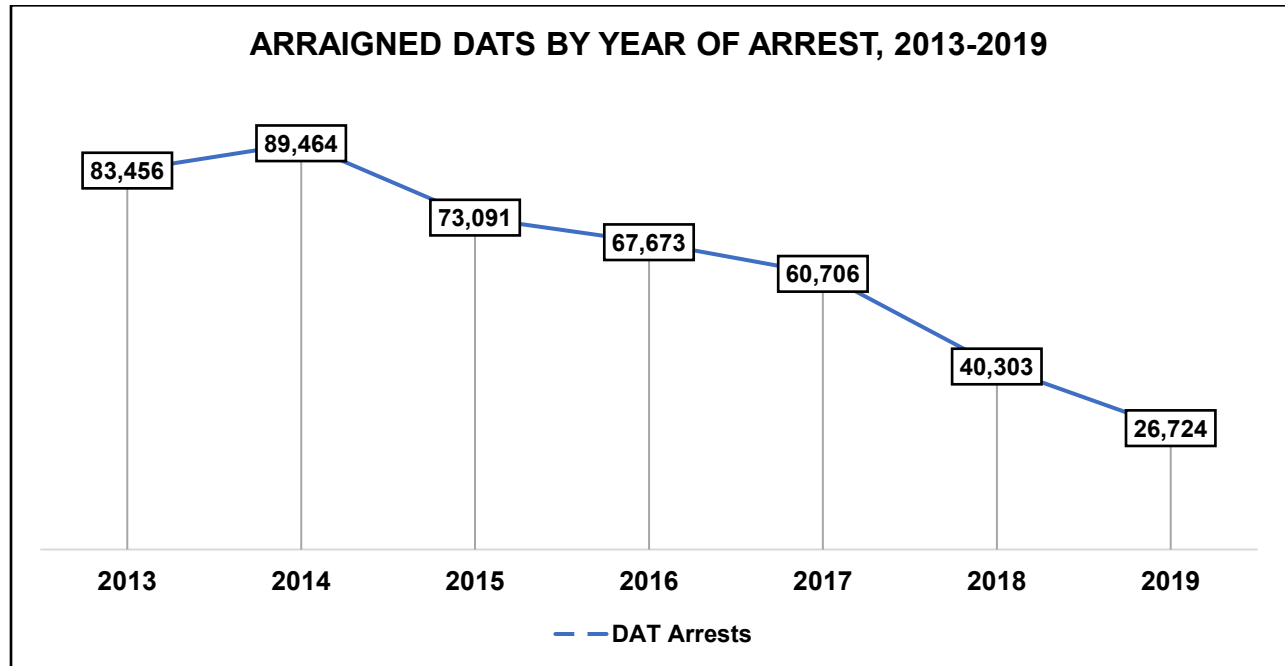
The citywide data analyzed in the first section of this report is a compendium of the operation of the criminal legal system in each of the City's five boroughs, and each borough has distinctive characteristics. These differences manifest themselves in a variety of ways including in the characteristic of prosecuted DAT arrests and arrestees, court processing, case outcomes and sentencing patterns. The second section of the report compares these characteristics among the boroughs across time.

The findings of this study have a number of implications for adapting to the DAT requirements under the new bail reform law and this is explored in the final report section. The new law will increase DAT volume, and its impact likely will disproportionately affect prosecuted arrests in some crime categories and for charges with high volumes and high failure-to-appear rates. Arrest-to-arraignment times will need to be dramatically shortened from those found in most boroughs and raises the specter of increases in arraignment continuances and changes in ultimate case outcomes, especially dismissals which are more common in post-arraignment dispositions. New notification requirements will require police to collect contact information and potentially increase CJA's expanding role in encouraging court attendance and providing enhanced outreach services. These and other issues are explored in the concluding section of the report.

## CITYWIDE ARRAIGNED DATs: CALENDAR YEARS 2013 THROUGH 2019

### Volume

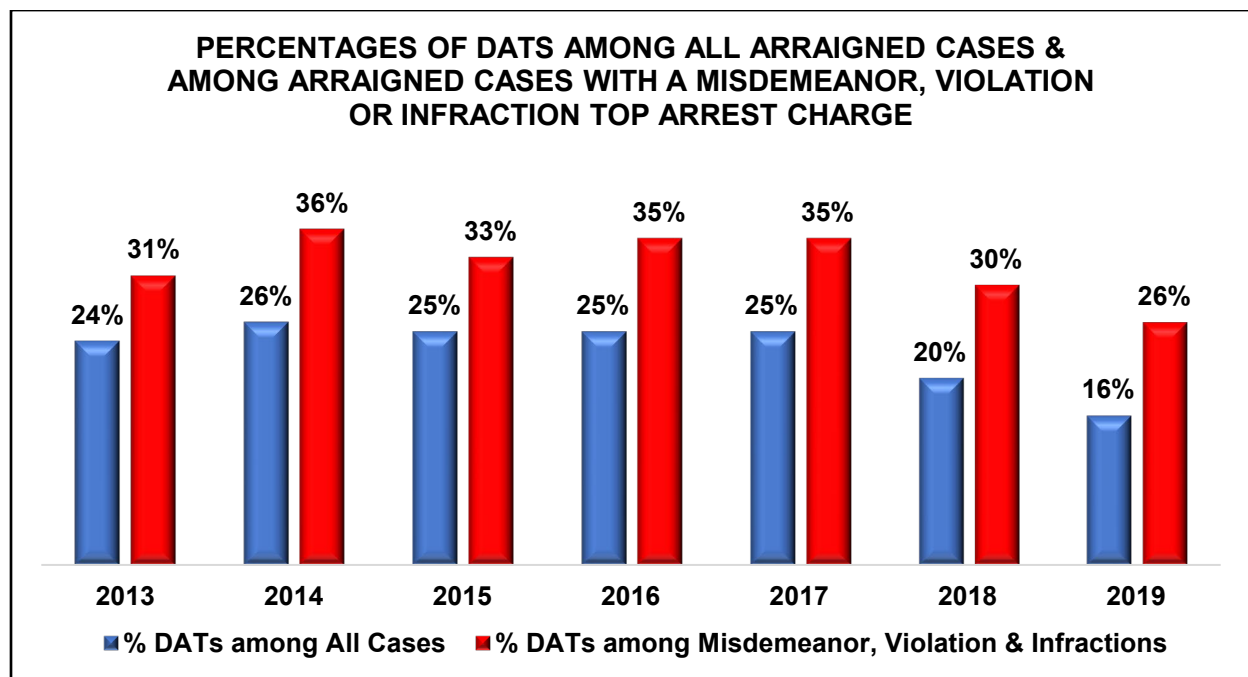
Looking across the years from 2013, overall arraigned DAT arrests entering the New York City's Criminal Court have been on the decline since 2014. In 2018, the volume of prosecuted DAT arrests was less than half the volume found in 2013 and 2014. Additionally, 2018's volume was about 40% smaller than in 2017, and then volume dropped yet another 40% from 2018 to 2019.<sup>3</sup>



For most of these years DATs followed a more general downward trend in caseloads. Through 2017, DATs represented approximately a quarter of all arraigned cases. In the same years about a third of all prosecuted non-felony arrests—misdemeanor, violation and infraction charges combined—were DATs.

DATs diverged from this pattern in 2018 with a more substantial drop as a percentage of all arraigned cases, and as a percentage of arraigned cases with a top arrest charge of misdemeanors, violations and infractions combined. In 2018, DATs as a percentage of all arraigned non-felony cases dropped 5 percentage points from 2017, and then dropped another 5 percentage points in 2019. In 2018, DATs as a percentage of all arraigned cases were 4 percentage points smaller than the previous year and dropped another 4 percentage points in 2019.

<sup>3</sup> The 2019 prosecuted DAT arrest volume has an end-of-March 2020 cut-off date, a shorter window than applies to previous years. As a result, there is a small undercount of prosecuted 2019 DAT arrests in these data.



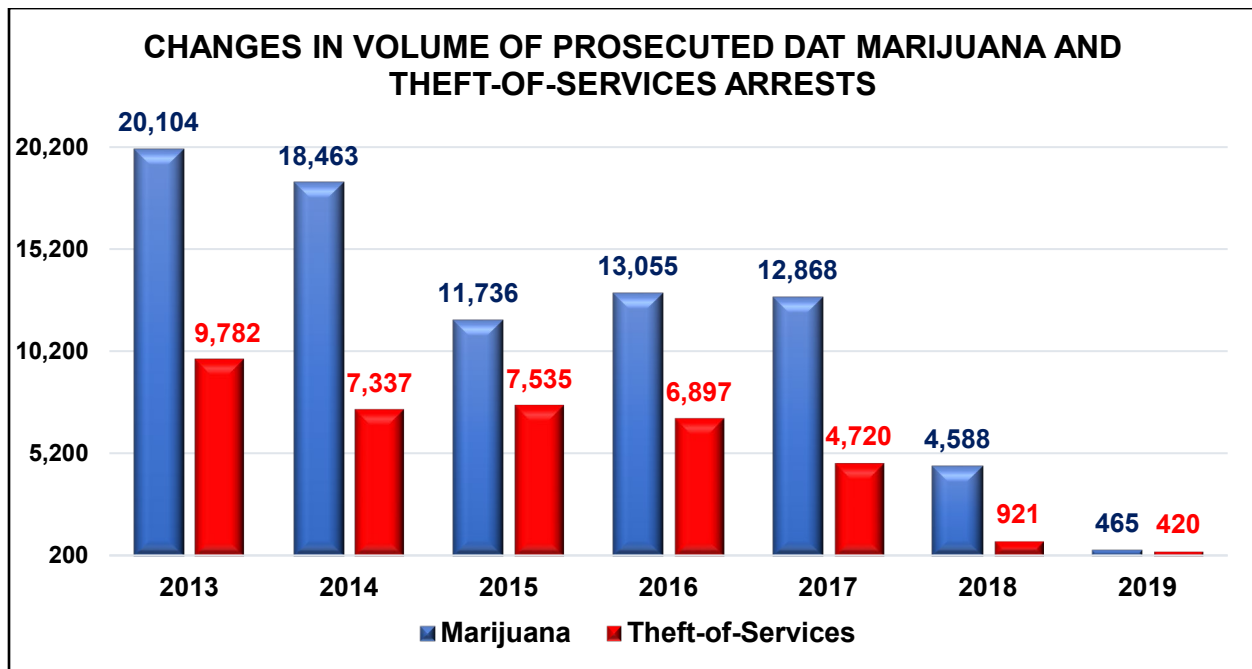
Some of this decline reflects dramatic changes in arrest and prosecution policies for two types of crimes: low-level marijuana charges, and the theft-of-services (fare-evasion) charge which dominates the cases in the fraud/theft category. APPENDIX A provides an overview of the crime categories used in this study.

#### Case and Defendant Characteristics

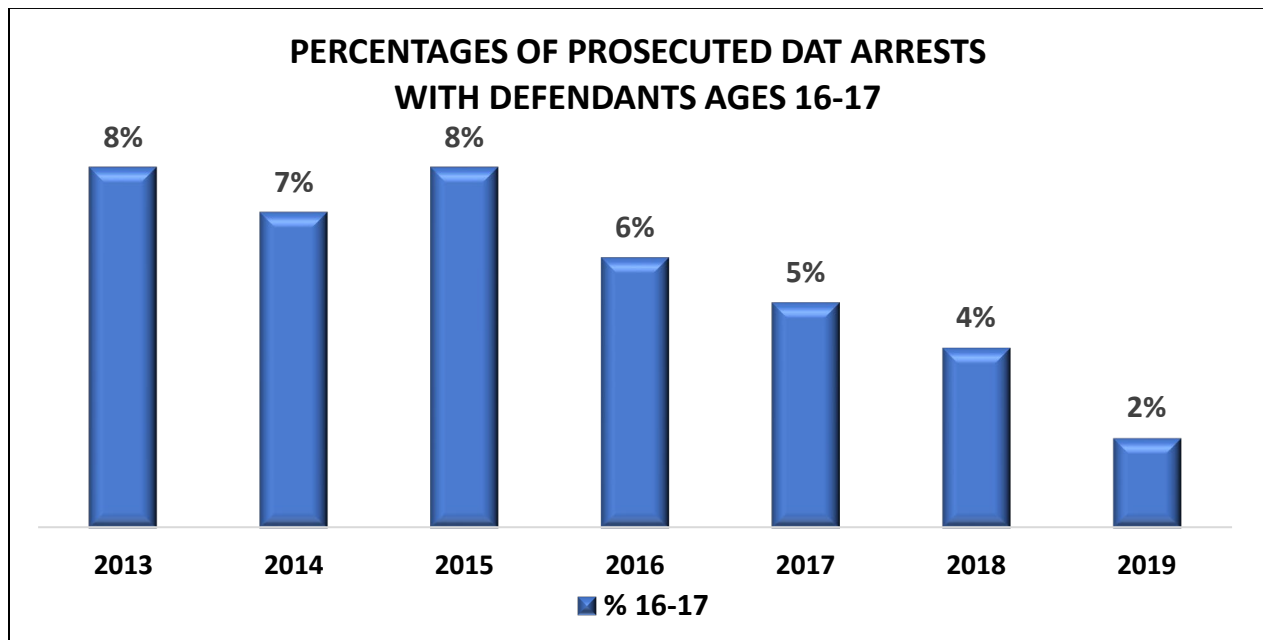
In the spring of 2013, the then mayor and police commissioner announced a new policy by which most low-level marijuana arrests would be issued DATs. In the fall of 2014, a new City administration announced yet another new policy, one in which most low-level marijuana arrests were to be issued a Summons in place of a DAT.<sup>4</sup> In the spring of 2018, both the Brooklyn and Manhattan District Attorney's Offices announced a decision to not prosecute many low-level marijuana arrests, and in the fall of that year more policy changes were announced whereby possession of small marijuana amounts found during police stops no longer would be subject to any criminal actions. One can trace the consequences of these policy changes in the illustration which follows.

Another prosecution policy change with an impact on DAT caseloads involves the A-misdemeanor fare evasion, PL 165.15, Theft-of-Services charge. In early winter 2018, the Manhattan District Attorney's Office announced that it no longer would prosecute most of these arrests in that borough and urged that persons stopped for fare evasion be issued a Summons instead, barring some other criminal activity. In some instances, persons issued a DAT for fare evasion might be offered a pre-arraignment diversion option. The Brooklyn District Attorney's Office soon followed and there was a dramatic drop in the already declining volume of prosecuted theft-of-service arrests.

<sup>4</sup> Mary T. Phillips, "DESK APPEARANCE TICKETS: Their Past, Present, and Possible Future," *Research Brief* series, No. 34, May 2014, op. cit.



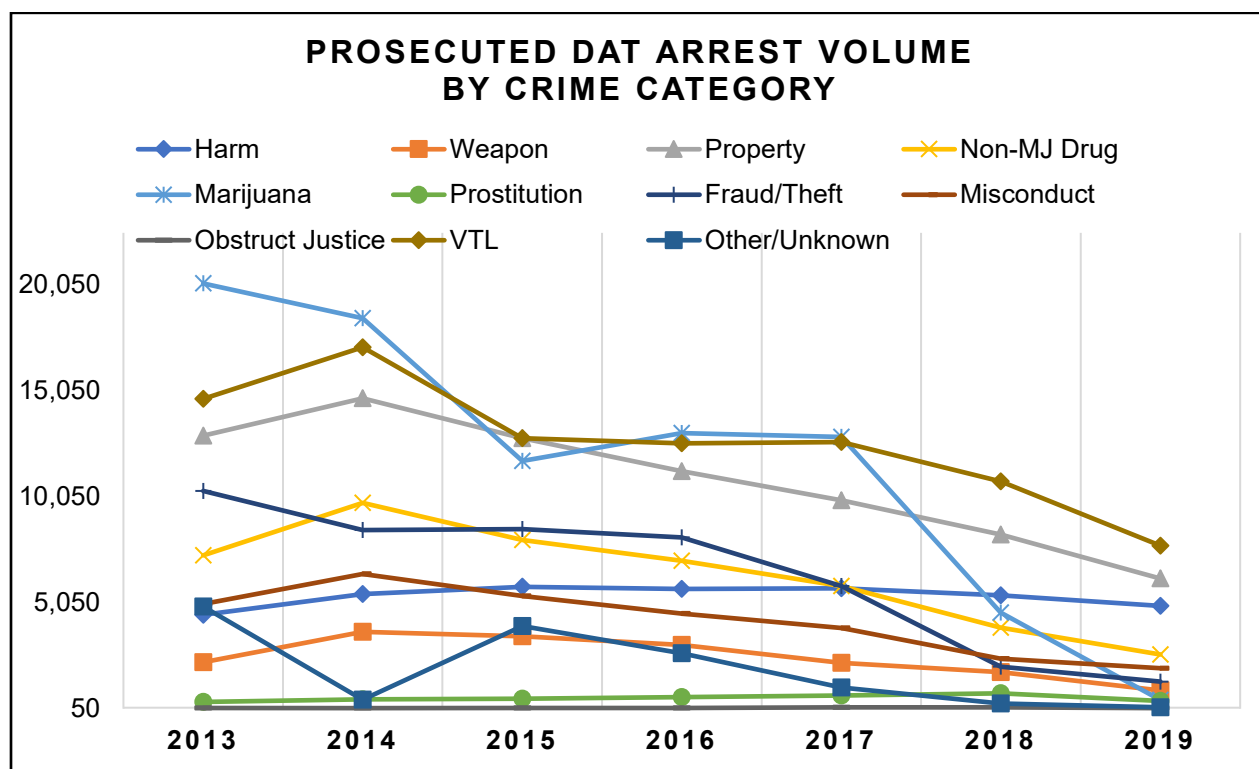
Another contributing factor to the more recent declines in DAT volume is New York State's Raise-the-Age (RTA) legislation which increased the age of adult criminal responsibility from 16 to 17 as of October 2018, and to 18 as of October 2019. The percentages of arraigned DAT arrests with defendants ages 16 and 17 have been steadily falling beginning in 2016.



Combined, these factors have an impact on changing the overall composition of cases and demographics of individuals being arrested and issued DATs. However, not all crime categories are equally affected.

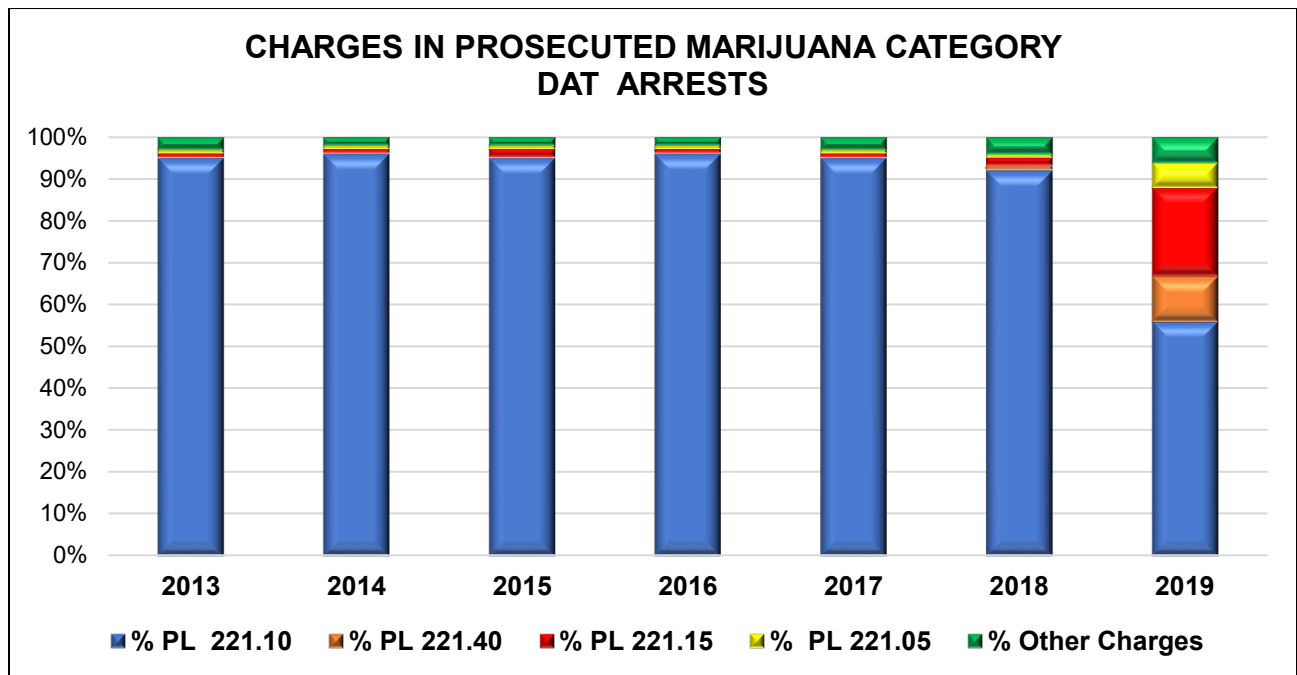
The proportion of youths in the DAT population differs among crime categories. For example, marijuana cases have historically had a more youthful demographic than is found in cases with non-marijuana drug charges. The mean (mathematical average) age for marijuana cases had been 26 until it rose to 28 in 2019. By way of contrast, there are few youths in VTL cases, with an average age of 36, and this crime category is almost wholly unaffected by RTA.

Prosecuted VTL DAT arrests have consistently contributed a large proportion of DAT court cases citywide, and the largest volume beginning with arrests in 2015. The property (e.g. petit larceny) and harm (e.g. misdemeanor assault) crime categories also have shown little change beyond the overall decline. However, with the dramatic decline of cases in the marijuana and fraud categories, property and harm category cases have the 2<sup>nd</sup> and 3<sup>rd</sup> largest volume of arraigned arrests respectively beginning in CY 2018.

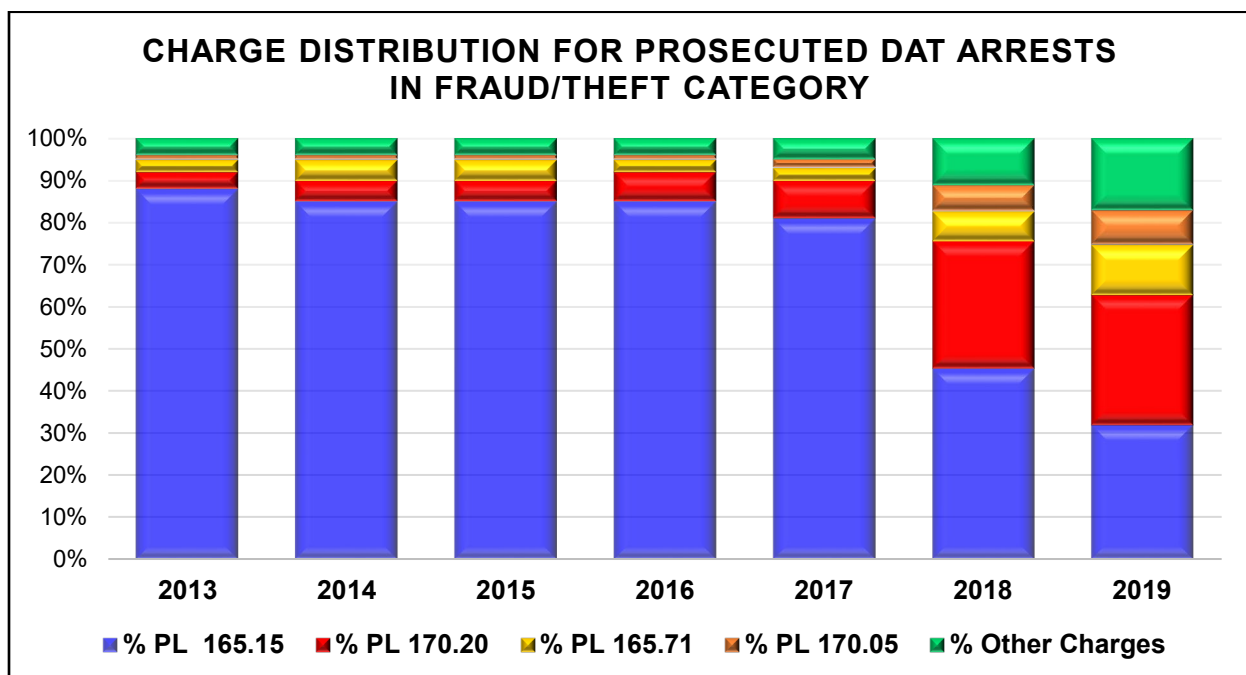


In a few instances there also have been some changes in the charge composition within crime categories. As previously discussed, the impact is especially notable in the marijuana category. PL 221.10, B-misdemeanor possession, dominated this crime category in the years leading up to arrest policy and age changes, while PL 221.40, A-misdemeanor sale, and PL 221.15, A-misdemeanor possession, comprised fractions of a percent. This configuration of charges changes dramatically as prosecuted arrests in the marijuana category for PL 221.10 fall sharply. Among the small number of marijuana DAT cases which continue into 2019, A-misdemeanor possession increases from less than 2% to 21%, and A-misdemeanor sale increases from a fraction of a percent to 11%, of the DAT arrest cases in this category.



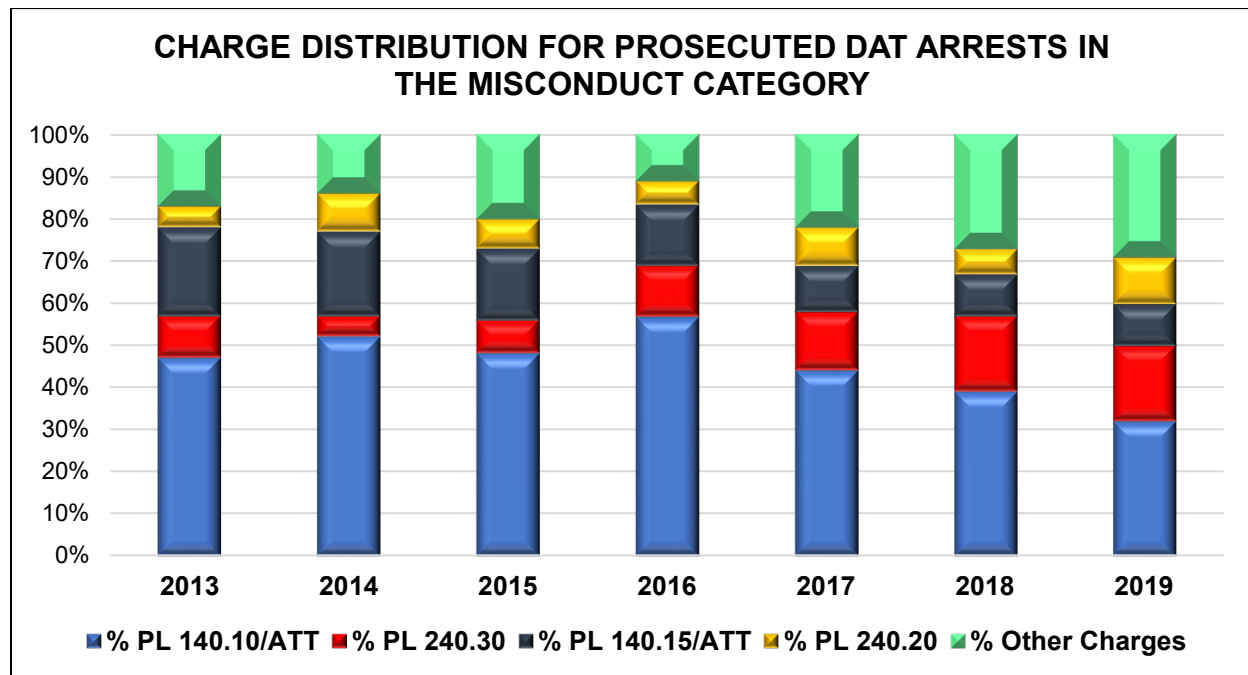


The distribution of charges in the fraud/theft category's DAT cases also shows some impact from policy and age-related changes, specifically the decline in prosecuted arrests for A-misdemeanor theft-of-services (PL 165.15), almost always for transit fare evasion. Not only does this category have a dramatic drop in volume but charge composition changes as well. Leading into 2018, the PL 165.15 charge comprises 80-88 percent of annual arraigned DAT arrests in this category. In 2018 it drops to 45%, and then in 2019 to less than a third of arraigned arrests in this category. What remains are arrest cases for possession of a forged instrument (PL 170.20), Trademark Infringement (PL 165.71) and 3<sup>rd</sup> degree forgery (PL 170.05), all A-misdemeanor severity charges but largely of a qualitatively different form of fraud than theft-of-services.



The misconduct category contains an array of public disorder types of charges drawn from several sections of the Penal Law. A number of these charges, such as various severities of criminal trespass (PL 140.10 and PL 140.15) and their attempted versions, have been an integral part of quality-of-life policing.<sup>5</sup> For example, under stop-question-frisk (SQF) people entering public housing, or private buildings under the Trespass Affidavit Program, B-felony trespass DATs were issued when individuals could not adequately identify themselves as residents or legitimate visitors to these premises. As these and other controversial quality-of-life policing strategies came under legal challenges, more restrictive policy guidelines reduced some number of DAT arrests entering the criminal courts in this crime category. In addition, District Attorney's office began to offer pre-arraignment diversion to some arrestees under Project Reset.<sup>6</sup>

Among remaining arrests, A-misdemeanor aggravated harassment (PL 240.30) increased as a proportion of DAT arrest cases in this crime category. Among the array of arrest charges in "other crimes" are the A-misdemeanor obstruction of governmental administration (PL 195.05) and charges relating to gambling.



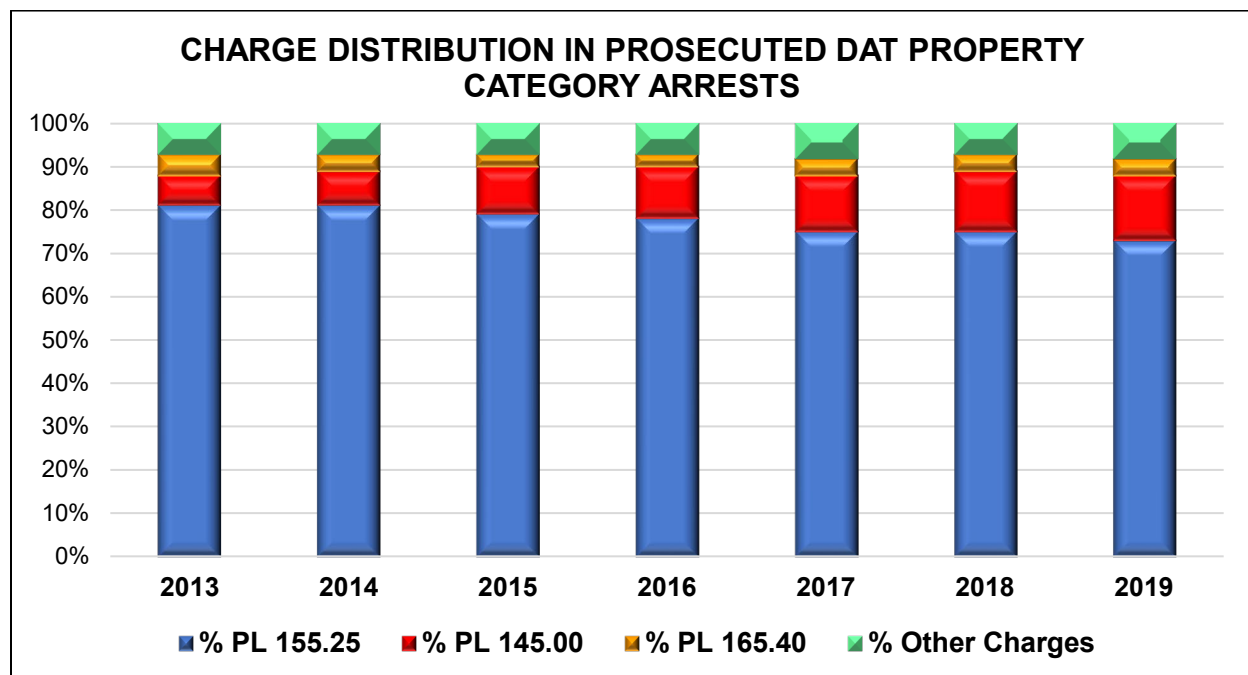
The charge composition for prosecuted DAT arrests remains the same or very similar within most other crime categories. For example, A-misdemeanor assault, PL 120.00, is a consistent 80-83 percent of all arrest cases in the harm category. Across all years examined, PL 220.03, A-misdemeanor drug possession, comprises between 90

<sup>5</sup> Freda F. Solomon, THE IMPACT OF QUALITY-OF-LIFE POLICING, *Research Brief* series No. 3, August 2003, (New York City Criminal Justice Agency, Inc.)

<sup>6</sup> Project Reset was introduced by the Center for Court Innovation in 2015 to divert DAT arrestees for low-level crimes such as trespass and criminal mischief. Originally designed for those 16-17, it became available for those 18-21 after the implementation of Raise-the-Age legislation.

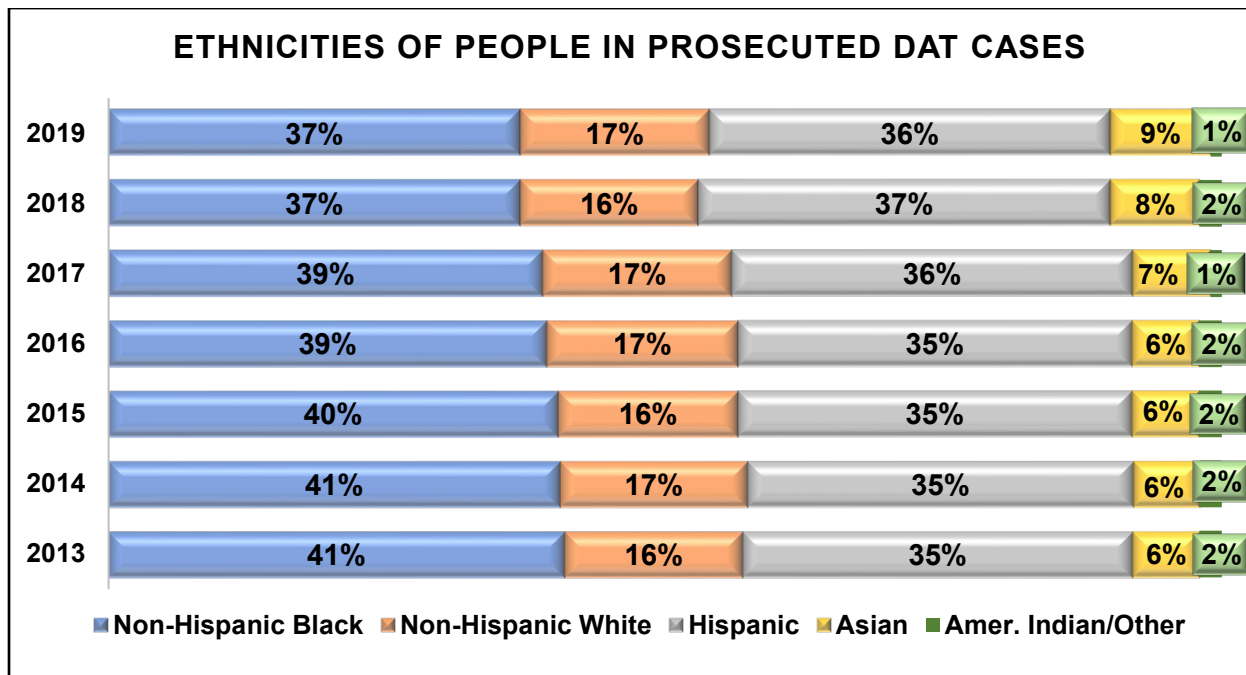
and 95 percent of all cases in the non-marijuana drug category. In a similar fashion, VTL 511, misdemeanor driving with a suspended license, comprises 95 to 96 percent of all DAT cases in the VTL category. (Data not shown)

Another example is the distribution of charges in the property-crime category's DAT prosecuted arrests which is dominated by the A-misdemeanor Petit Larceny (PL 155.25) charge. A-misdemeanor charges of criminal mischief (PL 145.00) and possession of stolen property (PL 165.40) contribute most of the remaining charges in this crime category. The 'other' charges are almost entirely attempts of PL 155.25 or PL 165.40. As Petit Larceny cases have declined, criminal mischief arrests have increased as a proportion of the smaller volume of DAT cases in this crime category, rising from 7% in 2013 to 15% among the 2019 prosecuted DAT property-crime arrests.

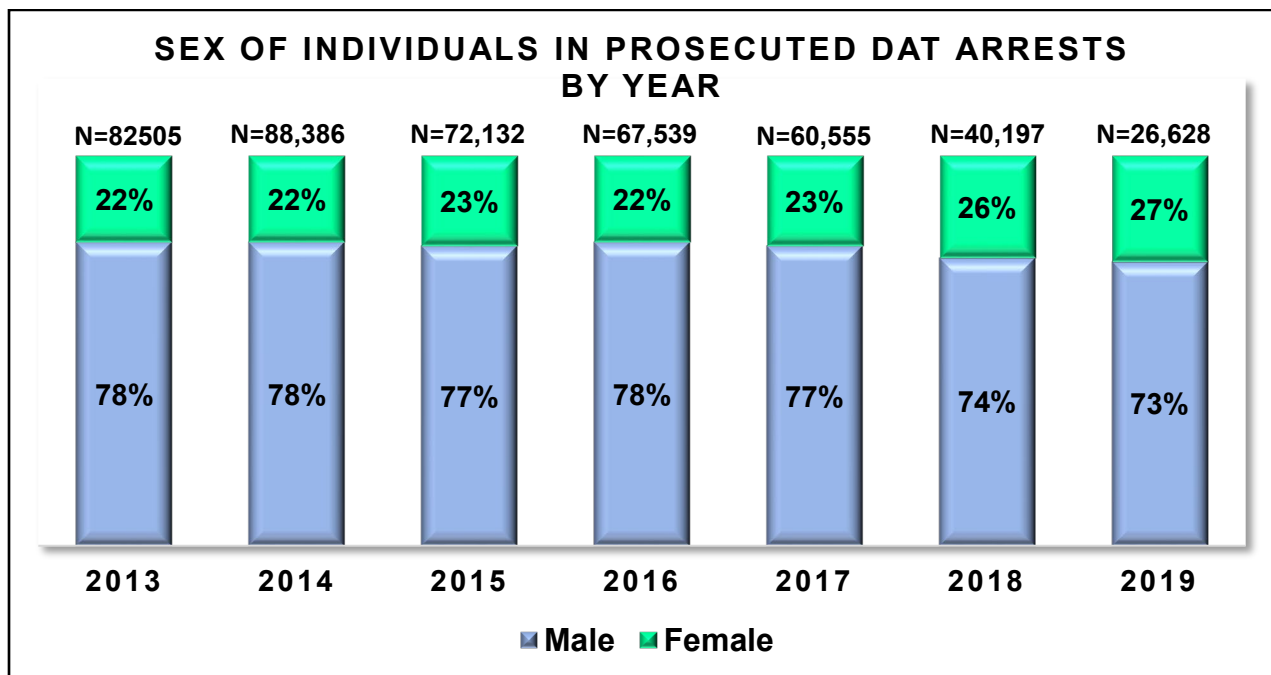


Some demographic changes accompanied changes in case characteristics. As already noted, the decline in arrests for marijuana crimes and youths impacted the age composition of individuals in DAT arrests. The average age in DAT arrest cases was 32 through 2017, rising to 34 in 2018 and to 36 in the 2019 cases.

The proportions of non-Hispanic Black defendants in DAT cases is fairly consistent until 2018 when there was a small percentage point decline. The proportions of cases with Hispanic, and non-Hispanic White individuals changes very little. However, there is a noticeable incremental increase in the proportions of cases with Asian defendants beginning in 2017.

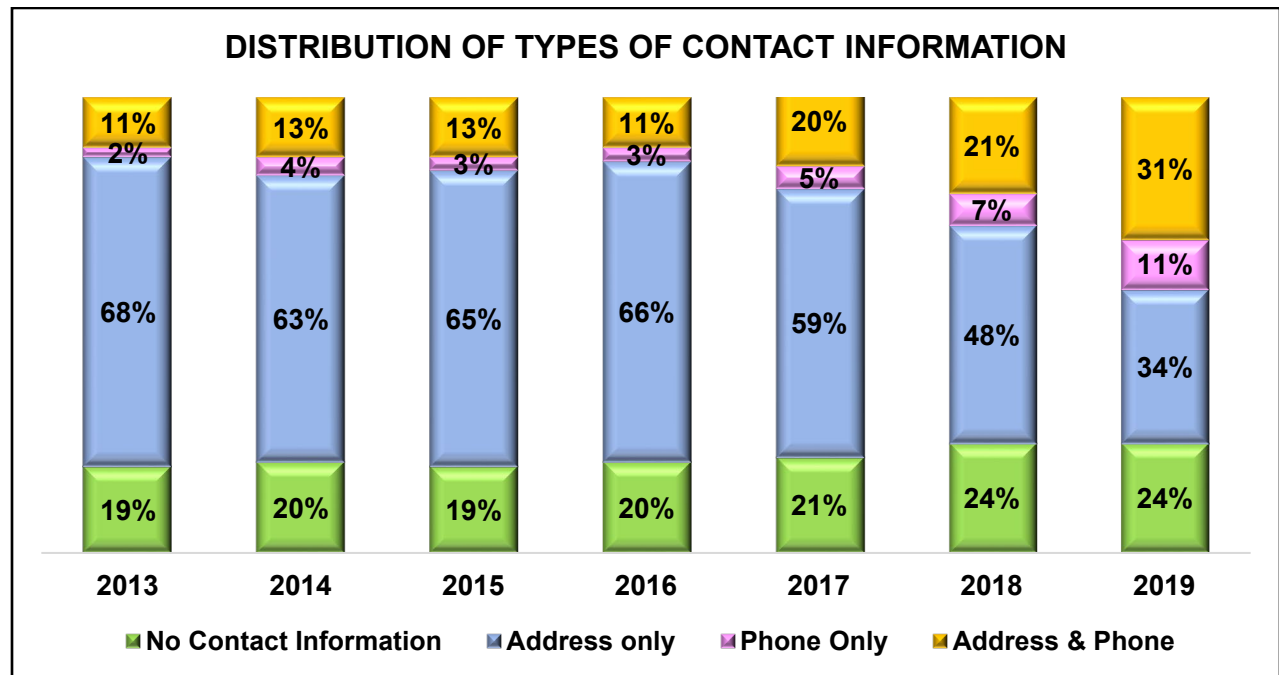


Across all the years examined, males dominate the DAT population but small declines in the percentages of cases with male defendants begins after 2017. There is a corresponding increase in the proportions of the smaller volume of DATs issued to women, who now comprise over a quarter of the DAT defendant population.



Another facet of case and defendant characteristics is the collection of contact information for the purposes of court appearance notification. There are two aspects to this. To what extent are the police able to obtain, and arrested individuals willing to provide, contact information for notification purposes. The illustration which follows shows

the extent to which recent changes in police procedures have resulted in more robust collection of contact information, especially phone contacts. This is a critical element for court appearance notification as research has shown that phone contact is more effective than letter notification.<sup>7</sup> However, this illustration also suggests that in the changing case and defendant composition there is a small increase in the percentages of cases in which individuals are either unable or unwilling to provide this information.



### From Arrest to Arraignment

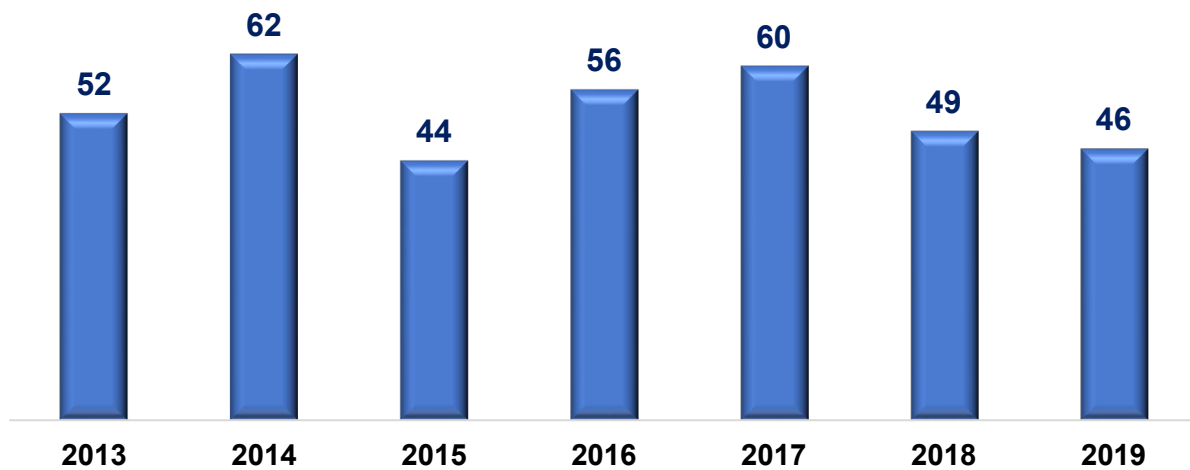
The citywide average times between arrest and Criminal Court arraignment have fluctuated over the time periods examined. For this analysis average (mathematical mean) arrest-to-arraignment times are computed for arraignments which occurred up to 180 days from arrest. Average times for the 2019 data likely are underestimated because of the shorter window to this year's arraignment cut-off date.

Time to arraignment dropped along with the substantial decline in DAT cases beginning in 2018. However, the decline in time is not commensurate with the volume drop, suggesting that there are factors other than just volume which can impact how long it may take to complete all necessary pre-arraignment materials.

<sup>7</sup> Russell Ferri, "DESK APPEARANCE TICKETS AND APPEARANCE RATES: The Benefits of Court Date Reminders," *RESEARCH BRIEF* series, No. 45, July 2019, (New York: New York City Criminal Justice Agency, Inc.)

### CITYWIDE AVERAGE NUMBER OF DAYS FROM ARREST TO DAT ARRAIGNMENT BY ARREST YEAR

■ Average Number of Days to Arraignment within 180 days of arrest

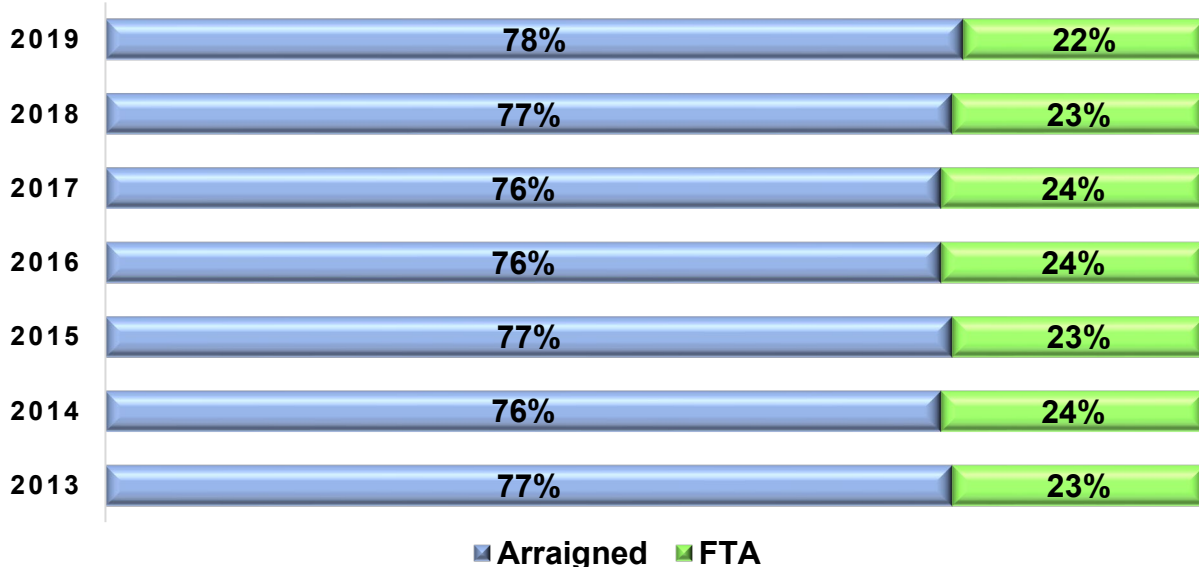


Citywide arraignment appearance and failure-to-appear (FTA) rates have varied little even as volume, and some charge and defendant characteristics, have changed. Over the course of the seven years examined, individuals in over three-fourths of DAT cases appeared as scheduled for their Criminal Court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

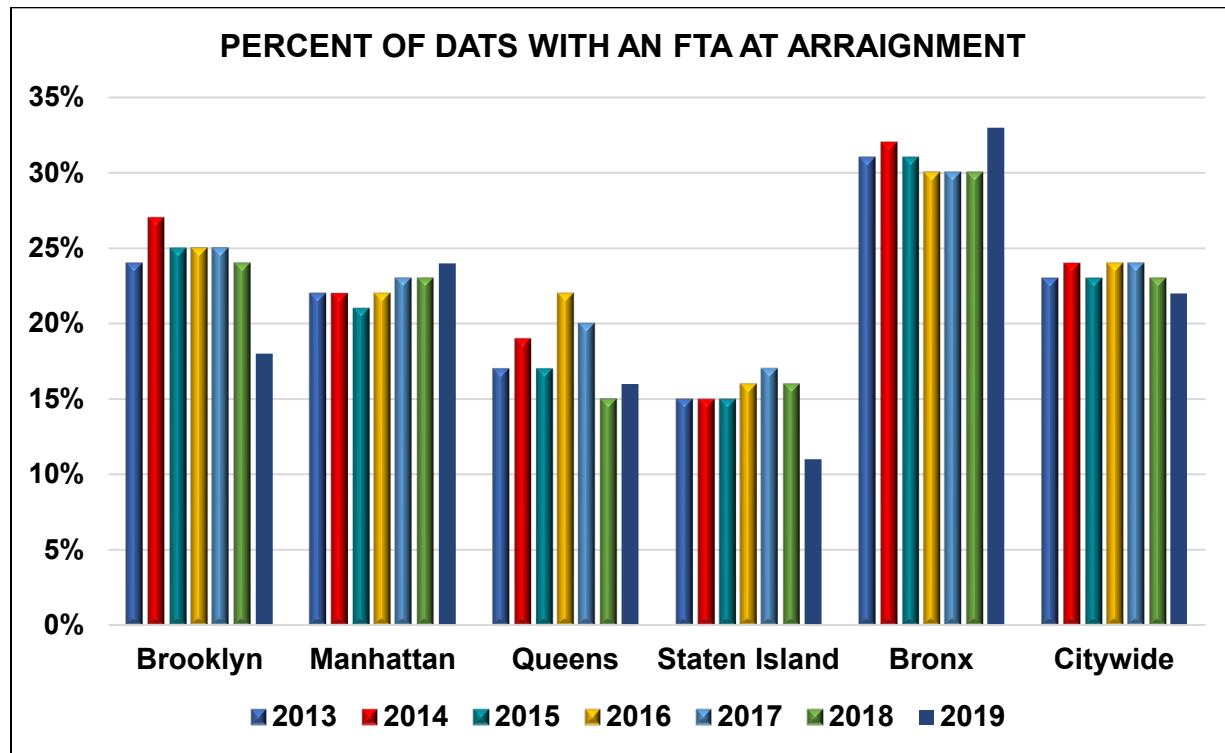
#### Failure to Appear (FTA)

The citywide DAT FTA rate during these years range from 24% to 22%. FTA is defined as a non-stayed warrant issued on the calendared arraignment appearance date. Stayed warrants are uncommon, appearing in no more than 1%, and usually only a fraction of a percent, of all DAT arraignment appearances (not shown).

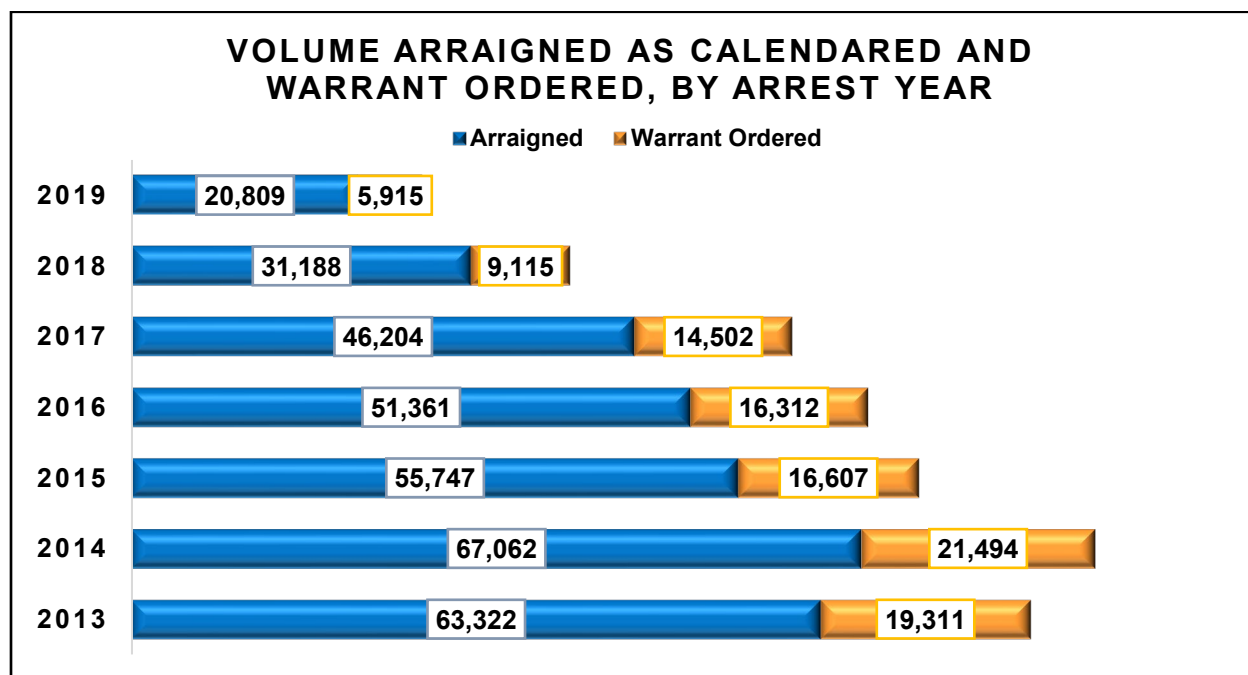
### DAT ARRAIGNMENT APPEARANCE AND FTA RATES



It should be noted that the citywide data are a compendium of different configurations of volume, charge and defendant composition, prosecution policies, and scheduling of DAT arraignments among the different boroughs. One illustration of these can be seen in the differences in FTA rates among the boroughs.



Although FTA rates show little variation, the actual number of arraigned as calendared and arraignment FTA cases has changed over time, with a steadily decreasing number of DAT arraignments beginning with arrests in 2015.



The proportions of non-stayed warrants for failure-to-appear (FTA) at the DAT Criminal Court arraignment differ among crime categories. FTA rates remain relatively unchanged for almost every crime category even as the volume of cases, and sometimes the charge distributions within crime categories, has changed.

Charges in the harm category, overwhelmingly arrests for PL 120.00, assault 3°, an A-misdemeanor crime, consistently have the lowest DAT arraignment failure-to-appear rates. (Presumptively these would be non-domestic-violence cases due to restrictions on the issuance of DATs in DV incidents.) There have been only small fluctuations in FTA rates in the VTL category over time.

In each year shown, the non-marijuana drug category arrest cases have among the highest FTA rates. At least 9 of every 10 of the DATs in this category are issued for the A-misdemeanor drug charge of criminal possession of a controlled (non-marijuana) substance 7°, PL 220.03.

The fraud/theft category and misconduct crime categories have high FTA rates, but each has experienced a decrease along with charge composition changes discussed previously. In comparison, the property crime category has seen a proportionate increase in its FTA rate since 2015, and in 2019 has the second highest rate (29%).

<b>Percentages of Arraigned DAT Cases with an FTA Warrant Issued at Arraignment within each Crime Type Category in Each Time Period</b>							
<b>Crime Category</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Harm	11%	13%	12%	13%	14%	13%	12%
Weapon	18%	18%	22%	19%	20%	20%	20%
Property	20%	22%	20%	23%	24%	25%	29%
Non-MJ Drug	29%	33%	28%	30%	33%	37%	42%
Marijuana	26%	26%	26%	25%	25%	25%	27%
Prostitution	21%	17%	21%	18%	17%	16%	13%
Fraud/Theft	31%	29%	31%	33%	33%	26%	24%
Misconduct	24%	27%	24%	25%	21%	20%	18%
Obstruct Justice	16%	15%	14%	13%	23%	13%	13%
VTL	18%	19%	18%	21%	21%	20%	19%
Other/Unknown	26%	27%	25%	26%	22%	30%	19%

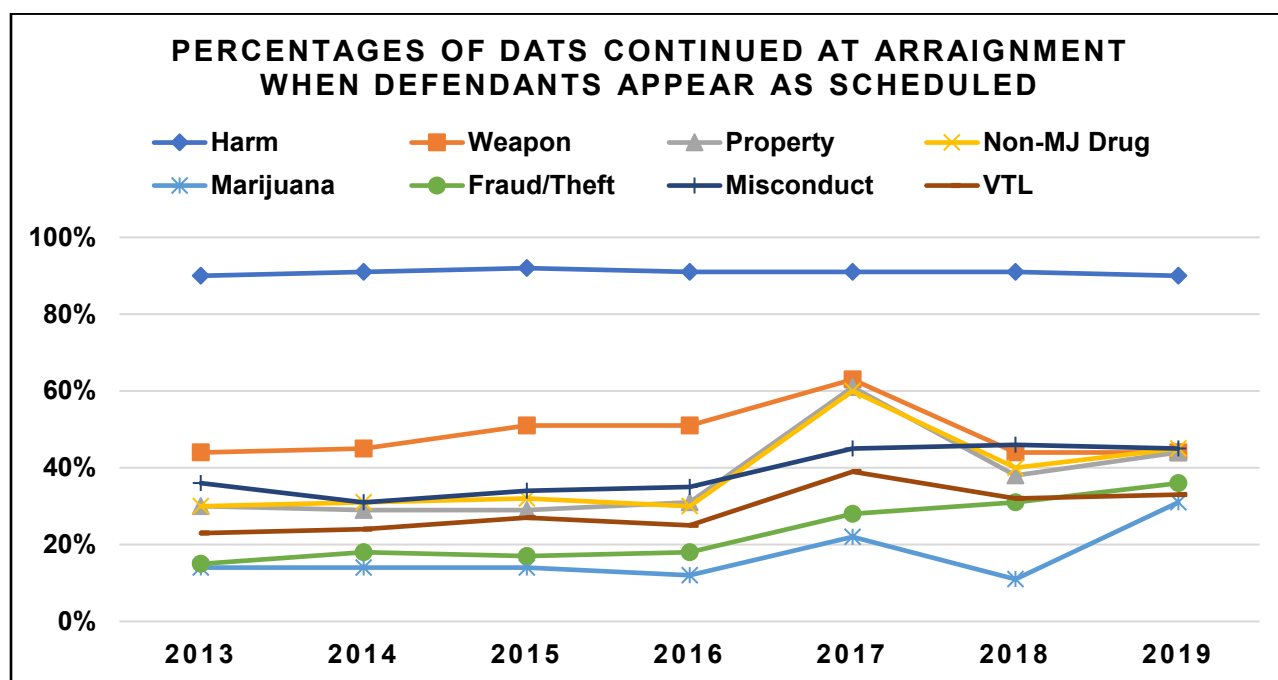
### Outcomes at Arraignment

Arraignment outcomes differ considerably among crime categories when defendants appear at the calendared Criminal Court arraignment. This includes the likelihood of cases being disposed, and the type of disposition.

The illustration which follows shows the percentages of continued DAT cases in crime categories with relatively high volumes when defendants appear on the calendared



arraignment date.<sup>8</sup> In most crime categories a majority of cases will be disposed at arraignment. The most prominent exception are cases with arrests in the harm category, where over 90% are continued at the arraignment appearance, and this high continued rate has shown little variation across the years. In comparison, through 2018, marijuana cases had the highest likelihood of being adjudicated at arraignment. By 2019, only a very small number of DATs were issued for marijuana charges, and the charge composition shifted from small-amount possession charges in previous years, to A-misdemeanor sale and possession charges.



Defendants in 99% of arraigned continued cases are Released on Recognizance in each of the years studied, with virtually no variation among crime categories. When Released on Recognizance (ROR), over 92% return as scheduled at the next court appearance. Post-arraignment warrants are issued in approximately 2 to 5 percent of continued cases with ROR'd defendants, and stayed warrants in approximately 3 to 4 percent, of the cases depending on the year of arrest (data not shown).

The types of disposition among DAT cases adjudicated at the Criminal Court arraignment differ among crime categories. In some instances, the relative proportions of convictions, adjournments in contemplation of dismissal (ACD) and outright dismissals has changed as a result of charge composition changes within crime categories. The table that follows shows the relative proportions of convictions, ACDs and dismissals, among high-volume crime categories adjudicated at arraignment across the years.

<sup>8</sup> Not shown is the category containing prostitution-related charges with only several hundred arraigned DAT arrests annually, and the residual category with 'other charges' which contains a wide array of offenses outside of the Penal Law and Vehicle and Traffic Laws.

When DAT arrests are adjudicated at the calendared arraignment appearance, an ACD is the most common disposition for property crime cases. Convictions occur between 84 to 91 percent of VTL cases, and in over half to two-thirds of the non-marijuana drug cases, disposed at arraignment depending on the year. These are crime categories with little to no charge composition changes. ACDs dominate outcomes in the misconduct category, increasing in more recent years as charge composition changed.

In the fraud/theft category there was a sharp change between ACDs and convictions after many fare-evasion arrests were removed due to policy changes. ACDs continue to dominate outcomes among marijuana cases. However, in 2018 there was a sharp increase in dismissals and in 2019 an increase in convictions as charge composition changed.

TYPE OF ARRAIGNMENT DISPOSITIONS, IN PERCENTAGES, AMONG DAT CASES ADJUDICATED AT ARRAIGNMENT							
CRIME CATEGORY	2013	2014	2015	2016	2017	2018	2019
<b>PROPERTY</b>	%	%	%	%	%	%	%
Convict	25	29	23	26	27	25	28
ACD	74	70	75	72	70	70	69
Dismiss	1	1	2	2	3	5	3
<b>NON-MJ DRUG</b>	%	%	%	%	%	%	%
Convict	66	67	60	58	57	61	60
ACD	31	30	37	39	39	35	36
Dismiss	3	3	3	3	4	4	4
<b>MARIJUANA</b>	%	%	%	%	%	%	%
Convict	24	23	22	19	16	11	26
ACD	70	70	72	73	74	71	67
Dismiss	6	7	6	8	10	18	7
<b>FRAUD/THEFT</b>	%	%	%	%	%	%	%
Convict	26	21	22	25	25	40	47
ACD	73	76	76	72	69	52	49
Dismiss	1	2	2	3	6	8	4
<b>MISCONDUCT</b>	%	%	%	%	%	%	%
Convict	24	22	20	18	17	15	14
ACD	73	76	75	75	76	77	81
Dismiss	3	2	5	7	7	8	5

<b>VTL</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Convict	87	88	89	91	90	89	84
ACD	12	11	10	8	9	10	12
Dismiss	1	1	1	1	1	1	4

### Post-Arrestment Adjudication

Almost all harm category DAT cases are continued at arraignment. The weapon category also has a comparatively higher continued rate relative to other crime categories. 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.

DAT cases in these crime categories have distinctive disposition patterns. Unlike other crime categories, dismissals dominate outcomes in harm category cases. In every year, the conviction rate is higher than ACD dispositions among the remaining cases. Convictions are the most common outcome in weapon category cases although the percentages show a decline in convictions and an increase in dismissals beginning in 2017.

<b>TYPE OF DISPOSITIONS, IN PERCENTAGES, AMONG HARM AND WEAPON CATEGORY DAT ARREST CASES</b>							
<b>CRIME CATEGORY</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>HARM</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Convict	30	27	25	29	27	25	20
ACD	26	26	22	23	21	20	22
Dismiss	44	47	53	48	52	55	58
<b>WEAPON</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Convict	62	60	50	55	50	45	42
ACD	33	35	38	37	39	41	39
Dismiss	5	5	12	8	11	14	19

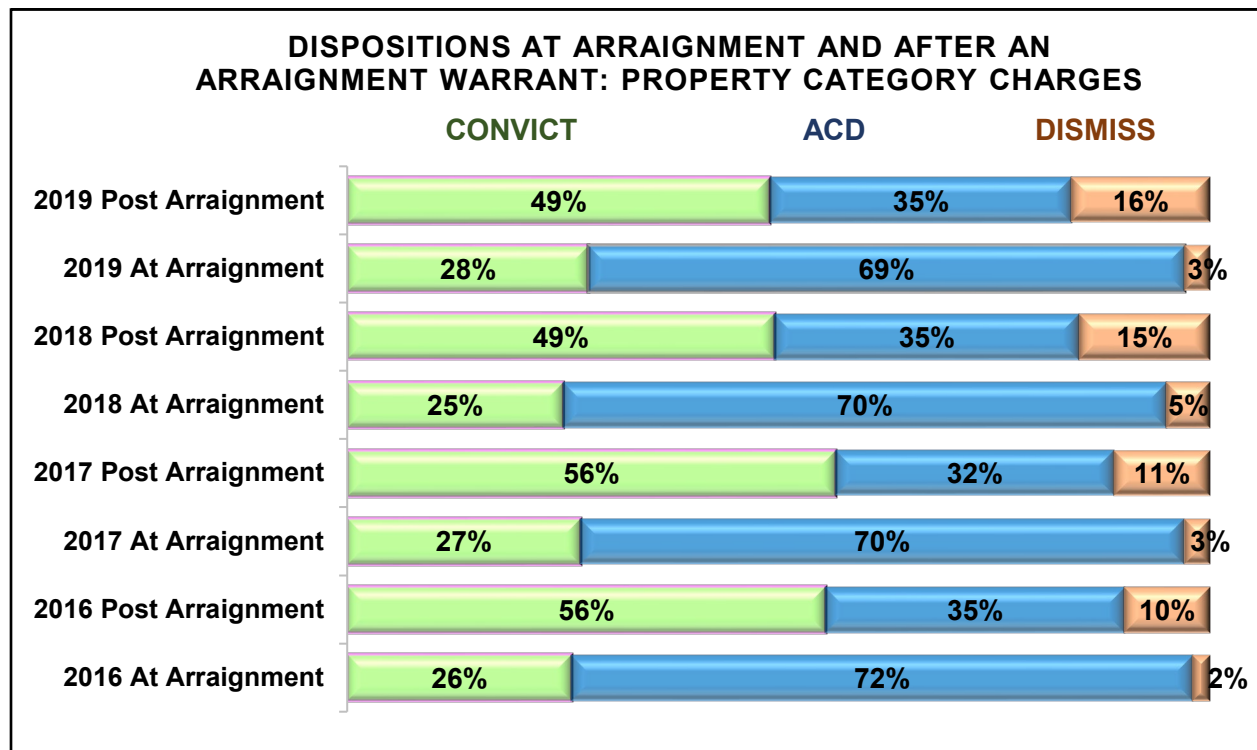
Case outcomes frequently differ when dispositions are compared between cases adjudicated at arraignment and those adjudicated subsequent to an arraignment FTA. In most instances, convictions and dismissals increase and ACDs decrease. However, this varies considerably by crime category.

DAT cases with arrests for charges in the property, non-marijuana drug, marijuana, fraud/theft, and misconduct categories are high volume crime categories. They also are crime categories with comparatively high arraignment FTA rates. The illustrations which follow compare types of dispositions in cases in these crime categories in years 2016

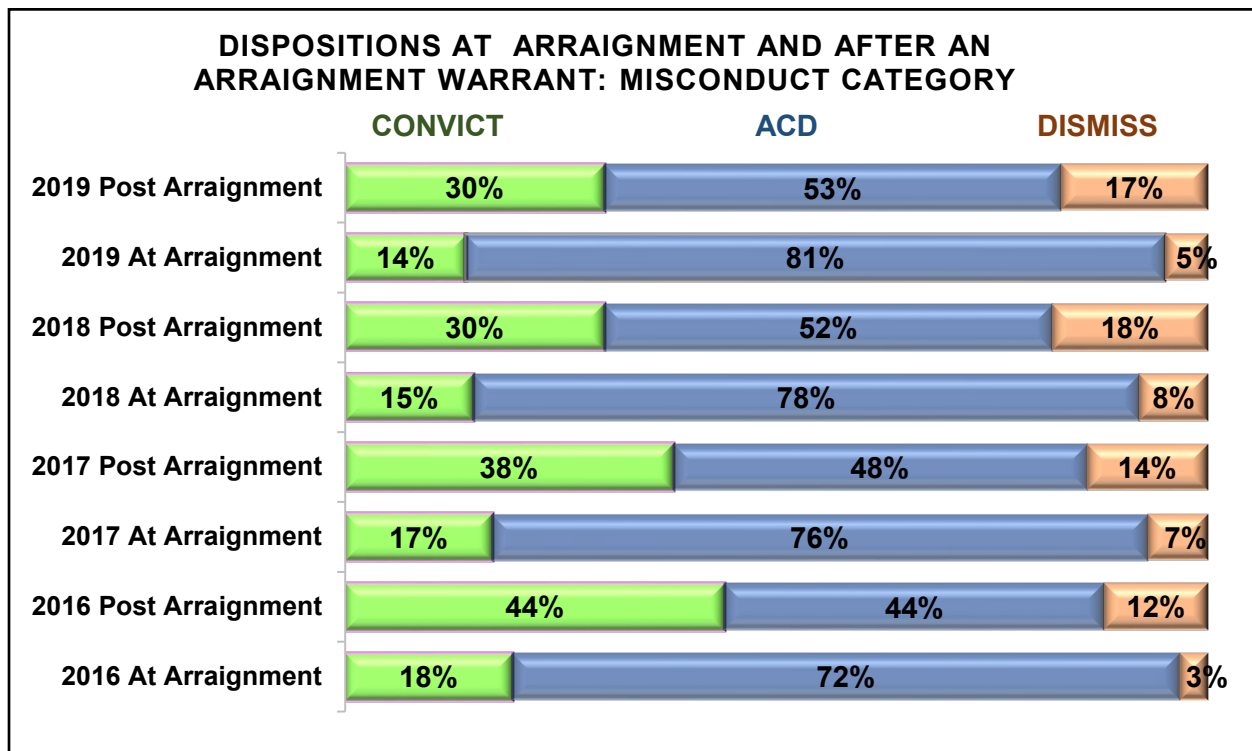
through 2019. The percentage distribution among convictions, ACD and dismissals are displayed in the cases where defendants appeared at the calendared arraignment and when cases were adjudicated after an arraignment FTA.

An ACD is a common arraignment outcome in many of these five crime categories when defendants appear as scheduled. It is less common when defendants originally failed to appear at arraignment and their cases are disposed at a later court appearance after the defendants are returned on the warrant.

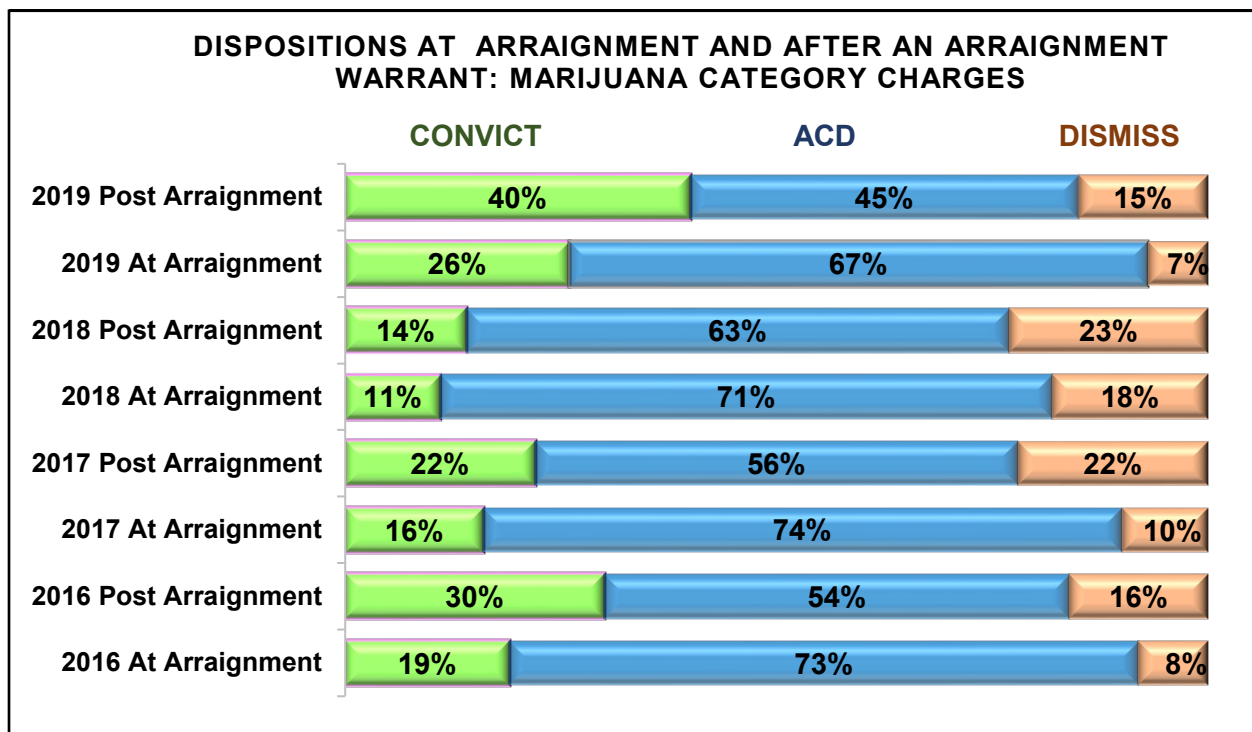
In the property crime category, the conviction rate increases by at least 20 percentage points when the disposition occurs after an arraignment FTA. The dismissal rate changes from single to double-digit rates.



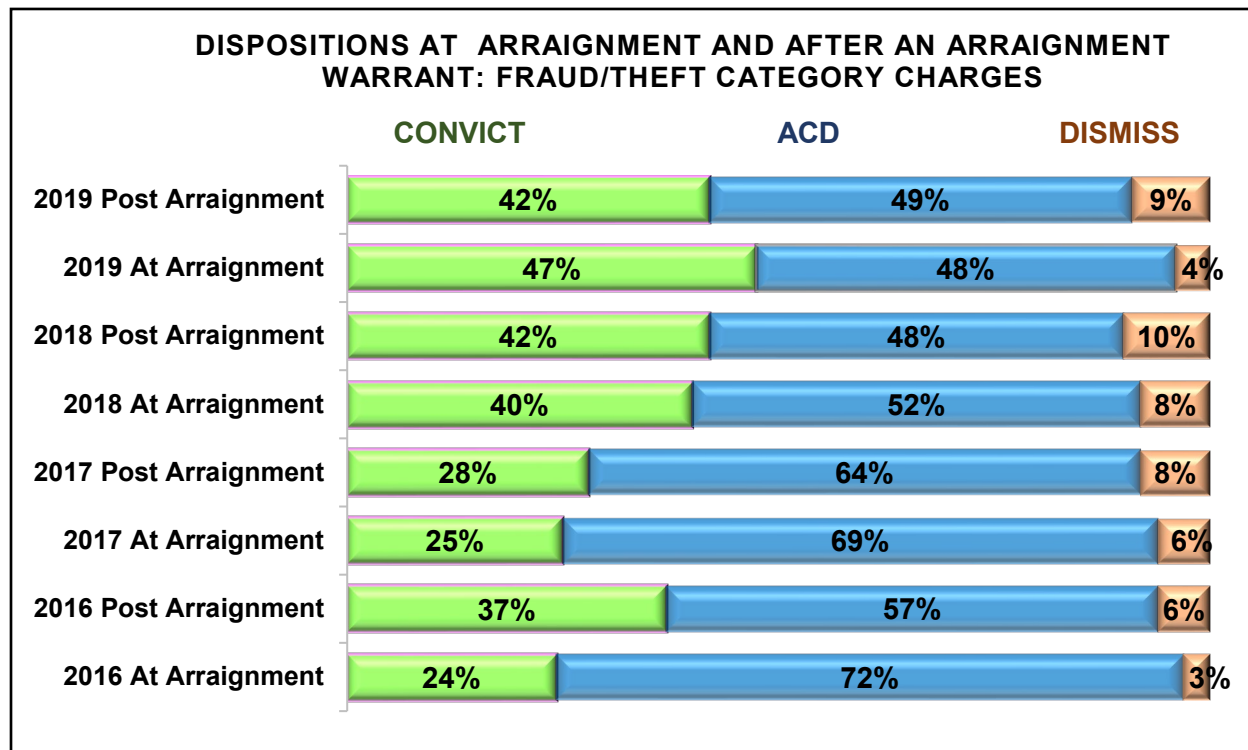
As in property-category cases, there are differences in the types of dispositions between misconduct-category cases disposed at arraignment and those disposed post-arraignment on a return on warrant. The conviction rate at least doubles when cases are disposed after a warrant return and the ACD rate drops by at least 20 percentage points. Also noticeable is the sharp increase in the proportions of cases with a dismissal after a warrant return.



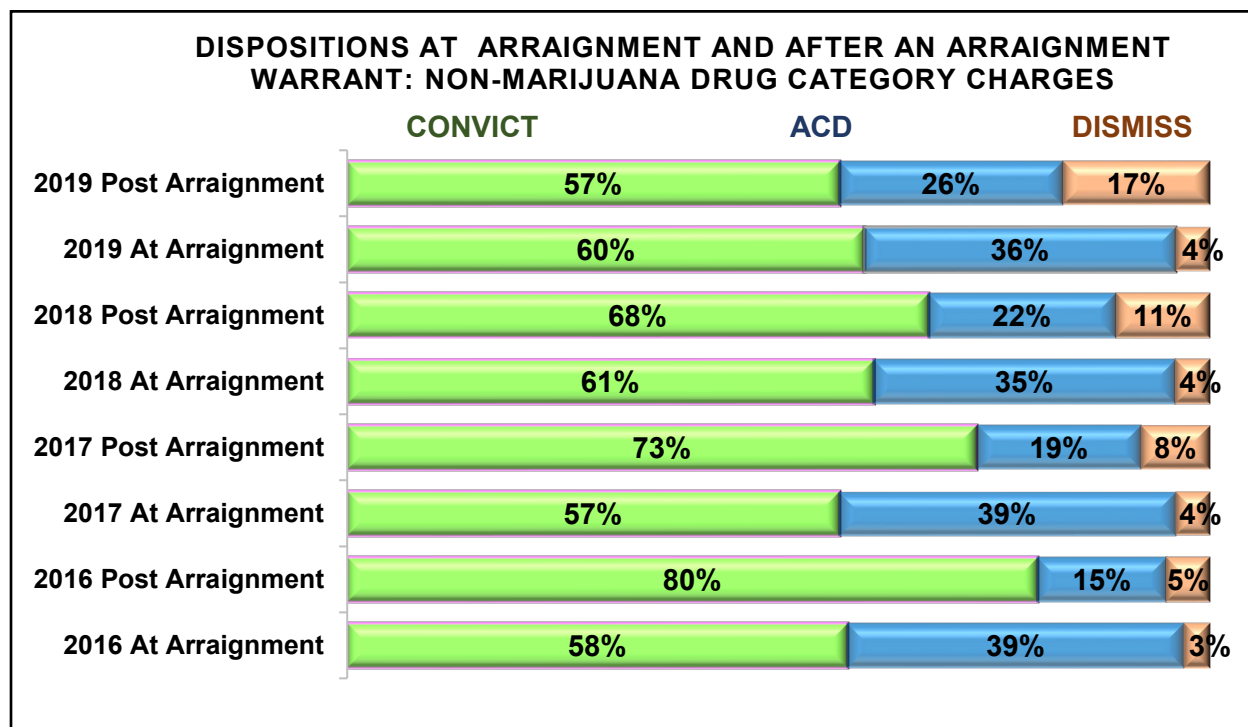
A similar pattern is seen among cases in the marijuana crime category although there appear to be some changes as charges within this category change. ACDs dominate marijuana case outcomes at arraignment in every year shown, and prior to 2019 among post-arraignment dispositions. Convictions in all years are greater post-arraignment but the difference in conviction rates at- and post-arraignment are far greater among the 2019 cases.



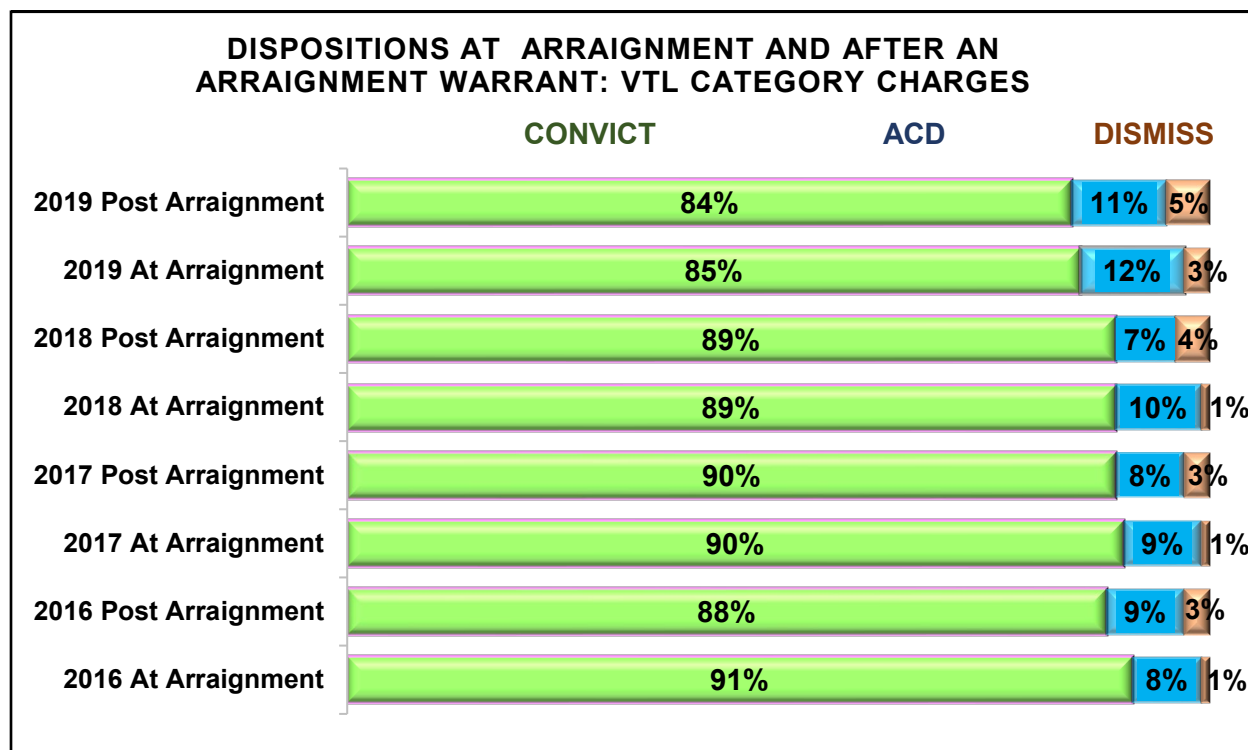
Dispositions show variations as charge composition changes in the fraud/theft category. With the dramatic decline in fare-evasion prosecutions, the ACD rate drops and the conviction rate increases in 2018. And there is not as a dramatic increase in the dismissal rate among post-arraignment dispositions as is found in other crime categories.



The charge composition in the non-marijuana drug category, overwhelmingly arrests for the A-misdemeanor drug possession charge (PL 220.03), is consistent across the years. Dispositions are characterized by high conviction rates regardless of when the disposition occurs. Here too, dismissal rates increase among cases disposed after an arraignment FTA.



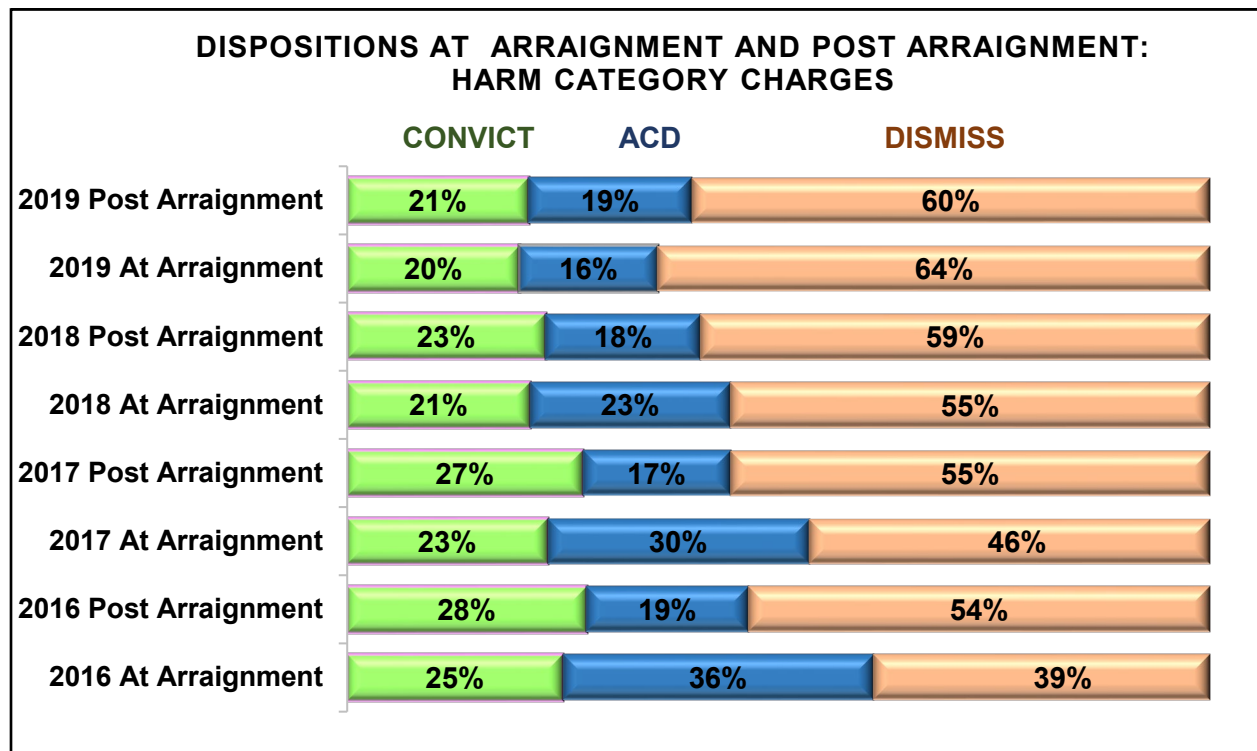
An exception to the above patterns is dispositions in cases in the Vehicle and Traffic Law (VTL) category. This highest volume DAT crime category also has an extremely high arraignment disposition rate, and a relatively stable arraignment FTA rate in the 18-21 percent range. It is a category with a very high conviction rate which varies little by whether the disposition is at the scheduled arraignment or occurs after a defendant fails to appear at arraignment. It is worth noting that the ACD rate increases in each year both



at- and post-arraignment. Additionally, the small dismissal rate in DAT VTL arrest cases increases at least 2 percentage points between arraignment and post-arraignment dispositions, and there is a corresponding overall decrease in the conviction rate.

A different pattern is found among DAT cases in the few crime categories with high rates of being continued arraignment. These usually are the types of cases with evidentiary issues which preclude immediate disposition. Most notable is the high-volume harm crime category in which over 90% of the cases are continued at arraignment, over 97% of the defendants are released on recognizance, and in fewer than 6% of the cases is there a pretrial FTA (data not shown).

Another distinctive characteristic of the harm category cases is the very high dismissal rates, occurring in over half of the cases in almost every year shown. In addition, there is very little difference between conviction rates in any year, whether at- or post-arraignment.



### Sentences for Conviction Outcomes

There are three dominant types of sentences imposed for convictions in DAT cases: imprisonment; monetary, either a fine with a jail alternative or a fine alone; and, a conditional discharge (CD) which may or may not include a program requirement such as community service. Other types of sentences can include an intermittent sentence, usually found among Manhattan cases requiring a program component with a jail alternative or probation. Types of sentences imposed differ among crime categories. For the purposes of illustration, comparisons are provided only for the three most common sentence types.



When convictions in harm-category cases occur, approximately 80% receive a conditional discharge sentence. This category has the highest CD rate among all crime categories. A CD sentence also occurs in a majority of property-crime and in almost all misconduct category cases across the years shown.

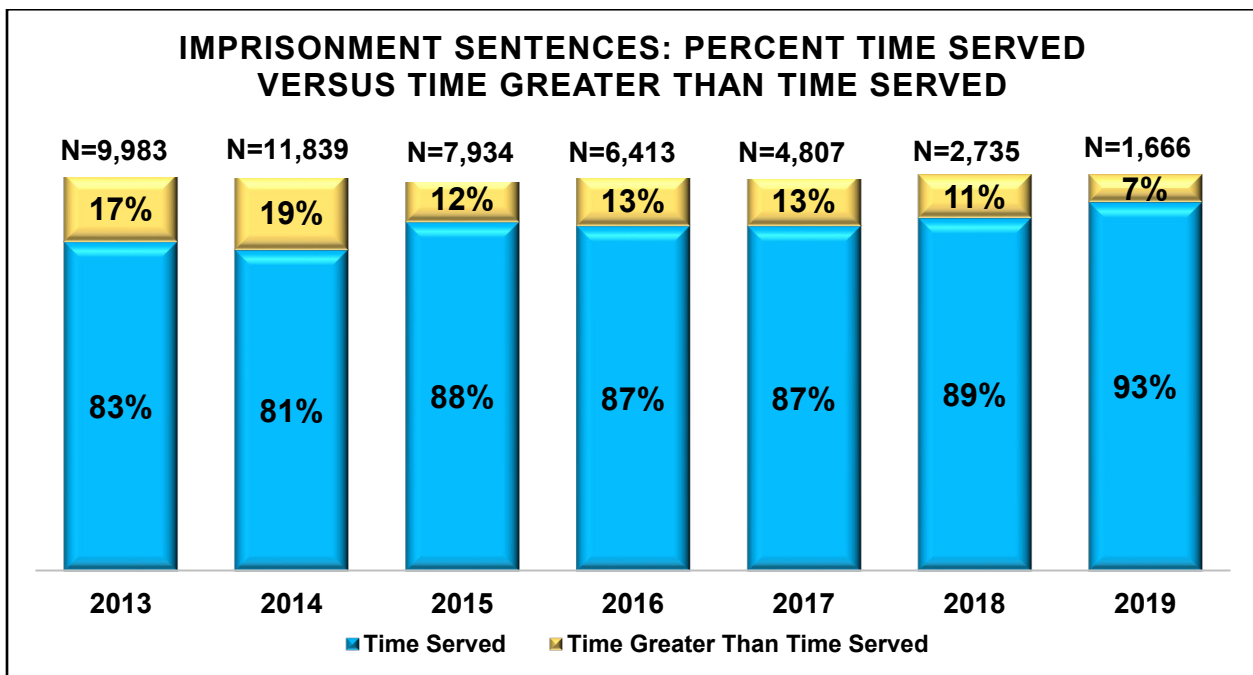
The imposition of monetary penalties (fines or fines with a jail alternative) vary considerably among crime categories. Almost all sentences in VTL cases, 85 to 98 percent depending on year, have fines imposed. In comparison, monetary penalties are almost never imposed in property-crime cases. Between these two extremes one finds that over a third of the sentences in marijuana cases have monetary penalties imposed.

Imprisonment sentences do not make up a majority of sentence types in any crime category. When it occurs, it most commonly is imposed for convictions in property and non-marijuana drug cases, and least likely to be imposed in VTL and harm category cases.

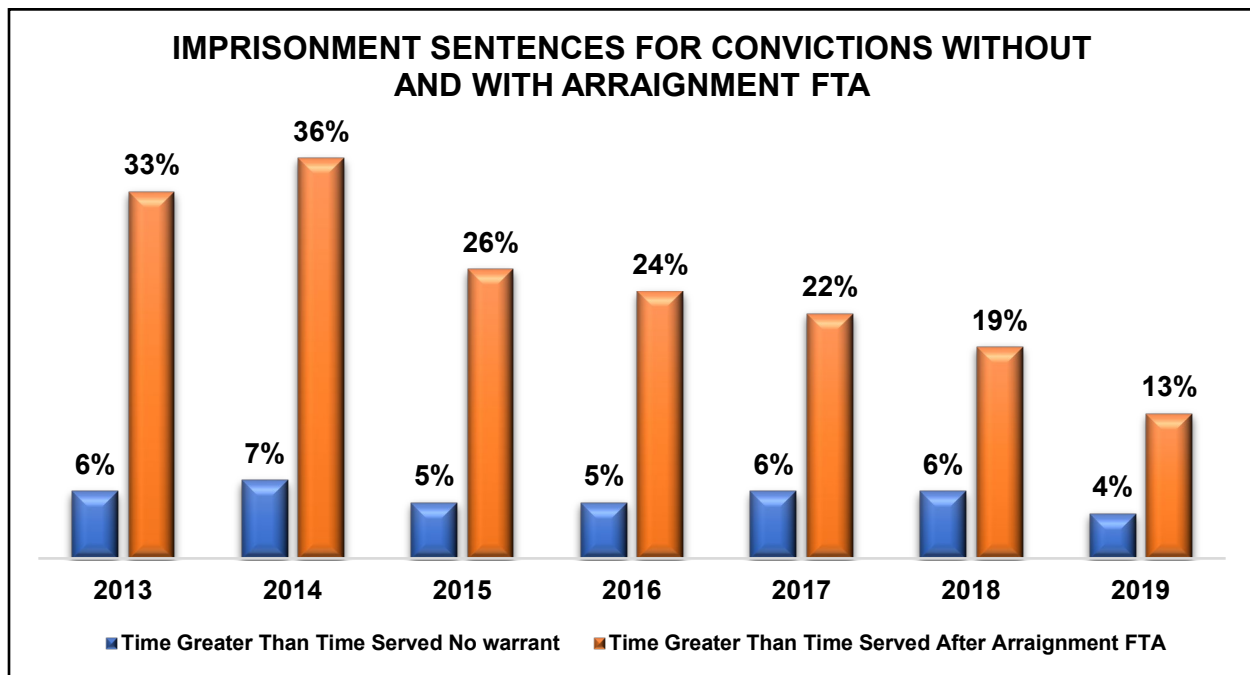
TYPE OF SENTENCES, IN PERCENTAGES, AMONG CONVICTED DAT CASES							
CRIME CATEGORY	2013	2014	2015	2016	2017	2018	2019
<b>HARM</b>	%	%	%	%	%	%	%
Imprisonment	13	19	14	15	14	14	16
Monetary	5	4	5	4	6	5	6
Conditional Discharge	82	77	81	81	80	81	78
<b>WEAPON</b>	%	%	%	%	%	%	%
Imprisonment	24	20	23	23	20	26	26
Monetary	16	18	15	19	25	23	29
Conditional Discharge	60	62	52	58	55	51	45
<b>PROPERTY</b>	%	%	%	%	%	%	%
Imprisonment	32	37	31	34	32	32	33
Monetary	6	3	5	5	7	5	5
Conditional Discharge	62	60	64	61	61	63	62
<b>NON-MJ DRUG</b>	%	%	%	%	%	%	%
Imprisonment	42	45	40	42	43	40	39
Monetary	11	9	10	11	13	14	16
Conditional Discharge	47	46	50	47	44	46	45
<b>MARIJUANA</b>	%	%	%	%	%	%	%
Imprisonment	34	32	32	33	33	25	24
Monetary	40	41	40	39	37	39	38
Conditional Discharge	26	27	28	28	31	36	38

<b>FRAUD/THEFT</b>	%	%	%	%	%	%	%
Imprisonment	39	36	36	38	36	24	20
Monetary	7	10	11	13	18	38	38
Conditional Discharge	54	54	53	49	46	38	42
<b>MISCONDUCT</b>	%	%	%	%	%	%	%
Imprisonment	44	49	38	40	37	34	34
Monetary	5	4	7	9	13	16	16
Conditional Discharge	51	47	55	51	50	50	50
<b>VTL</b>	%	%	%	%	%	%	%
Imprisonment	10	15	13	2	2	4	6
Monetary	89	85	87	97	98	95	93
Conditional Discharge	1	0	0	1	0	1	1

Across the years, most imprisonment sentences imposed are for time served. In 2019, time-served was 93% of all imprisonment sentences imposed, 10 percentage points greater than it was in 2013, 6 percentage points greater than it was in 2016 and 2017, and 4 percentage points greater than in 2018.



In almost every crime category, the likelihood of an imprisonment sentence increases, and a CD sentence decreases, if the conviction occurs after an arraignment FTA warrant (data not shown). In addition, the likelihood of a sentence imposed greater than time served also increases. However, there has been a steady decrease in the proportions of imprisonment sentences imposed greater than time served when convictions occur after an arraignment warrant. In 2019, the proportion was about a third of what it had been in 2014, 13% versus 36%.



## Summary

This section of the report has provided a citywide view of prosecuted DAT arrests from 2013 through 2019. It also serves as a backdrop to January 1, 2020's implementation of the State's bail reform which will alter the DAT landscape.

The volume and composition of prosecuted DAT arrests and arrestees, for selected E-felony and for non-felony charges, has fluctuated over the years studied. From over 80,000 cases in 2013 and 2014, the volume of Desk Appearance Ticket (DAT) arrest cases declined, first slowly and then dramatically from 2017 through to 2019. By 2019, the volume of arraigned DATs had dropped to about 27,000.

The decline in DAT volume reflects, in part, a general decline in New York City's overall arrest volume and in arrests for misdemeanor and lesser-severity charges. It also reflects statutory and arrest practices and policies which altered not just volume, but also some charge and defendant characteristics. Two key drivers of this decline were shifts away from the arrest and prosecution of DATs for low-level marijuana possession charges and for transit fare-evasion (theft-of-services), and State legislation which raised the age of adult criminal responsibility from 16 to 17 as of October 2018, and then to age 18 as of October 2019.

The charge composition for other types of crimes, and charges within crime categories, remained the same or very similar across the years examined. For example, the VTL charge for unlicensed driving (VTL 511) consistently contributed a large percentage of DAT arrest cases.

Even with volume and some charge composition changes in more recent years there are some continuing patterns to be found. Individuals in over three-fourths of all

DAT cases appeared on the calendar arraignment date. The citywide DAT Failure-to-Appear (FTA) rate during these years ranged from 24% to 22%. FTA rates differed among crime categories but the rates within most crime categories was unchanged.

Among DAT cases in which individuals appeared at the calendared arraignment, majorities were disposed in most crime categories. The most prominent exception found was for 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 with virtually no variation among crime categories. When Released on Recognizance (ROR), over 92% returned as scheduled at the next court appearance.

The types of disposition among DAT cases adjudicated at the Criminal Court arraignment differed among crime categories. When DAT arrests were adjudicated at the calendared arraignment appearance, an ACD was the most common disposition for property crime cases which is dominated by the A-misdemeanor petit larceny (PL 155.25) charge. Convictions occurred in between 84 to 91 percent of VTL cases, and in over half to two-thirds of the non-marijuana drug cases, disposed at arraignment depending on the year.

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 ACDs decreased. However, this varied considerably by crime category. A different pattern was found among cases in the few crime categories with high rates of being continued beyond arraignment, such as the harm category comprised mainly of A-misdemeanor assault (PL 120.00). These cases have a distinctive disposition pattern where dismissals dominated the outcomes.

There are three dominant types of sentences imposed for convictions in DAT cases: imprisonment; monetary, either a fine with a jail alternative or a fine alone; and, a conditional discharge (CD) which may or may not include a program requirement such as community service. Types of sentences imposed differed among crime categories.

Imprisonment sentences did 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, and least likely to be imposed in VTL and harm category cases.

In almost every crime category, the likelihood of an imprisonment sentence increased, and a conditional discharge sentence decreased, if the conviction occurred after an arraignment FTA warrant (data not shown). In addition, the likelihood of a sentence imposed greater than time served also increased. However, there has been a steady decrease in the proportions of imprisonment sentences imposed greater than time served when convictions occurred after an arraignment warrant

## DAT CASES AND COURT PROCESSING AMONG THE BOROUGHS

Each of the five counties comprising the City of New York, commonly known as boroughs, has distinctive socio-demographic and economic features. There also are variations in the composition of arrestees and arrests among the boroughs. Also different are the courthouse legal cultures<sup>9</sup> and the dynamics of the courtroom workgroups which emerge over shared norms and expectations of key courtroom stakeholders, i.e. prosecutors, defense attorneys and judges.<sup>10</sup>

Each borough's District Attorney (DA), elected by the voters of that borough, makes prosecutorial decisions such as setting criminal legal priorities, pretrial release and bail requests, and plea policies. And the types of policies and practices set by each borough's District Attorney's office are the driving force behind most post-arrest decisions in DAT cases. This begins with the decision whether to accept the arrest for prosecution, and in selected instances offer a pre-arraignment diversion program in lieu of prosecution. In New York City's Criminal Court, the role of the DA office is predominant in determining most court outcomes because almost all cases are resolved by negotiated outcomes rather than trials. The contours of these decisions are subject to change with the selection of new leadership in each of these offices. Between the years 2013 through 2019, there were changes in leadership in the District Attorney's offices in Brooklyn, Staten Island, Queens and the Bronx. Manhattan is the only borough without a change in the District Attorney during the entire study period.

DAs may craft diversion or alternatives-to-incarceration programs, or work in concert with other court actors and service providers to develop these programs. These initiatives in turn may alter the types of sentences offered as part of a plea bargain. This is perhaps most evident in the Bronx. The Center for Court Innovation (CCI) developed Bronx Community Solutions as a means of offering programmatic alternatives to the traditional sentencing options of jail or fines in misdemeanor cases disposed at the Criminal Court arraignment. Started in 2005, Bronx Community Solutions brought to scale problem-solving justice which CCI had developed on a much smaller basis through community courts in Midtown Manhattan and Brooklyn's Red Hook neighborhood.

There are separate publicly supported defense organizations in each borough. Further, court culture may impact the appointed judges serving in the lower Criminal Court. There is a superior court for each borough with a judiciary elected only by the borough's voters. The result is variations among the boroughs even though they operate as part of a unified court system and follow a uniform set of criminal law and procedures.

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<sup>9</sup> "Local legal culture" is a term coined by Thomas W. Church, Jr., and first appeared in his article "*Examining Local Legal Culture*", which appeared in *LAW & SOCIAL INQUIRY*, Journal of the American Bar Foundation, Volume 10, Issue 3, Pages: 449-711, July 1985

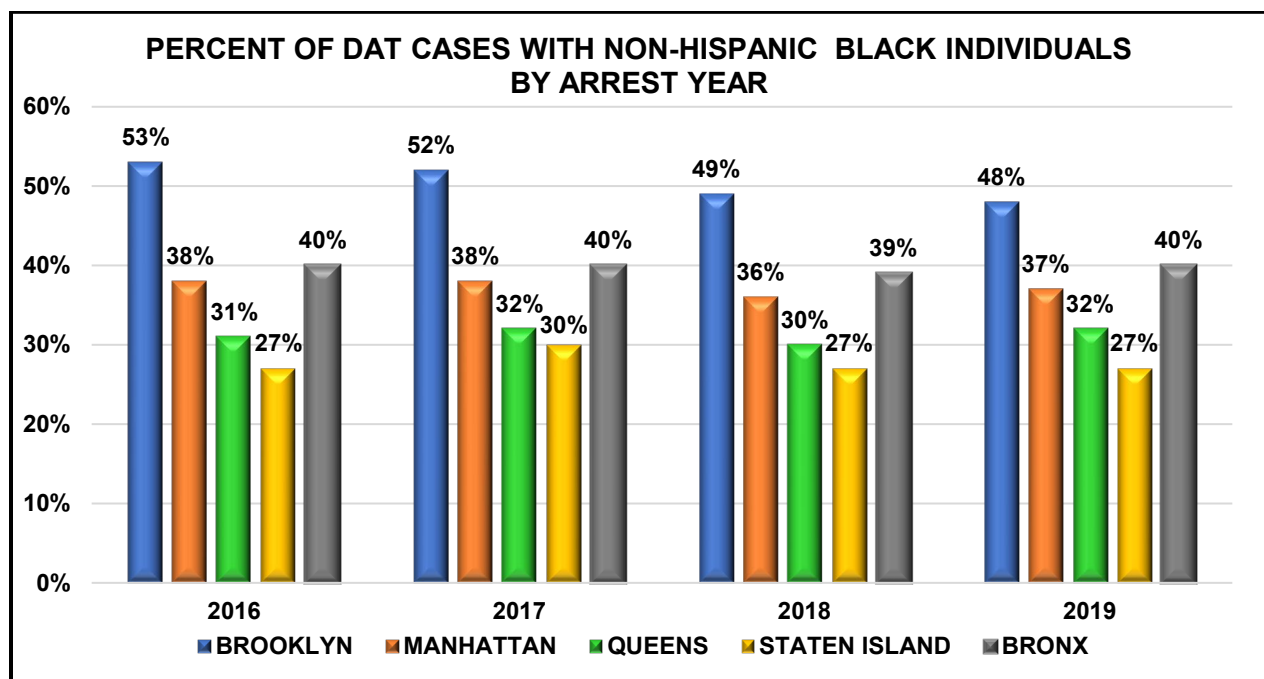
<sup>10</sup> James Eisenstein and Herbert Jacob, *FELONY JUSTICE*, (Boston: Little Brown, 1977).

This report section explores some of the types of similarities and differences among the boroughs at key milestones in the processing of DAT arrests. It is not intended to be a comprehensive, in-depth borough analysis. Instead, the goal is to illustrate how citywide data about DAT cases and arrestee characteristics, and court processing and case outcomes, are a compendium of five distinctive micro systems.

### Defendant Characteristics in DAT Cases Among the Boroughs

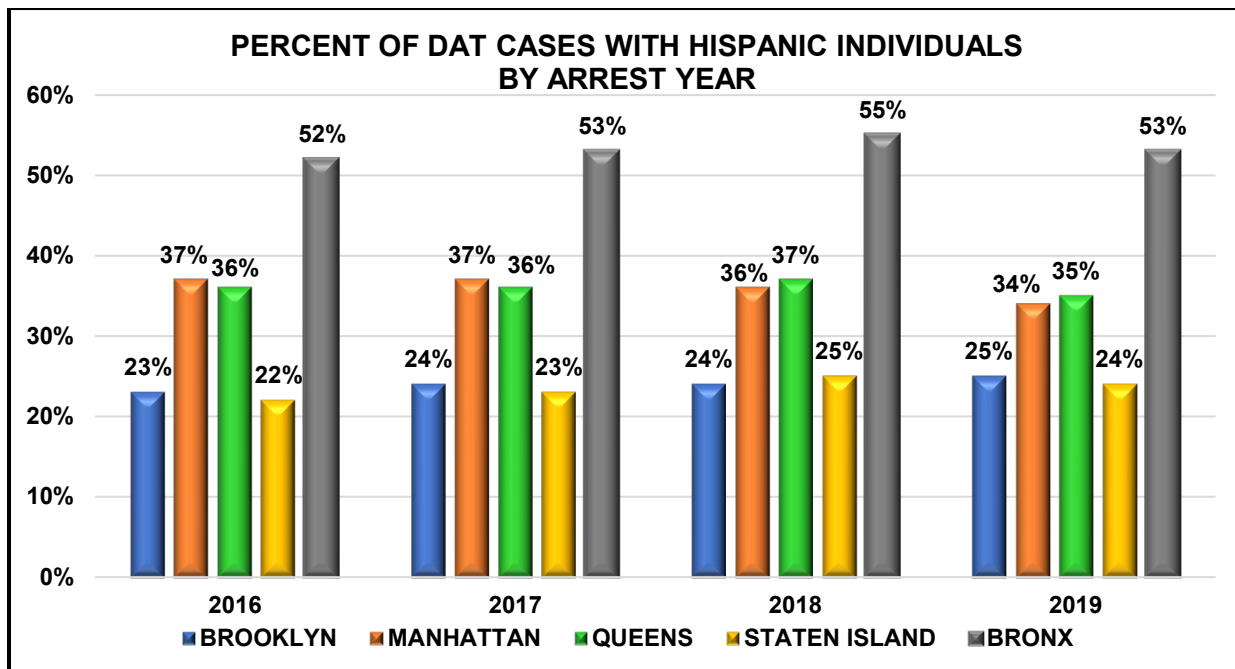
Diversity among the borough DAT populations can be illustrated with a variety of measures. For these purposes, comparisons are provided only for the arrest years 2016 through 2019 because there are not great changes within borough patterns.

The racial composition of the DAT population is predominantly non-white in all boroughs.<sup>11</sup> However, the relative proportions of different non-white groups differ across the boroughs. The greatest percentage of non-Hispanic Black arrestees is found among Brooklyn DAT cases, ranging from 53% in 2016 to 48% in 2019. Bronx cases have the second greatest percentage of non-Hispanic Black individuals, approximately 49%, and Staten Island consistently the smallest at approximately 27-30 percent at most.

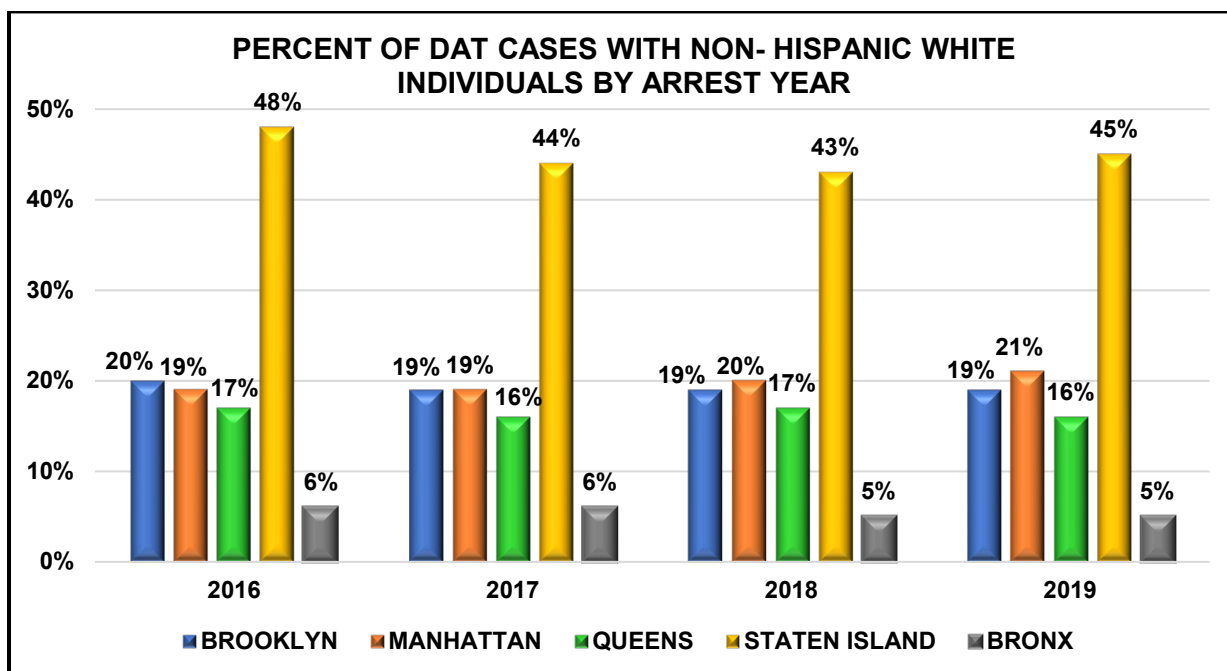


In comparison, Hispanic individuals are found in over half of the Bronx DAT cases, a substantially larger percentage than is found in any other borough's caseload. In comparison, Hispanic individuals comprise only about a quarter of the DAT population in Brooklyn and Staten Island's caseload in each year.

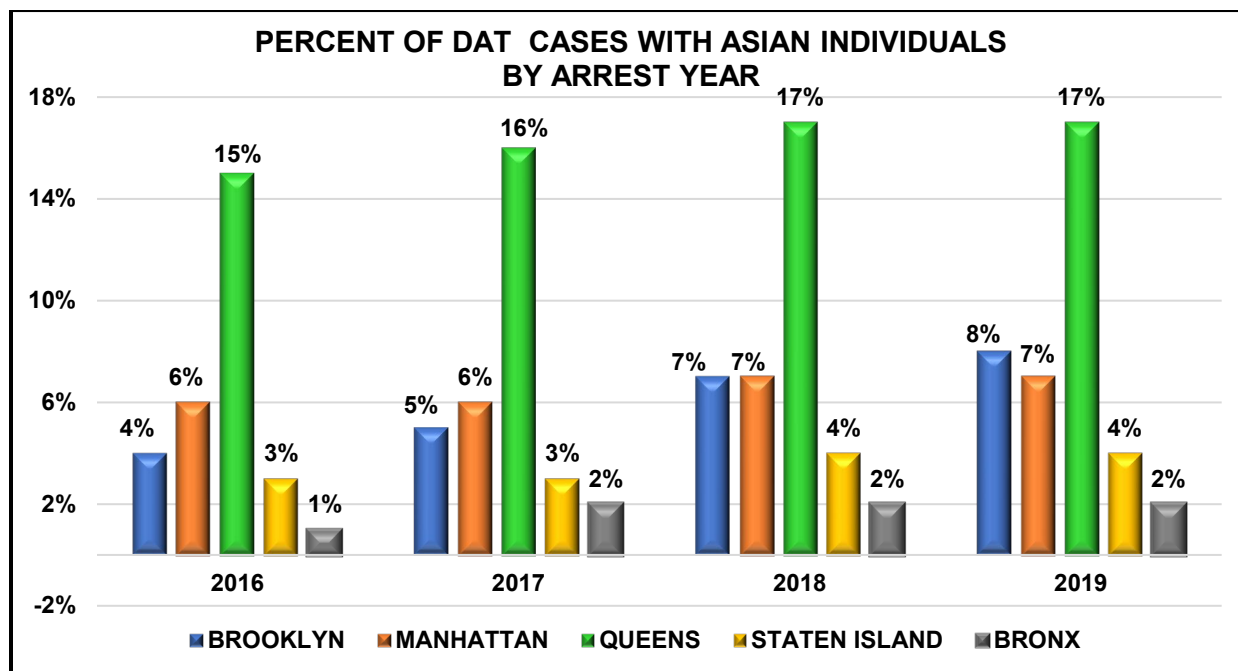
<sup>11</sup> For these illustrations the percentages are calculated only with cases having non-Hispanic Black, Hispanic, non-Hispanic White and Asian individuals. This excludes American Indian individuals who make up less than 2% of arrestees, and cases missing ethnicity in the data, a fraction of a percent, in each year shown.



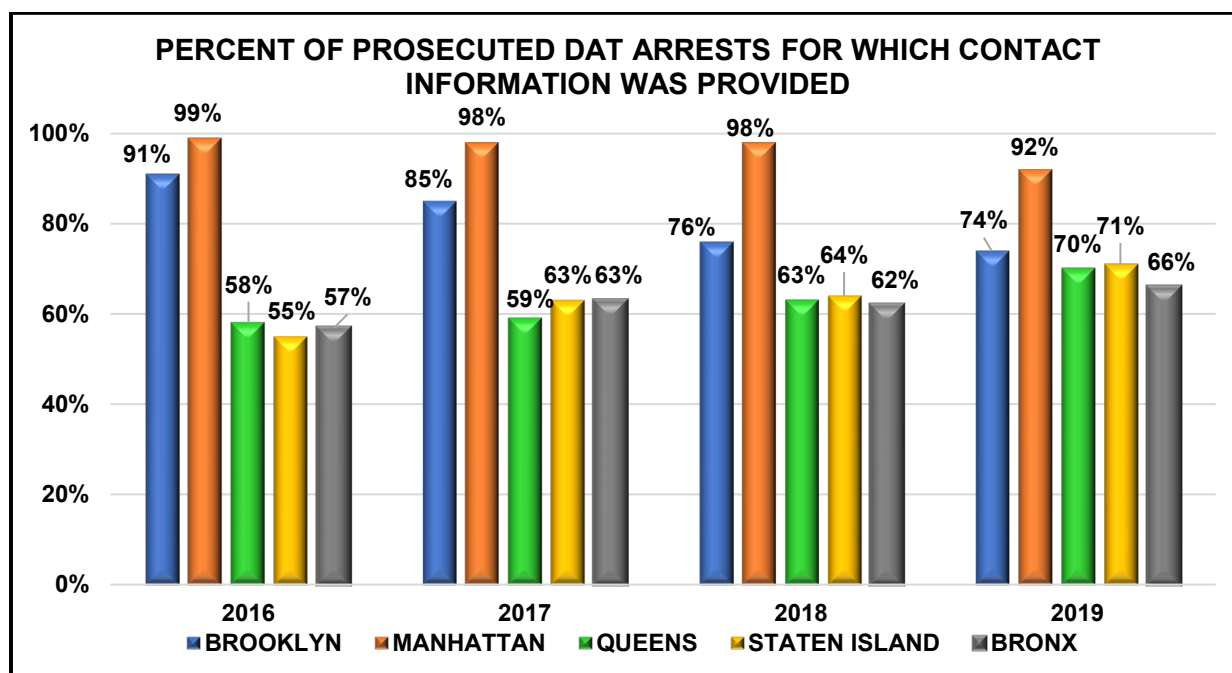
Non-Hispanic White individuals are found in no more than about a fifth of the DAT population in four of the five boroughs. Non-Hispanic White individuals comprise only 5-6 percent of Bronx DAT's in any of the years shown. The Bronx demographics are in stark contrast with Staten Island where non-Hispanic white individuals are found in over 40% of the court's DATs.



The only noticeable change in defendant characteristics is the growing presence of Asian individuals in recent years. However, they remain only a small percentage of the DAT population except in Queens where they have the most noticeable presence across the years.



Another illustration of the ways populations differ among the boroughs is to examine the extent to which CJA initially was provided with any contact information—address and/or phone.<sup>12</sup> Once again, only years 2016 through 2019 are shown.



There is a noticeable upward trend in the percentages of prosecuted DAT arrests with contact information found in Queens, Staten Island and the Bronx. There has been 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.

<sup>12</sup> These data are based on an initial collection of contact information by the NYPD and do not include subsequent updates which may have been obtained.

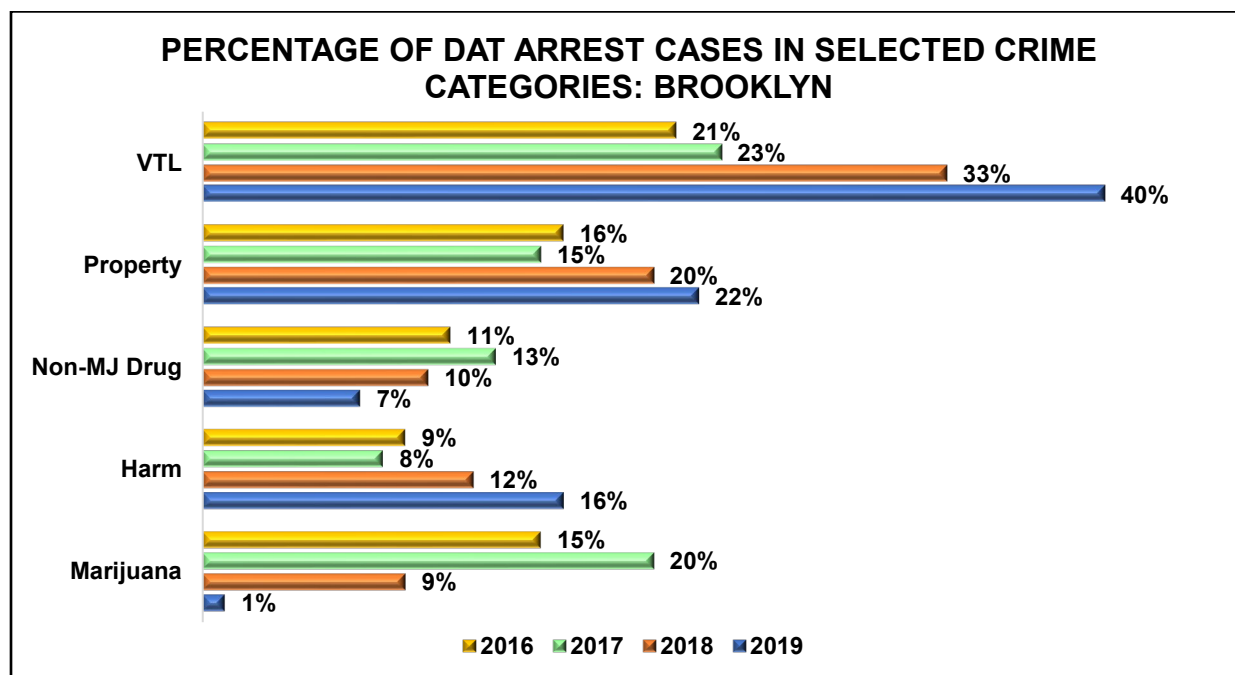


A contributing factor may be the near elimination of DATs prosecuted for low-level marijuana possession, previously very prevalent among Brooklyn DATs, with a youthful population which may have been able to provide contact information.

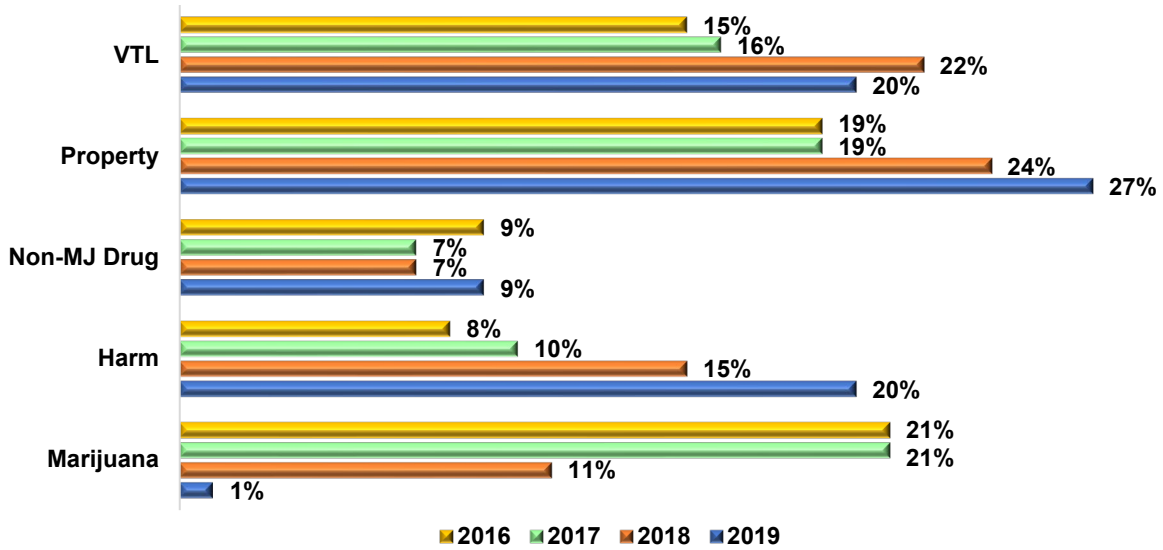
### Crime and Charge Composition

Even as volume was declining there were three crime categories with among the largest percentage of prosecuted DAT arrests in almost every borough and every year studied: VTL, Property and non-Marijuana drug crimes. However, in each year the actual order and percentages in each category were different among the boroughs. The marijuana category, overwhelmingly containing low-level possession charges, also contributed a large percentage to the DAT caseload in every borough until DA and NYPD policies changed. The virtual elimination of prosecutions for low-level marijuana possession charges altered the relative distribution of cases among the other crime categories. Case composition also was impacted by the elimination of the young adult population as a result of the Raise-the-Age legislation. Another consequence of these changes was to enlarge the proportion of DAT cases in the harm category.

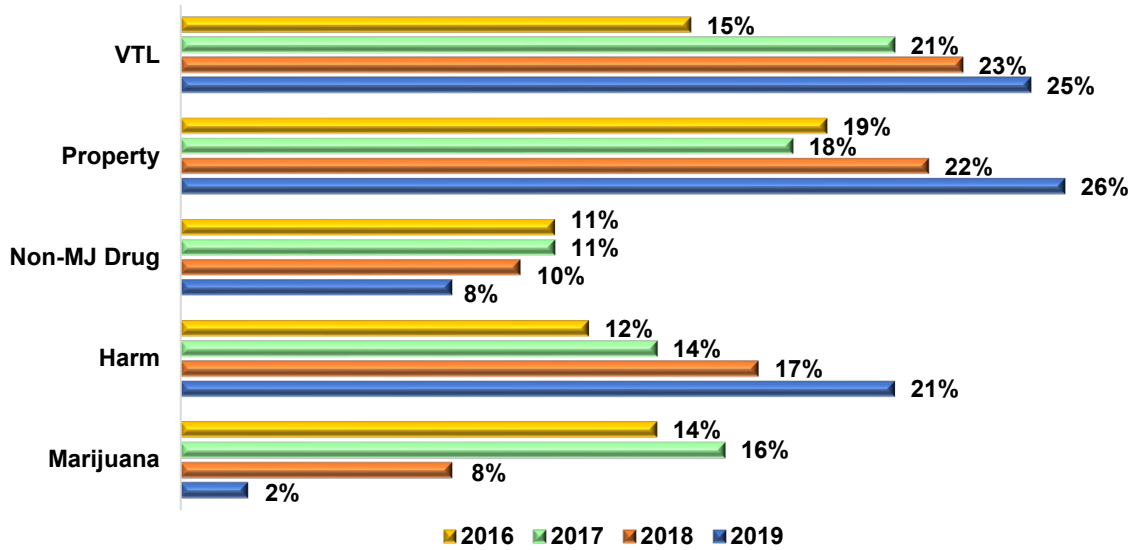
These aspects of DAT composition among the boroughs are shown in the next series of illustrations which provide the relative proportions of prosecuted DAT arrests in the VTL, Property, Non-MJ Drug, Harm, and Marijuana crime categories in years 2016 through 2019 for each borough. These illustrations also underscore comparative differences in the DAT caseload compositions among the boroughs.

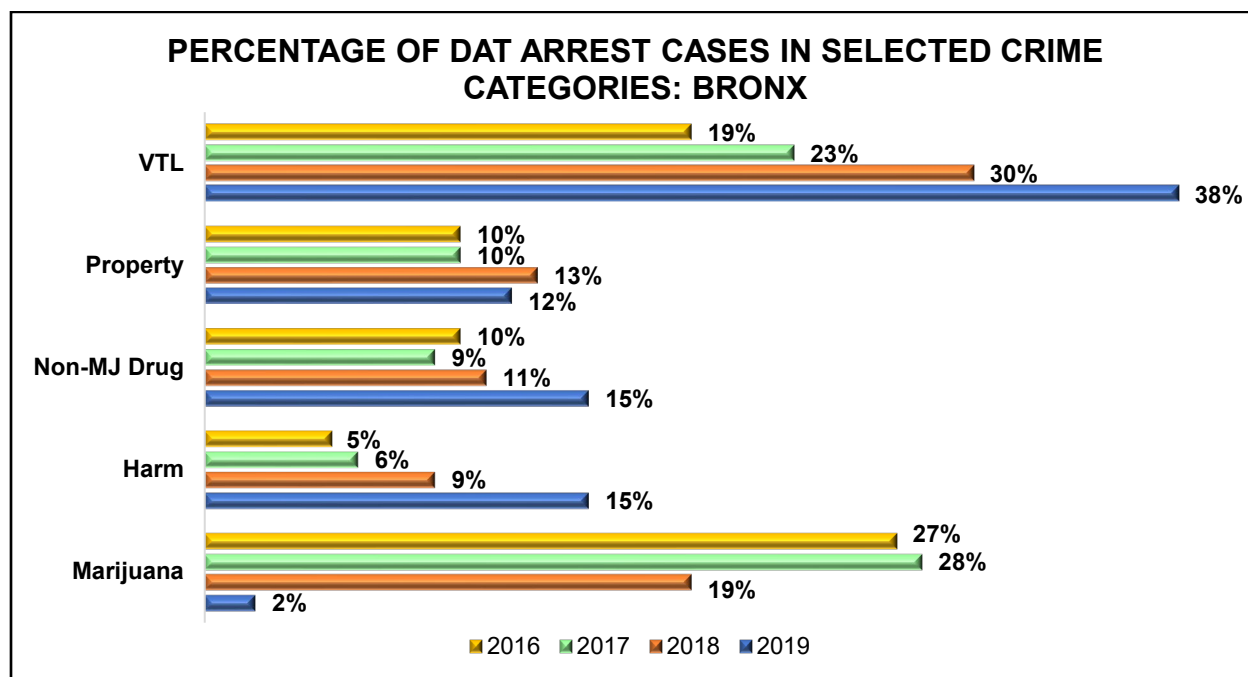
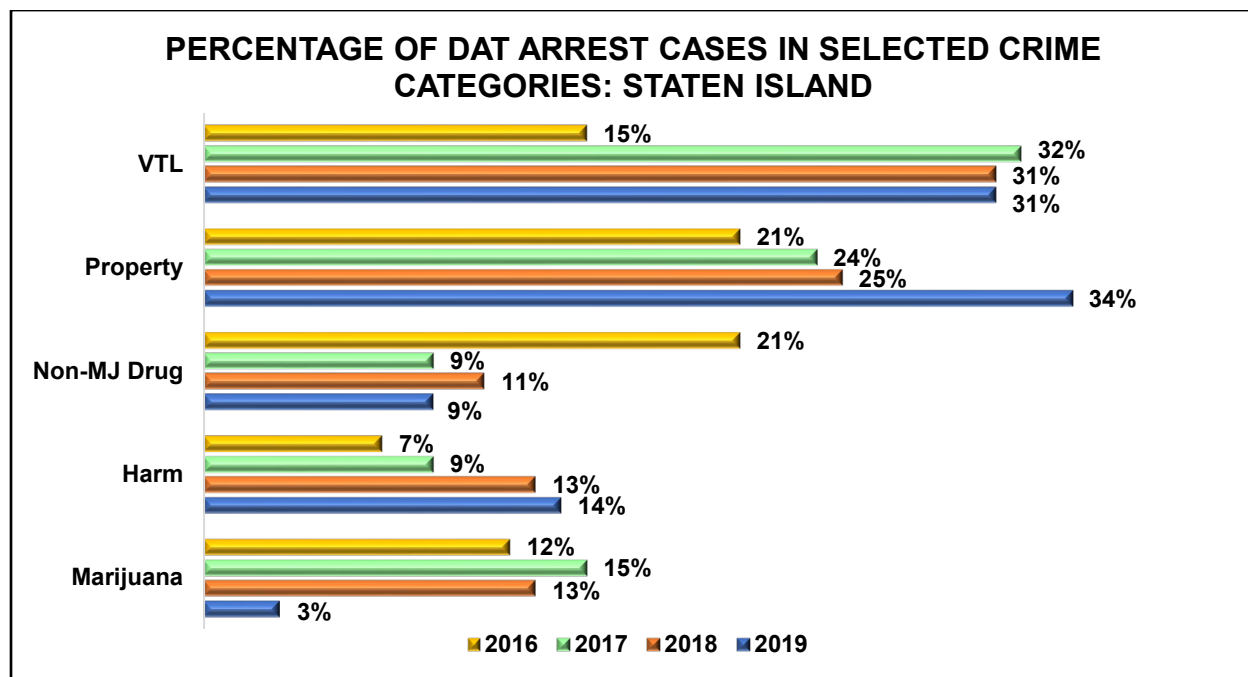


### PERCENTAGE OF DAT ARREST CASES IN SELECTED CRIME CATEGORIES: MANHATTAN



### PERCENTAGE OF DAT ARREST CASES IN SELECTED CRIME CATEGORIES: QUEENS



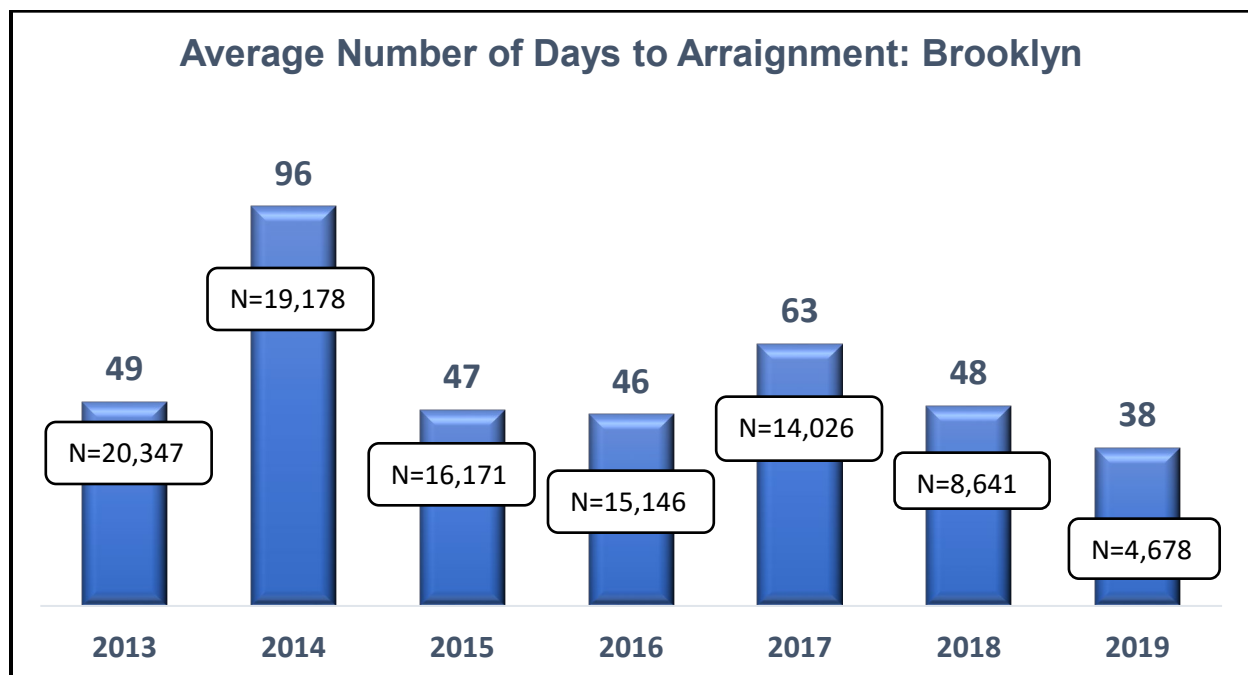


### From Arrest to Arraignment

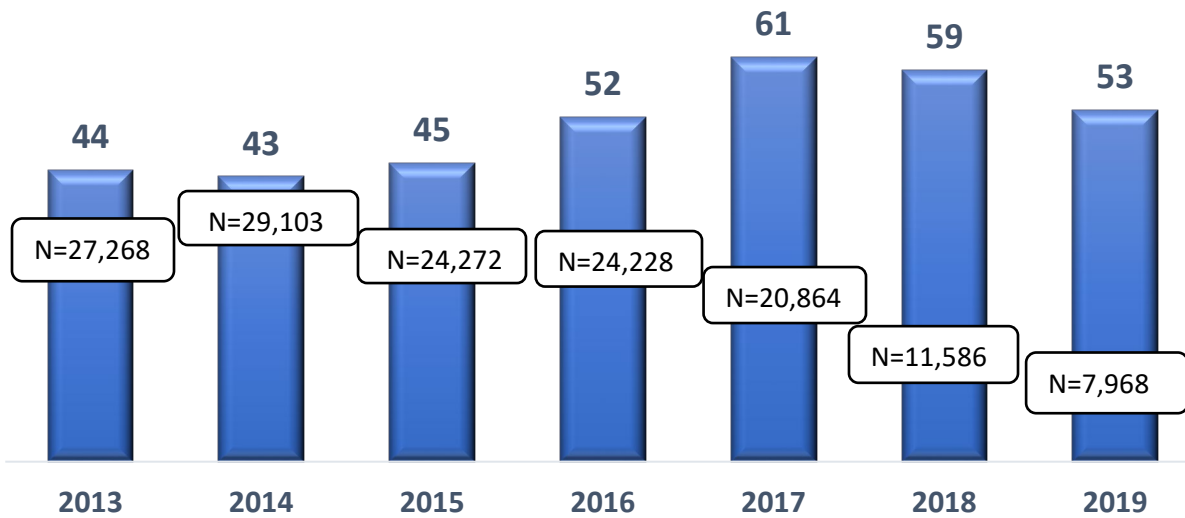
The time between arrest and the Criminal Court arraignment differs among the boroughs and has different degrees of fluctuation within boroughs from 2013 through 2019. As in the citywide section of this report, average time (mathematical mean) is measured for cases arraigned within 180 days of arrest.

Across the years, Staten Island has consistently brought cases to arraignment within approximately one month's time. As a point of contrast, the Bronx consistently has had the longest average times to arraignment, at least two months or longer depending on the year. As average times from arrest to arraignment have declined with a substantially diminished DAT volume in the past two years, they still remain highest in the Bronx at 64 days in both 2018 and 2019.

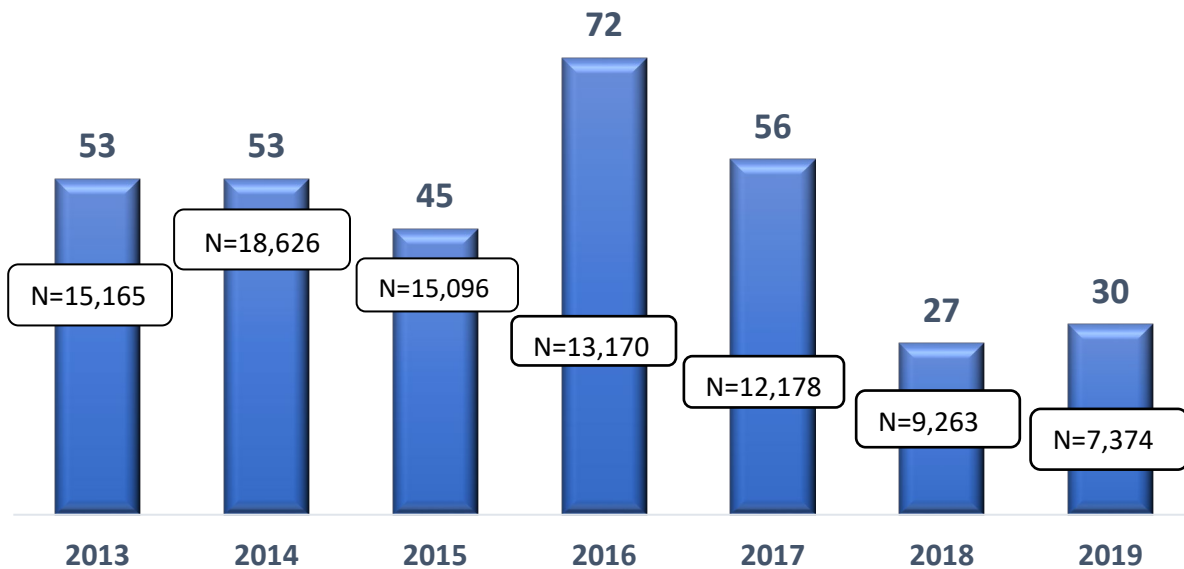
Manhattan's average arrest-to-arraignment times reached its highest average, 61 days, in 2017, and does not appear to have reduced average time commensurate with the dramatic decline in volume. In 2019, average arrest-to-arraignment time in Manhattan was 53 days, one day longer than in 2016 when volume 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.

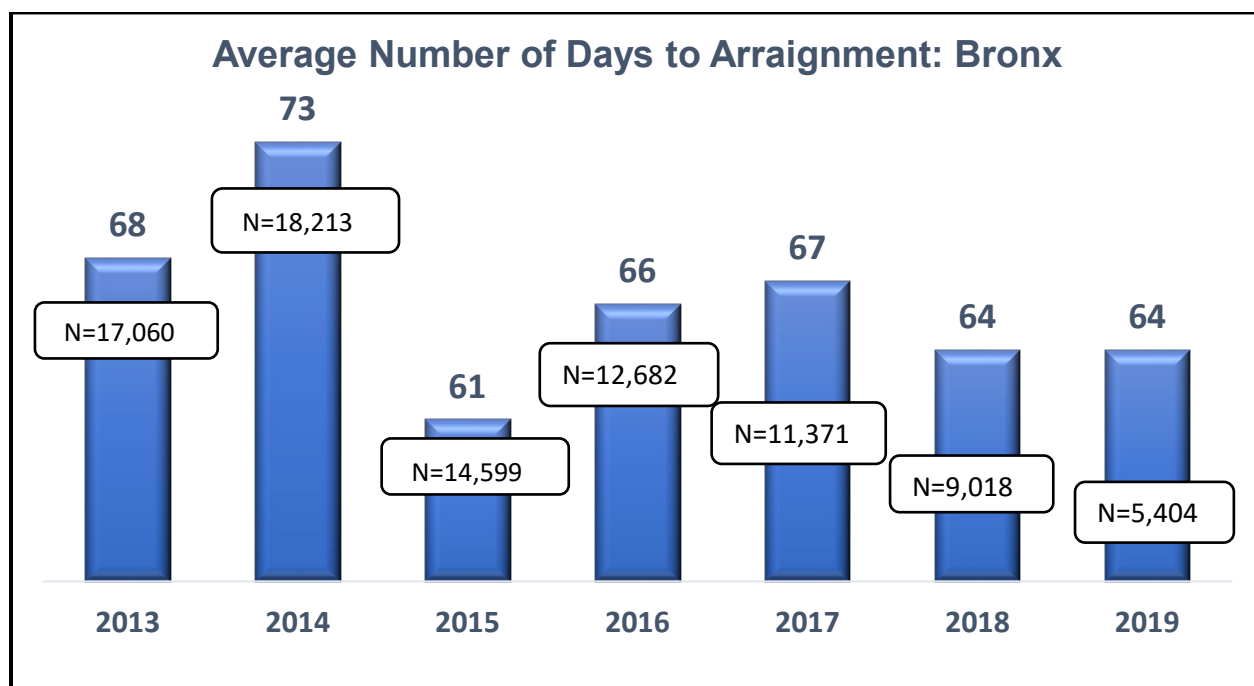
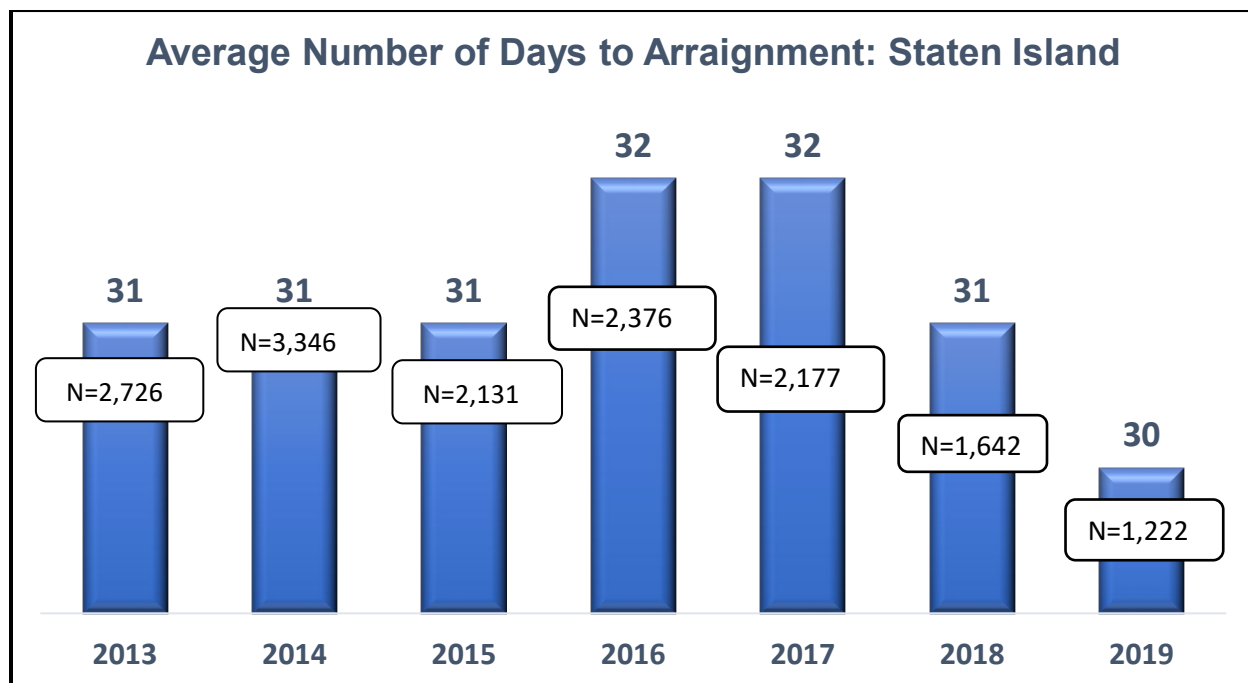


### Average Number of Days to Arraignment: Manhattan



### Average Number of Days to Arraignment: Queens





Appearance rates on the calendared Criminal Court arraignment date vary considerable among the boroughs. Overall arraignment appearance rates range from a high of 89% to a low of 67% depending on year and borough. Appearance rates also vary within and among boroughs by crime categories

### Failure to Appear (FTA)

The inverse of appearance rates is the failure-to-appear rates. As previously illustrated, FTA rates vary widely across the boroughs. Staten Island consistently has the lowest FTA rates among the boroughs, ranging from a high of 17% in 2017 to a low of 11% among arrests in 2019. Bronx consistently has the highest FTA rates, and a fairly consistent rate across the years, ranging from 30% to 33% at the highest for 2019 arrests. Across the years, Manhattan's FTA rates also have only a three-percentage point variation, ranging from a high of 24% in 2019 to 21% in 2015 arrests.

Brooklyn and Queens have the greatest variations in FTA rates across the years. In Brooklyn the range is from 27% in 2014 to a low of 18% for arrests in 2019. In Queens, the highest FTA rate is 22% in 2016 and drops to a low of 15% for arrests in 2019.

In every borough the FTA rates vary among the cases in the different crime categories. However, and with few exceptions, the citywide patterns previously found are applicable to all boroughs even as percentages in the same crime category may differ. For example, prosecuted arrests in the high-volume harm category always have among the lowest, if not the lowest, FTA rate in every borough in every year shown. VTL arrests cases similarly have comparatively low FTA rates in almost every borough in every year in comparison with other crime categories. At least through 2018, the FTA rate for non-marijuana drug cases is almost always higher, and often dramatically so, than the FTA rate for marijuana cases.

<b>PERCENT OF DAT CASES WITH ARRAIGNMENT WARRANTS BY CRIME CATEGORY</b>							
<b>BROOKLYN</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
HARM	12%	17%	15%	19%	20%	19%	14%
WEAPON	22%	19%	22%	23%	20%	23%	17%
PROPERTY	22%	25%	24%	24%	22%	26%	27%
NON-MJ DRUG	28%	32%	26%	28%	31%	36%	19%
MARIJUANA	25%	28%	29%	24%	26%	27%	27%
PROSTITUTION	29%	27%	23%	16%	18%	30%	18%
FRAUD/THEFT	35%	36%	34%	36%	36%	27%	20%
MISCONDUCT	27%	33%	28%	30%	28%	23%	20%
OBSTRUCT JUSTICE	8%	7%	9%	0%	8%	8%	0%
VTL	17%	20%	17%	19%	18%	18%	14%
UNKNOWN, OTHER	28%	34%	36%	28%	21%	32%	11%
Total	24%	27%	25%	25%	25%	24%	18%

<b>PERCENT OF DAT CASES WITH ARRAIGNMENT WARRANTS BY CRIME CATEGORY</b>							
<b>MANHATTAN</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
HARM	13%	13%	11%	11%	15%	12%	11%
WEAPON	15%	17%	18%	16%	19%	18%	19%
PROPERTY	20%	23%	20%	22%	26%	30%	35%
NON-MJ DRUG	32%	35%	29%	34%	35%	43%	49%
MARIJUANA	24%	21%	24%	22%	22%	21%	28%
PROSTITUTION	13%	15%	21%	15%	15%	12%	9%
FRAUD/THEFT	26%	22%	25%	28%	31%	23%	25%
MISCONDUCT	23%	23%	19%	21%	20%	21%	16%
OBSTRUCT JUSTICE	25%	11%	15%	7%	37%	25%	13%
VTL	16%	15%	18%	18%	19%	19%	16%
UNKNOWN, OTHER	27%	28%	25%	23%	22%	36%	0%
Total	22%	22%	21%	22%	23%	23%	24%

<b>PERCENT OF DAT CASES WITH ARRAIGNMENT WARRANTS BY CRIME CATEGORY</b>							
<b>QUEENS</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
HARM	7%	9%	10%	10%	10%	9%	9%
WEAPON	13%	13%	16%	18%	16%	11%	14%
PROPERTY	15%	18%	14%	19%	19%	17%	21%
NON-MJ DRUG	21%	28%	23%	28%	28%	21%	22%
MARIJUANA	21%	22%	19%	28%	24%	17%	24%
PROSTITUTION	15%	10%	6%	17%	14%	11%	13%
FRAUD/THEFT	21%	26%	26%	31%	29%	25%	27%
MISCONDUCT	17%	23%	18%	20%	13%	13%	15%
OBSTRUCT JUSTICE	0%	12%	14%	22%	9%	3%	6%
VTL	16%	17%	14%	23%	21%	14%	15%
UNKNOWN, OTHER	24%	23%	25%	32%	23%	14%	12%
Total	17%	19%	17%	22%	20%	15%	16%

<b>PERCENT OF DAT CASES WITH ARRAIGNMENT WARRANTS BY CRIME CATEGORY</b>							
<b>STATEN ISLAND</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
HARM	7%	7%	9%	8%	5%	7%	9%
WEAPON	10%	12%	14%	13%	12%	13%	13%
PROPERTY	13%	15%	15%	16%	17%	14%	11%
NON-MJ DRUG	16%	15%	15%	13%	26%	30%	25%
MARIJUANA	17%	17%	14%	21%	25%	26%	12%



PROSTITUTION	0%-	5%	0%	20%	0%	0%	25%
FRAUD/THEFT	34%	31%	31%	29%	13%	21%	6%
MISCONDUCT	19%	10%	13%	10%	13%	11%	8%
OBSTRUCT JUSTICE	11%	0%	0%	0%	50%	14%	0%
VTL	17%	14%	16%	15%	15%	14%	9%
UNKNOWN, OTHER	0%	0%	75%	10%	20%	0%	0%
Total	15%	15%	15%	16%	17%	16%	11%

PERCENT OF DAT CASES WITH ARRAIGNMENT WARRANTS BY CRIME CATEGORY							
BRONX	2013	2014	2015	2016	2017	2018	2019
HARM	14%	12%	15%	16%	13%	15%	20%
WEAPON	25%	26%	29%	22%	26%	24%	27%
PROPERTY	25%	32%	25%	32%	31%	34%	47%
NON-MJ DRUG	40%	41%	38%	36%	43%	50%	60%
MARIJUANA	33%	33%	31%	30%	28%	32%	35%
PROSTITUTION	50%	37%	43%	25%	28%	25%	18%
FRAUD/THEFT	35%	35%	39%	40%	38%	28%	22%
MISCONDUCT	32%	37%	34%	31%	27%	30%	36%
OBSTRUCT JUSTICE	27%	32%	12%	27%	14%	16%	29%
VTL	26%	25%	27%	27%	28%	28%	26%
UNKNOWN, OTHER	52%	49%	53%	40%	24%	32%	21%
Total	31%	32%	31%	30%	30%	30%	33%

### Criminal Court Arraignment Processing

Some crime categories have comparatively high percentages of cases in all boroughs, e.g. harm, property, non-marijuana drug, although the relative percentages differ among boroughs. Additionally, the mix of charges within categories also show variations. For the purposes of illustration, court processing and case outcomes are compared for a high-volume common charge in several crime categories. Arraignment continued rates are calculated as a percentage only of the cases in which the arrested individuals appeared on the calendared arraignment date.

PL 220.03, A-misdemeanor non-marijuana drug possession, comprises the overwhelming majority of arraigned DAT arrests in the non-marijuana drug category. Prior to 2018, no more than about one-third of these cases were continued at arraignment except for the drug possession cases arraigned in the Staten Island Criminal Court. The percentages of these cases continued at arraignment shows an upward trend everywhere in 2018 and 2019, except in the Bronx.

<b>PERCENTAGE OF PL 220.03 DAT ARREST CASES CONTINUED AT CRIMINAL COURT ARRAIGNMENT BY YEAR AND BOROUGH OF PROSECUTION</b>					
<b>YEAR</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
2013	34%	27%	24%	44%	34%
2014	28%	24%	28%	58%	33%
2015	27%	29%	35%	43%	30%
2016	31%	23%	31%	54%	27%
2017	37%	26%	31%	63%	29%
2018	53%	33%	40%	68%	26%
2019	85%	40%	44%	74%	24%

PL 155.25, A-misdemeanor petit larceny, is a very common charge in the property crime category although its relative percentage in this category varies among the boroughs. Focusing exclusively on this charge the arraignment continuance rates vary widely among the boroughs and within some of the boroughs across the years. Continuance rates are lowest among Queens petit larceny arrest cases, as low as 12% in 2013. By way of contrast, it is around 40% fairly consistently among Staten Island arrests.

<b>PERCENTAGE OF PL 155.25 DAT ARREST CASES CONTINUED AT CRIMINAL COURT ARRAIGNMENT BY YEAR AND BOROUGH OF PROSECUTION</b>					
<b>YEAR</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
2013	41%	21%	13%	39%	24%
2014	29%	22%	12%	39%	24%
2015	21%	23%	17%	42%	16%
2016	26%	24%	18%	44%	15%
2017	33%	30%	19%	40%	16%
2018	34%	31%	21%	42%	14%
2019	40%	38%	25%	39%	31%

DAT cases in the VTL crime category generally have high appearance rates on the calendared arraignment date and fairly low arraignment continuance rates although there are variations within and across the boroughs. Queens and Staten Island arrests show an unusually large increase in continuance rates in more recent years, while over the same periods the Bronx continuance rate was on the decline.

<b>PERCENTAGE OF VTL 511 DAT ARREST CASES CONTINUED AT CRIMINAL COURT ARRAIGNMENT BY YEAR AND BOROUGH OF PROSECUTION</b>					
<b>YEAR</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
2013	26%	24%	13%	13%	29%
2014	23%	25%	19%	11%	33%
2015	23%	27%	24%	7%	42%

2016	21%	22%	31%	19%	28%
2017	25%	25%	25%	44%	17%
2018	29%	36%	30%	44%	18%
2019	28%	49%	28%	39%	18%

PL 120.00, A-misdemeanor assault in a non-DV context is the most frequent charge in the harm category commonly found among DAT arrest cases in all boroughs, and consistently has the highest appearance rates. Previously shown was that DAT harm category cases citywide, overwhelmingly the PL 120.00 charge, has an extremely high arraignment-continued rate. And this is evident even as the percentages vary across boroughs, mostly notably in Staten Island, and within boroughs across the years shown.

<b>PERCENTAGE OF PL 120.00 DAT ARREST CASES CONTINUED AT CRIMINAL COURT ARRAIGNMENT BY YEAR AND BOROUGH OF PROSECUTION</b>					
<b>YEAR</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
2013	89%	98%	88%	65%	99%
2014	91%	98%	87%	85%	98%
2015	89%	99%	91%	77%	99%
2016	93%	99%	87%	82%	91%
2017	89%	99%	91%	89%	82%
2018	87%	99%	90%	90%	83%
2019	89%	100%	88%	87%	84%

### Court Outcomes

Court outcomes for the selected charges differ among the boroughs. For this analysis all cases with a final disposition, whether continued or disposed at arraignment, or which reached a final disposition after a warrant, are included.

There is a conviction in at least half of all disposed cases with a PL 220.03 top arrest charge across all years and boroughs. Queens and Staten Island, and in most years the Bronx, consistently have the highest convictions rates, and Brooklyn the lowest in most years. Most notable is the decline in conviction rates in 2019 in all court locations except for Queens.

<b>PL 220.03 DAT ARRESTS: CASE OUTCOMES BY YEAR AND BOROUGH OF PROSECUTION</b>					
<b>2013</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	53%	58%	74%	78%	81%
ACD	41%	36%	22%	11%	13%
Dismiss	6%	6%	4%	11%	6%
<b>2014</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	63%	68%	76%	78%	89%
ACD	30%	27%	20%	4%	6%

Dismiss	7%	5%	4%	18%	5%
<b>2015</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	53%	58%	74%	78%	81%
ACD	41%	36%	22%	11%	13%
Dismiss	6%	6%	4%	11%	6%
<b>2016</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	60%	61%	78%	75%	71%
ACD	33%	33%	19%	17%	23%
Dismiss	7%	6%	3%	8%	6%
<b>2017</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	54%	56%	73%	78%	67%
ACD	36%	37%	23%	13%	23%
Dismiss	10%	8%	4%	9%	10%
<b>2018</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	52%	60%	71%	80%	60%
ACD	34%	31%	25%	10%	28%
Dismiss	14%	9%	4%	10%	12%
<b>2019</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	36%	57%	72%	65%	46%
ACD	24%	31%	24%	17%	40%
Dismiss	39%	12%	4%	18%	14%

Petit larceny (PL 155.25) arrest cases exemplify differences among and within the boroughs. ACD is the most common outcome in these cases in Brooklyn, Manhattan and Queens, while conviction is the most common disposition in Staten Island in all years. There has been a decline in Bronx conviction rates, and an increase in ACDs, beginning about the same time when long-serving Robert Johnson was replaced by Darcel Clark as the Bronx District Attorney.

<b>PL 155.25 DAT ARRESTS: CASE OUTCOMES BY YEAR AND BOROUGH OF PROSECUTION</b>					
<b>2013</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	25%	32%	15%	81%	51%
ACD	68%	62%	80%	18%	43%
Dismiss	6%	6%	5%	1%	6%
<b>2014</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	30%	40%	20%	76%	72%
ACD	60%	55%	76%	21%	26%
Dismiss	10%	5%	4%	3%	3%

<b>2015</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	25%	32%	15%	81%	51%
ACD	68%	62%	80%	18%	43%
Dismiss	7%	6%	5%	1%	6%
<b>2016</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	27%	39%	20%	76%	47%
ACD	64%	54%	75%	22%	44%
Dismiss	8%	7%	5%	2%	9%
<b>2017</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	22%	41%	21%	80%	48%
ACD	65%	51%	74%	20%	39%
Dismiss	13%	8%	5%	1%	12%
<b>2018</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	17%	40%	20%	80%	42%
ACD	66%	49%	73%	18%	43%
Dismiss	17%	11%	7%	2%	15%
<b>2019</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	16%	45%	19%	82%	37%
ACD	64%	44%	73%	12%	50%
Dismiss	20%	11%	8.0%	6%	13%

Conviction is the dominant outcome in VTL 511 cases in every borough although it is lower in Queens where approximately a third end with an ACD, a notable deviation from the patterns in the other boroughs.

<b>VTL 511 DAT ARRESTS: CASE OUTCOMES BY YEAR AND BOROUGH OF PROSECUTION</b>					
<b>2013</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	96%	94%	64%	98%	95%
ACD	1%	0%	35%	1%	2%
Dismiss	3%	6%	1%	1%	3%
<b>2014</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	95%	95%	60%	97%	96%
ACD	2%	0%	39%	1%	1%
Dismiss	3%	5%	1.0%	2%	1%
<b>2015</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	96%	94%	64%	98%	95%
ACD	1%	0%	35%	1%	2%
Dismiss	3%	6%	1%	1%	3%

<b>2016</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	97%	96%	64%	99%	94%
ACD	1%	0%	35%	0%	2%
Dismiss	12%	4%	1%	1%	3%
<b>2017</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	96%	95%	63%	99%	95%
ACD	2%	0%	36%	0%	2%
Dismiss	2%	5%	1%	1%	3%
<b>2018</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	96%	88%	66%	96%	94%
ACD	2%	0%	34%	1%	2%
Dismiss	2%	12%	0%	3%	4%
<b>2019</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	83%	78%	70%	99%	91%
ACD	14%	0%	29%	0%	2%
Dismiss	3%	22%	1%	1%	7%

Dismissal is the most common outcome in most courts in most years, except for Staten Island, when the top arrest charge is for non-DV A-misdemeanor assault (PL 120.00). The Staten Island pattern is distinctive in which over half of that borough's assault DAT arrest cases end with a conviction until the rate drops below 50% in 2019.

<b>PL 120.00 DAT ARRESTS: CASE OUTCOMES BY YEAR AND BOROUGH OF PROSECUTION</b>					
<b>2013</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	24%	25%	21%	54%	32%
ACD	17%	1%	31%	22%	27%
Dismiss	59%	59%	48%	24%	41%
<b>2014</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	17%	32%	19%	57%	34%
ACD	24%	17%	31%	16%	29%
Dismiss	59%	51%	49%	27%	37%
<b>2015</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	24%	25%	21%	54%	32%
ACD	17%	16%	31%	22%	27%
Dismiss	59%	59%	48%	24%	41%
<b>2016</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	27%	27%	27%	69%	35%
ACD	13%	19%	32%	14%	31%
Dismiss	59%	54%	41%	17%	34%

<b>2017</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	27%	24%	24%	66%	36%
ACD	16%	18%	24%	16%	30%
Dismiss	57%	58%	52%	18%	34%
<b>2018</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	20%	25%	25%	62%	27%
ACD	17%	17%	22%	16%	21%
Dismiss	63%	58%	53%	22%	52%
<b>2019</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
Convict	12%	20%	18%	47%	22%
ACD	27%	22%	19%	25%	27%
Dismiss	61%	58%	63%	28%	51%

### Most Severe Type of Sentence Imposed for Conviction

This section examines the distribution among the three most frequently imposed types of sentence in cases with convictions for the cases with the selected top arrest charge. When there are multiple sanctions involved the most serious type of sentence is selected. In descending order of severity these are: the imposition of an imprisonment sentence; a monetary penalty; or, a conditional discharge sentence. The most severe sentence imposed varies among charges and among the boroughs.

When the most severe sentence is imprisonment, the percentage of these cases with a time-served sentence is shown. Non-time-served sentences do not necessarily require post-conviction imprisonment time after consideration is given for any pretrial detention time and good-time credit of one day for every three days.

The monetary category includes cases in which the most severe sentence was a fine, or a fine with a jail alternative.

There is diversity in the conditions imposed with a conditional discharge sentence, some of which are statutory such as a license suspension. Other conditional discharge sentences may require program participation the nature of which varies by borough. These can include community service, attendance in a drug program, or in some type of social service engagement.

There is wide variation among the boroughs in the types of penalty for arrests for A-misdemeanor drug possession (PL 220.03) which ended in a conviction. Across all the years shown, over two-thirds of Brooklyn's convictions had an imprisonment sentence imposed, almost all of which were for time served. Manhattan similarly had very high rates of the imposition of imprisonment and time-served sentences. Conversely, a conditional discharge sentence was imposed in at least 80% of the Bronx PL 220.03 cases. A conditional discharge sentence was imposed in at least half of all the Staten Island cases. Queens' use of a monetary penalty far exceeded that of the other boroughs.

<b>MOST SEVERE SENTENCE TYPE FOR CONVICTED PL 220.03 ARRESTS</b>					
<b>2013</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	75%	62%	28%	11%	18%
<i>% Time Served</i>	<b>88%</b>	<b>66%</b>	<b>69%</b>	<b>62%</b>	<b>35%</b>
% Monetary	1%	2%	34%	22%	3%
% Conditional Discharge	24%	36%	38%	67%	79%
<b>2014</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	74%	70%	33%	26%	17%
<i>% Time Served</i>	<b>85%</b>	<b>78%</b>	<b>61%</b>	<b>51%</b>	<b>46%</b>
% Monetary	1%	1%	29%	10%	4%
% Conditional Discharge	25%	30%	38%	64%	79%
<b>2015</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	69%	62%	32%	21%	12%
<i>% Time Served</i>	<b>94%</b>	<b>83%</b>	<b>77%</b>	<b>88%</b>	<b>47%</b>
% Monetary	2%	2%	25%	18%	3%
% Conditional Discharge	29%	36%	43%	61%	85%
<b>2016</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	65%	65%	26%	22%	10%
<i>% Time Served</i>	<b>93%</b>	<b>85%</b>	<b>69%</b>	<b>77%</b>	<b>72%</b>
% Monetary	3%	3%	32%	80%	6%
% Conditional Discharge	32%	32%	42%	70%	84%
<b>2017</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	73%	63%	22%	22%	12%
<i>% Time Served</i>	<b>94%</b>	<b>88%</b>	<b>64%</b>	<b>63%</b>	<b>78%</b>
% Monetary	3%	3%	33%	13%	5%
% Conditional Discharge	24%	34%	45%	65%	83%
<b>2018</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	77%	66%	20%	18%	13%
<i>% Time Served</i>	<b>98%</b>	<b>92%</b>	<b>65%</b>	<b>42%</b>	<b>87%</b>
% Monetary	5%	5%	37%	14%	7%
% Conditional Discharge	18%	29%	43%	68%	80%
<b>2019</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	74%	74%	17%	24%	15%
<i>% Time Served</i>	<b>9%</b>	<b>96%</b>	<b>78%</b>	<b>82%</b>	<b>97%</b>
% Monetary	12%	2%	40%	20%	4%
% Conditional Discharge	14%	24%	43%	56%	81%

When petit larceny arrest cases ended with a conviction, monetary penalties were rarely imposed, except in Staten Island cases. Imprisonment sentences were frequently imposed in Brooklyn but declined somewhat with a corresponding increase in conditional



discharge sentences for arrests in 2015, 2016 and 2017, before rising again. However, in these later years the percentages of time-served sentences also increased.

Sentences for conviction in the Queens petit larceny arrest cases were distributed between imprisonment and conditional discharge sentences, with the latter percentages increasing in most years between 2013 and 2019. In all years, an overwhelming percentage of convicted petit larceny arrests in both Staten Island and the Bronx had a conditional discharge sentence.

<b>MOST SEVERE SENTENCE TYPE FOR CONVICTED PL 155.25 ARRESTS</b>					
<b>2013</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	63%	41%	42%	9%	13%
<i>% Time Served</i>	<b>80%</b>	<b>55%</b>	<b>61%</b>	<b>42%</b>	<b>24%</b>
% Monetary	1%	1%	10%	32%	1%
% Conditional Discharge	36%	58%	48%	59%	86%
<b>2014</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	68%	49%	42%	13%	18%
<i>% Time Served</i>	<b>76%</b>	<b>57%</b>	<b>47%</b>	<b>17%</b>	<b>16%</b>
% Monetary	0%	1%	7%	12%	2%
% Conditional Discharge	32%	50%	51%	75%	80%
<b>2015</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	57%	42%	37%	11%	10%
<i>% Time Served</i>	<b>86%</b>	<b>73%</b>	<b>73%</b>	<b>39%</b>	<b>38%</b>
% Monetary	1%	2%	9%	20%	2%
% Conditional Discharge	42%	56%	54%	69%	88%
<b>2016</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	59%	42%	31%	9%	19%
<i>% Time Served</i>	<b>84%</b>	<b>78%</b>	<b>64%</b>	<b>42%</b>	<b>58%</b>
% Monetary	1%	1%	12%	15%	2%
% Conditional Discharge	41%	57%	57%	76%	79%
<b>2017</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	58%	45%	30%	8%	15%
<i>% Time Served</i>	<b>85%</b>	<b>80. %</b>	<b>59%</b>	<b>24%</b>	<b>73%</b>
% Monetary	1%	1%	14%	10%	2%
% Conditional Discharge	41%	54. %	56%	82%	83%
<b>2018</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	71%	47%	25.	4%	13%
<i>% Time Served</i>	<b>98%</b>	<b>83%</b>	<b>63%</b>	<b>56%</b>	<b>55%</b>
% Monetary	1%	0%	14%	14%	0%
% Conditional Discharge	28%	53%	61%	83%	87%

<b>2019</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	79%	52%	28%	5%	11%
<i>% Time Served</i>	<b>98%</b>	<b>88%</b>	<b>75%</b>	<b>42%</b>	<b>92%</b>
% Monetary	1%	0%	9%	3%	1%
% Conditional Discharge	20%	48%	63%	92%	88%

There is almost universal agreement among the boroughs on the use of monetary penalties for convictions for VTL 511 DAT arrest cases. Yet even for this charge, Brooklyn was the only court location, in years 2013 and 2014, in which one finds over a third of the convicted cases with an imprisonment sentence, virtually all for time served.

<b>MOST SEVERE SENTENCE TYPE FOR CONVICTED VTL 511 ARRESTS</b>					
<b>2013</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	34%	0%	1%	1%	1%
<i>% Time Served</i>	<b>99%</b>	<b>37%</b>	<b>73%</b>	<b>60%</b>	<b>26%</b>
% Monetary	66%	100%	98%	98%	99%
% Conditional Discharge	0%	0%	1%	1%	0%
<b>2014</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	47%	1%	1%	1%	1%
<i>% Time Served</i>	<b>99%</b>	<b>50.%</b>	<b>61%</b>	<b>20%</b>	<b>47.1%</b>
% Monetary	53%	99%	99%	99%	99%
% Conditional Discharge	0%	%	0%	0%	0%
<b>2015</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	41%	0%	1%	3%	1%
<i>% Time Served</i>	<b>99%</b>	<b>22%</b>	<b>28%</b>	<b>79%</b>	<b>58%</b>
% Monetary	58%	100%	99%	97%	98%
% Conditional Discharge	1%	0%	0%	0%	0%
<b>2016</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	3%	1%	1%	5%	2%
<i>% Time Served</i>	<b>71%</b>	<b>47%</b>	<b>40%</b>	<b>77%</b>	<b>87.1%</b>
% Monetary	97%	99%	98%	95%	98%
% Conditional Discharge	0%	0%	1%	0%	0%
<b>2017</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	3%	1%	1%	3%	1%
<i>% Time Served</i>	<b>84%</b>	<b>81%</b>	<b>20%</b>	<b>65%</b>	<b>89%</b>
% Monetary	97%	99%	98%	97%	99%
% Conditional Discharge	0%	0%	1%	0%	0%

<b>2018</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	9%	2%	11%	1%	2%
<i>% Time Served</i>	<b>95%</b>	<b>86%</b>	<b>60.%</b>	<b>0%</b>	<b>91%</b>
% Monetary	91%	98%	98%	99%	8%
% Conditional Discharge	0.0%	0%	0%	0%	0%
<b>2019</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	11%	4%	1%	0%	7%
<i>% Time Served</i>	<b>99%</b>	<b>100.0%</b>	<b>69%</b>	<b>0%</b>	<b>100.0%</b>
% Monetary	89%	96%	99%	100%	93%
% Conditional Discharge	0%	0.0%	0%	0%	0%

As previously seen, A-misdemeanor non-DV assault (PL 120.00), has a distinctive pattern across all boroughs: High appearance rates; overwhelmingly continued at Criminal Court arraignment; and substantial dismissal rates. In the event of a conviction there appears to be near unanimity across court locations and years for the imposition of a conditional discharge sentence. Manhattan is the only borough in which at least 20% of the convicted PL 120.00 arrest cases receive an imprisonment sentence. Queens is another borough in which the conviction rate in some years reaches or exceeds the Manhattan imprisonment rate.

<b>MOST SEVERE SENTENCE TYPE FOR CONVICTED PL 120.00 ARRESTS</b>					
<b>2013</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	10%	20%	7%	2%	5%
<i>% Time Served</i>	<b>70%</b>	<b>84%</b>	<b>91%</b>	<b>50%</b>	<b>0%</b>
% Monetary	0.0%	2%	5%	4%	0%
% Conditional Discharge	90%	78%	87%	94%	95%
<b>2014</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	11%	23%	25%	4%	2%
<i>% Time Served</i>	<b>83%</b>	<b>85%</b>	<b>93%</b>	<b>0%</b>	<b>0%</b>
% Monetary	1%	1%	2%	6%	1%
% Conditional Discharge	88%	76%	73%	90%	97%
<b>2015</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	4%	20%	19%	4%	4%
<i>% Time Served</i>	<b>90%</b>	<b>86%</b>	<b>92%</b>	<b>100.0%</b>	<b>0%</b>
% Monetary	1%	1%	5%	4%	1%
% Conditional Discharge	95%	79%	76%	92%	95%
<b>2016</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	9%	23%	15%	3%	4%
<i>% Time Served</i>	<b>77%</b>	<b>89%</b>	<b>86%</b>	<b>33%</b>	<b>50.0%</b>
% Monetary	0%	0%	6%	4.2%	1%
% Conditional Discharge	91%	77%	79%	93%	96%

<b>2017</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	6%	30%	9%	0%	3%
<i>% Time Served</i>	<i>80%</i>	<i>80.%</i>	<i>92%</i>	<i>-</i>	<i>40.0%</i>
% Monetary	0%	1%	14%	1%	2%
% Conditional Discharge	94%	70%	77%	100%	95%
<b>2018</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	11%	25%	15%	2%	2%
<i>% Time Served</i>	<i>81%</i>	<i>93%</i>	<i>95%</i>	<i>50%</i>	<i>25%</i>
% Monetary	0%	1%	9%	3%	01%
% Conditional Discharge	89%	74%	75%	95%	97%
<b>2019</b>	<b>Brooklyn</b>	<b>Manhattan</b>	<b>Queens</b>	<b>Staten Island</b>	<b>Bronx</b>
% Imprisonment	16%	23%	19%	2%	4%
<i>% Time Served</i>	<i>100%</i>	<i>9.%</i>	<i>93.5%</i>	<i>0.0%</i>	<i>100%</i>
% Monetary	0%	1%	9%	5%	0%
% Conditional Discharge	84%	76%	72%	93%	96%

### Summary

The diversity among New York City's boroughs manifests itself in a variety of ways including in the characteristics of prosecuted DAT arrests and arrestees, case processing, court outcomes and sentencing patterns.

In the study data, Brooklyn had the largest prosecuted DAT arrest population of non-Hispanic Black individuals and Bronx Hispanic individuals. Non-Hispanic Whites were most represented among Staten Island's arrest cases and Asians among those prosecuted in Queens.

Contact information initially provided to CJA, and critical for court-appearance notification, was regularly highest among Manhattan DAT arrest cases. Brooklyn had the second largest percentage of DAT cases with contact information although it has been decreasing for unexplained reasons. In 2019, the proportions of contact information in the other boroughs had risen from the previous three years.

The composition of DAT arrest cases differs among the boroughs. Several crime categories have the largest percentages of cases in each borough even as volume has declined, but the relative proportions differ. Additionally, changes in arrest and prosecution policies for low-level marijuana possession, and the State's Raise-the-Age legislation altered the composition of DAT cases in every borough. These factors also disproportionately reduced DAT volume relative to prosecuted non-felony Summary arrests.

There has been wide variation among the boroughs in the time from arrest to arraignment. Across the years, Staten Island has consistently brought cases to arraignment within approximately one month's time. As a point of contrast, the Bronx consistently has had the longest average times to arraignment, at least two months or

longer depending on the year. And volume alone cannot explain these variations within and across boroughs. For example, in 2019 Manhattan's average arrest-to-arraignment time was 53 days, one day longer than in 2016 when volume was three times greater.

This time interval may have a variety of consequences. For example, does arrest-to-arraignment time have an effect independent of other factors on appearance rates? Another consideration is how boroughs will respond under Bail Reform which requires no more than a 20-day window from arrest to DAT arraignment. To address these and related issues is a need to better understand borough processes which lead to the disparities found among the boroughs. Another consideration is the extent to which the current trend of increasing arraignment continuances will be exacerbated by narrowing allowable time to arraignment.

Overall arraignment appearance rates range from a high of 89% to a low of 67% depending on year and borough. Appearance rates also vary within and among boroughs by crime categories. Similarly, failure-to-appear rates differ among boroughs and crime categories. Among crime categories with substantial proportions of prosecuted DAT arrests in every borough, the harm and VTL crime categories have relatively high appearance rates. Non-marijuana drug arrests have comparatively high FTA rates. The continuance rates when defendants appear on the calendared arraignment date differed by crime category and borough.

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

Through 2018, over half the prosecuted Brooklyn, Manhattan and Queens arrests for petit larceny in the property crime category ended with an ACD, with a rise in dismissal in Brooklyn and Manhattan in 2019. Cases in the harm category more often than not ended with a dismissal, almost all of which occurred post-arraignment, in all court locations.

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 offered judges alternatives to the traditional jail or fine sanctions. For convictions for arrests with high-volume charges examined, 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, was 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 to issue a Desk Appearance Ticket for all eligible non-felony charges and selected E-felony crimes. This is unlike the previous statute in which the issuance of a DAT was mandated for only the lone, non-criminal marijuana possession (PL 221.05) offense. Additionally, a list of ineligible charges has been removed from the revised New York Police Department's (NYPD) Patrol Guide.

However, not all DAT-eligible crimes will be equally affected by the presumption of the issuance of the DAT. The Patrol Guide previously enumerated a number of disqualifying factors for DAT eligibility. These same factors are now articulated in the new Patrol Guide as reasons for arresting officers to use discretion to not issue a DAT. APPENIX B provides a comparison of the before and after rules for issuing DATs.

One such set of factors involve instances where the circumstances involve family violence or danger to children. This likely will not create much of a transition from Summary to DAT arrests in otherwise charge-eligible DAT arrests, the overwhelmingly majority of which fall into the harm category, because most non-DV incidents in this crime category already were being issued DATs. For example, in each year from 2016 through 2019, at least 75% of all Summary arrests with DAT-eligible charges in the harm category had a DV hearing type at the Criminal Court arraignment, and the overwhelming majority of these cases had a Temporary Order of Protection issued at arraignment. In comparison, no more than three-tenths of one percent, and in most years zero percent, of harm category DAT arrests had a DV arraignment hearing type.

Another potentially disqualifying factor are VTL charges involving impaired driving or charges for which there can be a license suspension or revocation. This likely will result in few of these types of VTL arrests in which police will use discretion to issue DATs.

Pre-reform restrictions on issuing DATs based on prior convictions have been removed from the Patrol Guide. The implications for this are potential increases in DATs, versus Summary (custodial) arrests, in some crime categories with high arrest volume and high FTA rates resulting from frequent prior contact with the criminal legal system. In many of these crime categories defendants in over half of the pre-reform Summary, but now presumptively DAT arrests, will previously have been convicted for crimes of both misdemeanor and felony severity. In each year from 2016 through 2019, over 75% of individuals in the Summary arrests for DAT-eligible non-marijuana drug charges had previously been convicted for crimes of both felony and misdemeanor severity, and in over 60% in DAT-eligible charge Summary arrests in the property category.

What may mitigate some of this transformation from Summary to DAT arrests involve warrant histories. Outstanding warrants, or a warrant issued within the past two years, are now reasons for choosing a custodial rather than a DAT arrest, but the extent

to which this police policy will be enforced remains to be seen. This also has other consequences for individuals because recent warrant histories affect release-on-recognizance recommendations to the detriment of individuals. In most instances only a non-monetary release will be applicable for Summary arrests for these types of misdemeanor charges. This will potentially require a substantial increase in the use of community supervision for a high FTA risk population.

An inability or unwillingness to provide identification also continues as a reason to not issue a DAT to an individual for an otherwise eligible charge.

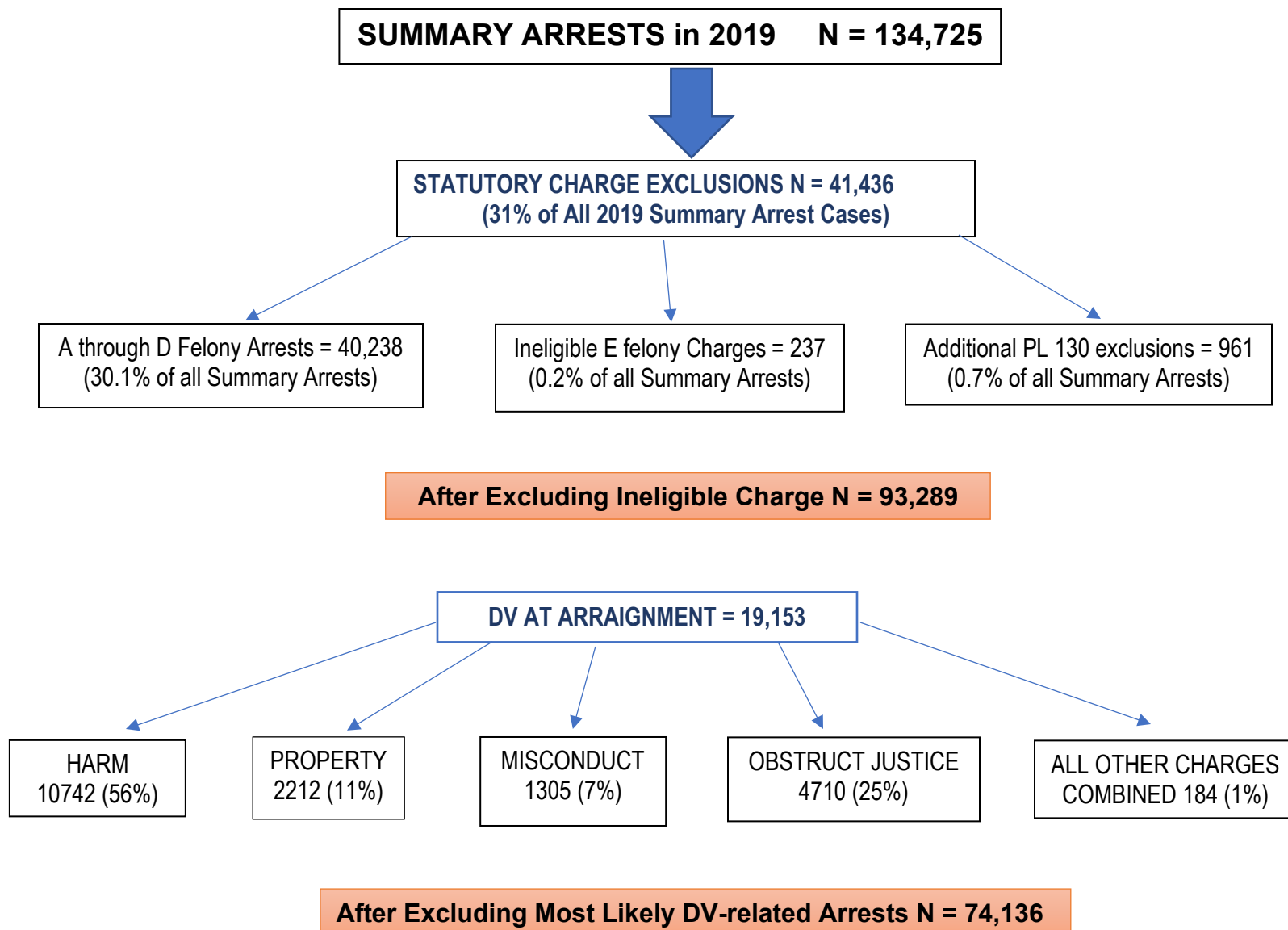
The final set of illustrations attempts to estimate the impact of the new law had it been in effect in 2019. Because it reflects a changed and smaller volume of non-felony arrests, the estimates in this study differ from comparable attempts by others which used data from earlier years.<sup>13</sup> However, and as with all of these studies, the estimates are based on what happened in the past and do not account for changing community and policing circumstances occurring as the law is implemented in 2020. This includes the extended impact of the COVID 19 pandemic and other major unanticipated disruptions to normal daily activities of civilians and police.

The first illustration suggests that about 41,000 Summary arrest cases, out of approximately 135,000, might have been issued DATs. This is shown on the flow chart which begins by selecting all Summary arrests in 2019 of those 18 or older, and then excluding categories which can be identified in the data. This includes: all ineligible A through D felony and selected E-felony charge arrests; potentially disqualifying domestic violence circumstances for otherwise charge-eligible arrests; the exercise of discretion due to active bench warrants at the time of a DAT charge-eligible arrest; VTL 1192 and 511 charges of E-felony or misdemeanor severity, and, a proxy measure to estimate additional disqualified cases based on criminal history. It is not possible to identify from available data other Summary cases for which discretion under the new NYPD Patrol Guide could further reduce the projected number of potential DATs e.g. those in immediate need of a mental health intervention.

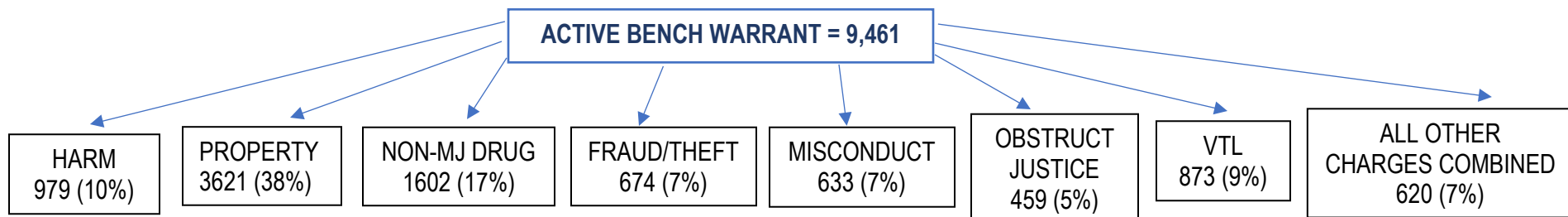
The final illustration examines how the potential shift from Summary to DAT might have been allocated citywide in each borough had the new law and police procedures been in place in 2019. Approximately a third of 2019 Summary arrests in Brooklyn, Manhattan and Queens might have qualified for a DAT, and somewhat over a quarter among the Staten Island and Bronx arrests.

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<sup>13</sup> See for example, Michael Rempel and Krystal Rodriguez, *BAIL REFORM IN NEW YORK: Legislative Provisions and Implications For New York City* (New York: Center for Court Innovation, April 2019), pp. 7-8. Or, Olive Lu, M.S., Quinn Hood, B.A., Erica Bond, J.D., Maya Tellman, B.A. & Preeti Chauhan, Ph.D., *Assessing Potential Impacts of 2020 Bail Reforms In New York City*, RESEARCH BRIEF, September 2019, (New York City: Data Collaborative for Justice at the John Jay College of Criminal Justice), and a May 2020 RESEARCH BRIEF update to that report, *Desk Appearance Tickets in New York State in 2018*, by Olive Lu, Erica Bond and Preeti Chauhan.







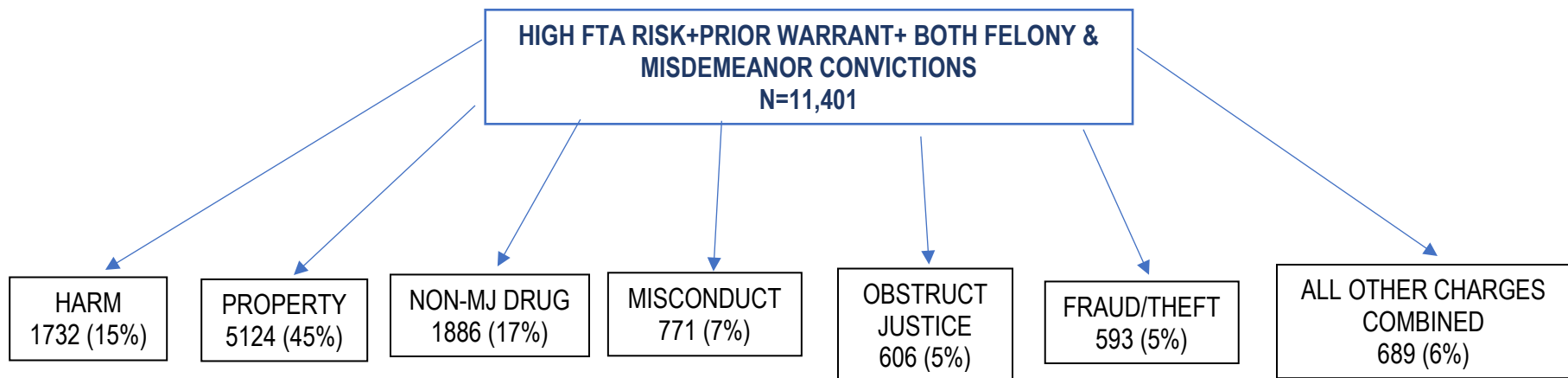
**After Excluding Active Bench Warrant Cases N = 64,675**

The NYPD Patrol Guide continues to allow police discretion to not issue DATs for arrests for driving while impaired or when the charge could result in the suspension or revocation of a driver's license, similar to the previous disqualifying factors.

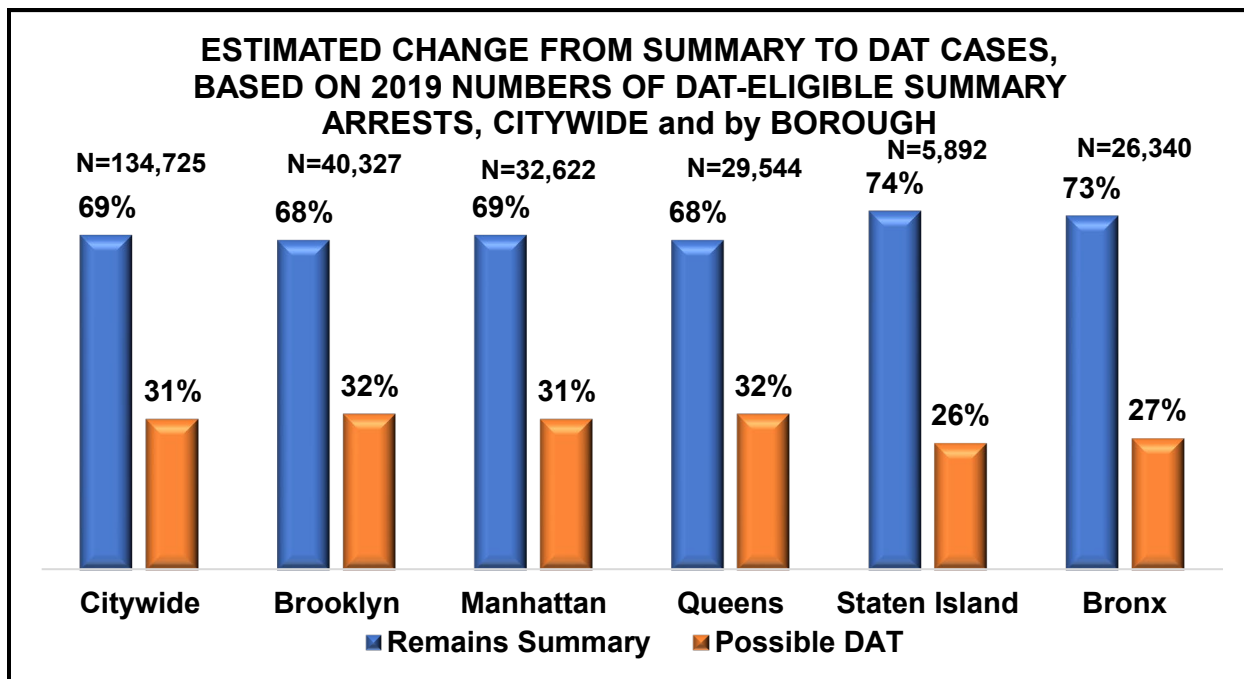
**INELIGIBLE VTL ARRESTS = 12,004**

**After Excluding VTL Arrests N = 52,671**

The NYPD Patrol Guide no longer has a disqualification for misdemeanor recidivists. Instead, there only is a time-delineated disqualification for individuals who have had a previous FTA in the last two years. To roughly gauge how many arrests might be affected, the next set of numbers shows Summary arrests in 2019 in which individuals had prior FTA, had multiple felony and misdemeanor convictions which create the opportunity for appearance failures, and in other respects posed a high FTA risk. Without more information it is not possible to accurately determine how realistic this estimate would be.



**After Excluding Criminal History Disqualifications N = 41,270**



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 new law requires prompt arraignments of DATs, within 20 days of arrest. This will require the near immediate consultation between arresting officers and assistant district attorneys to complete the paperwork necessary for the Criminal Court arraignment in an expeditious fashion. 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. This raises the curious question of why, in many crime categories, dismissals increase with post-arraignment adjudications.

## APPENDIX A

### CRIME-TYPE CATEGORIES: AN OVERVIEW

The categories and principal charges adapted from CJA's typology of offenses are as follows:

- The *harm* category consists of some of the most serious felony crimes such as murder, rape and robbery, as well as various types of assault including those of misdemeanor severity.
- The *weapon* category includes all charges relating to use, possession and sale of weapons found in Article 265 of the New York State Penal Law.
- The *property* crime category includes petit larceny at the misdemeanor level and grand larceny at the felony level, and additionally includes related offenses such as possession of stolen property or burglar's tools. This category also includes criminal mischief charges that can be of either felony or misdemeanor severity.
- The *drug* category contains all non-marijuana drug charges found in Article 220 of the New York State Penal Law.
- The *marijuana* category contains all charges found in Article 221 of the New York State Penal Law.
- The *prostitution-related (sex-crime)* category primarily contains offenses such as promoting prostitution, soliciting for the purposes of prostitution, prostitution, or patronizing a prostitute.
- The *fraud/theft* category principally contains the theft-of-services misdemeanor charge, the vast majority of which involve fare beating, and other types of theft-by-deception activities such as forgery, credit card and welfare fraud, or trademark infringement.
- The *misconduct* category contains a variety of public-order offenses such as criminal trespass, harassment, disorderly conduct, and loitering, and other charges such as illegal gambling.
- The *obstruction-of-justice* category includes charges such as resisting arrest and criminal contempt charges including violating protection orders.
- *VTL* refers to offenses contained in the Vehicle and Traffic Laws, the vast majority of which are considered to be of unclassified misdemeanor severity.
- The *other/unknown* crime category contains mostly charges from sources outside the Penal Law or VTL, such as the City's Administrative Code covering offenses such as unlicensed vending or open alcohol container violations, the sale of untaxed cigarettes under the State Tax Code, or CPL 570.06 applicable to fugitives. This category also is used for the small percentages of cases in which the charges as transmitted to CJA do not link to the charge index used in the CJA database.

## **APPENDIX B**

### **DESK APPEARANCE TICKET RULES BEFORE AND AFTER BAIL REFORM**

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and**

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The criminal justice reform legislation that New York State passed in April 2019 to be implemented effective January 1, 2020, most notably eliminates cash bail and pretrial detention for most misdemeanors and non-violent felonies. The sweeping changes of the bail reform law also affect the landscape of desk appearance tickets (DATs). Both Section 150 of the New York State Criminal Procedure Law and the DAT sections of the NYPD Patrol Guide have been revised in accordance with the new statute.

The E-felony and misdemeanor and charges for which DATs cannot be issued remain the same before and after bail reform. They consist of rape in the third degree, criminal sexual acts in the third degree, escape (from detention or custody) in the third degree, absconding from temporary release in the first degree, absconding from a community treatment facility, and failing to appear in court for a felony after being released upon bail or on recognizance at arraignment.

The rest of the DAT-related sections of the New York State Criminal Procedure Law and the NYPD Patrol Guide, however, have been altered by bail reform. Before bail reform, DAT issuance was only mandatory for the offense of noncriminal marijuana possession and was discretionary for all other cases—assuming that they did not involve the disqualifying factors identified by the pre-reform NYPD Patrol Guide. After bail reform, DAT issuance has become mandatory for nearly all E-felony and misdemeanor cases. The exceptions to the rule—or instances in which DAT issuance can be discretionary—involve cases in which the arrested person has outstanding warrants, has previously failed to appear in court, does not provide identifying information, has been charged with a crime against someone of the same household, has been charged with a sex offense, has been charged with a traffic crime that suspends or revokes their driver license, or needs immediate medical or mental health care.

The state legislature also added two entirely new provisions to CPL 150.

- One requires arresting officers to inform individuals that they may provide contact information for court appearance notification. Within 24 hours of arrests, this information must be filed with the local criminal court. There previously had been no mention of collecting contact information in the CPL.

- The other provision requires that the DAT return date be no greater than twenty days after arrests, unless the court has given permission for the arrestee to enroll in a pre-arraignment diversion program. Prior to bail reform there was no provision in the CPL stipulating any arrest-to-arraignment time limit

The DAT section of the NYPD Patrol Guide has also been altered by bail reform. The pre-reform DAT section of the NYPD Patrol Guide contains a long list of offenses and conditions under which DATs cannot be issued. The listed DAT-disqualifying offenses can be loosely summarized as a variety of weapon, theft, assault, harassment, menacing, prostitution, and sex-related offenses. Some other DAT-disqualifying conditions involve the risk of the defendant

causing harm when the complainant is a member of the same household or when the defendant is implicated in an Order of Protection. The post-reform DAT section of the NYPD Patrol Guide notably does not provide any factors that would disqualify a defendant from receiving a DAT. However, some of the disqualifying factors from the pre-reform patrol guide are similar to the factors in the post-reform criminal procedure law that would make DAT issuance discretionary. These factors are related to sex offenses and cases in which the defendant could cause imminent harm to another person or to themselves.

**Table 1: Conditions for DAT Issuance Before and After Bail Reform**

	<b>Before Bail Reform</b>	<b>After Bail Reform</b>
<b>Charges for which DATs can be issued</b>	<p>When, in accordance with conditions that authorize arrest without a warrant (CPL 140.10), a police officer may issue a DAT for all offenses aside from class A, B, C or D felony offenses, and excluding<sup>14</sup></p> <ul style="list-style-type: none"> <li>• Rape in the third degree (PL 130.25)</li> <li>• Criminal sexual act in the third degree (PL 130.40)</li> <li>• Escape in the second degree (PL 205.10)</li> <li>• Absconding from temporary release in the first degree (PL 205.17)</li> <li>• Absconding from a community treatment facility (PL 205.19)</li> <li>• Bail Jumping in the second degree (PL 215.56)</li> </ul> <p>The issuance of a DAT may be conditioned upon a deposit of pre-arraignment bail, as described in CPL 150.30.</p>	<p>When, in accordance with conditions that authorize arrest without a warrant (CPL 140.10), a police officer may issue a DAT for all offenses aside from class A, B, C or D felony offenses, and excluding<sup>15</sup></p> <ul style="list-style-type: none"> <li>• Rape in the third degree (PL 130.25)</li> <li>• Criminal sexual act in the third degree (PL 130.40)</li> <li>• Escape in the second degree (PL 205.10)</li> <li>• Absconding from temporary release in the first degree (PL 205.17)</li> <li>• Absconding from a community treatment facility (PL 205.19)</li> <li>• Bail Jumping in the second degree (PL 215.56)</li> </ul> <p>The issuance of a DAT may be conditioned upon a deposit of pre-arraignment bail, as described in CPL 150.30.</p>
<b>Charges for which DAT issuance is mandatory</b>	<p>According to CPL 150.75, DAT issuance is mandatory when the charge is</p> <ul style="list-style-type: none"> <li>• Noncriminal marijuana possession (PL 221.05)</li> <li>• But it may be made conditional upon the posting of pre-arraignment bail only if the police officer <ul style="list-style-type: none"> <li>○ Can't ascertain or suspects the validity of the defendants identity or residence address</li> <li>○ Suspects that the defendant does not reside within the state</li> </ul> </li> </ul>	<p>DAT issuance is mandatory for most E-felonies and misdemeanors<sup>16</sup></p>

<sup>14</sup> The Appearance Ticket, New York State Criminal Procedure Law § 150.20 (2019), <https://web.archive.org/web/20190912112004/http://ypdcrime.com/cpl/article150.htm>.

<sup>15</sup> The Appearance Ticket, New York State Criminal Procedure Law § 150.20 (2020), <https://www.nysenate.gov/legislation/laws/CPL/150.20>

<sup>16</sup> *Ibid.*

<b>Charges or conditions for which DAT issuance is discretionary</b>	All charges other than noncriminal marijuana possession (PL 221.05) <sup>17</sup>	<p>Cases in which the arrested person<sup>18</sup></p> <ul style="list-style-type: none"> <li>• Has one or more outstanding local criminal court or superior court warrants</li> <li>• Has failed to appear in court for previous cases in the last two years</li> <li>• Is unwilling or unable to provide identifying information</li> <li>• Has been charged with a crime against a member of the same family or household</li> <li>• Has been charged with a sex offense defined in PL 130</li> <li>• Has been charged with a crime for which the court may suspend or revoke their drive license</li> <li>• Is in a state of distress such that the person may face harm without immediate medical or mental health care</li> </ul>
<b>Charges or conditions for which DAT issuance is not allowed</b>	<p>The pre-bail reform version of the Desk Appearance Ticket (Procedure No. 208-27) section of the NYPD Patrol Guide was last updated on March 18, 2019.<sup>19</sup></p> <p>According to the NYPD Patrol Guide, unless the arrested individual is hospitalized, a DAT will not be issued when<sup>20</sup></p> <ul style="list-style-type: none"> <li>• The offense is one of the following: <ul style="list-style-type: none"> <li>○ Criminal possession of a weapon, 4th degree, firearm only (PL 265.01)</li> <li>○ Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances (PL 265.10)</li> <li>○ Prohibited use of weapons (PL 265.35[1], PL 265.35[3])</li> <li>○ Jostling (PL 165.25)</li> <li>○ Fraudulent accosting (PL 165.30) except if specifically charged with</li> </ul> </li> </ul>	None aside from the aforementioned factors that would make DAT issuance discretionary. <sup>21</sup>

<sup>17</sup> The Appearance Ticket, New York State Criminal Procedure Law § 150.75 (2019),  
<<https://web.archive.org/web/20190912112004/http://ypdcrime.com/cpl/article150.htm>>

<sup>18</sup> The Appearance Ticket, NYS CPL § 150.20 (2020).

<sup>19</sup> NYPD, *New York City Police Department Patrol Guide Timeline*,  
[https://www1.nyc.gov/assets/nypd/downloads/pdf/public\\_information/Update.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/Update.pdf).

<sup>20</sup> NYPD, *Patrol Guide: Desk Appearance Ticket – General Procedure* (2019),  
[https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis\\_and\\_planning/patrol\\_guide/208-27-dat.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis_and_planning/patrol_guide/208-27-dat.pdf).

<sup>21</sup> NYPD, *Patrol Guide: Desk Appearance Ticket – General Procedure* (2020),  
[https://www1.nyc.gov/assets/nypd/downloads/pdf/public\\_information/public-pguide2.pdf](https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide2.pdf).

	<p>operating a "Three Card Monte" game</p> <ul style="list-style-type: none"> <li>○ Sexual abuse in the second degree (PL 130.60)</li> <li>○ Criminal impersonation in the second degree (PL 190.25[3])</li> <li>○ Promoting prostitution in the 4<sup>th</sup> degree (PL 230.20)</li> <li>○ Loitering for the purpose of promoting prostitution (PL 240.37[3])</li> <li>○ Prostitution (PL 230.00)</li> <li>○ Patronizing a prostitute, third degree (PL 230.04)</li> <li>○ Prostitution in a school zone (PL 230.03)</li> <li>○ Trademark counterfeiting in the third degree (PL 165.71)</li> <li>○ Arson, 5<sup>th</sup> degree (PL 150.01).</li> </ul> <ul style="list-style-type: none"> <li>● The individual is under the influence of drugs/alcohol to the degree that they may endanger themselves or others</li> <li>● The offender and the complainant are members of the same family/household</li> <li>● The offender has violated an Order of Protection, or the complainant requests an Order of Protection, or the facts of the case indicate the need for an Order of Protection</li> <li>● The individual was arrested for Harassment in the first degree (PL Section 240.25) or Menacing in the second degree (PL Section 120.14[2])</li> <li>● The individual was arrested for the Criminal sale of marijuana in the 3<sup>th</sup> degree (PL 221.40)</li> <li>● The individual was arrested for Assault in the third degree (PL 120.00), Attempted Assault in the third degree (PL 110/120.00), Menacing in the second degree (PL 120.14), Menacing in the third degree (PL 120.15), Harassment in the first degree (PL 240.25), Aggravated Harassment (PL 240.30), and Reckless Endangerment in the second degree (PL 120.20) when committed against a city/state enforcement agent performing official duty</li> <li>● The individual was arrested for violating Section 1191 of Vehicle and Traffic Law (intoxicated/impaired driving), unless the offender has been hospitalized for more than twenty-four hours and did not cause serious injury or death to another</li> <li>● The individual was arrested for vehicle offenses involving Attempted Grand Larceny the 4<sup>th</sup> degree (PL 110/ 155.30) or</li> </ul>	
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	<p>intentional damage to a vehicle up to \$250 in an attempt to steal or larceny contents</p> <ul style="list-style-type: none"> <li>• The individual was arrested for an offense that would constitute child abuse, neglect, or maltreatment (P.G. 215-03)</li> <li>• The individual who was arrested is a misdemeanor recidivist</li> <li>• The individual was arrested for Aggravated Unlicensed Operation of a Motor Vehicle in the second degree, (VTL</li> <li>• 511 [2][a) and in the first degree, VTL 511 [3] [a])</li> <li>• The individual was arrested for Criminal Trespass in the third degree (P: 140.10) when the building is used for commercial/office purposes</li> <li>• The individual was arrested for threatening, harassing or menacing a uniformed member of the service, an elected official or any other city, state or federal employee</li> <li>• The individual was arrested for unlawful eviction (Administrative Code 26-521)</li> <li>• The individual was arrested for interference with interference with a professional sporting event (Administrative Code Section 10-162)</li> <li>• The individual resisted arrest (PL 205.30);</li> <li>• The individual was arrested for obstructing governmental administration second degree (PL 195.05) while engaging in uncooperative actions</li> <li>• The individual "owes DNA"</li> <li>• The individual was arrested for selling fireworks valued at \$500 or more (PL 270.00[2][a][ii])</li> <li>• The individual was arrested for selling dangerous fireworks or sparkling devices to a person under the age of eighteen (PL 270.00[2][a][iv])</li> <li>• The individual was arrested for sexual misconduct (PL 130.20), forcible touching (PL 130.52), sexual abuse in the second degree (PL 130.60) or in the third degree (PL 130.55)</li> </ul>	
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