



NEW YORK CITY

CRIMINAL JUSTICE AGENCY

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***The Past, Present, and Possible Future of***  
**DESK APPEARANCE TICKETS**  
**IN NEW YORK CITY**

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*Project Director*  
*and*  
*Deputy Director, Research Department*

**FINAL REPORT**

**March 2014**

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

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## **I. INTRODUCTION**

This research was initiated at the peak of a seven-year stretch of almost continuously rising numbers of Desk Appearance Tickets (DATs) issued in New York City. The recent precipitous climb in volume following large fluctuations in earlier years raises a host of questions about the factors affecting DAT issuance, possible changes in the composition of DAT cases and defendants, and implications for failure to appear (FTA) when defendants are released with a ticket rather than being taken into custody at arrest. It has been decades since an empirical study addressed these questions.

As the research was ending, Mayor Bloomberg announced a new policy to increase use of DATs for defendants arrested for possessing a small amount of marijuana, thereby raising expectations that DAT volume will continue to expand in 2013 and beyond. The current research places this development in historical perspective and suggests some other implications for the future of DATs in New York City.

### **A. Appearance Tickets In New York Law And Policy**

DATs are authorized by Article 150 of New York's Criminal Procedure Law, which defines an appearance ticket as "a written notice issued and subscribed by a police officer . . . directing a designated person to appear in a designated local criminal court at a designated future time in connection with his alleged commission of a designated offense" (CPL 150.10.1). The DAT arraignment is usually scheduled several weeks or months following the arrest. This is in contrast to most arrests, in which defendants are held in jail for a day or two until they are arraigned.

Appearance tickets may be issued, at the discretion of the police, for most non-felony offenses as long as the arrest is not on a warrant. Class E felony offenses are also eligible for appearance tickets, with a few specific Penal Law (PL) exceptions: PL130.25, rape in the third degree; PL 130.40, criminal sexual act (sodomy) in the third degree; PL 205.10, escape in the second degree; and PL 215.56, bail jumping in the second degree (CPL 150.20.1). Two additional excluded charges — PL 205.17, absconding from temporary release in the first degree, and PL 205.19, absconding from a treatment facility — expired in September 2013.

In addition to these restrictions placed on the issuance of appearance tickets by law, the NYPD has policy guidelines that further restrict their use, as described below.

In issuing an appearance ticket, the arresting officer takes the defendant to the precinct house and conducts an investigation, which includes verifying the defendant's identity and checking his or her criminal history. The desk officer then decides whether an appearance ticket will be issued — hence the term *Desk Appearance Ticket* — based on a long list of criteria in addition to the charge restrictions specified in the Criminal Pro-

cedure Law. According to the New York City Police Department (NYPD) *Patrol Guide*,<sup>1</sup> a DAT will not be issued if the defendant's identification cannot be verified or if he or she has any outstanding or prior warrants, is on parole or probation, is a recidivist according to specified criteria, has multiple prior license suspensions, or has been convicted for driving with a suspended license. Further restrictions disqualify defendants charged with any offense in which the victim and offender are members of the same household, or when the victim has requested (or the offender has violated) an Order of Protection.

NYPD policy also disqualifies defendants charged with a "photographable" offense, a category that includes all felonies as well as 16 misdemeanor charges, including some weapon charges, prostitution, graffiti offenses,<sup>2</sup> and a variety of other charges such as jostling, trademark counterfeiting, and fraudulent accosting. Twenty additional misdemeanor offenses are also specified in the *Patrol Guide* as ineligible for a DAT, but some are ineligible only under limited circumstances, or the exclusion is restricted to specific subsections. These charges include stalking, marijuana sale, assault, driving under the influence of alcohol or drugs, and driving with a license that has been suspended or revoked. Moreover, class E felony offenses — other than the specific offenses excluded by CPL 150 — are eligible for a DAT under NYPD policy only if the defendant is hospitalized. Further details and the full list of offenses excluded by NYPD policy and the Criminal Procedure Law are given in Appendix A.

The only offense for which the *Patrol Guide* states that a DAT *must* be issued is marijuana possession, a non-criminal violation (PL 221.05).<sup>3</sup> When no other offense is alleged, and the defendant is arrested without a warrant, the law states that "an appearance ticket shall promptly be issued" (CPL 150.75). The *Patrol Guide* reflects this statutory requirement, stating that a defendant charged with PL 221.05, and no other charge, "MUST be processed for a Desk Appearance Ticket" (unless he or she qualifies for a summons instead). The only disqualifying factors for non-criminal marijuana cases are the inability to ascertain the defendant's identity or address, residence outside the state, or the defendant owes DNA.

## **B. National Standards**

National standards for pretrial justice endorse the release of defendants under the least restrictive conditions that will reasonably ensure court appearance and protect the safety of the community. In their published standards for pretrial release, the American Bar

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<sup>1</sup> References are to the January 2013 edition of the *Patrol Guide*, but selected earlier editions were consulted as well. Some changes in the guidelines that occurred during the study period are noted in Appendix A.

<sup>2</sup> Graffiti offenses were removed from the list of ineligible offenses in May 2013, after completion of this research.

<sup>3</sup> The new policy implemented in May 2013 requiring a DAT for PL 221.10 (class B misdemeanor marijuana possession, which is a criminal charge) is considered experimental. When the *Patrol Guide* was revised in July 2013, it continued to list PL 221.05 as the only charge for which a DAT must be issued.



Association (ABA), the National District Attorneys Association (NDAA), and the National Association of Pretrial Services Agencies (NAPSA) all call for the presumption of release under the least restrictive conditions (ABA 2007, NDAA 2010, NAPSA 2004). Following from this principle, the use of appearance tickets by police in lieu of custodial arrest in specified circumstances has been widely endorsed by leading criminal justice organizations. Notably, participants at the 2011 National Symposium on Pretrial Justice recommended citation releases (the more common term for DATs)

*. . . in lieu of custodial arrests for nonviolent offenses when the individual's identity is confirmed and no reasonable cause exists to suggest the individual may be a risk to the community or any other individual, or to be a risk to fail to appear in court. (PJI 2011)*

This language closely follows ABA Standard 10-1.3, which states:

*The principle of release under least restrictive conditions favors use of citations by police or summons by judicial officers in lieu of arrest at stages prior to the first judicial appearance in cases involving minor offenses. In determining whether an offense is minor, consideration should be given to whether the alleged crime involved the use or threatened use of force or violence, possession of a weapon, or violation of a court order protecting the safety of persons or property. (ABA 2007)*

New York currently has no statutory presumption of release, but in his 2013 State of the Judiciary address Chief Judge Jonathan Lippman called for reform of the bail law “to make clear that, where defendants are charged with nonviolent offenses, there is a statutory presumption that they will be released with the least restrictive conditions possible unless prosecutors demonstrate that the defendant poses a threat to public safety or a legitimate risk of failure to appear in court” (Lippman 2013).<sup>4</sup>

In the meantime, New York City’s extensive use of DATs implies substantial compliance with the recommendation for non-custodial arrest for minor, nonviolent offenses — even in the absence of a statutory presumption of release. However, prior research has suggested that there is a large pool of defendants arrested for minor, nonviolent offenses who are *not* issued a DAT, although they present a low risk of failure to appear (Cosgrove 1993).

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<sup>4</sup> In April 2013 a bill was introduced in the New York State legislature (in the Senate as S4483 and in the Assembly as A6799) at Judge Lippman’s request to reform the State’s bail statutes along the lines called for in his State of the Judiciary address. The proposed changes to the law would establish a presumption of release for defendants charged with nonviolent offenses who present no threat to the community and no risk of flight. The bill seeks to amend the bail statute that governs the *courts’* release decisions, so it is not directly applicable to policing. To date, no action has been taken on the bill in either legislative body. It has been opposed by defense attorneys and advocacy groups primarily because of another provision that would allow the courts to set bail for reasons of public safety, without specifying constitutional safeguards (Bronx Defenders 2013, Fellner 2013, New York City Bar 2013, Norkin 2013).

*Terminological note:* The national standards refer generically to “summonses” and “citations” to mean any ticket issued in lieu of a custodial arrest. In New York City, however, “citation” may refer to a traffic ticket, and — despite the origin of DATs in the Manhattan *Summons* Project described below — the term “summons” is usually now reserved for the less serious “pink slip.” Summonses are issued primarily for non-criminal violations, such as consumption of alcohol on the street or disorderly conduct.<sup>5</sup> Summonses are returnable to a summons part, and some are answerable by mail with a fine payment (Criminal Court of the City of New York 2012). Desk Appearance Tickets, by contrast, involve a trip to the precinct house for the defendant, they are returnable to a Criminal Court part, and they always require the defendant’s appearance for arraignment. While all three types of non-custodial tickets fall within the intent of the principle of least restrictive conditions, the current analysis is restricted to the smaller group of more serious Desk Appearance Tickets.<sup>6</sup>

### **C. A Brief History Of DATs In New York City**

New York’s institutionalized use of DATs dates to 1964, when the Vera Institute undertook the Manhattan Summons Project in partnership with the NYPD. A few years earlier the Manhattan Bail Project had demonstrated that many defendants could be released at arraignment without bail, and they would consistently return for scheduled court appearances (Ares and Sturz 1962; Ares et al. 1963; Rankin 1964). The Summons Project took this a step further by showing that some carefully screened defendants could be released at the stationhouse shortly after arrest in lieu of keeping them in custody until arraignment. Low failure to appear (FTA) rates among defendants in the Summons Project led to rapid expansion of the use of DATs by the NYPD in all boroughs (Ben-Ami 1978).<sup>7</sup> Virtually nonexistent in 1964, DATs in New York City had risen to over 44,000 by 1974 (Figure 1).

During the next decade DAT volume fluctuated, but by the mid-1980s DATs were being issued at about the same level as in 1974. Then, in reaction to climbing FTA rates, volume plummeted. In the late 1980s DATs became popularly known as “disappearance

*(continued on page 6)*

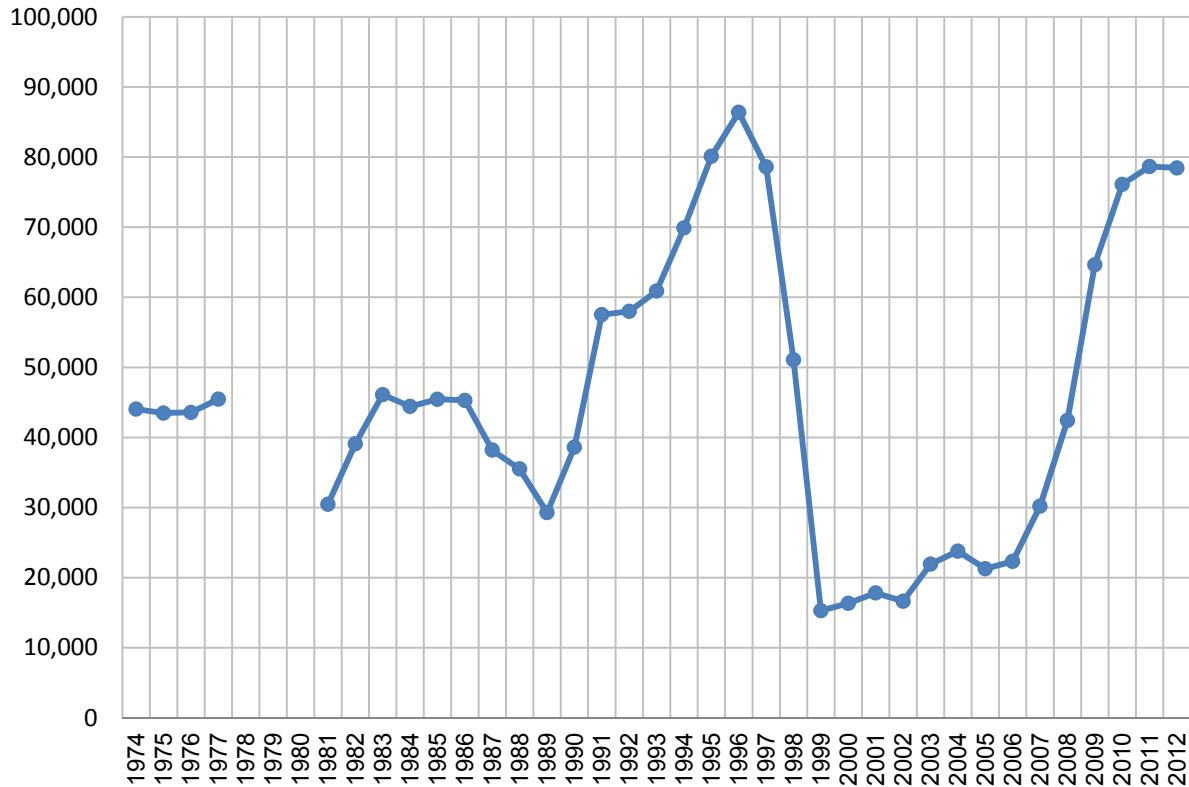
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<sup>5</sup> There is considerable overlap in the charges for which summonses and DATs are issued. Some summonses are handed out for minor criminal offenses, and DATs for non-criminal offenses. Defendants charged with non-criminal disorderly conduct (PL 240.20, a violation), for example, may receive a summons or a DAT (or even face custodial arrest), at the discretion of the police.

<sup>6</sup> Summonses outnumbered DATs by more than 7 to 1 in 2011, when there were 505,333 arraigned summonses and 71,476 DAT arraignments, according to official data. (Criminal Court of the City of New York 2012). See footnote 10 regarding differences between official and CJA data.

<sup>7</sup> The Summons Project was cited by the Bartlett Commission in its 1966 Fifth Interim Report, which proposed the term “Desk Appearance Ticket” to distinguish this particular instrument from other uses of the term “summons” and laid the groundwork for the 1970 revisions to the Criminal Procedure Law that included for the first time the section authorizing Desk Appearance Tickets (New York State Temporary Commission On Revision of the Penal Law and Criminal Code [Bartlett Commission] 1966).

Figure 1  
DAT Arraignment Volume, 1974 – 2012



Year	DAT Volume
1974	44,033
1975	43,473
1976	43,564
1977	45,452
1978 – 1980	Not available
1981	30,462
1982	39,086
1983	46,103
1984	44,424

Year	DAT Volume
1985	45,441
1986	45,280
1987	38,190
1988	35,498
1989	29,271
1990	38,618
1991	57,516
1992	57,986
1993	60,887
1994	69,894

Year	DAT Volume
1995	80,116
1996	86,390
1997	78,595
1998	51,078
1999	15,290
2000	16,338
2001	17,810
2002	16,633
2003	21,914
2004	23,783

Year	DAT Volume
2005	21,272
2006	22,315
2007	30,189
2008	42,433
2009	64,641
2010	76,099
2011	78,644
2012	78,450

Data sources:

- 1977 and earlier: Ben-Ami (1978). The Ben-Ami study also presents data for the years 1967/8 (14,232) and 1970/1 (31,946), but these are not included in the figure because it is unclear whether these numbers are for a single year or for a longer period.
- 1981 through 2002 (except 1995 and 1996): the CJA *Semi-Annual Report* series.
- 1995 and 1996: extrapolated from a special CJA report published to fill a two-year gap in the *Semi-Annual Report* series caused by changes in the way court data were entered in the Agency's database (CJA 1999).
- 2003 through 2011: annual datasets compiled from the CJA database.
- 2012: interim dataset compiled from the CJA database prior to completion of the annual dataset.

tickets” because of the large numbers of defendants who never showed up for arraignment. By that time DATs had degenerated into a “meaningless charade,” in the opinion of some observers (MacDonald 2012). This led to a drop in DAT volume in the late 1980s. From 1986 to 1989 DAT volume fell from 45,280 to 29,271, a decline of 35%.

Soon, however, DATs were being issued at rates far exceeding previous levels. In mid-1990, the NYPD decided to cut costs by increasing the proportion of misdemeanor arrestees receiving DATs (Cosgrove 1993). DAT volume almost tripled during the 1990s to reach an all-time high in 1996 of more than 86,000.

This trend ended abruptly as part of a crackdown on quality-of-life offenses during the Giuliani administration (1994-2001), which — with Police Commissioner William Bratton’s enthusiastic endorsement — instituted a “no DAT” policy.<sup>8</sup> Within a few years, the number of DATs had been reduced to little more than 15,000, a drop of 80%.<sup>9</sup> In spite of a rise in non-felony case volume, DAT volume remained low throughout the remainder of the Giuliani years and into the early years of the next (Bloomberg) administration.

The recent resurgence in the use of DATs dates from about 2008. The numbers had begun inching upwards a few years earlier, but volume exploded in 2008 to well above 40,000, nearly double what it had been in 2006. In the four years since 2008, the number of DAT arraignments has almost doubled again. In 2011 the volume of prosecuted DAT arrests hit 78,644 — near record levels — then leveled off in 2012.<sup>10</sup>

The upwards trend is expected to resume in the coming year as a result of the Bloomberg administration’s directive to issue DATs in all arrests for possession of small amounts of marijuana, as long as the defendant produces adequate identification and has no outstanding warrant. The new policy, effective May 2013, expands the mandated use of DATs beyond the non-criminal violation (PL 221.05) to include the class B misdemeanor charge (PL 221.10) as well. As we shall see, half of defendants arrested on PL 221.10 already receive a DAT, but it is the most frequent of all arrest charges in the City, so raising the issuance rate above 50% could greatly increase DAT volume over current levels.

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<sup>8</sup> In his autobiography, Bratton described his approach to Desk Appearance Tickets: “No more DATs. If you peed in the street, you were going to jail.” (Bratton 1998, p. 229; quoted by Eck and Maguire 2000, p. 225; cited by Sheldon n.d., p. 4)

<sup>9</sup> The sudden enlargement of the police force, a result of a merger in 1995 of the NYPD with the Transit and Housing Police, as well as technological innovations that allowed faster pre-arraignment processing, were cited by Solomon as additional factors leading to a decline in DATs at this time because they removed any pressure to reduce the number of custodial arrests (Solomon 2011, p. 1).

<sup>10</sup> There are differences between CJA data and the official number of DAT arraignments reported by the Office of Court Administration because of inconsistencies in data received from the NYPD and OCA. The number of DAT arraignments reported here is consistently larger than the official number reported in OCA’s Annual Report (Criminal Court of the City of New York 2012). CJA reclassifies some cases to correct errors, according to criteria described in Appendix B.

Mayor de Blasio, who took office in January 2014, has not yet signaled how DAT policies may change under his new administration. However, he brought back the same Police Commissioner who was known for his dislike of DATs in the Giuliani years. It remains to be seen whether Commissioner Bratton's approach this time around — under a very different Mayor — will be a replay of those earlier policies.

#### **D. The Current Research**

This report examines some of the issues raised by the large swings in DAT volume in New York City, focusing particularly on the period since 2003. The analysis is in four parts:

- Citywide analyses are presented examining trends over the past decade in DAT volume, charge composition, defendant demographics, arrest-to-arraignment time, and arraignment outcomes (including failure to appear for arraignment). *Issuance rates* — the percent of cases in which a DAT was issued — are analyzed to examine whether the recent rise in DAT volume was associated with a greater utilization of DATs generally or for particular charges, or was a consequence of a rise in overall arrest volume.
- Borough variations are examined. DAT arraignment volume by borough is presented for 2003 – 2012, and issuance rates for non-felony cases are presented for 2010 – 2012. Borough variations in DAT arrest charge, arrest-to-arraignment time, and arraignment outcomes (including FTA) are presented for 2012 only.
- Multivariate statistical models predicting DAT issuance and failure to appear for arraignment are presented, using a dataset of 2011 arrests.
- Estimates are made concerning the pool of candidates for expansion of DATs by examining recommendation and FTA rates for non-felony defendants who were denied a DAT.

#### **E. Methodology**

CJA maintains a database that includes background and court-processing information on virtually every adult arrest in New York City. Arrest data are received by CJA through automated electronic transmissions from the New York City Police Department (NYPD), and case-processing data from the Office of Court Administration (OCA). For on-line arrests,<sup>11</sup> CJA interviewers record criminal-history, demographic, and community-ties information, but DAT defendants are not interviewed. Some demographic infor-

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<sup>11</sup> “On-line” arrests are custodial arrests, so called because the arrest information is entered in the NYPD's computerized On-Line Booking System.

mation is provided by the NYPD for defendants who were issued a Desk Appearance Ticket.

Since 2003, annual datasets have been compiled from the CJA database by Research Department staff with the assistance of the Systems Department. These annual datasets are used for a variety of research purposes, including the current project. The selection of the decade from 2003 to 2012 for the trends analyses in this research was enabled by the availability of annual datasets for these years.

Care was taken to ensure that consistent criteria were used for identifying DAT cases and DAT-eligible charges in each of the annual datasets. The procedures used to identify DAT arrests are described in Appendix B. The criteria used to classify arrest charges as DAT-eligible (or not) are described in chapter III.

Most of the analyses presented in this report represent simple frequencies for multiple years, or frequencies presented separately for specific sub-groups. Bivariate cross-tabulations were used to calculate issuance rates (such as the percent issued a DAT among cases from each borough separately).

Two multivariate statistical models were developed, one predicting likelihood of DAT issuance among all non-felony arrests, and the other predicting likelihood of failure to appear for arraignment among all DAT arrests. The models were developed using variables shown in the bivariate analyses to affect one outcome or the other. Additional variables available in the CJA database were added to the models as appropriate. The multivariate models show whether each variable has a statistically significant effect on the outcome, after taking into account the combined effects of all the other variables in the model. The DAT issuance model was restricted to variables that would be known at arrest, such as the charge, borough, and a few demographic characteristics of defendants. The FTA model took these factors into account, as well as the time to arraignment, whether the arraignment took place in one of the community courts operating in Brooklyn or Manhattan, and the type of contact information CJA had available for notification. (For a more detailed explanation of the statistical modeling procedure used in these analyses, see Appendix C.)

## II. LITERATURE REVIEW

It has been over twenty years since DAT cases were the subject of a major research report. The last CJA study of DATs was part of a larger analysis of 1987 misdemeanor arrests (Cosgrove 1993). The study included a detailed analysis of DATs compared to on-line arrests, a statistical model of the factors associated with failure to appear for a DAT arraignment, and an examination of trends in DAT volume between 1981 and 1992.

Prior to that research, CJA had initiated several other more limited studies of DAT cases. Some of the research focused on the Agency's notification efforts, which first began for DAT arraignments in the late 1970s. Two reports described pilot projects, both in the Bronx, to expand the use of DATs. All of the research addressed the issue of failure to appear for DAT arraignments.

DAT volume and FTA rates for DAT arraignments were reported in the Agency's *Semi-Annual Report* series prior to 2003 and continue to be presented in the *Annual Report*, but recent CJA research has concentrated primarily on other topics. Occasionally a research project with another focus also provides insights into DAT trends (e.g., Solomon 2011), but the current study is the first in decades to focus squarely on DATs.

Eight CJA reports written between 1978 and 1993 that focused at least in part on DATs are summarized below, in chronological order. Some are unpublished internal documents.

### ***The Use of Desk Appearance Tickets (DATs) in New York City*** (Ben-Ami, 1978)

This report was issued only six months after CJA became an independent agency on August 1, 1977, taking over the functions previously performed by the Pretrial Services Agency (PTSA) of the Vera Institute of Justice. In the first part of the report, the origins of DATs in the Vera Institute's 1964 Manhattan Summons Project are described, and data are presented on the characteristics of defendants and cases. The second part of the report presents data analyzing the impact on FTA rates of a pilot program to send notification letters to DAT defendants reminding them of their scheduled arraignments.

A citywide sample of non-felony arraignments (both DAT and on-line) during one week in April 1977 was used for much of the descriptive data, and a larger sample of Manhattan and Brooklyn DAT arrests in the fall of 1977 was used for the notification study.

Some things have changed since 1977. For example, in 1977 the NYPD issued only two thirds of all DATs, with the rest coming from the Transit Authority PD (21%, primarily for theft of services), Housing Authority PD (4%), department store security officers (7%, nearly all for petit larceny), and unspecified "others" (1%). The Transit and

Housing Authority police forces were merged with the NYPD in 1995, so they no longer constitute separate issuing authorities. The “Participating Department Store Program” is ongoing, according to the 2013 NYPD *Patrol Guide*, but our data do not distinguish DATs originating in department stores from others. In 1977, most of the department store DATs originated in Brooklyn; our data cannot tell us if that is still true.<sup>12</sup>

Defendants arrested on traffic offenses were most likely, and defendants arrested for assault were least likely, to receive a DAT. Large borough differences were noted. For example, theft (mostly petit larceny and criminal possession of stolen property) accounted for 43% of all DATs citywide, but 53% in Queens and only 12% in the Bronx.

Plentiful evidence was found to suggest that DATs were issued to people who were unlikely to be incarcerated at arraignment. Nearly a third of the DAT cases were dismissed at arraignment or adjourned in contemplation of dismissal (ACD)<sup>13</sup>; in over a third of the cases the defendant pled guilty and received a non-incarcerative sentence (a few were released on recognizance pending sentencing); and in the remaining cases, almost all of the defendants were released as the case continued in Criminal Court. Only three of 514 DAT defendants in the sample were detained at arraignment.

The failure-to-appear (FTA) rate for scheduled DAT arraignments in 1977 was high, 33% citywide and even higher in Manhattan (41%) and the Bronx (37%). FTA rates were particularly high for department store thefts: 63% in Manhattan and 48% in Brooklyn. The numbers were very small — 32 department store thefts in Manhattan, 135 in Brooklyn — so the percentages are unstable, but such high FTA rates nonetheless caused concern.

Based on CJA’s experience showing that notifying defendants of post-arraignment appearances reduces FTA, a pilot program was initiated to test the effect of sending a reminder letter about their arraignments to defendants who were issued DATs. A sample of 2,000 defendants was selected in eight precincts in Brooklyn and Manhattan in the fall of 1977; half were sent a reminder letter, and half were not. In Manhattan, the FTA rate of defendants who were not notified was 45.6%, reduced to 26.6% among notified defendants (those who were sent a letter that was not returned). In Brooklyn, the reduction was smaller but still substantial: from 33.1% (not notified) to 28.4% (letter sent and not returned). Bad addresses, causing the letter to be returned, were associated with particularly high FTA rates of over 50% in both boroughs. The FTA rate for department store DATs remained high, even with notification, but receiving

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<sup>12</sup> The theft charges that characterized department store DAT cases were not concentrated in Brooklyn — in fact, they were, and still are, more prevalent in Manhattan — but apparently Brooklyn had more cooperating department stores.

<sup>13</sup> An ACD (Adjournment in Contemplation of Dismissal) is an adjournment ordered with a view to ultimate dismissal of the charges after six months or one year, contingent on the defendant’s compliance with specified conditions. Upon issuing an ACD, the court must release the defendant on his or her own recognizance (CPL 170.55).



a letter reduced the rate from 72.1% to 40.7% in Manhattan and from 47.9% to 43.2% in Brooklyn. These results were encouraging enough for the researchers to recommend extending the notification program to all boroughs.

**Summary Report on DAT Notifications By NYC Criminal Justice Agency, Queens Office: May 1, 1978 – August 31, 1978** (McWhorter, late 1978 or early 1979; unpublished)

This is an Operations report (written by the Queens Borough Director) rather than a research report, but it is included in this review because it contains historically interesting information. Evidently DAT letter notification had been extended to Queens by mid-1978, with a requirement that defendants check in by making a phone call to CJA after receiving their letter. Contrary to expectation, FTA rates had risen in Queens since the initiation of notification, prompting this effort to find an explanation related to weaknesses in the notification process. The FTA rate was very high for defendants whose letters were returned, but the return-letter rate was low so there did not seem to be much room for improvement there. On the other hand, FTA rates were also high among defendants who did not check in, and this group constituted the majority. (Exact rates were not presented in the report.) The report ends with the recommendation that CJA identify defendants who have not checked in a few days before their scheduled arraignment, and follow up with a telephone call to these defendants.

**DAT Policy Review: First Report on a CJA/NYPD Pilot Program in the Bronx** (CJA, 1979)

The Bronx Pilot Program was a joint project of CJA and the NYPD that began in December 1978, with the objective of expanding the use of DATs while reducing FTA. Project directors recognized that while DATs began as a bail reform program, they also serve as a valuable management tool for the police and the courts. Expansion of the use of DATs would not only reduce pretrial detention, but would also reduce demands on police personnel and detention facilities. Program features included CJA's participation in the process by making a DAT release recommendation, and scheduling DAT arraignments in night court for the first time. This report presented data on the first three months of the program's operation.

The CJA recommendation was based on "a slightly abbreviated version" of its standard pretrial interview, conducted at Bronx Central Booking for all misdemeanor defendants. CJA attempted to verify address information by telephone or, if a phone call was unsuccessful, by use of printed address directories. If the address was not verified or if the defendant had an active warrant the defendant did not qualify for a DAT recommendation. If a defendant was not disqualified by the warrant or verified address cri-

teria, he or she was recommended if two of the five interview questions were answered with “Yes.”<sup>14</sup>

Although the purpose was to open up DATs to previously ineligible defendants, the issuance rate (proportion of all misdemeanor arrests in which a DAT was issued) actually fell by a couple of percentage points, from 56% during the three months prior to the program to 54% during the program. This was attributed to the tendency of some police officers and prosecutors to bypass program procedures, making DAT decisions without a CJA recommendation; and to overrule CJA recommendations in cases with a “photographable” offense.

The program was more successful in reducing FTA rates: the pre-program rate was 30%, dropping to 23% during the program. The reduction in FTA rates was attributed to two program-related factors in particular: CJA’s recommendation system for DAT release and night-court arraignments. The CJA recommendation was highly successful in predicting FTA, with a 21% FTA rate among defendants for whom DAT was recommended, compared to 38% among defendants for whom CJA recommended no DAT. Night-court arraignments helped lower FTA rates in two ways: by enabling defendants to attend court without missing a day’s work, and by facilitating shorter arrest-to-arraignment times (the median was 45 days pre-program compared to 18 days for arrests in January 1979, the second month of the program).

NYPD guidelines, then and now, excluded defendants charged with a photographable offense (see Appendix A). However, even before the pilot program, about 22% of defendants arrested on a photographable offense were issued DATs. During the program the restriction was lifted. The rate rose to 26%, but this modest increase fell far below program expectations. Among the defendants who were recommended for a DAT but were not offered one, a “photographable offense” was cited by the NYPD as the reason for the disagreement in 14% of the cases. FTA rates were reduced more sharply among the DAT defendants arrested on a photographable offense who were released (48% pre-program, compared to 29% during the program) than for DATs as a whole. Further, the researchers claim (without presenting data) that “arraignment ROR rates and the post-arraignment FTA rates of defendants denied DATs because of a ‘photographable’ offense compare favorably with the rates for all other defendants” (p. 5). They conclude that the use of DATs could be further expanded among this group, without raising FTA rates.

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<sup>14</sup> The five interview questions were: 1. Employed, in school, or in training full time?  
2. Has lived at current address 18 months or more?  
3. Has a working phone at current address?  
4. Lives with parent, spouse, grandparent, or legal guardian?  
5. Expects someone at arraignment?

**Failure-To-Appear Rates For Defendants Issued Desk Appearance Tickets: A One-Month Study of the Effects of the Timing of Scheduled Arraignments (CJA, 1981)**

The study examines the relationship between FTA (overall rate 35.9%) and the elapsed time between arrest and arraignment for DAT defendants. Using a citywide sample of over 2,200 scheduled arraignments in a one-month period in January 1981, researchers found a strong relationship between FTA and the number of days to arraignment. FTA rates ranged from 12% for arraignments within 6 days to 48% for arrest-to-arraignment times longer than 56 days. The results were “particularly striking” when time to arraignment of less than two weeks was compared to two weeks or more. Large borough differences were found in FTA rates and in elapsed time. Manhattan had the highest FTA rate (46%) and the longest elapsed times (almost a third with 42 days or more). No multivariate analyses were done.

**Failure To Appear Among Defendants Issued Desk Appearance Tickets, August 1986: A Pilot Study (Gewirtz, 1989)**

This study was undertaken to examine the factors associated with failure to appear for DAT arraignments, which in 1986 had risen to an unprecedented rate of 40% (44% by the first half of 1988). The research sample consisted of cases with a DAT arraignment in August 1986 in all five boroughs of New York City. Elapsed time from arrest to arraignment, rescheduling, top arrest charge, borough of residence, age, and presence of a telephone in the defendant’s home were examined for their effect on FTA rates.

One finding consistent with all other studies of DATs was the presence of large borough differences. FTA rates varied from 47% in Brooklyn to 41% in Manhattan, 36% in the Bronx, and 33% in both Queens and Staten Island. Even more variation was found in elapsed time to arraignment: median times were 20 days in Manhattan, 36 days in the Bronx, 41 days in Staten Island, 47 days in Queens, and 69 days in Brooklyn.

However — contrary to expectation, and contrary to the results of the 1981 research — elapsed time to arraignment was not correlated with FTA. The median time from arrest to arraignment was 32 days for FTA cases, compared to 35 days for cases with no FTA. In multivariate models, controlling for a wide range of other factors, time to arraignment was not a significant predictor of FTA.

Factors that did have a statistically significant association with the likelihood of FTA included not having a telephone, being young, and being charged with petit larceny, theft of services, or a drug offense. Drunk driving and assault charges were associated with a statistically reduced likelihood of FTA. The borough of prosecution was not statistically significant, which indicates that borough differences in FTA rates were the result of differences in charge composition and defendant characteristics. Since all of these factors together explained very little of the variation in FTA (about 12%), the report concluded with a call for further research.

### **A Research Proposal: The Bronx DAT Pilot** (Eckert, 1991; unpublished)

The NYPD requested CJA's assistance in undertaking a pilot program in the Bronx that would expand the use of DATs without raising FTA rates, which had been above 40% consistently for years. The program differed from a similar program in the late 1970s in that this one focused on class E felonies. Other program features included the institution of new NYPD procedures for ensuring correct address and telephone information for arrestees, and community-ties criteria for arrestees charged with one of the specified class E felony offenses. The CJA DAT recommendation was similar to the one used in the 1978 pilot project. The proposed research project was never implemented, apparently because of a lack of staff resources at CJA.

### **Arraignment-Date Notification and Arraignment Appearance of Defendants Released on Desk Appearance Tickets: A Summary of Preliminary Findings** (Rouse, 1992)

This report summarizes part of a larger study of CJA's notification procedures (Eckert and Rouse 1991). For this abstract, FTA rates for DAT arraignments were compared with appearance-based FTA rates for all post-arraignment (pre-sentence) appearances. The sample included arraignments in February (Time 1) and March (Time 2), 1991.

The research found that FTA rates for DAT arraignments were still at the very high levels of the 1980s — 41% for Time 1 and 45% for Time 2. This was quadruple the rates for all post-arraignment appearances: about 10% in both time periods. (*Note:* The appearance-based method of calculating post-arraignment FTA rates used in this study produces lower rates than a case-based method would produce.<sup>15</sup> Appearance-based calculations were appropriate for this study because the researchers were addressing the question of the effect of notification on court attendance for each separate court date.)

Notification for DAT arraignments was less successful than for post-arraignment appearances. Returned-letter rates were higher for DAT arraignments, and DAT defendants were less likely to have been reached by letter and telephone. (By this time, telephone calls were being made to DAT defendants who did not check in after receiving an arraignment notification letter, as well as to all defendants who did not check in

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<sup>15</sup> Case-based rates are used in the CJA *Annual Report* series and in the current research. The difference is illustrated by the following example: if the defendant in 20 out of 100 cases failed to appear once prior to disposition, the *case-based rate* (number of cases with one or more warrants divided by the total number of cases, or 10/100) would be 20%. The case-based rate would not change if the defendant in some of those cases failed to appear more than once. An *appearance-based rate* is obtained by dividing the number of warrants by the number of scheduled court appearances. If each of these cases had four scheduled court appearances prior to disposition, and one warrant was issued for each defendant in 20 different cases, the appearance-based rate would be 5% (20/400). The appearance-based rate would increase if some defendants failed to appear more than once.

for post-arraignment appearances.) Check-in rates were extremely low but similar for DAT arraignments and post-arraignment appearances.

Successful notification lowered FTA rates for both DAT arraignments and post-arraignment appearances, but DAT arraignments still had much higher FTA rates even for successfully notified defendants. With no notification, DAT arraignments had an FTA rate of 59%, compared to 25% with letter and phone notification. The comparable rates for post-arraignment appearances (when the defendant was released on recognizance) were 13% and 6%.

The report concludes with the recommendation that the NYPD do a better job of recording address and telephone information, which would at least improve notification success for DAT arraignments. Contact information for DAT defendants comes from the NYPD, whereas this information comes from the CJA interview for on-line defendants. Lower returned-letter rates for post-arraignment appearances and more success in reaching defendants by telephone indicated that CJA interviewers collected contact information more accurately than did the NYPD.

### **Criminal Court Case Processing of Misdemeanor Arrests in New York City, 1987** (Cosgrove, 1993)

This study was an outgrowth of the August 1986 pilot project (Gewirtz 1989), initiated to address “mounting concerns about the costs associated with police arrest-related overtime, overcrowding in pre-arraignment detention facilities, and the length of time between arrest and arraignment,” attributed to the high volume of misdemeanor cases. DAT cases were a central focus, since the issuance of a DAT in lieu of a custodial arrest could alleviate all these problems. Some of the limitations of the 1989 study were overcome by the use of a much larger sample and the inclusion of additional factors — particularly the defendant’s criminal history — in the statistical modeling of FTA rates for DAT cases.

DAT volume and other characteristics over time were examined from 1981 to 1992. The percentage of misdemeanor cases in which a DAT was issued hit a low point in the late 1980s (22% in 1989), then rose to over 40% in 1991 and 1992. DAT volume also rose from 1987 to 1992, along with a huge increase in the use of DATs for drug cases. In 1987, 15% of defendants arrested on a misdemeanor drug charge were given a DAT, compared to 45% in 1992. During all this time, FTA rates hardly budged: the rate hovered between 40% and 45% from the second half of 1986 throughout 1992.

A random sample of DAT arrests in 1987 was used to develop statistical models predicting FTA at arraignment. The results reinforced the findings from the 1986 pilot study. Not having a telephone, being charged with a drug offense, and being younger were associated with likelihood of FTA, consistent with the earlier study. The only crim-

inal history variable that was significant was a prior warrant, which was associated with a higher risk of FTA.

The analysis of the relationship between FTA and arrest-to-arraignment time was inconclusive, which was also consistent with the 1986 findings. Arrest-to-arraignment time was statistically significant in the citywide model, but in the opposite direction from what was expected: shorter elapsed times were associated with higher likelihood of FTA and longer times were associated with reduced likelihood of FTA. Median elapsed times varied tremendously by borough, with longer times in most boroughs than in 1986, but following the same pattern: the shortest time was in Manhattan (median 20 days) and the longest in Brooklyn (84 days).

Recommendations for policy and procedures to reduce FTA rates included screening defendants for prior warrants before issuing a DAT (not yet being done in 1987) and improving notification procedures by obtaining better address and telephone information from the NYPD. Also, the report noted that CJA was not conducting telephone notifications for DAT arraignments in 1987, a factor that may have been partially responsible for high FTA rates.

Some of the recommendations were already being acted on when this report was written in 1993. For example, in March 1992 the NYPD instituted procedures to improve the quality of defendant contact information for DATs.

The report also concluded that there was considerable room for expanding the issuance of DATs to a larger proportion of misdemeanor arrestees. Only about 29% of misdemeanor arrestees were issued DATs in 1987. Among the remaining misdemeanor arrestees — after excluding those with a prior warrant and those who were ineligible because they were charged with marijuana sale in the fourth or fifth degree<sup>16</sup> — over half were recommended by CJA and could be issued DATs without high risk of failure to appear. In the summer of 1990, the NYPD instituted a policy to expand the use of DATs as a management measure, and as a result the proportion of misdemeanor arrests in which a DAT was issued rose to over 40% in each of the next few years.

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<sup>16</sup> PL 221.40 and 221.35 are among many misdemeanor charges specified in the 2013 NYPD *Patrol Guide* as ineligible for a DAT. See Appendix A.

### **III. CITYWIDE TRENDS, 2003 – 2012**

#### **A. DAT Volume And Issuance Rates**

The number of DAT arraignments is only loosely linked to overall prosecuted case volume, as shown in Figure 2 for the period from 2003 to 2012. Although both DAT and overall volume were higher in 2012 than in 2003, the steady rise in the number of DATs from 2006 to 2011 was not matched by an equally steady rise in overall volume. Since 2009 it has been particularly obvious that DAT volume is driven by something other than overall volume: from 2009 to 2012 the number of DAT arraignments rose (from 64,641 to 78,450), while overall volume fell (from 369,458 to 344,954).

The correspondence is only marginally closer when DAT volume is compared to non-felony case volume. Reflecting the drop in overall volume from 2009 to 2012, the number of non-felony cases also fell (from 286,395 to 270,842) while DAT arraignments increased in number.

Even when the comparison is between DAT volume and the subset of non-felony cases with a DAT-eligible arrest charge,<sup>17</sup> we do not find a close correspondence, especially since 2009. DAT-eligible arrest charge volume between 2009 and 2012 hardly changed (178,689 in 2009, compared to 179,195 in 2012).

Clearly, the rise in DAT volume during this period could not be explained by overall arrest volume, non-felony arrest volume, or even DAT-eligible arrest volume.

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<sup>17</sup> The category we constructed for “DAT-eligible arrest charge” excluded about a third of the non-felony cases in 2012. However, it is necessarily quite conservative, omitting many eligible cases because of the unavailability of pertinent information. We included only charges that were unconditionally eligible. For some charges that were not included, the exclusion from eligibility for a DAT was restricted to a specific subsection or circumstance. For example, all felony charges were excluded, even though the NYPD guidelines allow consideration of class E felony charges if the defendant is hospitalized. All VTL 511 charges (driving with a suspended or revoked license) were excluded even though only subsection (2) (a) is excluded by the guidelines. Other examples include PL 140.10 (criminal trespass-3), which excludes defendants from consideration for a DAT only when the trespass is in a commercial building; and PL 120.00 (assault-3), which excludes defendants from a DAT only when the assault is committed against a law enforcement agent or against someone living with the defendant. CJA does not receive subsection information or the other kinds of supplementary data that would be necessary to distinguish between eligible and ineligible defendants charged with these specific offenses. By excluding mixed-eligibility charges, we ensured that every case included in the eligible category had a defendant who was unconditionally eligible on the basis of charge, although some charge-eligible defendants would not be included. Of course, a charge-eligible defendant could still be disqualified on the basis of other factors, such as criminal history or being under the influence of drugs or alcohol at the time of the arrest (see Appendix A).

Figure 2  
 Arraignment Volume  
 All Cases, Non-Felony Arrest Charge, DAT-Eligible Arrest Charge, And DAT Cases  
 2003 – 2012

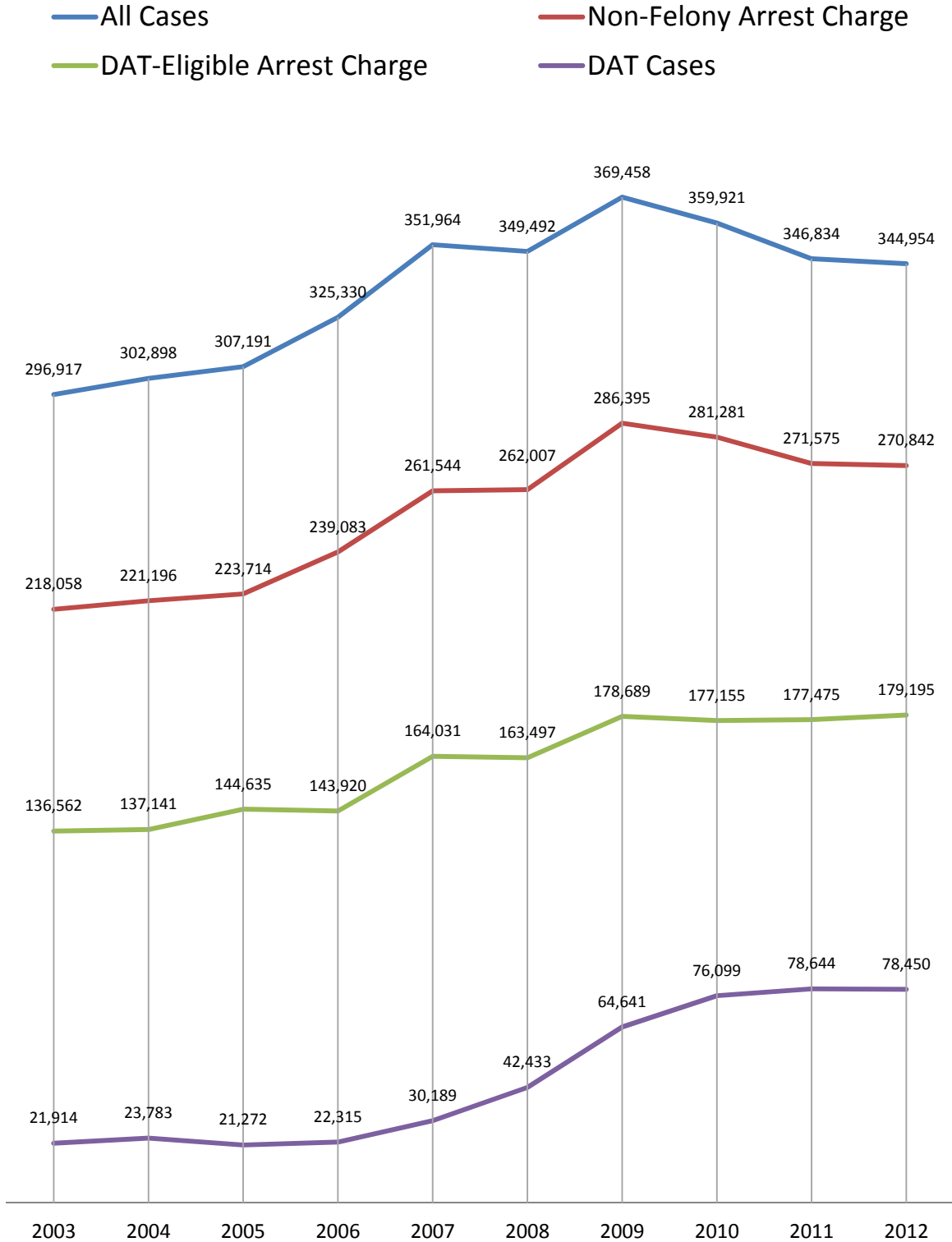
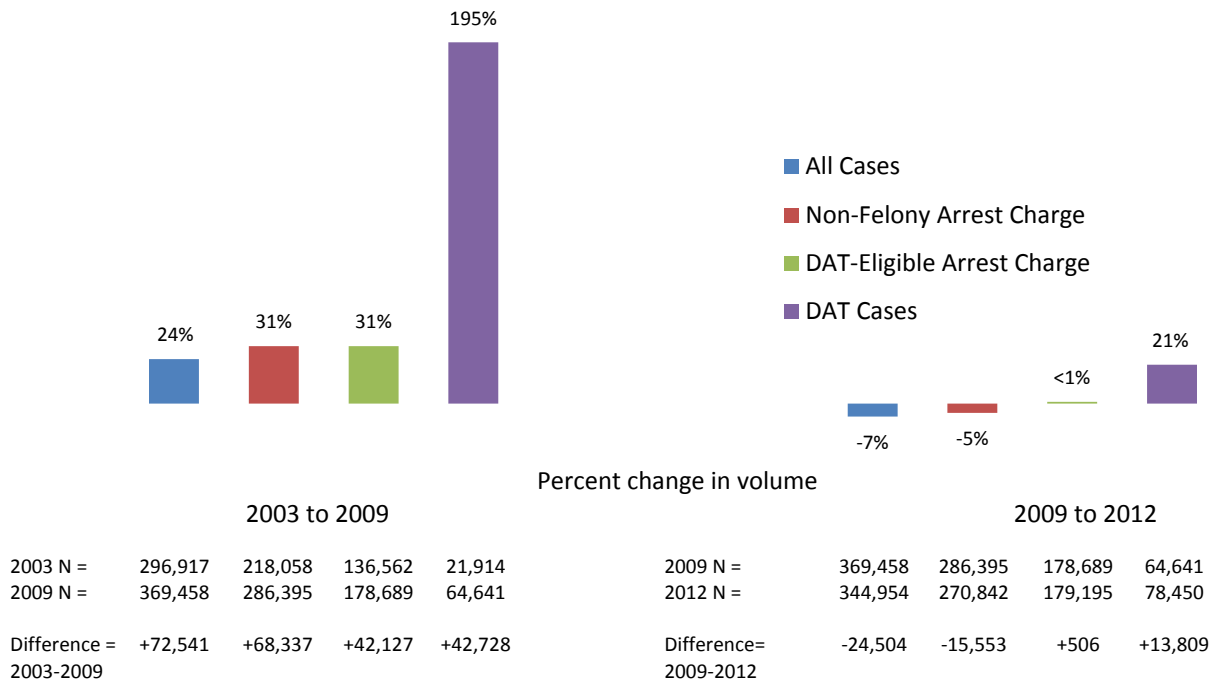




Figure 3 shows the percent change in volume for DATs compared to the other groups (all cases, non-felony, and DAT-eligible) for two periods: 2003 to 2009 and 2009 to 2012. Between 2003 and 2009, non-felony and DAT-eligible volume rose a little more than overall volume, but the increase in DAT volume during that time period dwarfed the other categories. Overall volume rose by 24% (from 296,917 to 369,458) and non-felony volume rose by 31% (from 218,058 to 286,395), which was about the same as the 31% rise in DAT-eligible volume (from 136,562 to 178,689). By contrast, DAT volume rose by a whopping 195% (from 21,914 to 64,641) during this period.

From 2009 to 2012, DAT volume rose another 21% while the volume of all cases declined by 7%, the volume of non-felony cases declined by 5%, and the volume of DAT-eligible cases remained nearly level with an increase less than 1%. This is another way of showing that the huge expansion in DAT arraignments cannot be explained in either time period simply as a function of changes in overall, non-felony, or DAT-eligible arraignment volume.

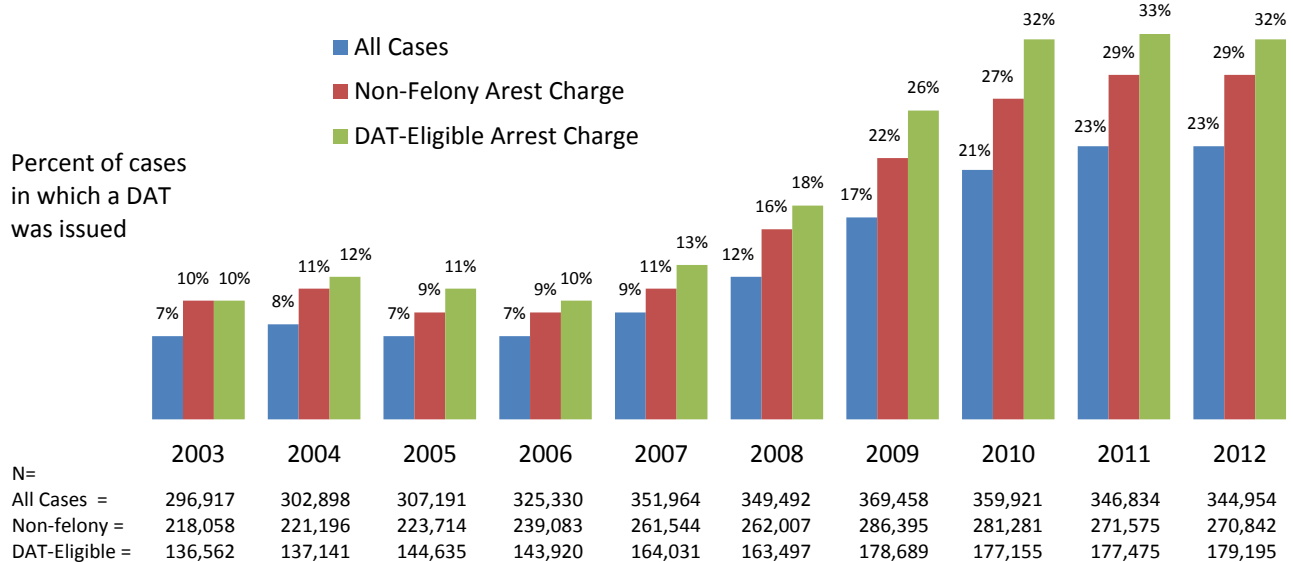
Figure 3  
Change In Arraignment Volume  
2003 – 2009 / 2009 – 2012  
All, Non-Felony, DAT-Eligible, And DAT Cases



More DATs among fewer prosecuted cases means that DATs now constitute a greater proportion of arraignments than they did a few years ago. This conclusion is illustrated by the issuance rates presented in Figure 4. DATs comprised 7% of all prosecuted cases in 2003, compared to 23% in 2012. Among non-felony cases, 10% were DATs in 2003, compared to 29% in 2012.

As one would expect, DAT issuance rates were higher among cases with a defendant arrested on a DAT-eligible charge. Issuance rates among this group of charge-eligible cases rose from 10% in 2003 to 32% in 2012. In about a third of the charge-eligible cases the defendant was issued a DAT in each of the last three years.

Figure 4  
DAT Issuance Rates  
All, Non-Felony, And DAT-Eligible Cases  
2003 – 2012



## **B. DAT Arrest Charges And Issuance Rates**

The five most frequent arrest charges in arraigned DAT cases in 2011 and 2012 were marijuana possession in the fifth degree (PL 221.10), petit larceny (PL 155.25), theft of services (PL 165.15), driving with a suspended or revoked license (VTL 511), and drug possession in the seventh degree (PL 220.03). The top five charges in each of the previous years during the study period were virtually identical (although not in the same order), with two additions. One consisted of offenses outside the Penal Law and Vehicle and Traffic Law — infractions and violations of New York City Local Law, Administrative Code, Public Health Law, Tax Law, and numerous local ordinances — categorized together as “non-PL/VTL.” The other was third-degree assault (PL 120.00). Non-PL/VTL charges and third-degree assault edged out petit larceny and theft of services to make the top five in some years during the study period. These six specific charges, along with non-PL/VTL offenses, were examined for changes in volume, in the proportion of DATs they accounted for, and in DAT issuance rates from 2003 to 2012.

### **Charge volume**

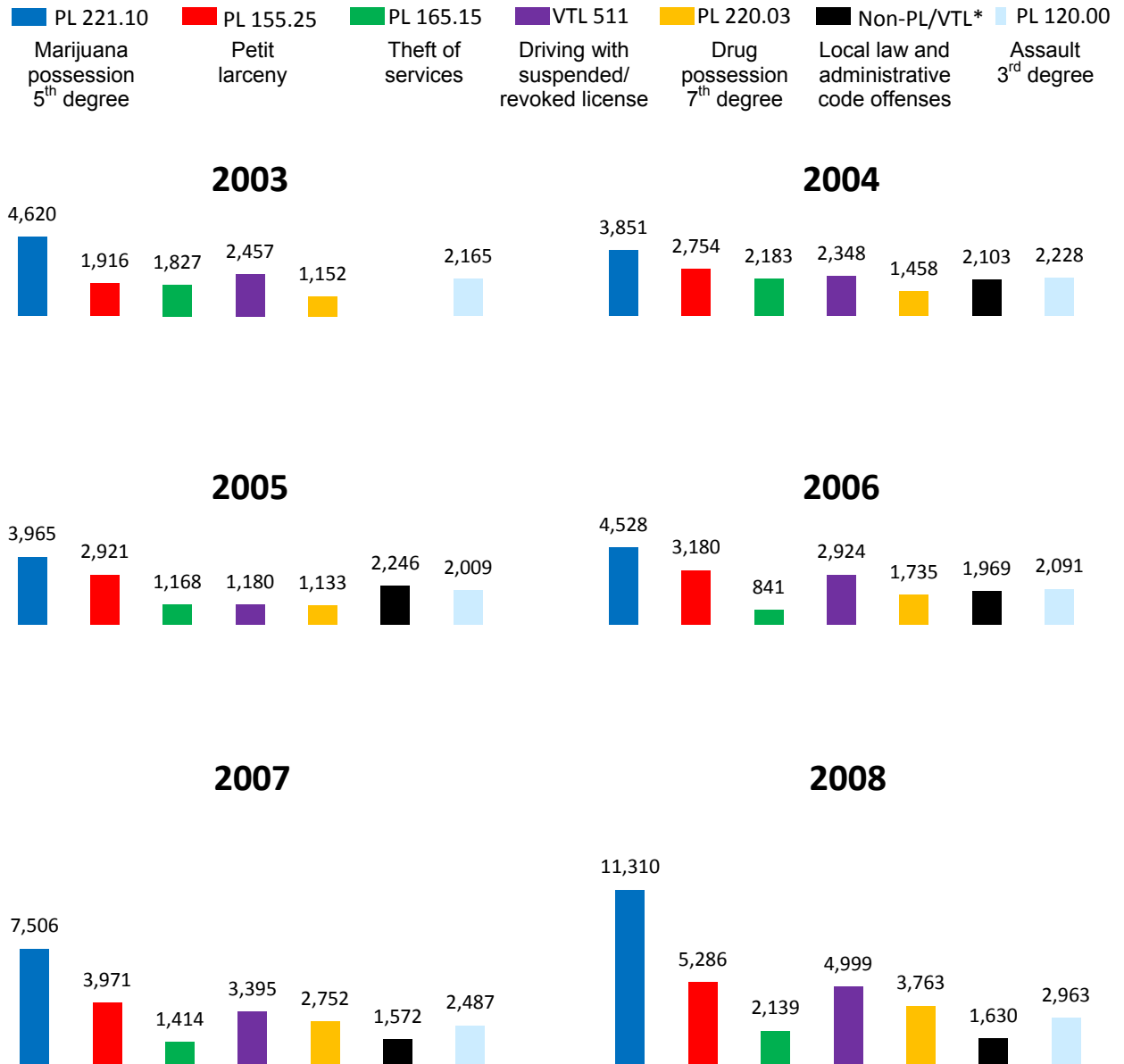
The top seven DAT charges (grouping non-PL/VTL charges together as one) coincided with the top seven arrest charges among all arraigned arrests in 2012. The rank order was not the same, but the same seven charges had the greatest volume overall and among DATs.

Criminal possession of marijuana in the fifth degree (PL 221.10), a class B misdemeanor, was the most frequent DAT charge by a wide margin every year during the study period (Figure 5). (It was also the most frequent arrest charge among all arraigned arrests.) The volume of DAT arraignments in which the defendant was arrested for a class B misdemeanor marijuana offense rose from 4,620 in 2003 to 21,206 in 2011, an increase of about 460%. There was a slight drop in volume in 2012 (to 18,438).

Petit larceny (PL 155.25), a class A misdemeanor, was the second most frequent DAT charge in 2011 and the fourth most frequent in 2012. The volume of DAT arraignments with an arrest charge of petit larceny rose from 1,916 in 2003 to 10,488 in 2011, an increase of over 500%. Petit larceny arrests in which a DAT was issued dropped in volume slightly in 2012, to 10,208.

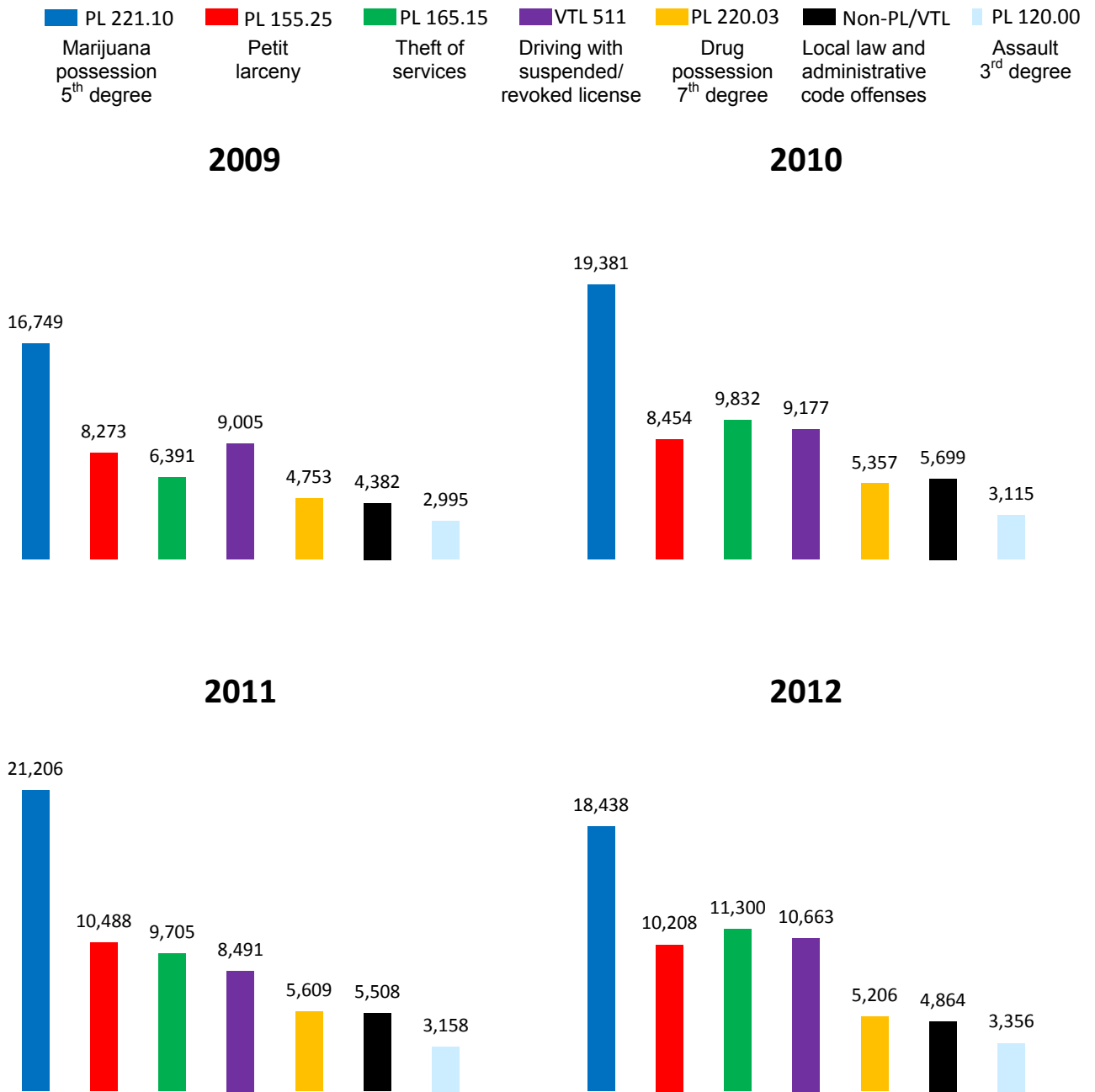
Theft of services (PL 165.15), usually a class A misdemeanor, ranked a close third in 2011 and rose to second place in 2012, with a volume of 11,300. (Depending on subsection, 165.15 can also be charged as a violation or a class E felony.) This charge, which is used in arrests for fare evasion, has gained in importance for DATs in the past couple of years. In earlier years theft of services charges were outnumbered by driving with a suspended or revoked license, drug possession, and assault. In 2006, for example, the defendant was charged with theft of services in only 841 arraigned DAT cases.

Figure 5  
Volume Of Most Frequent Arrest Charges  
Arraigned DAT Cases  
2003 – 2012



\* Offenses outside the Penal Law and Vehicle and Traffic Law (not available for 2003).

Figure 5 (continued)



The fourth most frequent DAT charge in 2011 (third in 2012) was driving with a suspended or revoked license (VTL 511), usually an unclassified misdemeanor. (Depending on subsection, this offense can also be charged as an infraction or a class E felony.) VTL 511 was among the top five DAT charges every year among arraigned cases, quadrupling in volume from 2,457 in 2003 to 10,663 in 2012.

Misdemeanor drug possession (PL 220.03, class A misdemeanor) and non-PL/VTL offenses have been nearly tied in fifth place for several years. DAT arrests on the drug possession charge grew from 1,152 in 2003 to 5,206 in 2012 (down a few hundred from 2011). Non-PL/VTL offenses increased from 2,103 in 2004 to 4,864 in 2012 (also down slightly from 2011). Non-PL/VTL charges were omitted for 2003 because our data for that year did not adequately differentiate them from missing charges.

Finally, third-degree assault was among the five most frequent DAT offenses every year prior to 2009 — in spite of the fact that it is ineligible for a DAT under certain circumstances (when committed against a law enforcement agent, or when the defendant and victim are members of the same household). The volume remained relatively constant over the nine-year span of the study, with only a slight rise from 2,165 in 2003 to 3,356 in 2012.

Other offenses for which DATs were frequently issued include fourth degree weapon possession (PL 265.01, class A misdemeanor), criminal trespass (including both PL 140.15, class A misdemeanor, and PL 140.10, class B misdemeanor), criminal mischief in the fourth degree (PL 145.00, class A misdemeanor), aggravated harassment in the second degree (PL 240.30, class A misdemeanor), disorderly conduct (PL 240.20, a violation), and possession of stolen property in the fifth degree (PL 165.40, class A misdemeanor). DATs were occasionally issued for more than a hundred additional charges.

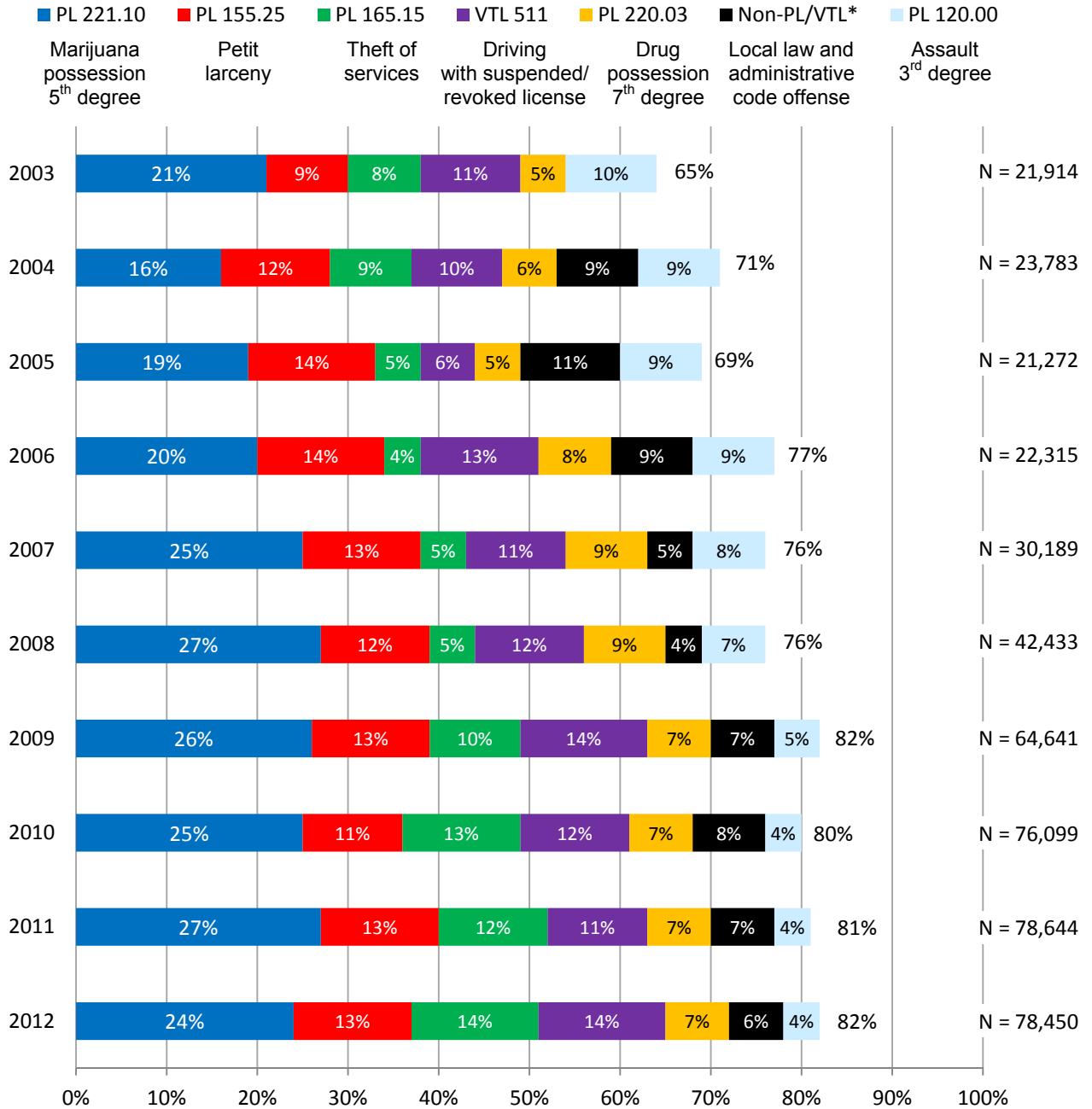
### **Selected charges as a proportion of all DAT arraignments**

The six most frequent charges, plus non-PL/VTL offenses, have accounted for 80% or more of all DATs since 2009 (Figure 6). In the earlier years of the study period, DAT charges were a little less concentrated. Even so, most DATs were issued for only a handful of charges throughout the decade.

The same few charges accounted for an ever larger proportion of the total over time. The four most frequent charges of 2012 — PL 221.10, PL 155.25, PL 165.15, and VTL 511 — alone accounted for over 40% of DATs from 2003 to 2005; over 50% from 2006 to 2008; and over 60% from 2009 to 2012.

On the other hand, there has been a decline in the proportion of DAT defendants charged with assault (from 10% in 2003 to 4% every year since 2010). The number of DATs issued for assault has risen slightly over the past decade, as shown in Figure 5, but they now constitute a smaller proportion of a much larger total.

Figure 6  
Most Frequent DAT Arrest Charges  
As Percent Of DAT Arraignments, 2003 – 2012



\* Charges outside the Penal Law and Vehicle & Traffic Law, mostly Local Law offenses (not available for 2003).

Total percentages for each bar may not equal the sum of parts because of rounding.

### **DAT issuance rates for selected charges**

Next we examined DAT issuance rates over time for the most frequent charges. Figure 7 shows that DAT issuance is distributed very unevenly among non-felony charges — and also that the use of DATs for most of these charges has risen dramatically since about 2006. The analysis suggests that a major factor driving the rise in DAT volume over the study period was higher issuance rates for the offenses that were already among the most frequent DAT charges.

In 2003, the issuance rate for drug possession (PL 220.03) was particularly low, at 4%, and even the highest rate (for petit larceny) was only 14%. (Rates for non-PL/VTL charges were not available for 2003.) By 2012 DATs were being issued in half of prosecuted arrests for marijuana possession and driving with a suspended license, up from 13% and 12%, respectively, in 2003. The issuance rate was nearly as high in 2012 for petit larceny (46%). The issuance rate for theft of services (PL 165.15) rose from 6% in 2006 to 40% in 2010 and 2011. In spite of a slight decline in 2012, theft of services ended the study period with a 37% issuance rate, among the highest.

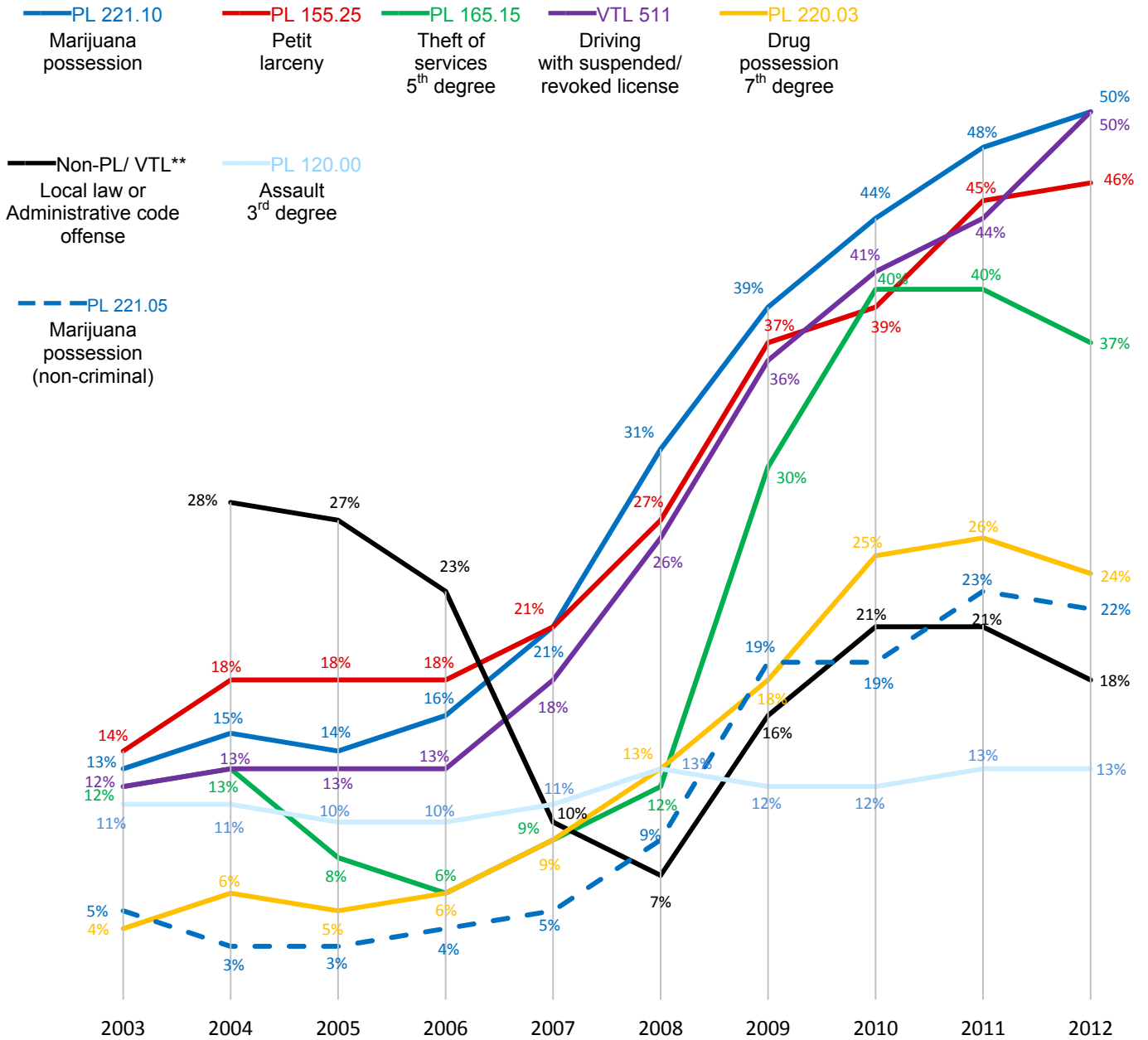
Issuance rates for non-PL/VTL charges followed a different pattern from most, beginning the research period at a relatively high level (28% in 2004), dropping to 7% by 2008. Since then, use of DATs for non-PL/VTL charges has risen along with the general trend, but not to the levels of the early part of the study period. The 2012 issuance rate for non-PL/VTL charges was 18%, down slightly from the previous two years.

The only charge to have maintained a fairly stable rate over the study period was assault, starting at 11% in 2003 and ending at 13% in 2012. The NYPD guidelines excluding defendants arrested in domestic violence cases or for assaulting an officer may be a factor in keeping issuance rates down for PL 120.00.

The dashed line in Figure 7 represents the non-criminal marijuana offense for which a DAT is mandated by law (PL 221.05). It has not been included in previous figures because of its negligible volume among arraigned cases: 754 in 2003; 1,528 in 2012 (see Table 1, following Figure 7). Since it is the only charge for which a DAT is required, we expected the issuance rate to approach 100%. In fact, most defendants arrested for non-criminal marijuana possession were *not* issued DATs. The issuance rate was 5% or less during the first five years of the study period, rising above 20% only during the last two years. However, close to 10,000 summonses are issued annually for PL 221.05 (Criminal Court of the City of New York 2012), so in spite of the low DAT issuance rate for the few who do not get a summons, the vast majority of people charged with PL 221.05 are not placed in custody. For the rest, it is reasonable to suppose that the same factors that made them ineligible for a summons may also have made them ineligible for a DAT.



Figure 7  
 DAT Issuance Rates  
 DATs As Percent Of Arraigned Cases With Selected Top Arrest Charges\*  
 2003 – 2012



\* Except for PL 221.05, the charges examined in this figure are the top 7 charges in volume among DAT arrests in each year, and among all arraigned arrests of either arrest type in 2012. PL 221.05 was added because it is the only charge for which a DAT must by law be issued, as long as acceptable identification is provided, the defendant has no active warrant, and does not owe DNA.

\*\* Charges outside the Penal Law and Vehicle & Traffic Law, mostly Local Law offenses (data not available for 2003).

The base number for each percentage in Figure 7 is provided in Table 1. The combined base — the number of all arraigned cases with any of the specified arrest charges (excluding 221.05) — rose from 2003 (130,510) to 2012 (183,908), an increase of 41%. However, overall volume did *not* rise for some of the most frequent charges, including PL 221.10 and PL 220.03. For these two charges, higher issuance rates accounted for *all* of the increase in DAT volume.

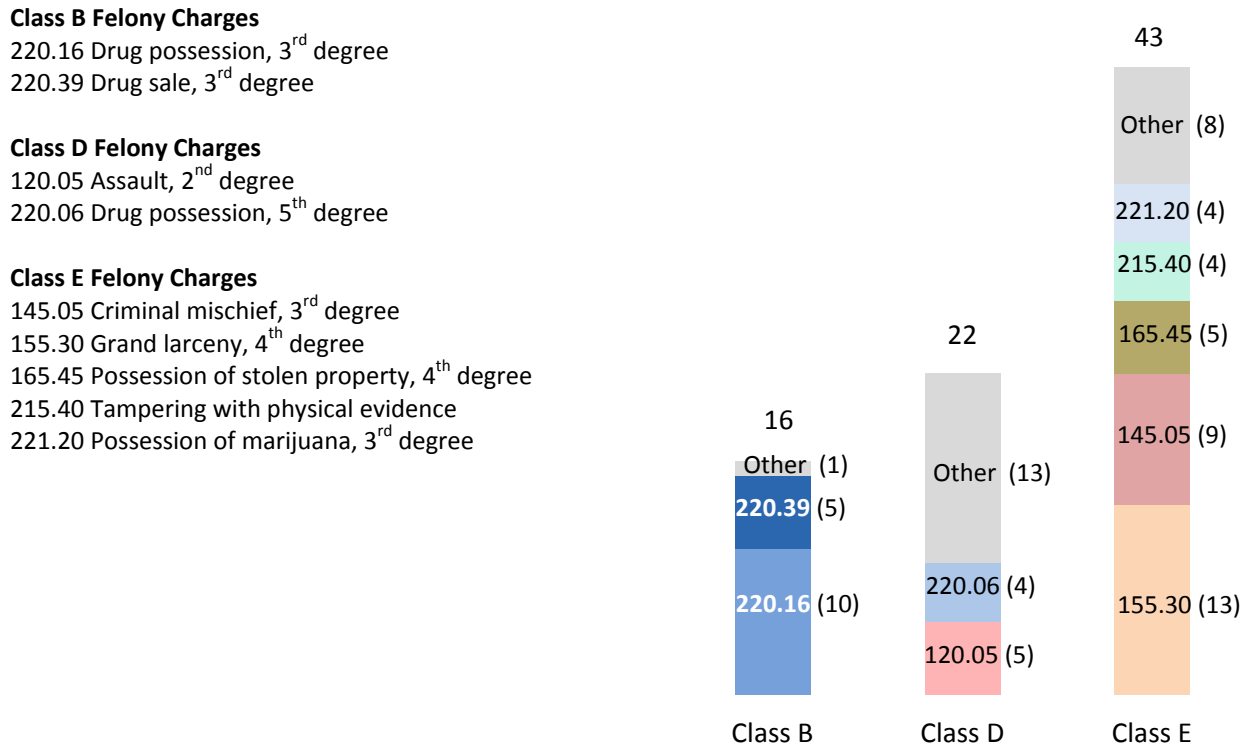
Table 1  
Number Of Arraigned Cases With Selected Top Arrest Charges  
2003 – 2012

	PL 221.10	PL 155.25	PL 165.15	VTL 511	PL 220.03	Non- PL/VTL	PL 120.00	Combined (7 most frequent charges)	PL 221.05
2003	36,959	13,621	15,533	19,685	25,781	n/a	18,931	130,510	754
2004	26,062	15,017	16,835	18,055	25,528	7,570	19,630	128,697	840
2005	27,406	16,221	14,026	9,266	24,927	8,384	20,103	120,333	1,005
2006	29,202	17,806	14,324	22,776	26,983	8,500	21,594	141,185	875
2007	35,150	18,560	16,404	19,285	29,650	16,508	23,405	158,962	930
2008	36,604	19,887	17,552	19,332	28,692	23,611	23,479	169,157	901
2009	43,441	22,379	21,403	24,819	25,806	27,190	24,699	189,737	1,172
2010	44,425	21,690	24,420	22,259	21,690	26,705	25,472	186,661	1,349
2011	44,168	23,214	24,425	19,105	21,988	26,368	23,695	182,963	1,291
2012	36,595	22,265	30,257	21,121	21,388	27,124	25,158	183,908	1,528

### Felony DAT charges

Despite guidelines and statutory restrictions to the contrary, DATs were occasionally issued for class B, C, and D felonies in addition to the less severe class E felony charges allowed by law. Figure 8 shows the distribution of charges for the 81 DAT arraignments with a felony arrest charge in 2012.<sup>18</sup>

Figure 8  
DAT Felony Arrest Charges By Severity Class  
2012  
(Arraigned Cases)



Grand larceny in the fourth degree (PL150.30, class E felony) was the felony charge most frequently issued a DAT, with 13 in 2012 (and about the same number in 2011, not shown). Next most frequent was the class B felony drug possession charge (PL 220.16), with 10 DATs in 2012. DATs were also issued in a few class B felony drug sale arrests (PL 220.39) in nearly every year of the study period, with 5 in 2012. Taken

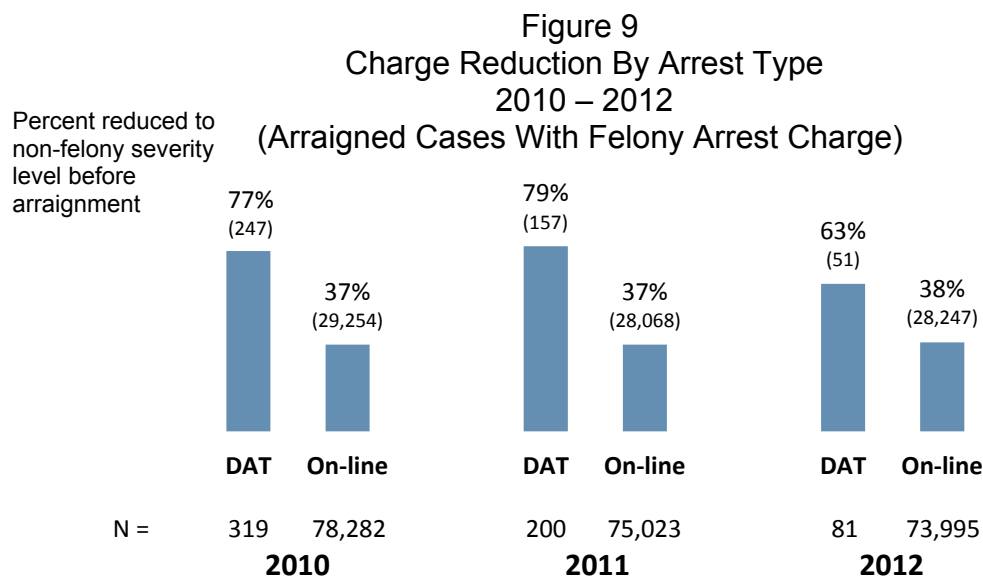
<sup>18</sup> Several hundred additional felony cases categorized as DATs by the NYPD were re-categorized as on-line arrests for this dataset after we concluded from a careful examination that the DAT code was an error. The same quality control routine was run on every dataset in the study period, and all analyses were done using the corrected datasets. See Appendix B.

together, the drug charges constituted 50% of the DATs issued for a felony other than class E; and 28% of all the felony DATs.

In each of the previous years of the study period a similar pattern was found, with fewer than one percent of DATs issued for many of the same felony charges from year to year. From 2003 through 2009, PL 155.30 was the most frequent felony charge, with PL 165.45, PL 145.05, and PL 265.02 (class D felony weapon possession) near the top of the list in most years (not shown). In 2011, a DAT was issued in 27 arrests for PL 265.02, making it one of the most common felonies for which DATs were issued; in 2012 there were only two DATs issued for this charge, included with “Other”.

In recent years the volume of felony DATs has dropped, as shown in Figure 9 for 2010 through 2012. In 2010 there were 319 felony DATs, a number that fell to 200 in 2011 and 81 in 2012.

It was hypothesized that the issuance of a DAT for a felony charge might be tied to the officer’s expectation that the charge would be reduced by the prosecutor. We found that felony DATs were in fact more likely to be reduced prior to arraignment than other felony arrests, as shown in Figure 9. In each of the three years for which data are presented, the proportion of felony arrest charges that were reduced to a non-felony prior to arraignment was much greater among DAT cases than among on-line cases. Nearly two thirds (63%) of DAT felony charges were reduced to a non-felony at arraignment in 2012, compared to only 38% of felony charges in on-line arrests. In years with larger numbers of felony DATs, the charge-reduction rate for DATs was even greater (77% in 2010 and 79% in 2011) while the rate stayed about the same for on-line cases.



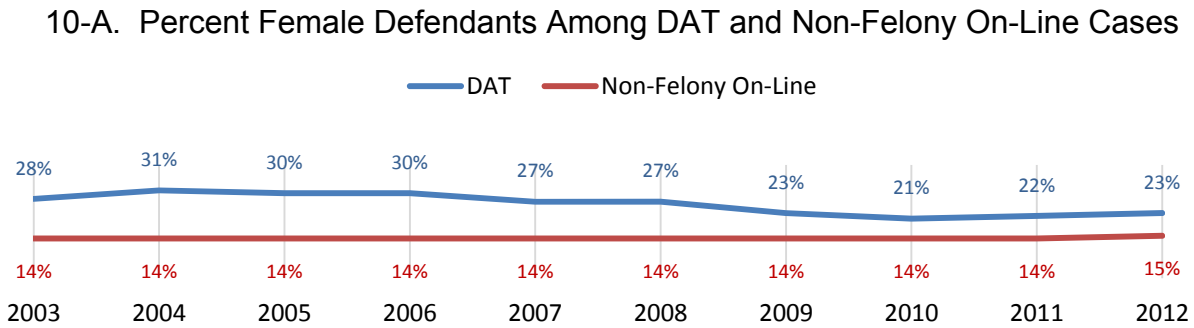
### C. DAT Defendant Demographics And Issuance Rates

Demographic differences between DATs and on-line cases may be partly attributable to differences in eligibility. The differences highlighted in this section were significant in the statistical models controlling for arrest charge, indicating that they were not due to differences among demographic groups in the type of offense committed (see Chapter V). However, many criminal history factors were not available for our analyses.

#### Gender

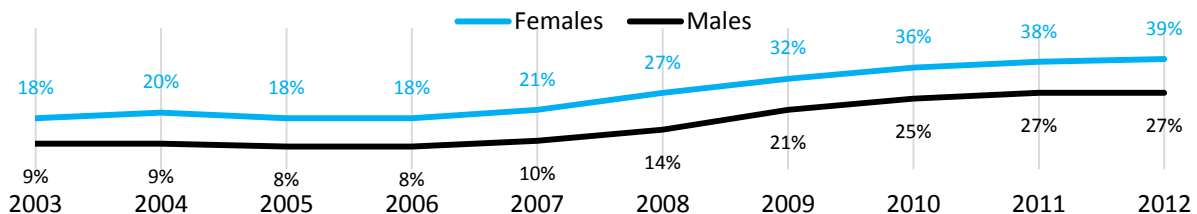
DAT defendants were more likely than on-line defendants to be female, and this difference persisted throughout the study period (Figure 10-A). Among non-felony defendants who did not receive a DAT (on-line cases), 14% were female in every year of the study period except 2012, when the proportion rose to 15%. Among DATs, by contrast, females constituted between 31% (in 2004) and 21% (2010) of the defendants. Since 2009 the gender gap has diminished but not disappeared.

Figure 10  
Gender By Arrest Type, 2003 – 2012 (Arraigned Cases)



DAT issuance rates were higher for females than for males throughout the study period, as shown in Figure 10-B. In 2003, 9% of males, compared to 18% of females in non-felony cases were issued a DAT. Issuance rates for males and females rose in tandem over time, remaining about 10 percentage points higher for females. In 2012, 39% of females and 27% of males in non-felony cases were issued a DAT.

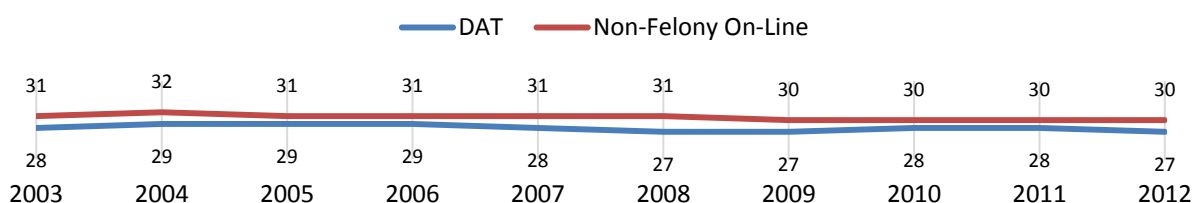
10-B. DAT Issuance Rate by Gender for Non-Felony Defendants



## Age

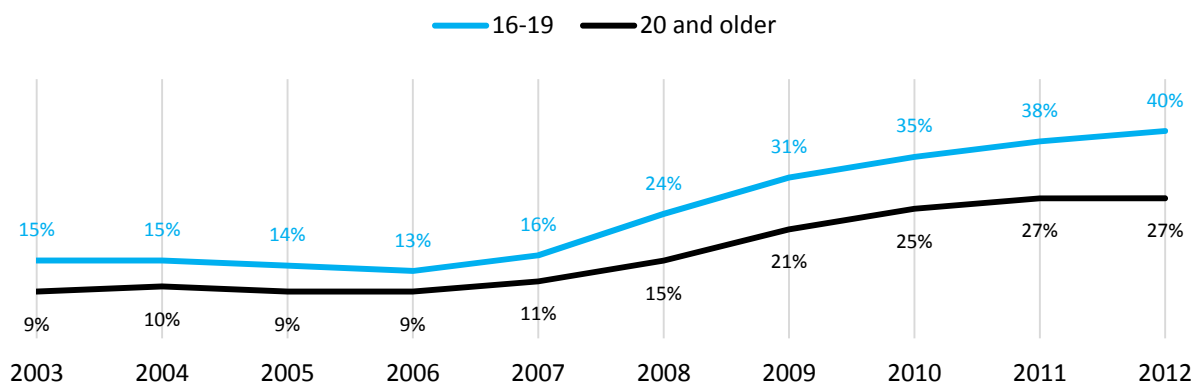
DAT defendants were a few years younger than their counterparts who were taken into custody after arrest on a non-felony charge (Figure 11-A). Among non-felony on-line defendants, the median age ranged from 32 (2004) to 30 (2009 through 2012). Among DATs, the median age was from two to four years lower in every year, with a median age of 27 in 2012. The median age for each group remained relatively stable from the beginning to the end of the study period.

Figure 11  
Age By Arrest Type, 2003 – 2012 (Arraigned Cases)  
11-A. Median Age for DAT and Non-Felony On-Line Cases



Issuance rates for the youngest age group, 16-to-19-year-olds, were substantially higher than for older arrestees, as shown in Figure 11-B. There was virtually no difference in issuance rates for ages 20-29, 30-39, and 40 and older (not shown), so these age ranges were combined. In 2003, 15% of the youngest non-felony defendants were issued a DAT, compared to 9% of older defendants. By 2012, the gap was larger: 40% of the youngest arrestees received DATs, compared to 27% of older arrestees. This is a demographic that is particularly affected by criminal history, as the youngest defendants are not as likely to be disqualified by having a warrant history or being on probation or parole.

11-B. DAT Issuance Rate by Age for Non-Felony Defendants

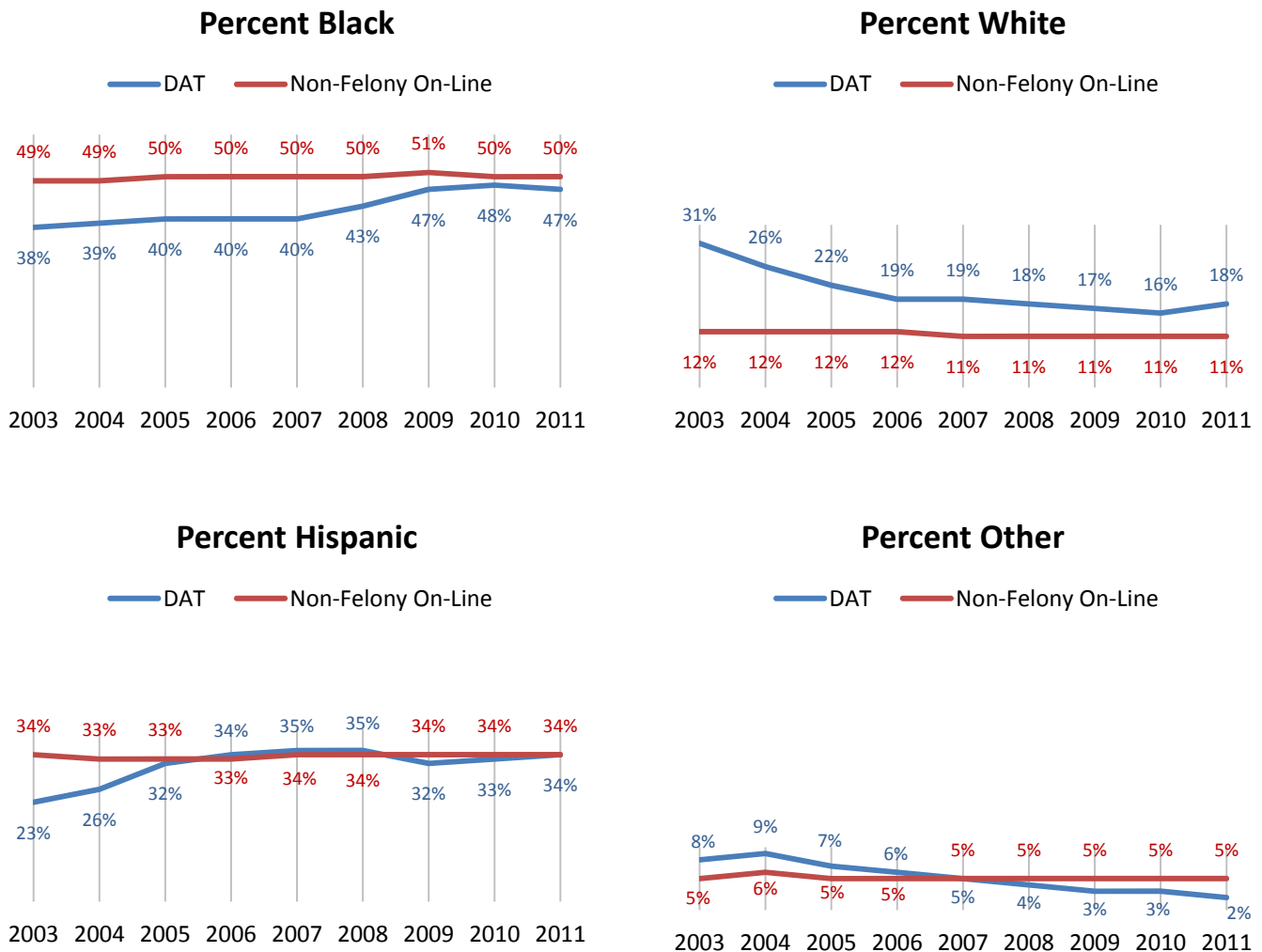


## Ethnicity

Ethnicity data are presented only through 2011 because the annual computerized backfill of NYPD data that supplies CJA with previously missing information for many DAT cases had not yet been done for 2012 at the time of this research. As a result, 22% of arraigned DATs in the 2012 interim dataset were missing ethnicity data, precluding accurate results for that year.

DAT defendants were less likely to be black, more likely to be white, and about equally likely to be Hispanic compared to defendants in non-felony on-line cases (Figure 12-A).

Figure 12  
Ethnicity By Arrest Type, 2003 – 2011 (Arraigned Cases)  
12-A. Ethnicity Among DAT and Non-Felony On-Line Defendants



Among non-felony on-line cases, the proportions remained relatively constant over the study period: blacks constituted about half, whites little more than a tenth, and Hispanics about a third of the total. Among DAT cases, however, the proportion of blacks rose and the proportion of whites dropped over time, bringing the ethnic composition of DATs closer to on-line defendants. In 2003, 38% of DATs were black and 31% were white while the comparable percentages for on-line defendants were 49% and 12%. By 2011, blacks constituted 47% and whites 18% of DATs, which more closely resembled the ethnic composition of on-line cases (50% black and 11% white).

Hispanics were represented among DATs in about the same proportions as among on-line cases, except during the earliest years of the study period. In 2003 Hispanics comprised 34% of the on-line defendants, but only 23% of DATs. Since 2005, however, about a third of both DAT and on-line defendants have been Hispanic.

The Other ethnicity category consists predominantly of Asians. Among on-line arraigned cases, 5% of defendants were categorized as Other in most of the study years. Among DATs, the proportion categorized as Other has dropped, from 8% in 2003 to 2% in 2011.<sup>19</sup>

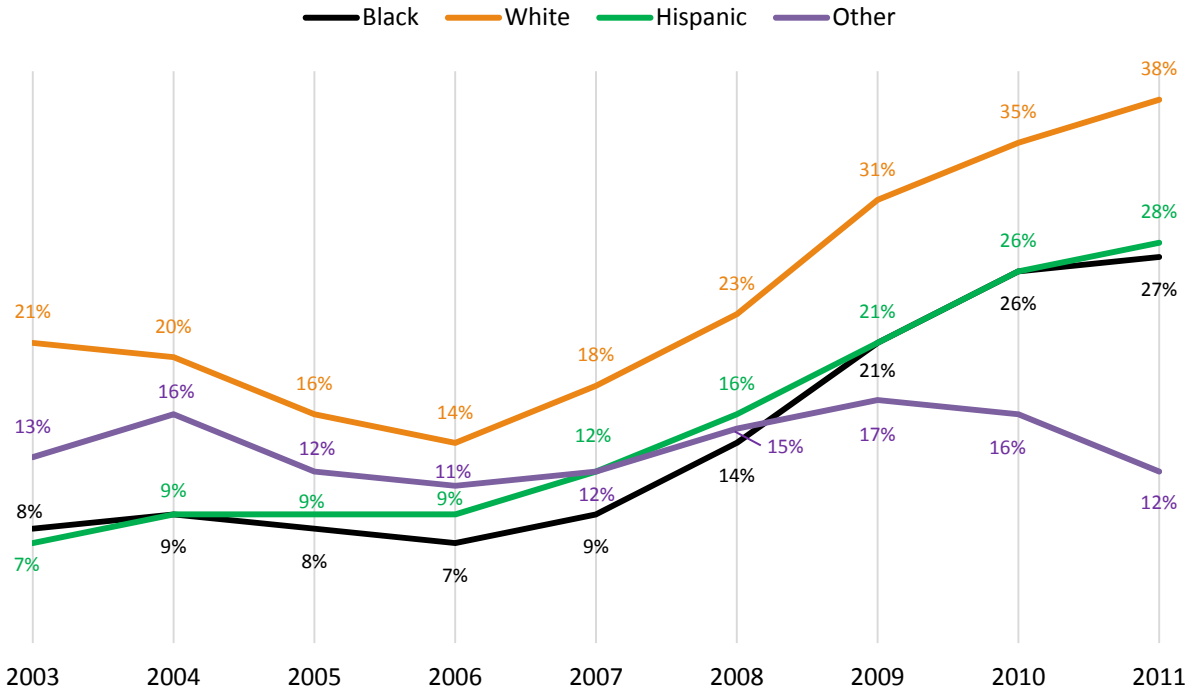
Figure 12-B presents DAT issuance rates for each ethnic category. Whites were consistently issued DATs at higher rates than any other ethnic group; the rate for whites has been above 30% since 2009. Blacks and Hispanics had rates similar to each other throughout the study period, averaging about 10 percentage points below whites in recent years. Issuance rates rose from 2006 to 2011 for every ethnic group except Other.

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<sup>19</sup> Missing data for Asians may be responsible for the decline in the Other category in recent years (Figure 12-A). Just prior to release of this report, a change was discovered in the coding of ethnicity for Asians in data received from the NYPD, which caused ethnicity to be blank in the CJA database when the defendant was Asian. The resulting undercount of Asians affects DAT cases primarily, and may extend backwards in time for several years. The error is now being corrected and will not affect future reports. We appreciate Dr. Freda Solomon's bringing this problem to our attention.



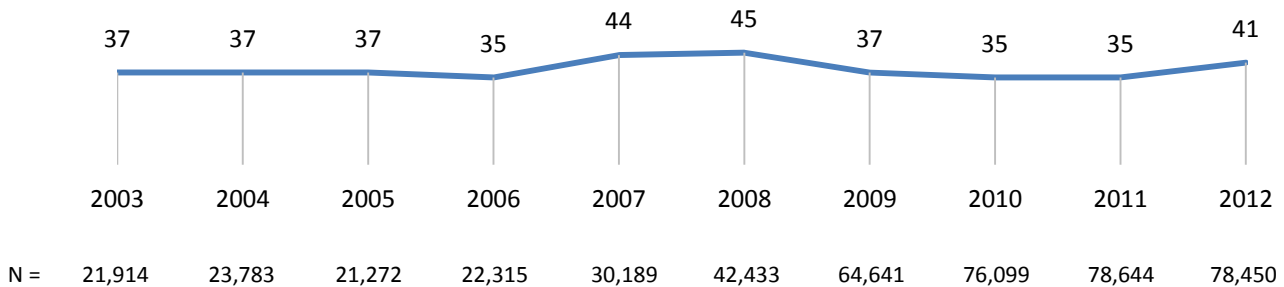
12-B. DAT Issuance Rate by Ethnicity for Non-Felony Defendants



**D. Arrest-To-Arraignment Time**

The median number of days from arrest to arraignment for DAT defendants was six days longer in 2012 (41 days) than in the preceding two years (35 days, Figure 13). For two years in the middle of the period (2007 and 2008) the median time jumped to 44 and 45 days, followed by a decrease of about ten days before rising again in the last year of the study period.

Figure 13  
Median Number Of Days From Arrest To Arraignment  
2003 – 2012 (DAT Cases)

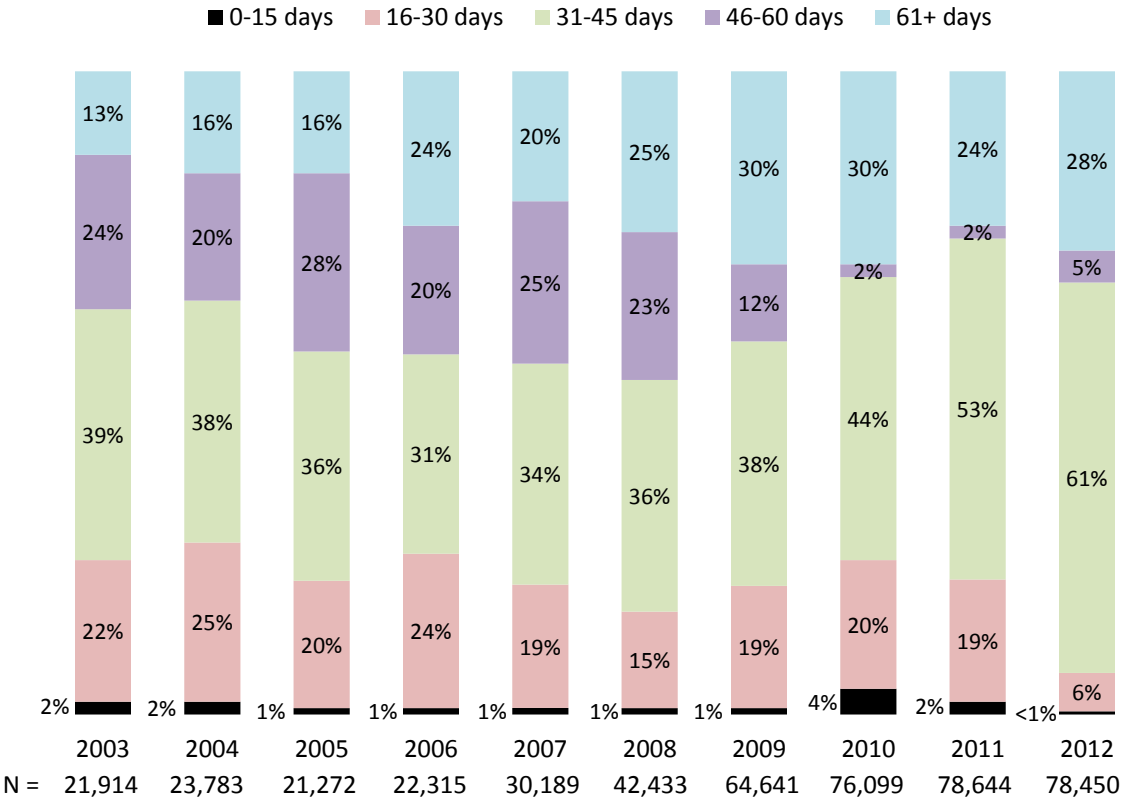


Although median times fluctuated moderately during the length of the study period, the real story lies in the large shifts in the proportions with the longest and shortest arrest-to-arraignment times. Figure 14 shows that the proportion of cases with arrest-to-arraignment time longer than two months grew from 13% in 2003 to 24% or more almost every year from 2006 on. In 2009 and 2010, 30% of DAT defendants waited 61 days or more to be arraigned. After a contraction in 2011, the proportion with arrest-to-arraignment times longer than two months expanded again in 2012, to 28%.

At the short end of the range, an arraignment within 30 days was fairly common prior to 2012 — 20% to 25% of arraignments fell within this time frame in most years. In 2012, however, only 6% of DAT defendants were arraigned within 30 days.

The trend has been towards more and more arraignments in the mid-range of 31-45 days, and fewer in the ranges just below (16-30) and just above (46-60). The proportion of cases with a 31-to-45-day wait for arraignment first exceeded 50% in 2011, and jumped to 61% in 2012.

Figure 14  
Time From Arrest To Arraignment  
2003 – 2012 (DAT Cases)



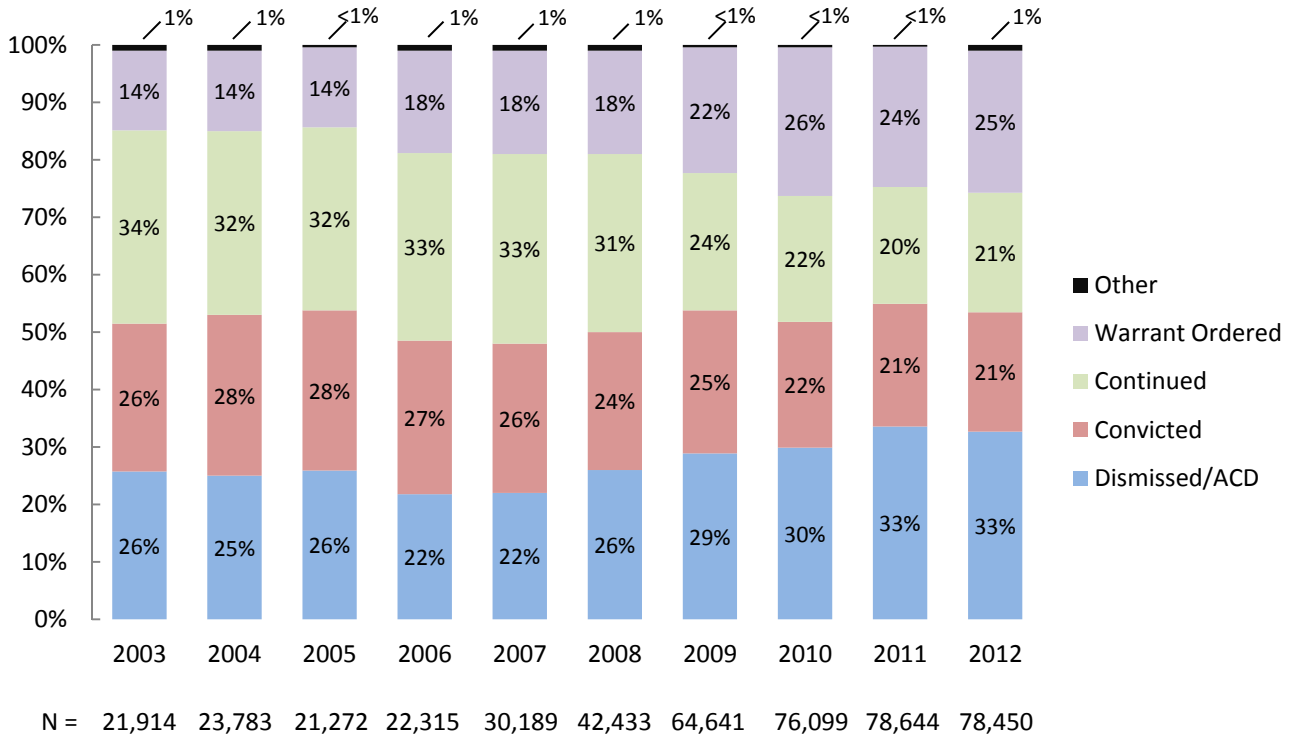
Detail within each bar may not total 100% because of rounding.

### E. Arraignment Outcomes

The distribution of DAT arraignment outcomes has shifted during the study period. In 2003 about the same proportion of DAT cases ended in conviction (26%) as in dismissal (also 26%), and only 14% of defendants failed to appear for arraignment (Figure 15). In the last two years of the study period, there were substantially more dismissals (33% in both years)<sup>20</sup> than convictions (21%). However, the proportion disposed at arraignment (either by conviction or dismissal) did not shift much, staying within a few percentage points of 50% each year.

When a DAT defendant does not appear at the scheduled arraignment, a warrant is ordered for his or her arrest. The greatest change in arraignment outcomes over the time of the study period was in failure-to-appear rates, which rose by 11 percentage points, from 14% during the first three years to 25% in 2012. About a quarter of scheduled DAT arraignments have had a defendant who failed to appear in each of the last three years.

Figure 15  
DAT Arraignment Outcomes  
2003 – 2012



<sup>20</sup> Higher dismissal rates in recent years do not appear to be related to any drop in declined prosecution for DAT arrests. Declined prosecution rates were compared to dismissal rates for each year in the study period, and no association was found (not shown). For example, the declined prosecution rate was 17% in 2011. This was cut almost in half in 2012 (9%), while the dismissal rate stayed the same, at 33%.

One percent or fewer of DAT cases each year had an Other outcome. This tiny category consists primarily of cases with a defendant who did not appear at arraignment, but the warrant was stayed by the court (and was not counted as a failure to appear). Also included in the Other category were a few cases that were transferred to another court or were consolidated with another case, or the defendant was in custody on another case and was not produced in court, or died prior to arraignment.

#### **F. Failure To Appear For A DAT Arraignment**

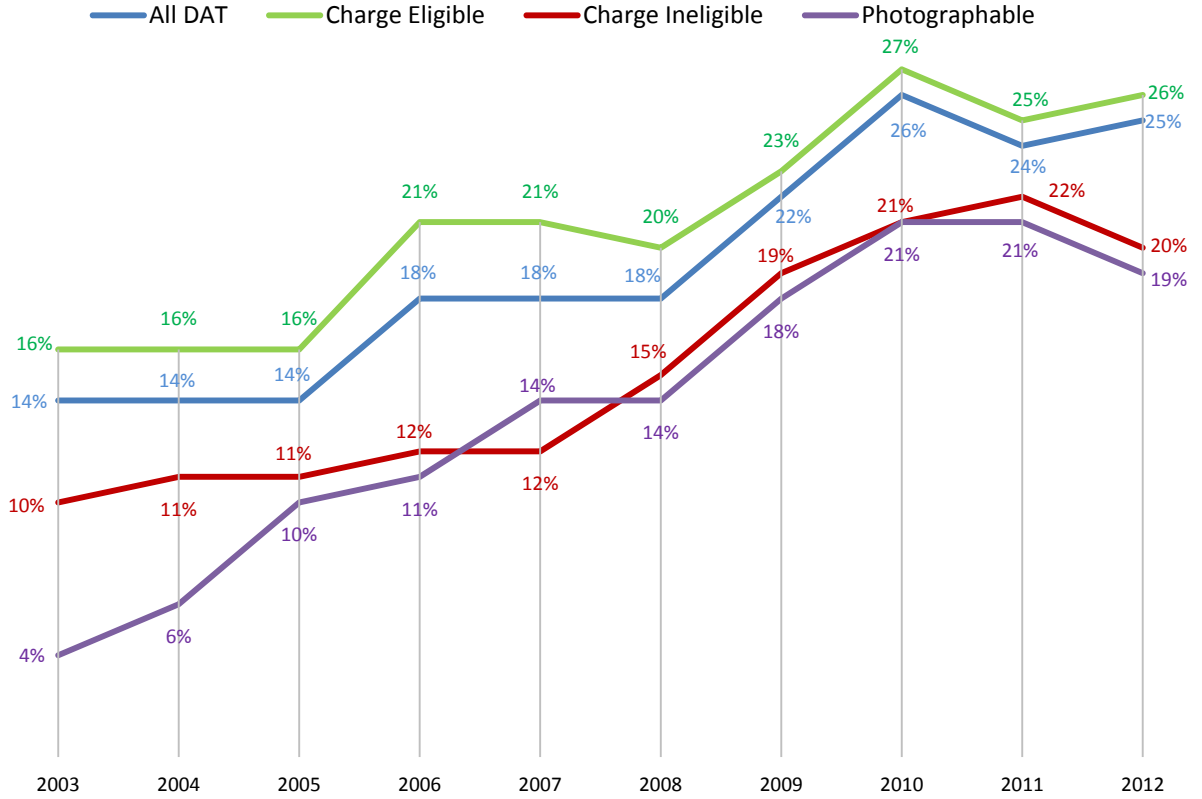
FTA rates for all DAT arraignments were shown in Figure 15 as one of five possible outcomes. FTA rates are presented again in Figure 16, this time comparing the rates for all DAT arraignments with the rates for charge-eligible cases, charge-ineligible cases (for which a DAT was issued anyway), and the subset of ineligible cases consisting of photographable offenses. As explained earlier, the eligible category includes only charges that are unconditionally eligible, whereas the ineligible category includes mixed-eligibility charges (eligibility depends on subsection or crime circumstances) as well as charges that are always ineligible (see Appendix A).

Ironically, the highest FTA rates were found consistently for cases with an arrest charge that was DAT-eligible. Lower rates were found for cases in which the defendant was arrested on a charge that was ineligible (or ineligible under certain conditions). Photographable offenses were associated with the lowest FTA rates in almost every year of the study period, possibly because they were more carefully screened by the police before a DAT was issued.

These differences were small, and diminished to almost nothing in 2011, when only four percentage points separated the 25% rate for charge-eligible cases from the 21% rate for photographable-offense cases. However, in 2012 FTA rates rose slightly for charge-eligible cases (to 26%) while declining (again, only slightly) for the two ineligible groups (to 20% and 19%). Although it is difficult to know exactly what to make of the slightly lower FTA rates for defendants charged with photographable and other possibly ineligible offenses, we can at least conclude that defendants who were issued a DAT despite the ineligible charge did not represent a higher risk of FTA than others.

The number of cases in each group shown below Figure 16 indicates that photographable offenses constituted only a small proportion of DATs with an ineligible arrest charge. In 2012, 21,578 DAT cases had an ineligible arrest charge, but less than 17% of them (3,654) were ineligible because of a photographable charge.

Figure 16  
FTA At Arraignment By DAT Charge Eligibility  
2003 – 2012  
(DAT Cases)



— All DAT	N =	21,914	23,783	21,272	22,315	30,189	42,433	64,641	76,099	78,644	78,450
— Charge Eligible	N =	13,804	15,883	115,203	14,466	20,527	29,156	45,628	56,372	59,359	56,872
— Charge Ineligible	N =	8,110	7,900	6,069	7,849	9,662	13,277	19,013	19,727	19,285	21,578
— Photographable	N =	641	744	555	726	1,192	1,844	2,873	3,172	3,512	3,654

Next we examined FTA rates by specific charges, as shown in Figure 17. FTA rates for the seven most frequent DAT charges are presented, as well as for PL 221.05 (non-criminal marijuana possession) and PL 140.10 (third-degree criminal trespass).

Among ineligible charges, PL 140.10 was among those most frequently issued a DAT in every year of the study period. Persons charged with this offense are ineligible for a DAT only when the trespass occurred in connection with a commercial building, but the location of the crime was not available in our data, so we could not distinguish eligible from ineligible arrests on this charge. Criminal trespass is included in Figure 17 to illustrate the high FTA rates for defendants charged with this offense, in contrast to relatively low rates associated with charge-ineligible offenses as a group (Figure 16).

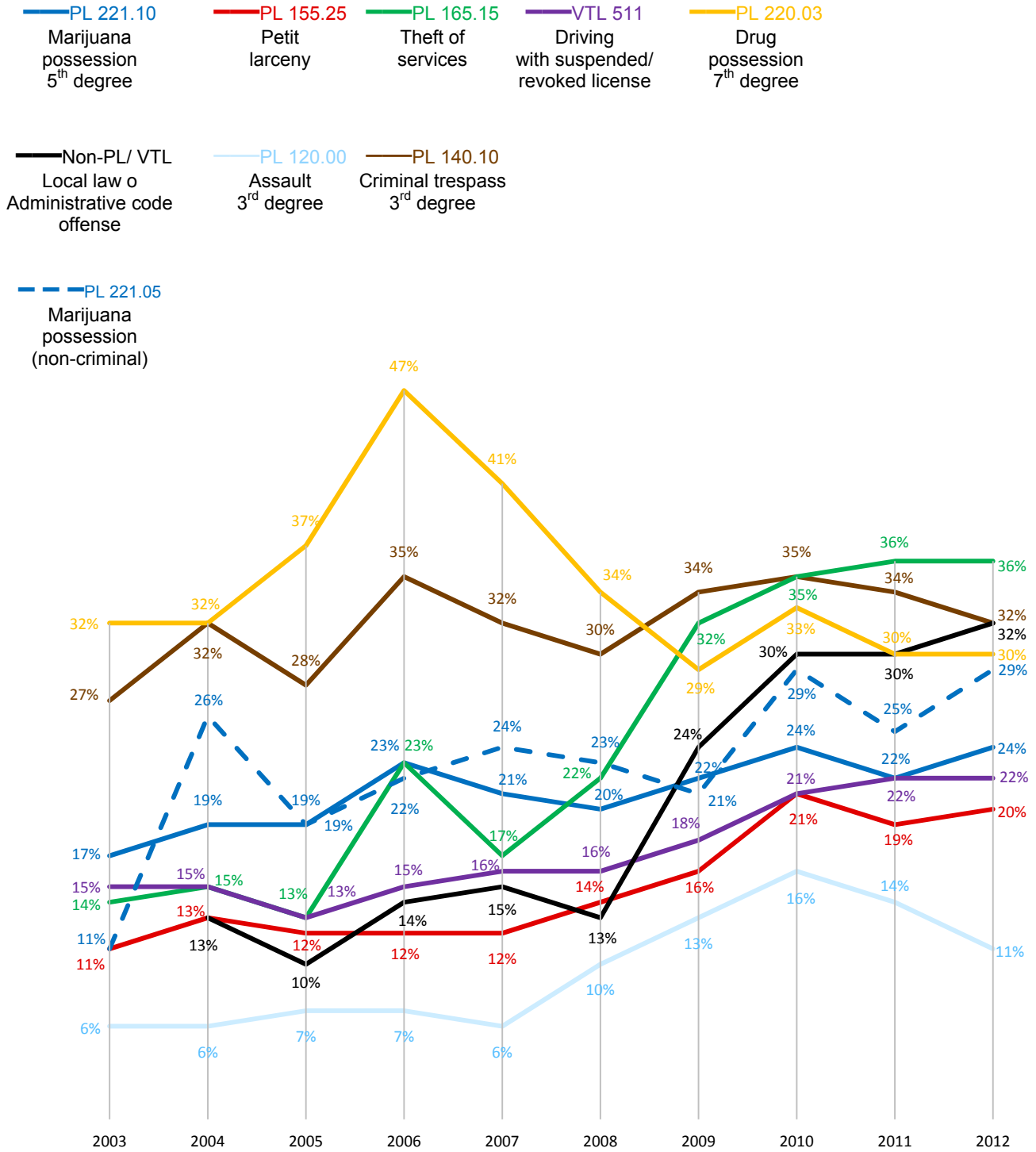
In 2012, three specific charges (including PL 140.10) along with non-PL/VTL charges were associated with FTA rates of 30% or higher. The misdemeanor drug possession charge (PL 220.03) had the highest FTA rates for much of the study period, rising to 47% in 2006 and ending the study period at 30%. Theft of services (PL 165.15), which was not associated with high FTA rates early in the study period, rose dramatically in 2009 to become the charge associated with the highest FTA rate — 36% — in 2012.

The other two charges associated with FTA rates above 30% in 2012 were PL 140.10 and non-PL/VTL charges, both at 32%.

The two marijuana charges (PL 221.10 and PL 221.05) were associated with similar FTA rates during most of the study period, although rates were a few percentage points higher for the non-criminal charge (PL 221.05) in recent years. In 2012, the rate associated with PL 221.10 was a little lower (24%) and the rate associated with PL 221.05 a little higher (29%) than the average for all DATs (25%, Figure 16). One might have expected even higher FTA rates for PL 221.05 because of the mandatory status of this charge, which removes most of the arresting officer's discretionary power to deny a DAT.

Of the specific charges examined, third-degree assault (PL 120.00) was consistently associated with the lowest FTA rate in every year of the study period. During the first five years of the study, the FTA rate associated with PL 120.00 was 6% or 7% each year, rising to a high of 16% in 2010 and ending at 11% in 2012.

Figure 17  
FTA At Arraignment By Selected Charges  
2003 – 2012  
(DAT Cases)



There was a strong association between FTA and arrest-to-arraignment time: longer times were associated with higher FTA rates. Figure 18 shows that FTA rates rose with every increase in time to arraignment, and this relationship was found consistently in each year of the study period.

However, the difference between the 16-to-30-day and 31-to-45-day categories was usually only a few percentage points, and was even reversed in a couple of years. In addition, the difference between the two longest time categories was slight in many years, including in 2011 when the FTA rate was the same (37%) for both categories. In many years, particularly in the middle of the study period, the strongest effects occurred after 15 days, and again after 45 days.

This pattern changed in 2012, when FTA rates were sharply differentiated by all five time categories. The FTA rate for the 15-day-or-less category was only 4%; it rose to 13% for 16-30 days; to 21% for 16-45 days; to 26% for 46-60 days; and to 36% for over 60 days.

In 2012 FTA rates dropped from the previous year within each arrest-to-arraignment category, yet we saw in Figure 16 that the overall FTA rate for all DAT cases rose a percentage point. The overall rise was the result of many more long arrest-to-arraignment times in 2012, and fewer short times. Even though the FTA rate for each time category dropped, the decrease was almost imperceptible for the group with the longest time to arraignment — and they constituted a larger proportion of the total (as shown in Figure 14).

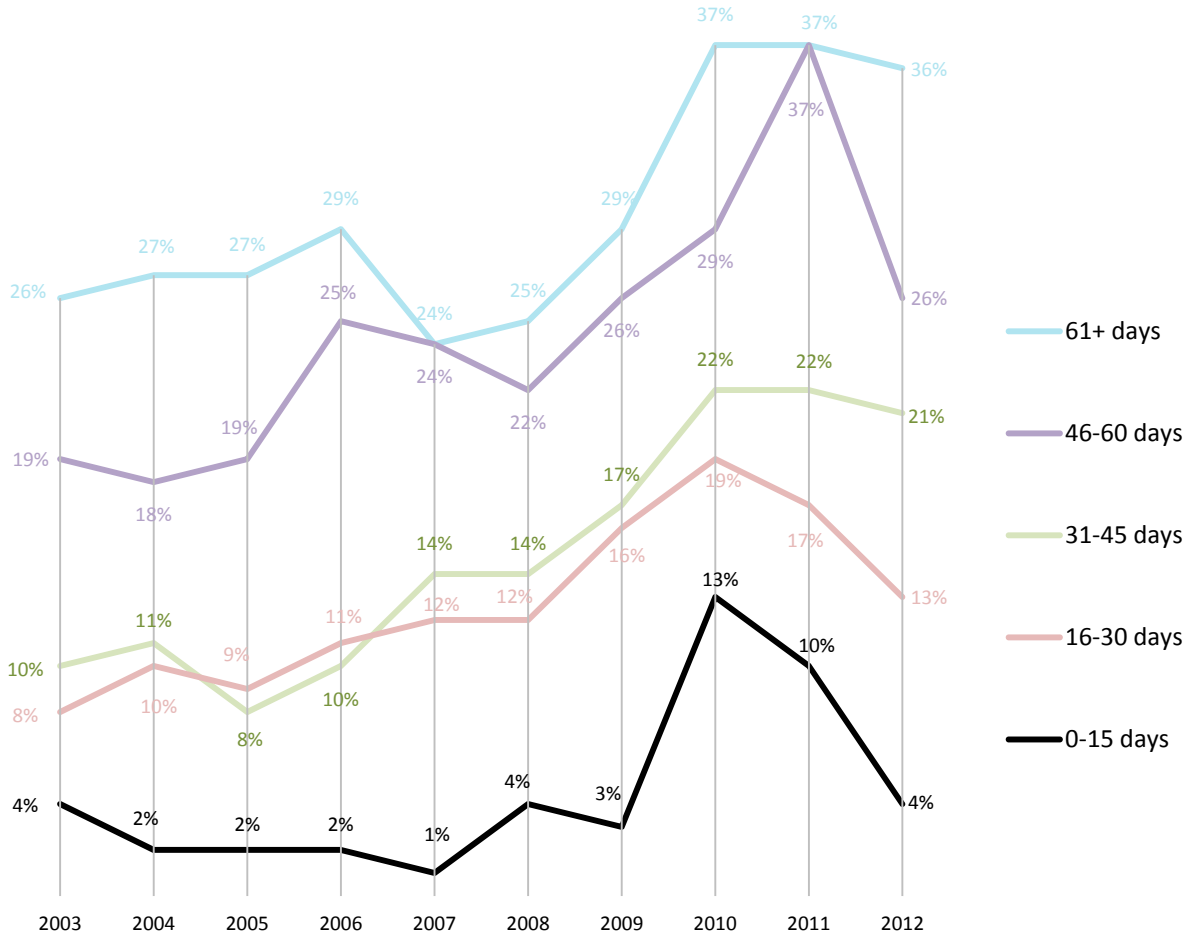
FTA rates for the 0-to-15-day category were exceptionally low, never exceeding 4% except in 2010 and 2011 (when the rates were 13% and 10% respectively). Rates for this group may not be entirely accurate, as it is possible that some cases were mislabeled as DATs when in fact the defendant was held in custody awaiting arraignment.<sup>21</sup> This would result in artificially low FTA rates. The spikes in FTA rates for this group in 2010 and 2011 occurred — perhaps not coincidentally — in years when the number of cases with the shortest elapsed times also peaked. The 0-to-15-day category had 3,171 cases in 2010 and 1,408 in 2011, compared to only a few hundred every other year. It is possible that in 2010 and 2011, mis-categorized DATs that were really custodial arrests constituted a smaller proportion of all DATs in the shortest elapsed time category, and the FTA rates for the group are therefore more accurate.

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<sup>21</sup> Measures were taken to correct erroneous arrest type information supplied by the NYPD, as described in Appendix B, but the arrest type was not re-categorized on the basis of arrest-to-arraignment time alone. All of the cases with elapsed time less than 15 days that were left categorized as DATs on the basis of NYPD information also had some other characteristic consistent with a DAT, such as a DAT court part or hearing type. If they were in fact custodial arrests, however, the effect on other analyses in this research would be minimal because DAT cases with such short elapsed times constituted a tiny proportion of all DATs (see Figure 14).



Figure 18  
FTA At Arraignment By Time To Arraignment  
2003 – 2012  
(DAT Cases)



61+ days N = 2,787	3,844	3,314	5,362	6,177	10,681	19,618	22,869	18,798	21,598
46-60 days N = 5,308	4,668	5,855	4,408	7,605	9,615	7,784	1,730	1,543	3,617
31-45 days N = 8,607	8,951	7,635	6,998	10,341	15,362	24,557	33,426	41,929	47,902
16-30 days N = 4,743	5,850	4,223	5,369	5,859	6,423	12,300	14,903	14,966	4,991
0-15 days N = 469	470	245	178	207	352	382	3,171	1,408	342

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#### IV. BOROUGH VARIATIONS

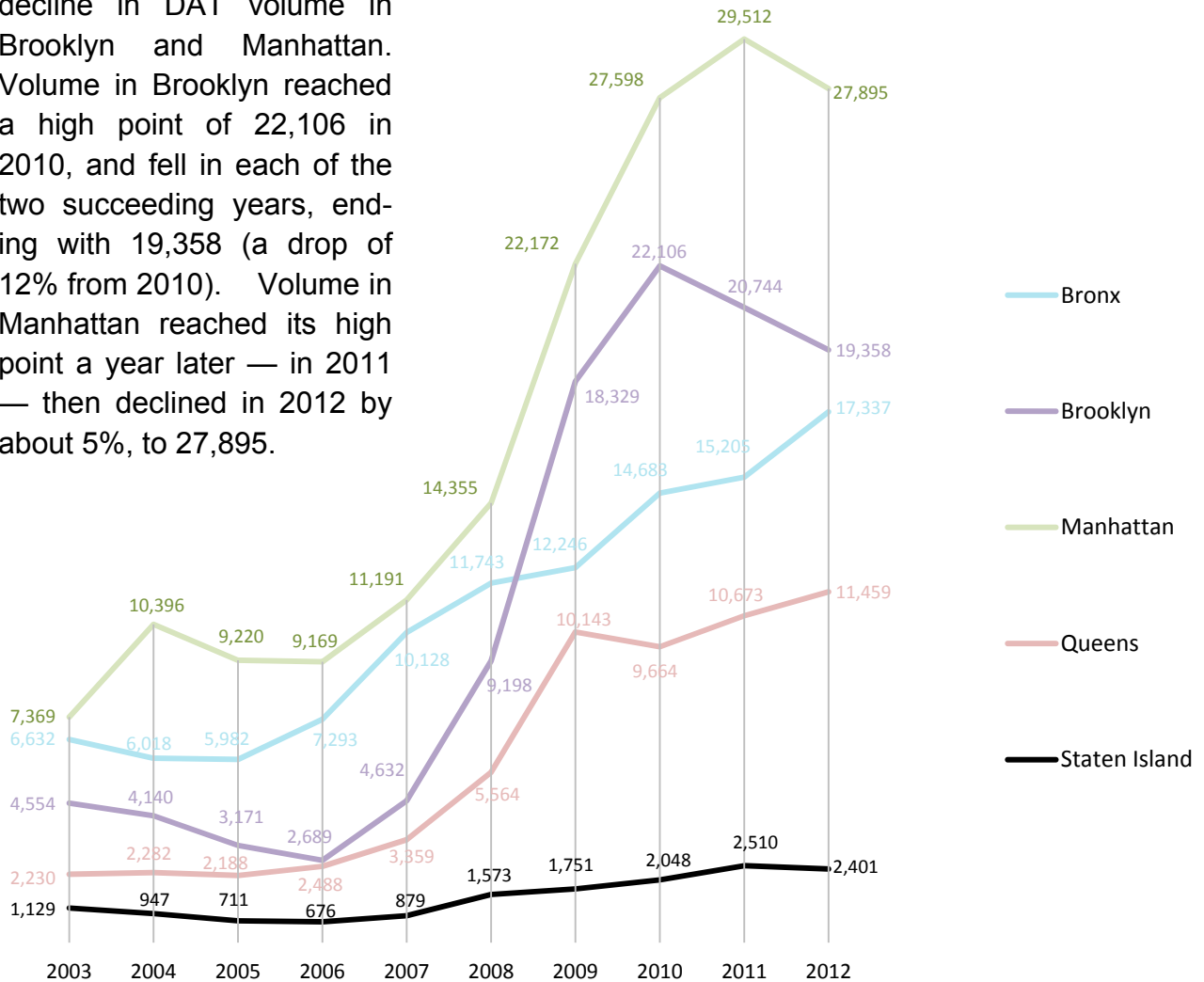
Previous analyses in this report have focused on citywide data. In this section we examine borough variations, beginning with the volume of DAT arraignments by borough from 2003 to 2012, presented in Figure 19.

##### A. DAT Volume By Borough, 2003 – 2012

Although DAT volume has risen in all boroughs since 2003, borough-specific dynamics differed.

In the latest year(s) of the study period, there was a decline in DAT volume in Brooklyn and Manhattan. Volume in Brooklyn reached a high point of 22,106 in 2010, and fell in each of the two succeeding years, ending with 19,358 (a drop of 12% from 2010). Volume in Manhattan reached its high point a year later — in 2011 — then declined in 2012 by about 5%, to 27,895.

Figure 19  
DAT Arraignment Volume By Borough  
2003 – 2012



Queens and the Bronx both experienced annual increases in DAT volume almost every year after 2005. Queens ended 2012 with 11,459 arraigned DAT cases, and the Bronx with 17,337, both of which represented the borough’s high for the decade.

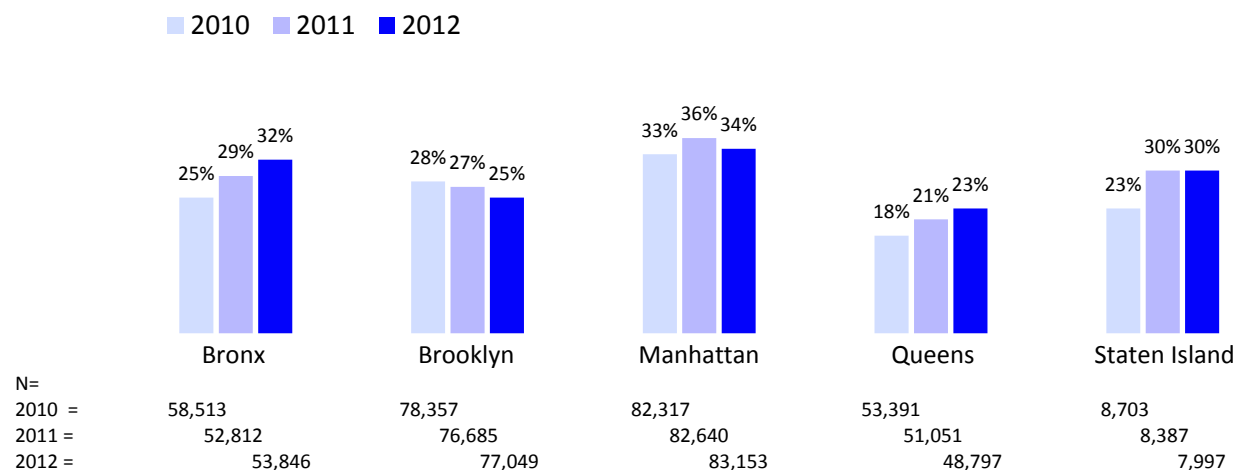
Staten Island ended the study period with double the number of DAT arraignments (2,401) than in the first year of the study (1,129). From 2010 to 2011 there was a slight rise in volume, and from 2011 to 2012 DAT volume in Staten Island remained nearly unchanged.

### B. Issuance Rates By Borough, 2010 – 2012

Figure 20 presents issuance rates by borough for the latest three years of the study period. The citywide issuance rate among arraigned non-felony cases was 29% in 2011 and 2012, up two percentage points from 2010, when it was 27% (Figure 4). In each of these years the variation by borough was fairly wide, as shown in Figure 20. Issuance rates were consistently lowest in Queens and highest in Manhattan, where the rates topped those in Queens by 15 percentage points in 2010 and 2011, and by 9 points in 2012.

Within each borough, the changes in DAT volume from 2010 to 2012 (Figure 19) reflect the same patterns of fluctuations as the issuance rates shown in Figure 20. For example, steadily rising issuance rates over these three years in the Bronx (from 25% to 32%) and in Queens (18% to 23%) coincide with rising volume in those boroughs.

Figure 20  
DAT Issuance Rates By Borough  
2010 – 2012  
(Arraigned Non-Felony Cases)



Likewise, the decline in DAT volume in Brooklyn from 2010 to 2012 reflects a decline in issuance rates (from 28% in 2010 to 25% in 2012). In Manhattan, the rise in DAT volume from 2010 to 2011, followed by a decline from 2011 to 2012, is a reflection of the same pattern found in issuance rates: 33% in 2010, rising to 36% in 2011, dropping to 34% in 2012.

Although issuance rates provide a partial explanation for changes in DAT volume, Table 2 shows that the driving force in most boroughs, especially in Brooklyn, was the volume of marijuana possession cases. The total number of arraignments of defendants charged with PL 221.10 at arrest in Brooklyn fell off sharply in 2012, down by 23% from 2011.<sup>22</sup> Issuance rates in Brooklyn fell only slightly during that period (about 2 percentage points for all non-felony charges), not enough to account fully for the size of the decline in DAT volume.<sup>23</sup> Together, these factors reduced the volume of DATs with a 221.10 arrest charge in Brooklyn by over 1,700 cases (a 25% decrease), and total DAT volume was reduced by about 7% from 2011 to 2012.

Table 2  
Change From 2011 To 2012  
In Arraignment Volume, DAT Issuance Rate, And DAT Volume  
Separately For PL 221.10 And All Non-Felony Arrest Charges

Arraignment volume	Bronx		Brooklyn		Manhattan		Queens		Staten Island	
	PL 221.10	All non-felony	PL 221.10	All non-felony	PL 221.10	All non-felony	PL 221.10	All non-felony	PL 221.10	All non-felony
2011	9,748	52,812	15,491	76,685	9,665	82,640	7,712	51,051	1,552	8,387
2012	9,328	53,846	11,896	77,049	8,647	83,153	5,479	48,797	1,245	7,997
change	-420 (-4.3%)	+1,034 (+2.0%)	-3,595 (-23.2%)	+364 (+0.5%)	-1,018 (-10.5%)	+513 (+0.6%)	-2,233 (-29.0%)	-2,254 (-4.4%)	-307 (-19.8%)	-390 (-4.7%)
Issuance rate										
2011	44.3%	28.7%	45.8%	27.0%	60.7%	35.6%	41.3%	20.8%	47.3%	29.7%
2012	51.7%	32.2%	44.8%	25.1%	56.5%	33.5%	50.1%	23.5%	52.4%	29.9%
change	+7.4	+3.0	-1.0	-1.9	-4.2	-2.1	+8.8	+2.7	+5.1	+0.2
DAT volume (non-felony)										
2011	4,316	15,205	7,100	20,715	5,869	29,434	3,187	10,619	734	2,494
2012	4,821	17,314	5,330	19,347	4,888	27,875	2,746	11,443	653	2,390
change	+505 (+11.7%)	+2,132 (+14.0%)	-1,770 (-24.9%)	-1,368 (-6.6%)	-981 (-16.7%)	-1,559 (-5.3%)	-441 (-13.8%)	+824 (+7.8%)	-81 (-11.0%)	-104 (-4.2%)

<sup>22</sup> Presumably this means fewer marijuana possession arrests, a development that was anticipated after an NYPD directive in September 2011 warned officers not to make arrests for small amounts of marijuana unless it is in public view (Harris 2011). However, we refer to arraignment volume rather than arrest volume to ensure accuracy since nondocketed arrests were not included in the study.

<sup>23</sup> The charges associated with the greatest reductions in issuance rates in Brooklyn were 220.03, which dropped from 21% to 14% in which a DAT was issued, and non-PL/VTL charges, which dropped from 19% to 13% (not shown).

A similar dynamic was found in Manhattan, where arraignment volume for PL 221.10 fell by 11% and the issuance rate for all non-felony offenses fell by 2 percentage points (4 points for cases with a 221.10 arrest charge). As a result, there were nearly 1,000 fewer DAT arrests on the 221.10 charge in 2012 compared to the previous year, and overall DAT volume in Manhattan declined by 5%.

Every borough experienced a decline in marijuana possession cases from 2011 to 2012, but this did not necessarily translate into a decline in DAT volume. In Queens and the Bronx, the decline in volume was more than offset by higher issuance rates. This was particularly true in Queens, where arraignment volume for 221.10 dropped by 29%, the largest decline of any borough. However, both boroughs also experienced increases in the issuance rate, and — more important — the rates went up the most for defendants charged with 221.10. Issuance for 221.10 cases rose by 7 percentage points in the Bronx and by about 9 points in Queens. In both boroughs there was a net increase in DAT volume in 2012, but volume was not nearly as high as it would have been without the decline in marijuana volume.

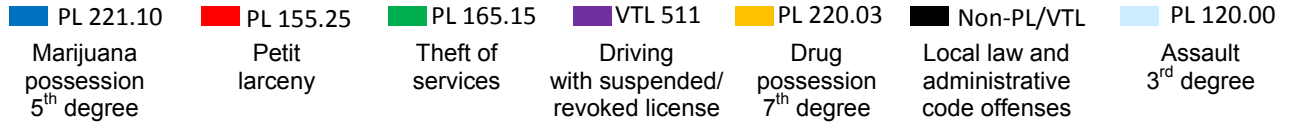
### **C. DAT Arrest Charges By Borough, 2012**

The seven DAT arrest charges that were most frequent citywide (Figure 5) were re-examined for their distribution by borough among 2012 cases. The results are shown in Figure 21. (As previously noted, the seven most frequent DAT charges in 2012 were also the seven most frequent arrest charges among all arraigned cases.)

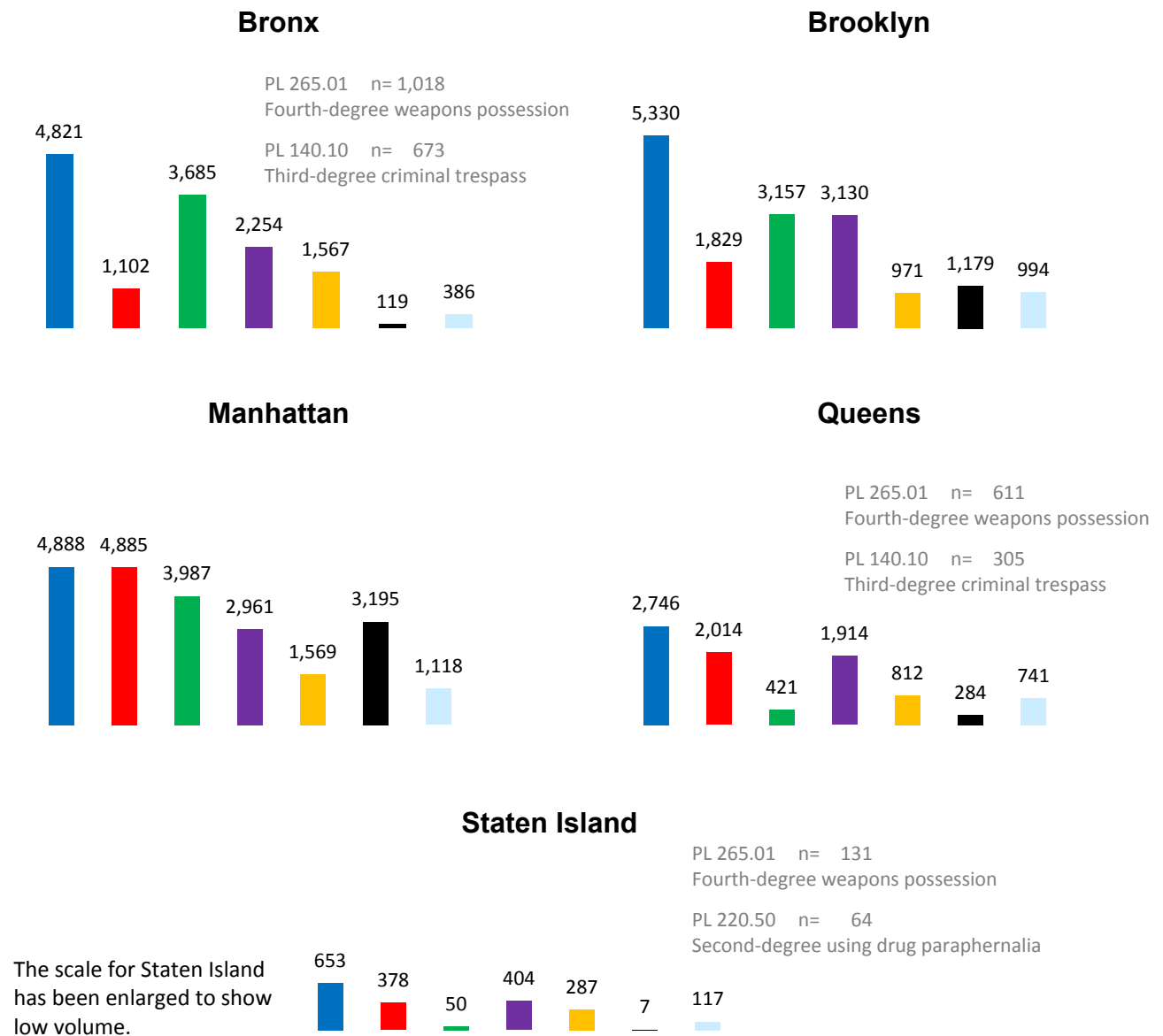
In some boroughs the most numerous DAT charges included a few that were not among the top seven citywide. For example, DAT arrests for PL 265.01 (class A misdemeanor, weapon possession) and PL 140.10 (class B misdemeanor, criminal trespass) were more numerous in the Bronx and Queens than some of the citywide top seven. In Staten Island, PL 265.01 and PL 220.50 (class A misdemeanor, using drug paraphernalia) were among the top seven. These are noted in Figure 21 in gray text, but they are not represented by bars.

Another borough difference was the greater prominence in Manhattan of petit larceny and non-PL/VTL charges. In Manhattan, petit larceny was tied in first place with PL 221.10, which was the volume leader by far in each of the other four boroughs. Non-PL/VTL charges were also far more common among DAT arrests in Manhattan than elsewhere — especially the Bronx and Staten Island, where there were almost none.

Figure 21  
Volume Of Most Frequent DAT Arrest Charges By Borough  
2012  
(Arraigned Cases)



Charges added in gray are among the top seven in volume in a specific borough, but not citywide.



#### **D. Issuance Rates For Selected Charges By Borough, 2012**

DAT issuance rates were examined by borough for the seven most frequent charges citywide (including non-PL/VTL offenses). Citywide issuance rates for these charges from 2003-2012 were presented in Figure 7. Borough variations are presented in Figure 22 for 2012 only.

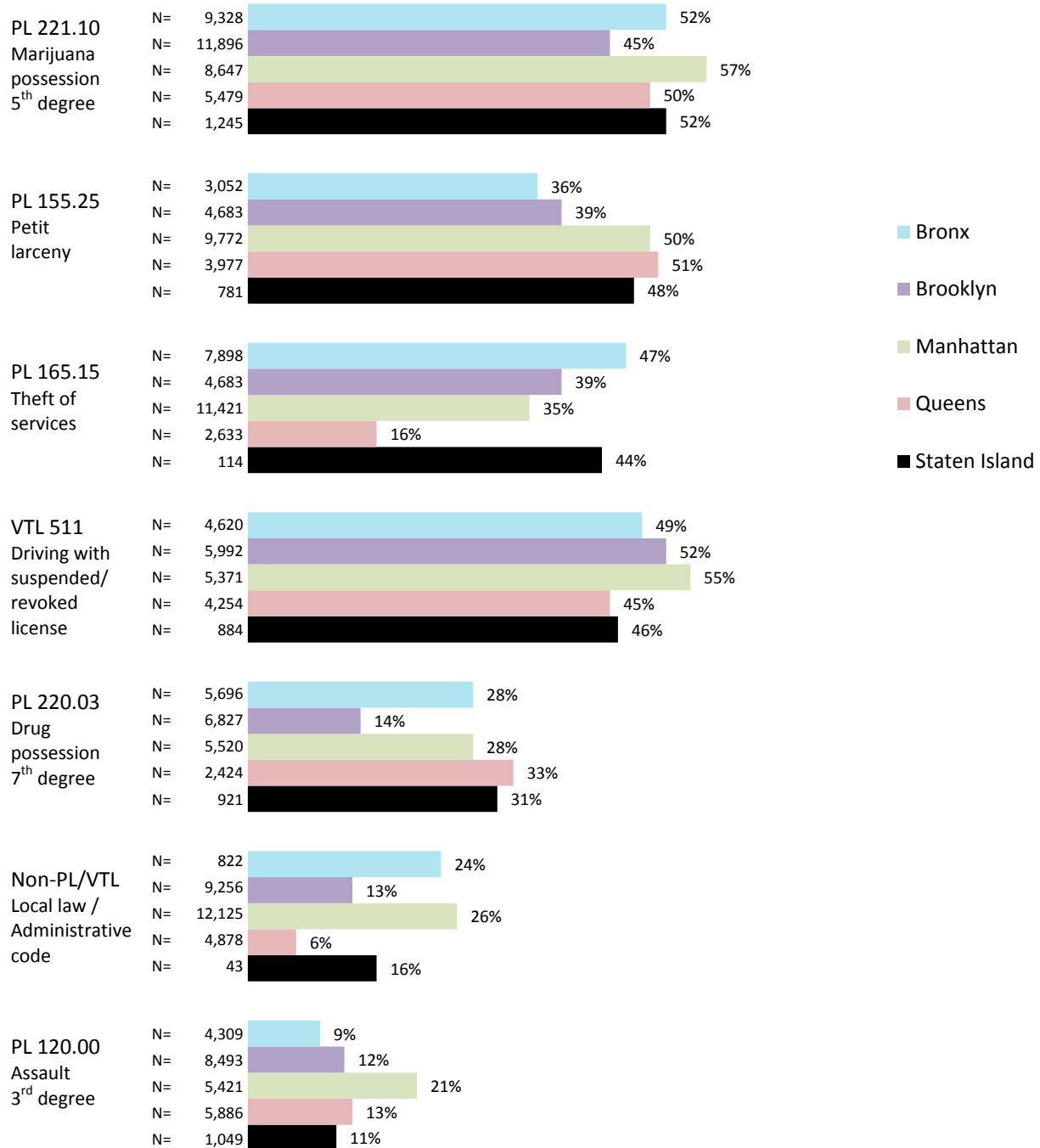
We have already seen that Queens has had the lowest overall issuance rates in recent years (Figure 20). Figure 22 shows that this was especially true for theft of services (PL 165.15), for which Queens had an issuance rate of 16%, compared to 35% to 47% elsewhere; and for non-PL/VTL charges (6% in Queens, compared to 13% to 26% elsewhere). However, Queens did not have low issuance rates for every charge: in fact, the highest issuance rates for petit larceny (PL 155.25) and drug possession (PL 220.03) were found in Queens (51% and 33%, respectively).

The charges with the most variation in issuance rates by borough were theft of services (which varied from 16% in Queens to 47% in the Bronx), non-PL/VTL charges (which varied from 6% in Queens to 26% in Manhattan), and drug possession (which varied from 14% in Brooklyn to 33% in Queens).

Charges with the most consistent issuance rates from borough to borough were marijuana possession (PL 221.10), with rates between 45% and 57% in every borough; and driving with a suspended or revoked license (VTL 511), with rates between 45% and 55% in every borough. Even though these rates were relatively consistent, they still varied by 10 to 12 percentage points from borough to borough.



Figure 22  
 DAT Issuance Rates For The Most Frequent Arrest Charges\* By Borough  
 2012  
 (Arraigned Cases)



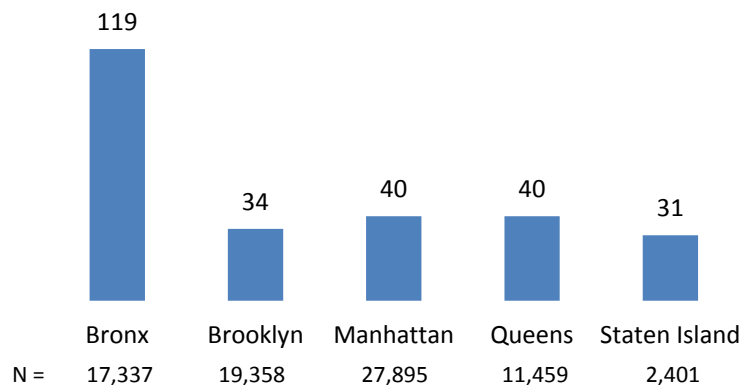
\* The top seven charges in volume were the same for all arraigned arrests and for DAT arrests in 2012.

### E. Time From Arrest To Arraignment By Borough, 2012

Borough differences in the time from arrest to arraignment were pronounced, as indicated by the median times (Figure 23) and the proportion of cases in each time category (Figure 24).

The median arrest-to-arraignment time was shortest in Staten Island (31 days) and longest in the Bronx (119 days). The other three boroughs had medians of 34 days (Brooklyn) and 40 days (Manhattan and Queens). The citywide increase in arrest-to-arraignment time from 2011 to 2012 (Figure 13) was accounted for almost entirely by the Bronx, where the median rose from 102 to 119 days, and Queens, where the median doubled from 20 to 40 days (not shown).

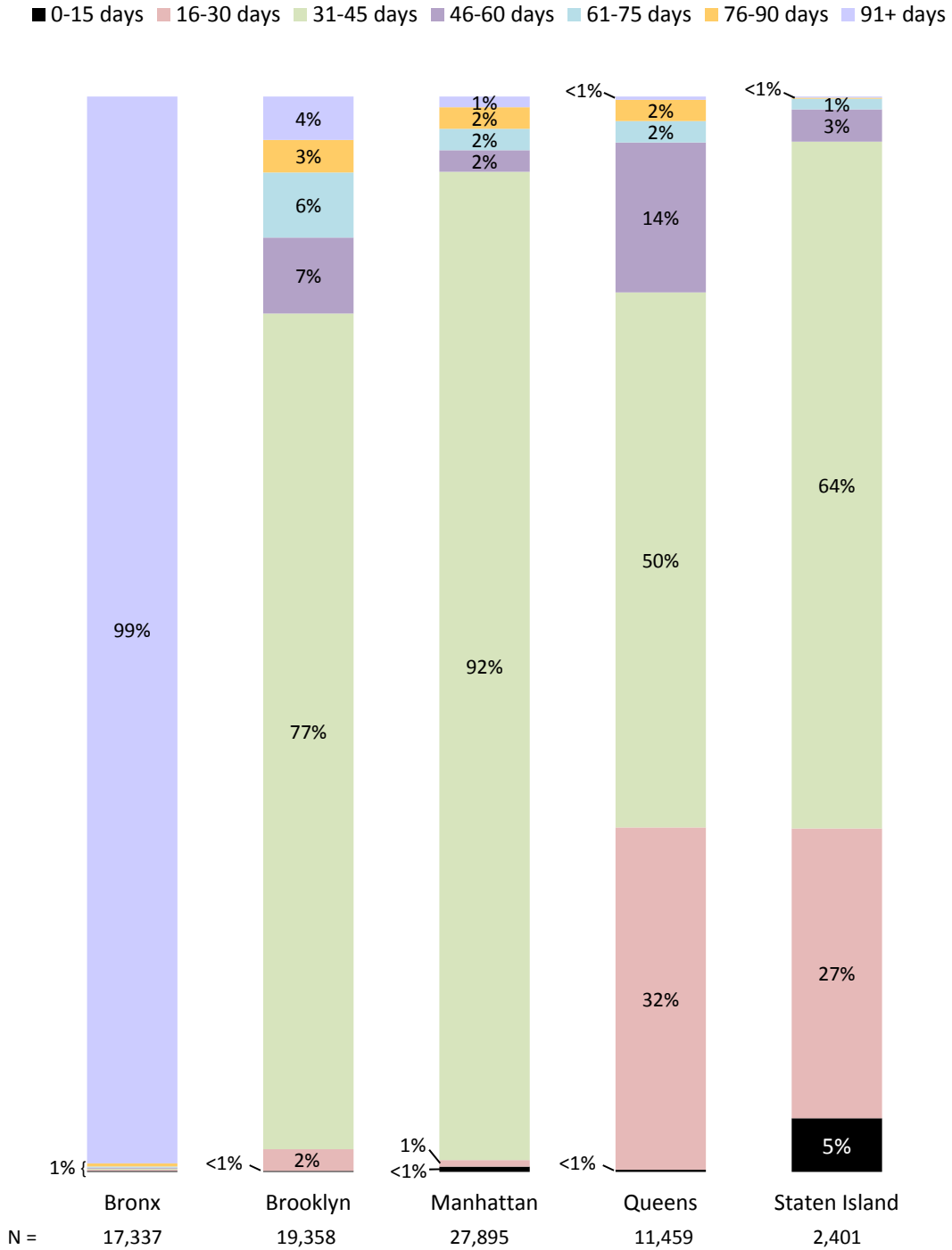
Figure 23  
Median Number Of Days From Arrest To Arraignment By Borough  
2012  
(DAT Cases)



In the Bronx, virtually all DAT arraignments in 2012 took place more than 90 days after arrest (99%, Figure 24). This compares to 4% in Brooklyn and 1% or less in the other three boroughs. Thousands of Bronx DAT defendants were told to return for their arraignments more than four months after arrest (7,553, or 44%) and the wait for some was longer than six months (67, not shown).

Queens and Staten Island were the only boroughs with large numbers of DAT arraignments within 30 days of arrest. In both boroughs almost a third of DAT defendants were arraigned within 30 days.

Figure 24  
 Time From Arrest To Arraignment By Borough  
 2012  
 (DAT Cases)



Totals may not equal 100% because of rounding.

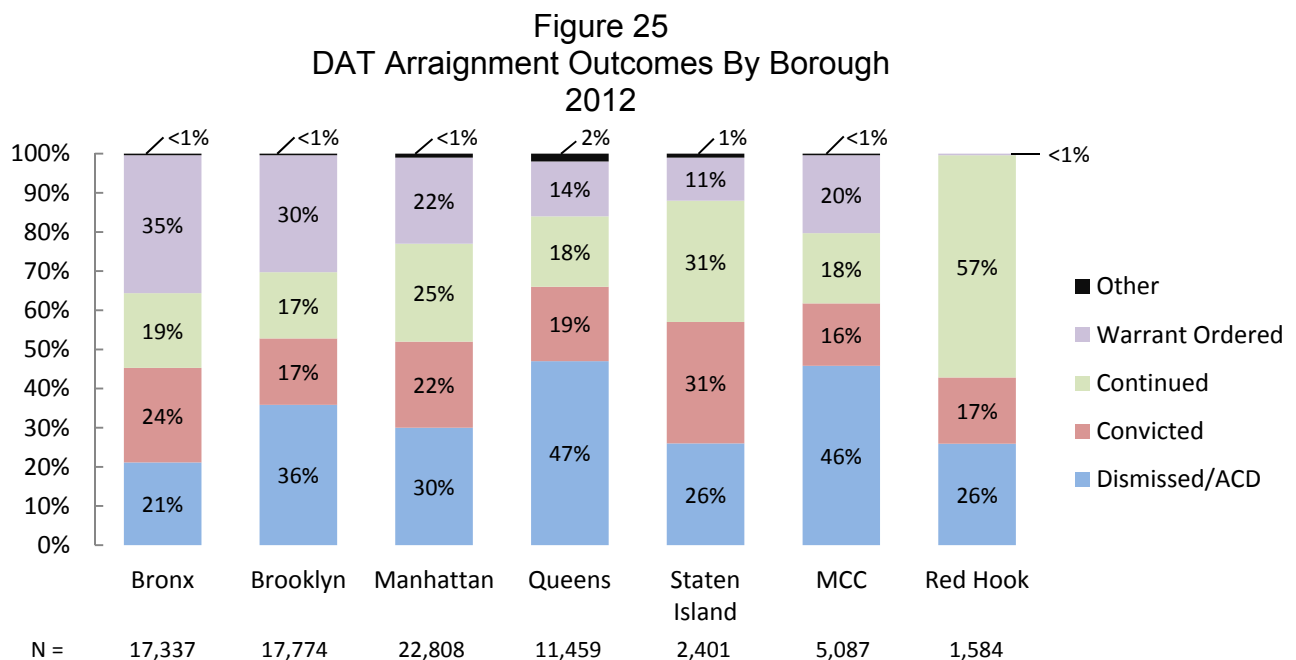
## F. DAT Arraignment Outcomes & FTA By Borough, 2012

Large borough variations were also found in DAT arraignment outcomes (for citywide arraignment outcomes, see Figure 15). Arraignment outcomes are shown in Figure 25, with data for the community courts in Brooklyn and Manhattan presented separately. Dismissal at arraignment, including adjournment in contemplation of dismissal (ACD), was far more common in Queens (47%) than in any other borough. The Bronx had the lowest dismissal rate, at 21%.

The community courts differed from the Criminal Courts in the same borough, but in opposite directions. The Manhattan Midtown Community Court (MCC) had a much higher dismissal rate (46%) than in the Manhattan Criminal Court (30%), whereas the dismissal rate in the Red Hook Community Justice Center (26%) was lower than in the Brooklyn Criminal Court (36%).

Conviction rates at arraignment were lowest in Brooklyn, both in the Red Hook Community Justice Center and in the Brooklyn Criminal Court (both 17%). The Midtown Community Court had an even lower conviction rate of 16%, considerably lower than the conviction rate in the downtown Manhattan court (22%). The highest conviction rate was found in Staten Island, at 31%.

Failure to appear for DAT arraignments ranged from almost zero in Red Hook<sup>24</sup> (two cases) to 35% in the Bronx. The lowest FTA rates, other than in Red Hook, were found in Queens and Staten Island, where the rates were 14% and 11% respectively.



<sup>24</sup> This was not attributable to any difference in time to arraignment, which was actually a few days longer in Red Hook than in the Brooklyn Criminal Court (not shown).

## **V. MULTIVARIATE STATISTICAL MODELS PREDICTING DAT ISSUANCE & FTA**

### **A. DAT Issuance**

A multivariate model predicting the likelihood that a DAT will be issued was developed for cases of defendants arrested in 2011 on non-felony charges and subsequently arraigned. The results of that analysis are presented in Table 3.<sup>25</sup>

There were significant borough differences in the likelihood that a DAT would be issued, even after taking into account the differing charge composition and ethnic characteristics of cases and defendants in different boroughs. Because the DAT issuance decision precedes the court of arraignment, the community courts in Manhattan and Brooklyn were combined with other cases in the same borough for this analysis. Compared to the probability of DAT issuance in Manhattan, the probability was significantly lower throughout the rest of the City, but especially in Queens. The odds of a non-felony defendant being issued a DAT in Queens were less than half (.443) the odds in Manhattan, given similar charge and defendant characteristics. The predicted probability statistics tell the same story: the predicted probability of DAT issuance in Manhattan was 34%, compared to 20% for Queens, controlling for all other factors in the model. (Note that the actual issuance rates reported in Figure 20 for 2011 were slightly higher at 36% for Manhattan and 21% for Queens. The close similarity of the predicted probabilities to the actual rates indicates that only a tiny part of the bivariate results could be accounted for by borough differences in charge or defendant demographics.)

Because the comparison of predicted probabilities is more easily understood than odds ratios, the rest of the discussion of multivariate models will focus on predicted probabilities. Odds ratios and standardized betas are also presented in Tables 3 and 4 for readers who are interested in these statistics. (See Appendix C for an explanation of all the statistics used in the models.)

Demographic characteristics also made a significant difference, controlling for borough and charge factors. The higher DAT issuance rates for females, youths, and whites that were presented in Figures 10-B (gender), 11-B (age), and 12-B (ethnicity) were confirmed in the multivariate analysis. The predicted probability that a DAT would be issued was 39% for white defendants, compared to 28% for Hispanics, 26% for blacks, and 16% for Other ethnicity. In addition, teenagers were more likely than older defendants to be issued a DAT, with predicted probabilities of 35% for teenagers compared to 27% for everyone aged 20 and older. Finally, females were more likely than

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<sup>25</sup> Models for both DAT issuance and FTA were tested using the interim 2012 dataset with very similar results. However, over 23,000 cases in the interim 2012 dataset were missing ethnicity (8% of all arraigned non-felony cases, and 22% of DATs). Because ethnicity was a statistically significant predictor in both models, it was preferable to use the 2011 dataset, for which more complete data were available. The interim dataset was prepared prior to the annual NYPD update that supplies missing ethnicity data for most cases.

males to be issued a DAT, with predicted probabilities of 39% (females) compared to 26% (males).

The most important determinant of DAT issuance was the charge. The 15 most frequent non-felony charges in 2011 — all with a volume above 3,000 — were examined in the model in their order of frequency among arraigned cases with a non-felony arrest charge. PL 221.10 tops the list as the most frequent charge for any arrest type (44,168 arraignments were held in 2011 for a defendant arrested on a charge of 221.10); we have already seen that this low-level marijuana possession charge was also the most frequent charge among DATs.

The predicted probability of DAT issuance was 13% for all other charges, not including the 15 with the highest volume. Low-volume charges clearly were not often considered for a DAT, although there were over 40,000 non-felony cases in this reference group (not shown). By contrast, predicted probability of a DAT was over 40% for arrests involving marijuana possession (PL 221.10, 47%), driving with a suspended license (VTL 511, 46%), weapon possession (PL 265.01, 43%), and criminal trespass (PL 140.10, 42%). Predicted probabilities were nearly as high among arrests for theft of services (PL 165.15) and petit larceny (PL 155.25), at 33% for each.

On the other hand, the predicted probability of DAT issuance was less than one percent among arrests for driving under the influence of alcohol or drugs (VTL 1192) or sale of marijuana (PL 221.40), and only 4% for obstruction of government administration (PL 195.05). The marijuana sale charge was excluded from eligibility for a DAT according to NYPD guidelines; the other two charges were excluded under some but not all conditions. DATs were sometimes issued for all three charges, but only rarely.

Fourth-degree criminal mischief (PL 145.00) and third-degree assault (PL 120.00) had moderate predicted probabilities of DAT issuance — 17% and 18% respectively — although defendants charged with these offenses were excluded under certain conditions. Three additional charges with mixed eligibility had among the highest predicted probabilities of DAT issuance: VTL 511, PL 265.01, and PL 140.10 all had predicted probabilities of over 40% (see Appendix A).

As expected, the predicted probability that a DAT would be issued was higher for all eligible charges grouped together (31%) than for ineligible charges as a group (22%).<sup>26</sup>

The severity of the charge had a small additional impact: arrest on an unclassified misdemeanor was more likely to result in a DAT (36% predicted probability) than other non-felony severity classes (26% to 28%).

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<sup>26</sup> As noted earlier, our measure could not precisely capture ineligible charges because we lacked information about subsections and specified conditions. As a result, the “eligible” category is restricted to charges that are eligible without condition, and the “ineligible” category includes charges with mixed eligibility.

TABLE 3  
 Logistic Regression Model Of DAT Issuance  
 Arraigned Cases With Non-Felony Arrest Charge  
 2011 Arrests (N=263,754)

Independent Variable	Dependent variable = <b>DAT Issuance</b>		
	Standardized Beta	Odds Ratio	Predicted Probability of DAT issuance
Borough <i>Reference category = Manhattan (including MCC)</i>	***		Manhattan = 34%
Brooklyn (including Red Hook)	-.13***	0.670	27%
Queens	-.23***	0.443	20%
Staten Island	-.06***	0.617	25%
Bronx	-.09***	0.720	28%
Defendant's Ethnicity: <i>Reference category = White</i>	***		White = 39%
Black	-.26***	0.491	26%
Hispanic	-.20***	0.553	28%
Other	-.19***	0.251	16%
Defendant Is Age 19 or Younger	.12***	1.578	Age 20 or older = 27% 35%
Defendant Is Female	.18***	1.987	Male = 26% 39%
<b>Charge Variables</b>			
Top Arrest Charge <i>Reference category = Other (not among the top 15 non-felony charges in volume)</i>	***		Other = 13%
PL 221.10 (B misd., marijuana possession-5)	.51***	6.786	47%
Non-PL/VTL (administrative code/local law)	.10***	1.591	19%
PL 165.15 (misd./violation, theft of services)	.27***	3.664	33%
PL 120.00 (A misd., assault-3)	.08***	1.466	18%
PL 155.25 (A misd., petit larceny)	.25***	3.528	33%
PL 220.03 (A misd., drug possession-7)	.13***	1.964	22%
VTL 511 (misd./infraction, driving w/suspended license)	.34***	6.454	46%
PL 265.01 (A misd., weapon possession-4)	.22***	5.746	43%
PL 140.10 (B misd., criminal trespass-3)	.20***	5.350	42%
VTL 1192 (misd./infraction, DWI)	-.41***	0.021	0.3%
PL 140.15 (A misd., criminal tampering-2)	.08***	2.215	24%
PL 221.40 (A misd., marijuana sale-4)	-.32***	0.039	0.6%
PL 145.00 (A misd., criminal mischief-4)	.03***	1.377	17%
PL 195.05 (A misd., obstruction of govt adm-2)	-.13***	0.237	4%
PL 240.20 (Violation, disorderly conduct)	.04***	1.633	19%
Arrest Charge Is DAT-eligible	.20***	1.784	Not DAT-eligible = 22% 31%
Severity Class of Top Arrest Charge <i>Reference category = class A misdemeanor</i>	***		Class A misd. = 28%
Class B misdemeanor	-.05***	0.859	26%
Unclassified misdemeanor	.10***	1.546	36%
Infraction or Violation (non-criminal)	-.02*	0.908	27%

Nagelkerke R<sup>2</sup> = .222

Significance levels: \* ≤ .05  
 \*\* ≤ .01  
 \*\*\* ≤ .001

Blue highlight = not eligible for a DAT according to NYPD guidelines.

Yellow highlight = specified subsections or conditions not eligible for a DAT.

## **B. Failure To Appear For DAT Arraignment**

A model predicting failure to appear (FTA) for a DAT arraignment is presented in Table 4, again using DAT arrests in 2011. Case and defendant characteristics were examined for their effect on likelihood of FTA, along with a variable that measured CJA's ability to notify the defendant of the scheduled arraignment date.<sup>27</sup>

Despite prior research suggesting that a long delay between arrest and arraignment does not affect the defendant's likelihood of appearance (Gewirtz 1989, Cosgrove 1993), the current research confirmed the common-sense hypothesis that long delays do in fact increase failure to appear. The time between arrest and arraignment was one of the strongest predictors of FTA among 2011 DAT arrests, even after controlling for the effects of charge, demographic factors, borough, and the availability of contact information for the defendant. Arraignments more than 45 days after arrest increased the predicted probability of FTA to 42%, compared to 20% for arraignments in the 16-to-45-day range, and only 14% for arraignments within 15 days.

The arrest charge was also an important factor. The top nine arrest charges in descending order of their frequency in the sample of DAT cases were entered separately,<sup>28</sup> and all other charges were combined for comparison. Driving with a suspended or revoked license and committing a non-PL/VTL (Local Law or Administrative Code) offense were associated with predicted FTA rates of 40% and 39% respectively, nearly double the predicted rates for all other charges (22%). Relatively high predicted FTA rates were also associated with theft of services and third-degree criminal trespass, both at 31%, and seventh-degree drug possession, at 29%. Charges associated with lower than average predicted probability of FTA were fifth-degree marijuana possession (18%) and third-degree assault (17%). Unclassified misdemeanors and non-criminal infractions or violations were also associated with relatively low predicted FTA rates (15% and 21% respectively), compared to Class A misdemeanors (27%) and other charge severities.

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<sup>27</sup> CJA attempts to notify DAT defendants of their scheduled arraignment dates by letter and telephone, using contact information supplied by the NYPD. Information was not available for this research regarding the success of notification efforts, but we did have the NYPD-supplied telephone numbers and addresses. The presence of this information indicates CJA's ability to attempt notification, and its absence indicates that notification could not have been attempted. In 2011, no telephone number or address was available for 14% of arraigned DAT defendants, with large borough differences: 4% in Brooklyn, 10% in Manhattan, 23% in Queens, 34% in Staten Island, and 27% in the Bronx for whom no notification could be attempted. (The percentages for Brooklyn and Manhattan include the community courts.) For most defendants with either type of contact information, only the address was in the database. No telephone number was available for the vast majority: 79% citywide, with borough percentages ranging from 64% in Staten Island to 91% in Manhattan with no telephone number.

<sup>28</sup> These are the same charges, but in a different order, as the first nine charges analyzed in the DAT issuance model (Table 3). The other six charges entered in the DAT issuance model were associated with too few cases to be analyzed separately in the FTA model, which used a smaller sample because only DAT cases were included.



TABLE 4  
 Logistic Regression Model Of Failure To Appear For A DAT Arraignment  
 2011 DAT Arrests (N=74,476)

Independent Variable	Dependent variable = FTA		
	Standardized Beta	Odds Ratio	Predicted Probability of FTA
Borough: <i>Reference category = Manhattan</i>	***		Manhattan = 27%
Brooklyn	.13***	1.346	33%
Queens	-.10***	0.754	23%
Staten Island	-.14***	0.464	16%
Bronx	-.21***	0.592	19%
Midtown Community Court	-.03**	0.885	25%
Red Hook Community Court	-.69***	0.003	0.1%
Defendant's Ethnicity: <i>Reference category = White</i>	***		White = 18%
Black	.31***	1.837	28%
Hispanic	.18***	1.442	24%
Other	ns	1.103	20%
Defendant Is Age 19 or Younger	.03**	1.063	Age 20 or older = 25% 26%
Defendant Is Female	-.10***	0.781	Male = 26% 22%
Contact Information <i>Reference category = No address or telephone</i>	***		No contact info = 26%
Telephone number and address	-.14***	0.675	20%
Telephone number only	-.10***	0.622	19%
Address only	ns	1.012	26%
Time To Arraignment <i>Reference category = 16-45 days</i>	***		16-45 days = 20%
0-15 days	-.05***	0.666	14%
46+ days	.53***	3.248	42%
<b>Charge Variables</b>			
Top Arrest Charge: <i>Reference category = all other</i>	***		All other charges = 22%
PL 221.10 (B misd., marijuana possession-5)	-.10***	0.797	18%
PL 155.25 (A misd., petit larceny)	ns	1.044	22%
PL 165.15 (misd./violation, theft of services)	.18***	1.682	31%
VTL 511 (misd./infraction, driving w/ suspended license)	.31***	2.632	40%
PL 220.03 (A misd., drug possession-7)	.11***	1.514	29%
Non-PL/VTL (administrative code/local law)	.23***	2.446	39%
PL 120.00 (A misd., assault-3)	-.06**	0.754	18%
PL 265.01 (A misd., weapon possession-4)	ns	1.070	23%
PL 140.10 (B misd., criminal trespass-3)	.09***	1.689	31%
Arrest Charge Is DAT-eligible	.14***	1.371	Not DAT-eligible = 21% 26%
Arrest Charge Is Photographable	ns	1.145	Not photograph. = 25% 27%
Severity Class of Top Arrest Charge <i>Reference category = class A misdemeanor</i>	***		Class A misd. = 27%
Felony	ns	1.130	29%
Class B misdemeanor	.07*	1.163	29%
Unclassified misdemeanor	-.26***	0.469	15%
Infraction or Violation (non-criminal)	-.09***	0.695	21%

Nagelkerke R<sup>2</sup> = .116

Significance levels: \* ≤ .05  
 \*\* ≤ .01  
 \*\*\* ≤ .001

Yellow highlight = specified subsections or conditions not eligible for a DAT.

It is noteworthy that DAT-eligible charges as a group were associated with a higher predicted probability of FTA (26%) than ineligible charges (21%). Moreover, there was no statistically significant difference in FTA between photographable charges — a subset of ineligible charges — and all others.

Demographic factors associated with increased risk of FTA included being black or Hispanic, male, and 19 years of age or younger. The predicted probability of FTA for whites was 18%, compared to 28% for blacks and 24% for Hispanics. For males, the predicted probability of FTA was 26%, compared to 22% for females. The effect of age was minimal, with only one percentage point separating the predicted probability of FTA for the 20-and-older group (25%) from the under-20 group (26%).

The effect on FTA of having contact information for defendants was limited to telephone numbers. Letter notification, as measured by the presence of an address in the database, did not seem to reduce FTA rates at all. The predicted probability of FTA among cases with a defendant for whom CJA had no contact information was exactly the same — 26% — as among cases with only an address (no telephone number). When a telephone number was available, the predicted probability of FTA was significantly lower, especially if the telephone number was the *only* contact information (predicted probability 19%). When both a telephone number and an address were available, the predicted FTA rate was, oddly, a percentage point higher (20%). However, we cannot conclude that letter notification does not lower FTA rates because many defendants for whom an address was available may not have received a letter. Addresses received from the NYPD may be inaccurate for a large number of defendants. Prior research has shown that when letters are received, FTA rates drop — but also that the quality of address information received from the NYPD is poor (Ben-Ami 1978, Rouse 1992).

After controlling for all these factors, the borough of prosecution remained a significant predictor of FTA at DAT arraignments, but one result was unexpected. The Bronx had the highest FTA rate in the City (35%, Figure 5), yet the multivariate model shows that the predicted probability of FTA in the Bronx (19%) was among the lowest, once other variables were taken into account. The very long arrest-to-arraignment time in the Bronx fully accounted for high FTA rates there. Controlling for time to arraignment and other factors, the highest predicted FTA rates were in Brooklyn (33%) and Manhattan (27%), and the lowest in Staten Island (16%).

The community courts were treated separately for this analysis, which showed that likelihood of FTA in either of the community courts was significantly lower than in the Criminal Court in the same borough. This was particularly striking in Brooklyn, where virtually no one failed to appear for a DAT arraignment in Brooklyn's community court, in contrast to the high predicted probability in the Brooklyn Criminal Court.

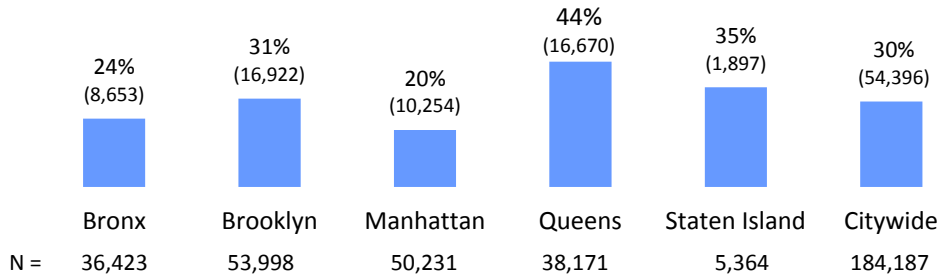
## VI. IMPLICATIONS FOR FURTHER EXPANSION IN THE USE OF DATS

One of the earliest CJA research projects summarized in our Literature Review (Chapter II) examined the CJA release recommendation assigned to defendants not issued DATs for misdemeanor arrests. The researchers concluded that “among the charge-based ineligible . . . there is a reservoir of otherwise qualified DAT candidates.” (CJA 1979, p. 5). This conclusion was based on the finding that “depending on the borough, between 25% and 40% of the misdemeanor defendants denied DATs have enough verifiable community ties to merit a recommendation for ROR at arraignment.” (ibid.)

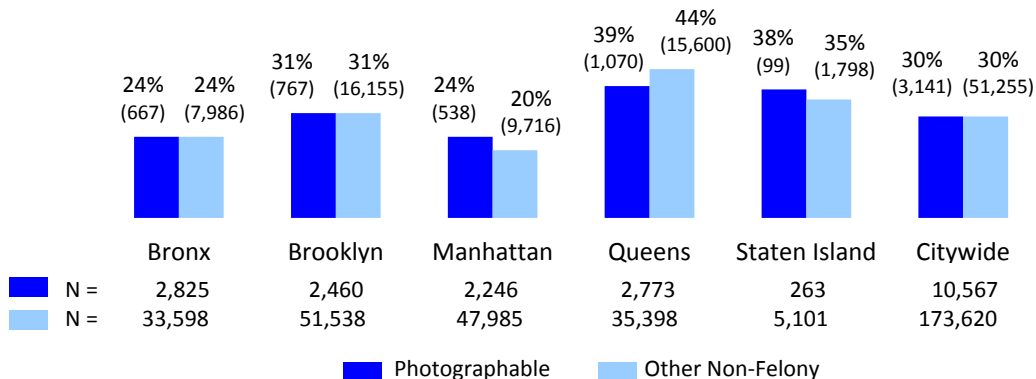
The same conclusion applies today, as shown in Figure 26. Among defendants not issued DATs for arrests on a misdemeanor or lesser severity charge, 30% were recommended for release in 2011, with borough variations ranging from 20% in Manhattan to 44% in Queens. A photographable arrest charge was rarely the reason for denial of a DAT — 10,567 cases had a non-felony photographable charge, constituting only 6% of all 184,187 non-felony on-line arrests — but defendants with photographable charges were recommended for release at the same rate as all others, 30% (with some small borough variations).

Figure 26  
Percent Recommended For Release By Borough  
Cases Of Non-Felony, Arraigned Defendants Who Were Not Offered A DAT  
2011

(a) All Cases



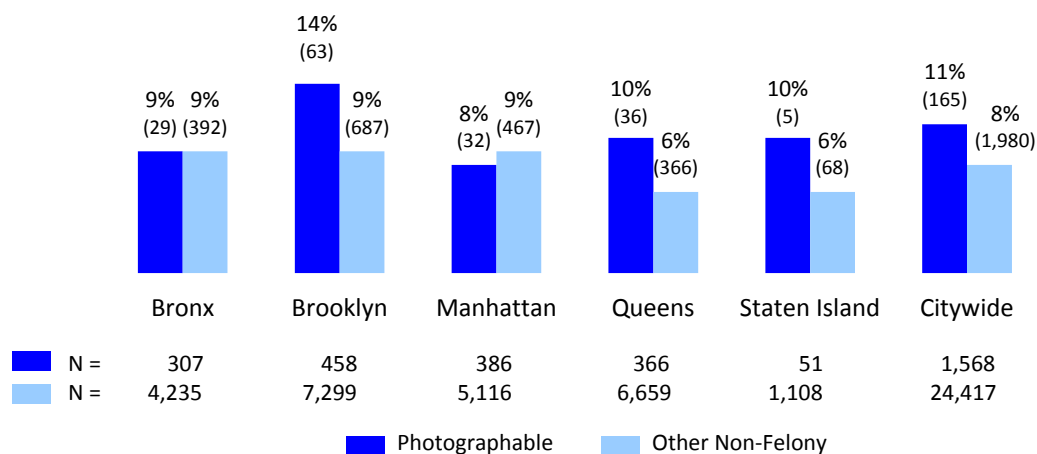
(b) By Photographable Arrest Charge



The 1979 CJA report also suggested that post-arraignment FTA rates for defendants denied DATs because of a photographable offense compared “favorably” to FTA rates for others, concluding that “a ‘photographable’ offense seems to say very little about release reliability.” (ibid.) However, no data were presented as evidence. We examined post-arraignment FTA rates for on-line cases in the 2011 dataset, restricting the analysis to non-felony defendants who had been recommended for release and were at risk for FTA (i.e., they were released prior to case disposition).

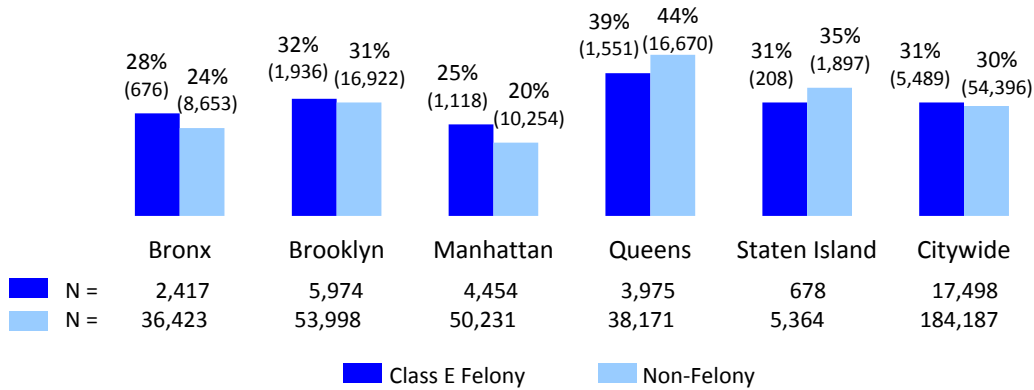
The results were inconclusive. We found a slightly higher citywide FTA rate for cases with a non-felony photographable arrest charge (11%), compared to other non-felony cases (8%). However, results were not uniform in all boroughs of the City. In the Bronx post-arraignment FTA rates were the same for photographable and all other non-felony charges (9%), and the rates were nearly the same in Manhattan (8% for photographable and 9% for other non-felony cases). In the other three boroughs, FTA rates for photographable cases were four or five percentage points above the rates for other non-felony cases.

Figure 27  
 Post-Arraignment FTA Rates For Recommended Defendants By Borough Separately For Photographable And Other Non-Felony Arrest Charge Cases Of Non-Felony, Arraigned Defendants Who Were Not Offered A DAT 2011 (At-Risk Only)



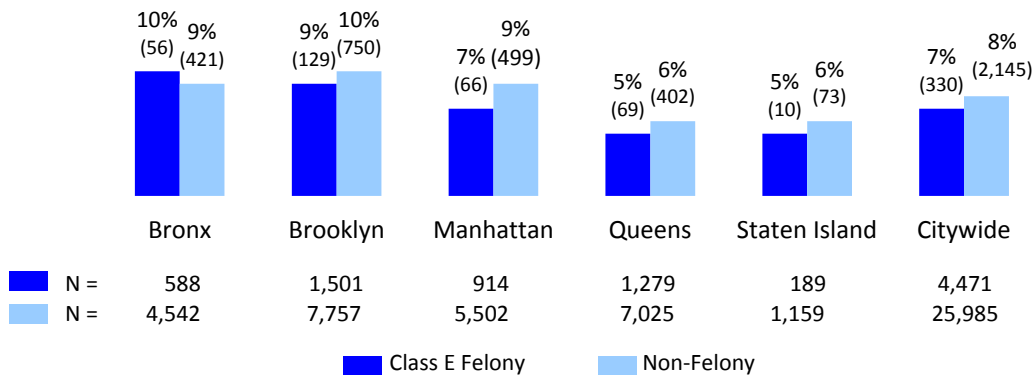
Class E felonies represent another potential pool for expanding the use of DATs. About a third of defendants arrested on a class E felony and taken into custody were at low risk of failure to appear, as shown in Figure 28. The percent of class E felony arrestees who were recommended for release (31%) was nearly the same citywide as for those arrested (and not offered a DAT) on non-felony charges (30%).

Figure 28  
 Percent Recommended For Release By Borough  
 Class E Felony\* Compared To Non-Felony  
 Cases Of Arraigned Defendants Who Were Not Offered A DAT  
 2011



Among cases with a defendant who was recommended for release, post-arraignment FTA rates for the two groups were also nearly identical — only 7% for class E felony cases, and 8% for non-felony cases (Figure 29).

Figure 29  
 Post-Arraignment FTA Rates For Recommended Defendants By Borough  
 Class E Felony\* Compared To Non-Felony  
 Cases Of Arraigned Defendants Who Were Not Offered A DAT  
 2011  
 (At-Risk Only)



\*Cases with one of the five class E felony charges excluded by law from consideration for a DAT were excluded from Figures 28 and 29.

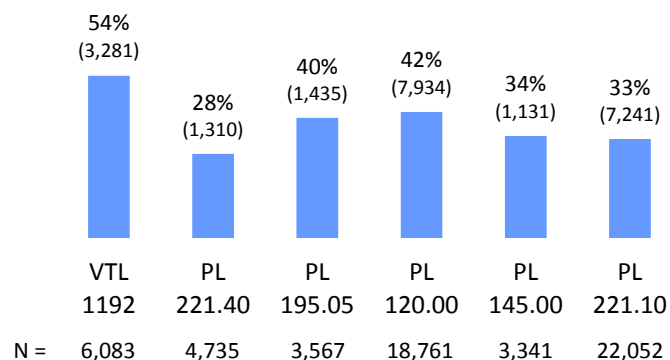
Finally, we considered five specific charges that are among the top 15 non-felony charges in volume, but are ineligible for a DAT, either conditionally or unconditionally. Two had predicted probabilities under 1%: VTL 1192 (driving under the influence of alcohol or drugs) and PL 221.40 (fourth-degree marijuana sale). The third — PL 195.05 (obstruction of government administration) — had a predicted probability of 4% that a DAT would be issued.

The other two high-volume ineligible charges considered here (both eligible under certain circumstances) are PL 120.00 (third-degree assault) and PL 145.00 (fourth-degree criminal mischief). Defendants arrested on either of these charges were more likely to be issued a DAT than those arrested on the first three charges, but the predicted probabilities were still relatively low, at 18% for PL 120.00 and 17% for PL 145.00.

PL 221.10 (marijuana possession) was also included in Figure 30, for a different reason. This is *not* an ineligible charge — it is in fact highly eligible — but because of the large number of people arrested for marijuana possession, the half who were not offered a DAT still constituted a sizable group, one that has already been targeted for expanding the use of DATs.

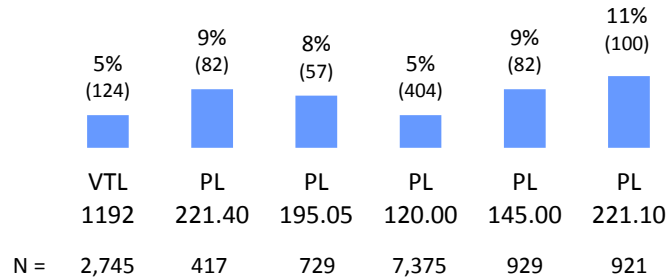
Many defendants charged with each of these six offenses and taken into custody were subsequently recommended for release, as shown in Figure 30. The proportions ranged from 28% of the PL 221.40 cases to 54% of the VTL 1192 cases. Among these six charges alone, over 20,000 cases had a defendant who appeared to be a good candidate for a DAT based on low risk of failure to appear. (Other disqualifying factors would reduce this pool, though, especially for defendants arrested on VTL 1192, who are likely to be disqualified for drunkenness, and for those arrested on PL 120.00, who would be disqualified if the assault involved domestic violence.)

Figure 30  
Percent Recommended For Release By Charge  
Cases Of Arraigned Defendants Who Were Not Offered A DAT  
2011



When we see how the recommended defendants fared in making their post-arraignment court dates, we find further evidence that they would have been good risks for a DAT. Post-arraignment FTA rates ranged between 5% and 11% for the recommended defendants arrested on any of the six selected charges shown in Figure 31. The two largest groups<sup>29</sup> — cases with an arrest charge of VTL 1192 or PL 120.00 — had the lowest FTA rate, 5%.

Figure 31  
 Post-Arraignment FTA Rates For Recommended Defendants By Charge  
 Cases Of Arraigned Defendants Who Were Not Offered A DAT  
 2011  
 (At Risk Only)



These data suggest that there is indeed a large reservoir of qualified DAT candidates charged with non-felony offenses who are currently taken into custody rather than being offered a DAT. More than 54,000 non-felony cases in 2011 had a defendant who was recommended for release by CJA after having been placed under custodial arrest (Figure 26), and they had a very low post-arraignment FTA rate (8%, Figure 27). These include defendants who were not considered for a DAT because of a photographable or otherwise ineligible offense, as well as defendants with eligible charges who were not offered a DAT. If Class E felony charges (excluding those that are ineligible by law) were also considered, more than 5,000 additional cases with a low-risk defendant would be added to the pool of potential DAT candidates.

Defendants arrested for misdemeanor assault represent a particularly large pool of potential DAT candidates, with nearly 8,000 cases in which the defendant was not

<sup>29</sup> Cases with an arrest charge of PL 221.10 did not constitute the largest group among *at-risk* cases. Although there were 7,241 cases with a PL 221.10 arrest charge and a recommended defendant (Figure 30), that number shrank to 921 for the FTA analysis, which included only defendants whose cases continued beyond arraignment with a release prior to disposition. In most marijuana possession cases the defendant was never at risk for FTA because the case was disposed at arraignment, usually by an adjournment in contemplation of dismissal (ACD) (not shown).

offered a DAT and was then recommended for release. This group had a post-arraignment FTA rate of only 5%. In many of these cases, however, the reason for denial of the DAT was probably that the victim and offender were members of the same household. This could have been the disqualifying factor in up to two-thirds of the misdemeanor assault cases with a defendant who was recommended by CJA after a DAT had been denied.<sup>30</sup> After applying this discount, nearly 3,000 cases remain in the pool of potential candidates for a DAT.

Finally, there is room to raise the issuance rates for currently eligible charges that are already among the most common DAT charges, as the example of marijuana possession illustrates. If the recommended defendants charged with PL 221.10 who were taken into custody at arrest had instead been offered a DAT, those additions would have raised the issuance rate to about 64% in 2011, with more than 7,000 additional DATs.<sup>31</sup>

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<sup>30</sup> This estimate is based on victim-offender information supplied by the NYPD. Of 7,934 custodial arrests in 2011 with a top arrest charge of PL 120.00 and a recommended defendant, 1,136 were categorized as "stranger," 984 as "friend," and 617 were put into other non-family, non-intimate categories. Together, these categories total 2,737 cases, or 34% of the 7,934 cases in the group.

<sup>31</sup> 21,206 DATs in 2011 had a top arrest charge of PL 221.10 (Figure 5). Adding to this the 7,241 who were not offered a DAT but were recommended (Figure 30), the total number of DATs would be 28,447, which is 64% of the 44,168 prosecuted arrests for PL 221.10 in 2011 (Table 1). Preliminary data for 2013 suggest that, following implementation of the new marijuana policy in May, issuance rates for 221.10 arrests have far exceeded 64% (not shown).



## **VII. SUMMARY AND DISCUSSION**

### **DAT Volume and Issuance Rates**

Initiated in the mid-1960s as a bail reform measure designed to reduce needless incarceration, DATs quickly became popular as a tool for managing NYPD and Correction Department resources as well. Use of DATs was vastly expanded in the 1990s, reaching historically high levels from 1995 to 1997 before being abruptly curtailed by the Giuliani administration. After a period of about eight years in which very few DATs were issued, volume has risen again. There were 78,644 DAT arraignments in New York City in 2011, a number that came close to the record heights of the mid-1990s. Volume leveled off in 2012 with about 200 fewer prosecuted DATs than in the previous year.

The current research focuses on the period from 2003 to 2012, during which DAT volume more than tripled. From 2003 to 2009, non-felony arrest volume rose by 31%, contributing substantially to the increase in DAT arrests. This was an ongoing effect of order maintenance policing introduced in the 1990s, which raised the proportion of non-felony arrests from less than half of the total to three quarters of all arrests by 2008 (Solomon 2011) — and to nearly 80% in 2012. Moreover, DAT issuance rates more than doubled during this period, from 10% to 22% of all non-felony arraigned cases. As a result, DAT arraignment volume rose from 21,914 in 2003 to 64,641 in 2009, fueled primarily by higher issuance rates but also by higher non-felony arrest volume.

Since 2009, however, non-felony arrest volume has declined. From 2009 to 2012 the number of non-felony arraignments fell by 5%. Only theft of services — PL 165.15, used to charge defendants accused of fare evasion — continued to account for an ever greater number of arrests, increasing by 41% from 2009 to 2012. At the same time, DAT issuance rates for all non-felony charges continued their climb, from 22% to 29%. The net result was a 21% increase in the number of DATs from 2009 (64,641) to 2012 (78,450), propelled almost entirely by higher issuance rates, along with a little help from the increase in the prosecution of fare evasion.

Bucking the citywide trend, DAT volume in Brooklyn turned downwards in 2011, followed by Manhattan the following year. In both boroughs the decline was the result of unchanging or lower issuance rates combined with a sharp decline in prosecuted arrests for marijuana possession. All boroughs experienced the decline in marijuana possession cases, but in the other three boroughs this was offset by higher DAT issuance rates. In Queens, for example, PL 221.10 arrests were down 29% from 2011 to 2012, but the issuance rate for that charge rose from 41% to 50%. As a result, Queens experienced a net increase in the number of DATs from 2011 to 2012. By contrast, in Brooklyn the issuance rate for PL 221.10 declined by one percentage point — and in Manhattan by four percentage points — from 2011 to 2012. This was enough, in combination with the lower volume of prosecuted arrests, to result in fewer DATs in Brooklyn and Manhattan in 2012.

In spite of the latest year's dip, Manhattan was the borough with the highest DAT volume as well as the highest issuance rate (34%) in 2012. Queens had the lowest issuance rate, 23%, and the lowest volume among the four largest boroughs. (The much smaller borough of Staten Island had fewer DAT arraignments but a higher issuance rate of 30%.) These borough differences remained statistically significant in a multivariate model that controlled for the effects of charge and defendant demographics.

Although citywide DAT issuance rates among non-felony cases reached 29% in 2011 and 2012, the high point of the decade, these rates remain far below earlier years. In 1977 DATs accounted for 40% of non-felony arrests citywide (Ben-Ami 1978). From 1981 to 1992, the citywide issuance rate for non-felony cases rarely dropped below 40% (Cosgrove 1993). Issuance rates in the Bronx were reported to be 56% *prior* to a 1979 project designed to expand the use of DATs (CJA 1979). This suggests that there is much room for raising issuance rates in the City far above current levels, especially in Brooklyn and Queens, where rates were 25% or lower in 2012. Higher issuance rates seem all the more feasible in light of the finding that a large proportion of defendants in non-felony cases who were not offered a DAT were at low risk for failure to appear.

Several policies implemented in the final years of the Bloomberg administration suggest that issuance rates will continue to rise — barring any policy reversals by the new administration — even in the absence of further initiatives. In May 2013 DATs became mandatory for all defendants charged with misdemeanor marijuana possession, with very few disqualifying factors. Since this is the most frequently charged offense in the City, even a small rise in its issuance rate could have a major impact on DAT volume. Also in May 2013, photographable (thus ineligible) graffiti offenses were reclassified as DAT-eligible.<sup>32</sup> The latter will have a much smaller effect, but nonetheless would have enlarged the DAT-eligible pool by over a thousand cases in 2012.<sup>33</sup>

These two policy changes were offset by the decline in marijuana arrests that began in 2012. In September 2011 Police Commissioner Raymond Kelly ordered a halt to arrests for possession of small amounts of marijuana unless it is in public view “by the suspect’s own volition.” This was already the law, but Kelly’s memo was intended to end the stop-and-frisk practice of ordering suspects to empty their pockets, and then arresting them if any marijuana was displayed as a result. Although the NYPD denied that the memo represented a change in policy (Harris 2011), it was probably responsible for the 17% decline from 2011 to 2012 in the volume of prosecuted arrests for PL 221.10.

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<sup>32</sup> Personal communication from NYPD Executive Agency Counsel Elizabeth Brady, July 31, 2013.

<sup>33</sup> The estimate was calculated by examining docketed cases in the 2012 dataset with any arrest charge of PL 145.60 (making graffiti) or PL 145.65 (possession of graffiti instruments), both of which are photographable offenses. About half of the graffiti cases had a top charge of PL 145.00, which is fourth degree criminal mischief, but is listed as an ineligible “Graffiti Offense” in the Patrol Guide. We did not include in our estimate cases with a top charge of PL 145.00 that were *not* associated with a graffiti offense.

## **DAT Charge Composition**

The same charges accounted for most DATs over the period of the research, and these were also the offenses for which a DAT was most likely to be issued. Marijuana possession (the class B misdemeanor charge, PL 221.10) has been the volume leader every year since 2003, followed by (not necessarily in the same order from year to year) petit larceny (PL 155.25), theft of services (PL 165.15), driving with a suspended or revoked license (VTL 511), drug possession (the class A misdemeanor charge, PL 220.03), non-PL/VTL charges (Local Law and Administrative Code offenses), and assault (the class A misdemeanor charge, PL 120.00). These seven charges (counting non-PL/VTL charges as one) have constituted over 80% of all DATs every year since 2009.

Issuance rates for the first four — marijuana possession, petit larceny, theft of services, and driving with a suspended license — often rose to 40% or higher in recent years. Rates for the other three were considerably lower, especially for assault, which stayed in the range of 10% to 13% throughout the study period. Even at that low issuance rate, the large volume of assault arrests put this charge among the top seven in DAT volume every year.

Many charges are excluded from consideration for a DAT by NYPD policy, and the list of excluded charges has not changed much over the years. We found issuance rates to be very low, but not zero, for some non-felony excluded charges. Among felony charges above class E severity (all of which are excluded by law and NYPD guidelines), some DATs were issued in each year of the study period, but this practice has dwindled in recent years to only a few dozen annually. When a DAT is issued for a felony arrest charge, it is usually reduced to a misdemeanor prior to arraignment. DATs for class E felony charges (allowable by law but greatly restricted by NYPD policy) have also become increasingly rare, showing that past efforts to expand the use of DATs by including class E felonies (e.g., Eckert 1991) have not borne fruit.

The statistical model predicting DAT issuance showed that of all the factors entered in the analysis, charge was the most important. Charges that were most likely to result in a DAT were PL 221.10, VTL 511, PL 265.01, and PL 140.10. Charges least likely to be associated with a DAT were (among those tested in the analysis) VTL 1192, PL 221.40, and PL 195.05 — all listed as ineligible charges in the NYPD guidelines.

## **DAT Defendant Demographics**

DAT defendants differ demographically from their counterparts in non-felony cases who are not offered a DAT. A larger proportion of DAT defendants are female, they are younger, and they are more likely to be white. This reflects higher issuance rates among females, youths under the age of 20, and whites.

All of these demographic differences persisted throughout the study period. Ethnic and gender differences have become less pronounced in recent years — the ethnic composition of DAT cases has become considerably more similar to non-felony on-line cases — but females and whites were still significantly more likely to be issued a DAT in 2011 than males or non-whites, even after controlling for possible differences in the composition of charges. Age was also a statistically significant predictor, with youths under 20 more likely to be issued a DAT than older arrestees.

### **Time from Arrest to DAT Arraignment**

Since about 2008, there has been an increase in the number and proportion of cases in which the DAT arraignment was scheduled more than two months after the arrest. This is not readily apparent from an examination of the median number of days from arrest to arraignment. The 41-day median in 2012 was longer than in the previous few years, but not as long as in 2007 and 2008, when the median times to arraignment were 44 and 45 days respectively.

More telling is that the proportion of DAT cases with more than two months from arrest to arraignment rose from 13% in 2003 to 30% in both 2009 and 2010. Although this proportion declined to 24% in 2011, it rose again (to 28%) in 2012. In 2012 this was accompanied by a shrinking proportion of cases with arrest-to-arraignment times within 30 days: only 6% in this category in 2012, down from 15% to 25% in every previous year.

Most striking was the variation by borough, a finding that echoes earlier studies but with different borough characteristics. In 1986, Manhattan scheduled DAT arraignments most quickly (the median was 20 days) and Brooklyn most slowly (median 69 days) (Gewirtz 1989). The next year, Manhattan was still the quickest at 20 days, and Brooklyn was still the slowest, but the median time in Brooklyn had risen to 84 days (Cosgrove 1993). In 2012, arrest-to-arraignment time in Manhattan was 40 days — no longer the shortest, with 34 days in Brooklyn and 31 in Staten Island — and the Bronx was off the charts with a median time to arraignment of 119 days. The Bronx had almost no DAT cases with less than three months from arrest to arraignment in 2012.

### **DAT Arraignment Outcomes**

Over the period of the research, the proportion of cases disposed at DAT arraignments has remained about the same (generally between 50% and 54%), while the dispositions themselves have shifted towards more dismissals and fewer convictions. In 2003 26% were dismissed or adjourned in contemplation of dismissal (ACD), with an equal proportion of convictions. By 2012, dismissals (including ADC) had risen to 33%, and convictions had dropped to 21%.

Almost all DAT cases disposed at arraignment without a conviction were ACDs, rather than outright dismissals. This is consistent with prior research showing that ACDs

were the most common outcome in marijuana cases, with over 50% of marijuana cases ending in an ACD in 2004, 2006, and 2008 (Solomon 2011, p. 31-32). In the current study, almost half of cases disposed in 2003 with an ACD at arraignment had a marijuana possession charge (PL 221.10). The recent decline in marijuana arrests did not lower the proportion of ACDs among arraignment outcomes, but a smaller percentage of them (about a third) in 2012 were accounted for by marijuana possession charges.

### **Failure To Appear for a DAT Arraignment**

The most important shift in arraignment outcomes has been in the proportion of DAT defendants who did not appear at arraignment, for whom a warrant was ordered. The FTA rate rose fairly steadily but slowly throughout the study period, from 14% during the first three years, to 18% during the next three years, to 22% or higher in each of the last four years. The FTA rate for DAT arraignments in 2012 was 25%.

There were wide borough variations in FTA rates, which in 2012 ranged from 11% in Staten Island to 35% in the Bronx. In the Brooklyn community court (Red Hook), FTA was virtually unknown (<1%), in contrast to a rate of 30% in the Brooklyn Criminal Court. Manhattan's community court, on the other hand, had a rate in 2012 similar to that of the downtown Manhattan Criminal Court (20% and 22% respectively).

Multivariate statistical models predicting FTA showed that other variables — especially arrest-to-arraignment time — fully accounted for the high FTA rate in the Bronx. The Bronx was also the borough with the largest percentage of DAT defendants for whom no contact information was available. When the effects of these factors on FTA were taken into consideration, in addition to charge and demographic factors, the predicted probability of FTA among Bronx cases was relatively low (19%).

The most important factor affecting FTA was the length of time from arrest to arraignment. It is a puzzle why this association was not confirmed in earlier studies (Gewirtz 1989, Cosgrove 1993), but the findings of the current research are unequivocal. A wait of longer than 45 days after arrest greatly increases the chance that a defendant will not appear for arraignment, and an arraignment within 15 days of arrest significantly lowers that chance.

Some specific DAT-eligible charges (as well as the combined group of all DAT-eligible charges) were associated with relatively high likelihoods of FTA. The risk was particularly high for defendants arrested for driving with a license that had been suspended or revoked and for non-PL/VTL charges. On the other hand, assault — ineligible under certain circumstances — was associated with a low risk of FTA. These findings suggest that charge eligibility in itself is not a good indicator of the likelihood that a defendant will appear for arraignment.

Findings concerning the relationship between notification and FTA were somewhat unexpected, in that letter notification by itself did not appear to raise the likelihood of appearance. However, our data measured only whether CJA had an address for the defendant, and not whether the defendant actually received the letter. Prior research has shown that NYPD-supplied addresses for DAT defendants are often incorrect and the letters returned. Telephone notification did significantly lower the likelihood of FTA, but no telephone number was available for the majority of DAT defendants. In Manhattan, CJA had no telephone number for over 90% of DAT defendants in 2011.

Even at 25%, current FTA rates for DAT arraignments compare favorably with earlier years. FTA rates were 33% in 1977 (Ben-Ami 1978), 36% in January 1981 (CJA 1981), and between 40% and 45% for most years between 1986 and 1992 (Rouse 1992, Cosgrove 1993, Eckert 1991, Gewirtz 1989).

### **Policy Implications**

- DATs provide a management tool that the NYPD could use more extensively to process a large number of non-felony arrests within budgetary and personnel constraints. Their expanded use would also bring New York City more fully into compliance with national standards calling for the presumption of release under the least restrictive conditions. Currently, only a handful of charges are routinely considered for DATs, and NYPD guidelines categorize many charges as ineligible. Data show that charge eligibility is not a good predictor of FTA, and many non-felony (and class E felony) defendants are denied DATs despite a low risk of failure to appear.
- Increasing issuance rates for the offenses that are already among the most common DAT charges would also further management goals and compliance with national standards. An experiment is already underway to increase issuance to nearly all marijuana possession arrests; data show that DATs could probably also be used in far more misdemeanor assaults, even after excluding domestic violence cases. Support for this option will be affected by what happens to FTA rates among defendants issued DATs in the marijuana experiment. If FTA rates do not rise, this may pave the way for similar experiments focused on other charges.
- FTA rates, although already far lower than in previous decades, could be reduced further by scheduling arraignments more quickly following the arrest. Long arrest-to-arraignment times are especially worrisome in the Bronx, where they contribute to the highest FTA rates in the City.
- Better contact information for DAT defendants would result in greater notification success, which in turn would also help reduce FTA. Defendants are often unwilling to give their telephone numbers to the arresting officer, reducing CJA's ability to remind them of their court dates. More success in the collection of telephone numbers and their transmittal to CJA would undoubtedly lower FTA rates.

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**APPENDIX A**  
ELIGIBILITY FOR DESK APPEARANCE TICKETS

**Criminal Procedure Law**  
**Article 150 The Appearance Ticket**

***Charges that disqualify a defendant from a DAT:***

CPL §150.20 excludes class A, B, C, and D felony charges and the following class E felony Penal Law charges:

130.25 Rape in the 3rd degree

130.40 Criminal sexual act in the 3rd degree (sodomy)

205.10 Escape in the 2nd degree

205.17 Absconding from temporary release in the 1st degree (expired September 1, 2013)

205.19 Absconding from a community treatment facility (expired September 1, 2013)

215.56 Bail jumping in the 2nd degree

***Charge that mandates a DAT:***

CPL §150.75 mandates issuance of an appearance ticket when the only charge is noncriminal marijuana possession (PL 121.05), unless the defendant's identity or address cannot be ascertained or the defendant does not reside within the state.

**NYPD Patrol Guide**

(The chart on the following page reflects the January 2013 edition of the Patrol Guide.  
Changes from previous editions are noted.<sup>1</sup>)

P.G. 208-27 Desk Appearance Ticket — General Procedure (issued 06/26/2012)

P.G. 208-07 Photographable Offenses (revision 07/5; effective date 09/28/2007)

Definition of DAT: “an appearance ticket issued in lieu of detention, at the direction of a desk officer, for misdemeanors, violations, and certain class ‘E’ felonies for hospitalized prisoners.”

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<sup>1</sup> The 2005 and 2013 editions of the NYPD Patrol Guide were consulted, and compared to the photographable offenses listed in the 1979 Patrol Guide, as reproduced in CJA (1979). The General Procedure (P.G. 208-27) and Photographable Offenses (P.G. 208-07) sections of the 2005 Patrol Guide both had an effective date of 01/01/00.

**NYPD PATROL GUIDE  
DESK APPEARANCE TICKET GUIDELINES**

<b>Disqualifying Charges</b>	<b>Specific Charges</b>	<b>Comments</b>
Class A, B, C, and D felonies	All felony charges except class E	Also excluded by CPL §150.20
Certain class E felonies	PL 130.25 Rape, 3rd degree PL 130.40 Criminal sexual act, 3rd degree PL 205.10 Escape, 2nd degree PL 205.17 Absconding from temporary release, 1st degree PL 205.19 Absconding from a community treatment facility PL 215.56 Bail jumping, 2nd degree PL 195.07 Obstructing governmental administration, 1st degree	These include all the class E felony charges excluded by CPL, plus PL 195.07, which was added by the NYPD.  These charges are excluded even if the defendant is hospitalized.
Other class E felonies	All other class E felony charges	A DAT may be issued <b>only</b> if the defendant is hospitalized
Photographable offenses  Photographs may be taken of defendants whenever fingerprints are required or permitted to be taken. NYPD Guidelines list photographable offenses as all felonies and the misdemeanor charges listed in the next column.	<b>Weapons</b> *PL 265.01 Criminal Possession of a weapon (firearm only), 4th degree PL 265.10 Manufacture, transport, disposition, and defacement of weapons and dangerous instruments **PL 265.35 [1] [3] Prohibited use of weapons  <b>Prostitution</b> PL 230.20 Promoting prostitution, 4th degree *PL 240.37 [3] Loitering for the purpose of promoting prostitution PL 230.00 Prostitution *PL 230.04 Patronizing a prostitute, 3rd degree *PL 230.03 Patronizing a prostitute, 4th degree  <b>Graffiti</b> ***PL 145.60 Making graffiti ***PL 145.65 Possession of graffiti instruments	A DAT may be issued for a photographable offense <b>only</b> if the defendant is hospitalized; in that case, criminal photographs will NOT be taken.  265.01 Photographs are required only if the weapon is a firearm.  265.35 Only subsections 1 and 3  240.37 Only subsection 3

\* Not a photographable offense in 1979; had been added by the time of the 2000 revision (as published in the 2005 edition).

\*\* PL 265.35 was a photographable offense in 1979, but the subsection restrictions were introduced later. They had been added by the time of the 2000 revision (2005 edition).

\*\*\* PL 145.60 and 145.65 (graffiti offenses) became eligible for a DAT in May 2013, after the study period.

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<b>Disqualifying Charges</b>	Specific Charges	Comments
Photographable offenses (continued)	<p><i>Other</i>                      PL 165.25 Jostling                      †PL 165.30 Fraudulent accosting                      *PL 165.71 Trademark counterfeiting, 3rd degree                      PL 130.60 Sexual abuse, 2nd degree                      PL 190.25 [3] Criminal impersonation, 2nd degree                      ‡PL 150.01 Arson, 5th degree</p>	<p>165.30 Except if charged with operating a “Three Card Monte” game</p> <p>190.25 Only subsection 3</p>
Other specified misdemeanors	<p><i>Stalking offenses</i>                      PL 240.25 Harassment, 1st degree                      PL 120.14 [2] Menacing, 2nd degree</p> <p><i>Marijuana sale</i>                      PL 221.40 Criminal sale of marijuana, 4th degree                      PL 221.35 Criminal sale of marijuana, 5th degree</p> <p><i>Assault/harassment</i>                      PL 120.00 (and attempted) Assault, 3rd degree                      PL 120.14 Menacing, 2nd degree                      PL 120.15 Menacing, 3rd degree                      PL 120.20 Reckless Endangerment, 2nd degree                      PL 240.25 Harassment, 1st degree                      PL 240.30 Aggravated Harassment, 2nd degree</p> <p><i>Graffiti offenses</i>                      ***PL 145.00 Criminal mischief, 4th degree                      ***PL 145.60 Making graffiti</p> <p><i>Fireworks offenses</i>                      PL 270.00 [2] [a] [ii] Offering, selling, or furnishing of fireworks valued at \$500 or more                      PL 270.00 [2] [b] [ii] Sale of dangerous fireworks to a person under the age of 18</p>	<p>Both charges listed under “Stalking offenses” are also listed in the Patrol Guide under “Assault/harassment,” with the difference that [2] is the only subsection specified in the stalking category.</p> <p>PL 120.20 only when committed against a city or state enforcement agent performing official duty (the restriction may apply also to the other assault and harassment charges)</p> <p>145.60 is also a photographable offense.</p> <p>270.00 only if subsection 2 [a] or [b], [ii]. Added after 2000.</p>

\* Not a photographable offense in 1979; had been added by the time of the 2000 revision (as published in the 2005 edition).

\*\*\* PL 145.60 (and PL 145.00 when in association with a graffiti offense) became eligible for a DAT in May 2013, after the study period.

† PL 165.30 was in the 1979 list, but did not have an exception allowing a DAT if the arrest was for a “Three Card Monte” game. This exception was added prior to the 2000 revisions (2005 edition).

‡ PL 150.01 was not a photographable offense in 1979 or in 2000; it was added in the revisions effective in 2007 (as published in the 2013 edition).

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<b>Disqualifying Charges</b>	Specific Charges	Comments
Other specified misdemeanors (continued)	<p><i>Other Penal Law offenses</i>                      PL 155.30-Att Attempted grand larceny, 4th degree                      PL 140.10 Criminal trespass, 3rd degree                      PL 205.30 Resisting arrest                      PL 195.05 Obstruction of governmental administration, 2nd degree</p> <p><i>Vehicle &amp; Traffic Law</i>                      VTL 1192 [1] [2] [3] [4] Operating a motor vehicle while under the influence of alcohol or drugs                      VTL 511[2] [a] Aggravated unlicensed operation of a motor vehicle, 2nd degree</p> <p><i>Administrative Code Offenses</i>                      AC 26-521 Unlawful eviction                      AC 10-162 Interference with a professional sporting event</p>	<p>140.10 Only when in connection with a building utilized for commercial/ office purposes</p> <p>195.05 A DAT may be issued if the basis for the charge was “uncooperative actions,” such as going limp during arrest (exception added after 2005).</p> <p>VTL 1192 Only subsections 1 – 4; a DAT may be issued if the defendant has been hospitalized more than 24 hours, provided he or she caused no serious injury or death.</p> <p>VTL 511 Only subsection 2, paragraph a. (The felony charge, subsection 3, is also excluded from a DAT.)</p>
<b>DAT Required:</b>	Specific Charges	Notes
The defendant MUST be issued a DAT (or issued a summons) if arrested for noncriminal marijuana possession.	<p>PL 221.05 Unlawful possession of marijuana (must be the only charge)</p> <p>†††PL 221.10 Criminal possession of marijuana, 5th degree</p>	The only disqualifying factors are inability to ascertain defendant’s name or address; defendant does not reside in New York State; he or she owes DNA. The other disqualifying factors listed below do not apply.

††† PL 221.10 was made mandatory on an experimental basis in May 2013, after the conclusion of the study period; it is not listed as mandatory in the Patrol Guide.

If there is no exclusion on the basis of the charge, the defendant may still be ineligible for a DAT for other reasons. The five-step eligibility process described on the next page causes the NYPD computer system to reject a defendant for a DAT if the defendant’s identity cannot be verified, or if disqualifying criminal history factors are found in the computer searches.

### **Disqualifying Factors Based on Five-Step Eligibility Process**

Any of the following reasons automatically disqualifies a defendant from receiving a DAT:

- (1) Identification: the defendant cannot produce a satisfactory form of identification and proof of address.
- (2) Probation/parole status: the defendant is on probation or parole.
- (3) Warrant and recidivist status: the defendant has an active warrant, or is designated by the Office of Court Administration as a robbery recidivist, misdemeanor recidivist, firearm violator, armed career criminal, a target narcotics violator, or is wanted by the NYPD for questioning.
- (4) Department of Motor Vehicles name check: the defendant has prior license suspensions or conviction for driving without a license.
- (5) Criminal history: the defendant has a prior warrant.

### **Other Disqualifying Factors**

- Defendant has a previous conviction which would raise the current charge to a felony.
- Arrest is on a warrant.
- Defendant is under the influence of drugs or alcohol to the degree that someone may be endangered.
- Complainant/victim and offender are members of the same family/household.
- The offender has violated an order of protection or the victim requests an order of protection.
- Arrest for an offense which would constitute child abuse, neglect, or maltreatment. No specific offense is listed, but this would seem to point to the misdemeanor charge of PL 260.10, endangering the welfare of a child, which was included among photographable offenses in 1979 but has since disappeared from the list.
- Arrest for threatening, harassing, or menacing a uniformed member of the service, an elected official, or any other city, state, or federal employee (no specific offenses listed).
- The OMNIFORM DAT Arrest Info Screen indicates that the individual “owes DNA.”

### **Desk Appearance Ticket Eligibility for Out-of-State Residents**

Policy towards out-of-state defendants does not automatically disqualify them, but rather suggests that a next-day arraignment date can sometimes be set. In the words of the *Patrol Guide*: “In unusual circumstances when the ends of justice will be served and undue hardship will be averted by not holding an out of state defendant in custody (e.g., elderly or infirm defendant or defendant accompanied by children, etc.), a short date DESK APPEARANCE TICKET returnable the following day, may be issued.” (P.G. 208-27, p. 724)

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## **APPENDIX B**

### **IDENTIFYING DAT ARRESTS**

Identifying DAT arrests for the analyses in this report was not always a simple matter. Great care was taken to make accurate identifications, but a few cases were probably misidentified because of errors in data received from outside sources. As a consequence, annual DAT volume reported here does not always correspond exactly to the numbers reported in other CJA publications, such as the *Annual Report*, or in official data. The procedures used to identify DAT cases for this research are described below.

#### **Identification of DATs in the CJA Database**

CJA receives a daily electronic transmission of new arrest data from the NYPD, which includes a flag to identify DAT cases. This, however, is usually blank for all cases.

The NYPD data also include a field for a scheduled DAT arraignment date. When available, a scheduled arraignment enables CJA to identify DAT arrests. This information is missing for about a third of DAT arrests in the daily transmissions, but most of the missing arraignment dates are received later in additional data sent in a monthly NYPD data feed.

DAT arrests that were missed because they had no scheduled arraignment date in the NYPD data file are usually identified later using court processing data from the Office of Court Administration (OCA). This is done once a year, prior to the compilation of annual datasets. CJA's Information Systems Department runs a computer routine that changes the classification of arrest type from on-line to DAT (for prosecuted cases) if all of the following criteria are met: (1) the top arrest charge is of misdemeanor or lesser severity; (2) the case has a DAT court part or hearing type at arraignment; and (3) the defendant was not interviewed by CJA. (The hearing type at arraignment is often recorded by OCA as "not arraigned" rather than "DAT" when the defendant did not appear for the scheduled arraignment, so a "not arraigned" hearing type also satisfies the second criterion.)

The CJA interview is used as a criterion because Agency staff interview defendants who are in jail prior to arraignment, whereas there is no opportunity to interview anyone released on a DAT. However, it is not definitive because DAT defendants in the community courts may be interviewed, and defendants who are held in custody from arrest to arraignment may be missed by CJA interviewers.

Class E felony cases that meet the other two criteria are considered on a case by case basis, and may also be reclassified as DATs after they are manually examined by CJA staff.

### **Further Corrections Made in the Research Data File**

After the compilation of the data sets for this research project, further “cleaning” was done to the research data file to assure that the arrest type was correctly identified for each case. An additional element used in this phase of cleaning was the length of time from arrest to arraignment, which is typically much longer for a DAT than for an on-line arrest. This additional cleaning was done in five steps, described below.

*Step One.* The same three criteria used in the Systems Department routine were used to identify prosecuted DAT cases that were somehow missed earlier. Any prosecuted case with an arrest charge no more severe than a class E felony and a DAT court part or hearing type at arraignment and no CJA interview recommendation was reclassified as a DAT, if it was not already so classified. In 2011, three additional cases were reclassified as DATs in this step.

*Step Two.* Any case that was not reclassified in Step One but nevertheless had a long arrest-to-arraignment time (at least 8 days) and a DAT court part or hearing type was reclassified as a DAT. In 2011, 28 additional cases were recoded to DAT in this step.

*Step Three.* Cases classified as on-line with a warrant ordered at arraignment were reclassified as DATs if the arrest charge was no more severe than a class E felony and the time to arraignment was at least 8 days (even in the absence of a DAT court part or hearing type, and even if the defendant was interviewed by CJA). In 2011, there were no additional cases recoded to DAT in this step.

Steps Four and Five make the reverse correction, changing arrest type from DAT to on-line. The automated routines that make corrections in the CJA database focus on identifying missed DATs rather than cases classified as DAT in error, so steps four and five resulted in many more corrections than did the previous steps.

*Step Four.* The arrest type for prosecuted cases was reclassified from DAT to on-line if all four of the following criteria were satisfied: (1) no DAT court part or hearing type at arraignment; (2) CJA interviewed the defendant; (3) the time to arraignment was 7 days or less; and (4) the defendant was present at arraignment (no warrant ordered). In 2011, 427 cases were recoded from DAT to on-line in this step.

*Step Five.* Some additional cases were reclassified from DAT to on-line even if the CJA recommendation criterion in Step Four was not satisfied, as long as the other three criteria were met: no DAT court part or hearing type, 7 days or less to arraignment, and no warrant at arraignment. In most of these cases, a scheduled DAT

arraignment date was included in the NYPD data file received by CJA, which triggered the DAT classification in the CJA database. However, OCA court-processing data indicated that the defendant was actually arraigned within a day or two of the arrest in most cases. In 2011, an additional 121 cases were recoded from DAT to on-line in this step.

The table below shows the results of these procedures for the 2011 annual dataset. A total of 31 cases were reclassified from On-line or Unknown arrest type to DAT, and 548 were reclassified from DAT to On-line, for a net reduction of 517 DAT cases.

Arrest Type Of Prosecuted Cases In 2011

	DAT	On-line	Unknown
Number of cases prior to cleaning data file	79,162	267,653	19
Step One: cases reclassified to DAT	0	1	2
Step Two: cases reclassified to DAT	0	28	0
Step Three: cases reclassified to DAT	0	0	0
Step Four: cases reclassified to On-line	427	0	0
Step Five: cases reclassified to On-line	121	0	0

Summary Of Changes Made To Arrest Type As A Result Of Corrections  
In Research Data File (Steps 1-5)  
2011 Arrests

Arrest Type AFTER Steps 1-5	Arrest Type BEFORE Steps 1-5			Total
	DAT	On-Line	Type Unknown	
DAT	78,614	29	2	78,645
On-Line	548	267,624	17	268,189
Total	79,162	267,653	19	346,834

After making these adjustments, 99% of cases classified as DATs satisfied all four criteria: long arrest-to-arraignment time, a DAT court part or hearing type, arrest charge no more severe than class E felony, and blank CJA recommendation.

A small number of DAT cases remained problematic because they did not satisfy all four criteria for a DAT, but they were not reclassified as on-line because they did not satisfy all the criteria in steps 4 and 5 for reclassification. Most were discrepant on only one of the four DAT criteria. In the 2011 dataset, there were 317 DAT cases with no DAT court part or hearing type, 212 with short arrest-to-arraignment times (7 days or less), 147 with a CJA recommendation, and 66 with an arrest charge more severe than a class E felony. We guessed that these were in fact DAT cases in spite of the one unexpected characteristic.

For 60 other DAT cases in the 2011 dataset, two or more unexpected characteristics were found. For example, 50 cases had short arrest-to-arraignment time and a CJA recommendation; however, because the defendant was arrested on a charge no more severe than a class E felony and arraigned in a DAT court part or had a DAT hearing type (and usually a scheduled DAT arraignment date as well), these cases were left coded as DATs.

There were also a few hundred cases classified as on-line arrests with one characteristic that was more typical of a DAT. For example, in the 2011 dataset there were 340 on-line cases with more than a week from arrest to arraignment (but no DAT court part or hearing type), and 260 cases with a DAT court part or hearing type (but short arrest-to-arraignment times). Both characteristics had to occur together to cause the case to be reclassified as DAT.

CJA is currently engaged in discussions with the NYPD about improving their identification of DAT arrests, which is important for CJA's ability to carry out its responsibility for notifying defendants of their scheduled DAT arraignment dates.

## APPENDIX C

### Statistical Procedures

The multivariate statistical procedure used in this report is logistic regression, which is appropriate when the dependent variable has dichotomous values, such as DAT issuance (yes or no) or FTA (yes or no).

The results of a regression analysis, taken as a whole, are referred to as a model. The model provides a numerical description of the relative importance of all the factors (independent variables) that influence an outcome (dependent variable), and it includes a statistic that estimates the degree to which the outcome can be predicted from knowledge of those factors. Statistics for each independent variable indicate its net effect on the dependent variable, after the effects of all other variables have been taken into account.

The regression models were computed using SPSS<sup>1</sup> to produce all of the statistics discussed below, with the exception of predicted probabilities, which are not included in the SPSS logistic regression output. Predicted probabilities were computed using Stata.<sup>2</sup>

### Statistics Presented in Models

The statistics provided in this report for the logistic regression models presented in Tables 3 and 4 are the *Nagelkerke R<sup>2</sup>*, *odds ratio*, *standardized beta*, and *predicted probability*. The *statistical significance* of the effect of each variable on the outcome is also indicated.

#### *Statistical Significance*

Statistical significance is a measure of the likelihood that the relationship between the variable and the dependent variable could have occurred merely by chance. The level of statistical significance of each item included in the model is indicated by asterisks, from one (\*), which is the least stringent level of statistical significance ( $p \leq .05$ ), to three (\*\*\*), which is the most stringent level ( $p \leq .001$ ). The coefficient is replaced in the table by “ns” if the variable was not significant. Conventionally, a probability of .05 or less that the result occurred by chance is considered statistically significant. An even smaller likelihood that the result occurred by chance — for example, equal to or less than 1% ( $p \leq .01$ ) — is better. At the most stringent level of significance,  $p \leq .001$ , the likelihood of the result occurring by chance is equal to or less than 1 in 1,000. Results that are not statistically significant have an

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<sup>1</sup> IBM SPSS® Statistics Version 22.0.

<sup>2</sup> StataCorp Stata® Release 12.

unacceptably high probability (greater than 5%) of being the result of sampling error, so they may not be representative of the larger population.

Both the magnitude of the effect and the size of the sample contribute to the level of statistical significance. The samples used for both models in this research were quite large: the DAT issuance model presented in Table 3 used a sample of 263,754 cases, and the FTA model presented in Table 4 used a sample of 74,476 cases. The advantage of large samples is that a weak, but real, effect is unlikely to be missed simply because the number of cases was too small for it to be detected by the statistical analysis. Weak relationships are more likely to attain statistical significance in a large sample than in a small one. For example, defendants were slightly less likely to be offered a DAT when the arrest charge was a non-criminal infraction or violation than when the charge was a class A misdemeanor (Table 3). The difference between the two severity levels was very small in terms of their likelihood of DAT issuance, but it was statistically significant at the .05 level. In a much smaller sample, this weak effect would not have been significant because sampling error could not be ruled out. Substantive significance should not be confused with statistical significance, which means only that the effect is real, not that it is important. The importance of a weak — albeit statistically significant — effect may be trivial.

#### *Nagelkerke R<sup>2</sup>*

The Nagelkerke R<sup>2</sup> for each model is presented below the table. This statistic is interpreted as roughly the proportion of variance in the outcome that is explained jointly by all of the independent variables in the model, ranging from 0 (no variance is explained by the variables) to 1 (100% of the variance is explained). The Nagelkerke R<sup>2</sup> for the DAT issuance model (Table 3) was .222, which indicates that about 22% of the variance in DAT issuance was explained by the variables in the model. The Nagelkerke R<sup>2</sup> for the FTA model (Table 4) was .116, which indicates that about 12% of the variance in FTA was explained by the variables in that model. Obviously, much of the variance in both outcomes was left unexplained by the factors that were available for the analysis.

#### *Standardized Beta*

The standardized beta coefficient is a measure of the strength of the effect of the independent variable on the dependent variable, controlling for all other variables in the model. Although some inferences can be drawn about the strength of a variable's effect from the odds ratio in logistic regression, the standardized beta is a better measure of strength precisely because it is standardized to take into account the number of categories in the independent variable and the distribution of cases among categories. Standardized betas can be directly compared to assess the relative strength of variables, which is not true of odds ratios or unstandardized coefficients. The value of

the standardized beta ranges from 0 (no effect) to 1 (maximum effect), and the sign indicates the direction of the relationship: a positive sign indicates that as the value of the independent variable increases, the value of the dependent variable also increases; a negative sign indicates that as the value of the independent variable increases, the value of the dependent variable decreases. Dummy variables with only two values (yes or no) are usually coded so that “yes” is given the higher numeric value (0=no, 1=yes), with the result that a positive standardized beta indicates a greater likelihood of the outcome for those with the characteristic encoded by the variable.

To illustrate from Table 3 (model of DAT issuance): the largest standardized beta in this table was .51, which was the coefficient for PL 221.10 (fifth-degree marijuana possession). This indicates that a PL 221.10 arrest charge is the best predictor of DAT issuance in a non-felony arrest. The positive coefficient indicates that this charge was associated with greater likelihood of a DAT, and the size of the coefficient indicates that this variable increased the likelihood of a DAT more than any other single factor. The next largest standardized beta was -.41, the coefficient for VTL 1192 (driving while under the influence of drugs or alcohol). The negative coefficient indicates that this charge was associated with a lower likelihood of a DAT — and this was also a strong effect, as indicated by the size of the coefficient.

#### *Odds Ratio*

The odds ratio measures the change in odds of an event occurring when the value of the independent variable changes, controlling for all other variables in the model. An odds ratio greater than 1 indicates an *increase* in the odds of the predicted event occurring when the value of the independent variable is higher; less than 1 indicates a *decrease* in the odds of the predicted event occurring when the value of the independent variable is higher.

This is illustrated using the same examples above for marijuana possession (PL 221.10) and DWI (VTL 1192). In the model predicting DAT issuance, the odds ratio for PL 221.10 was 6.786, indicating that the odds of DAT issuance were more than 6 times greater for defendants charged with this offense, compared to the reference category. (All other charges, not among the top 15 in volume, comprised the reference category.)

Odds ratios less than 1 indicate reduced odds. For example, the odds ratio for VTL 1192 was 0.021, indicating greatly reduced odds for a DAT for defendants charged with DWI (again, compared to the reference category). Reduced odds can be more easily interpreted by taking the inverse of the ratio, which in this instance would be 1 divided by 0.021, or 47.6. This indicates that the odds of *not* being offered a DAT were about 48 times greater for a defendant arrested for driving while intoxicated, compared to the combined charges in the “other” reference category.

### *Predicted Probability*

The predicted probability presents essentially the same information as the odds ratio, but in a more easily understood way. The predicted probability is the likelihood of the event's occurring, after the effects of all other variables in the model have been accounted for. A predicted probability is presented for each value of the variable, including the reference category.

In the DAT issuance model, the predicted probability of a DAT being issued was 47% for fifth-degree marijuana possession (PL 221.10). This was the highest predicted probability of any factor, which is in accord with the finding that this charge had the largest standardized beta as well as the largest odds ratio. With a few exceptions, most of the 15 high-volume charges analyzed in the model were associated with a much higher predicted probability of DAT issuance than the group consisting of all other charges combined (13%).

Predicted probabilities often are very similar to the actual rate for a group of cases, without controlling for other variables. For example, the issuance rate for PL 221.10 was 48% (Figure 7), very close to the 47% predicted probability. However, when there is a strong relationship between the independent variable and another variable that also affects the outcome, the predicted probability can diverge considerably from the actual rate. For example, the FTA rate for Bronx DAT arraignments was 35% (Figure 25), but the predicted probability of FTA for Bronx cases was only 19% (Table 4). The number of days from arrest to arraignment was the most important factor affecting FTA, and it happened that arrest-to-arraignment time was much longer in the Bronx than in any other part of the City, fully accounting for the high FTA rates there.

The software used to calculate predicted probabilities was Stata. The MARGIN command used in this analysis produces the average probability of the outcome if everyone in the data were treated as if they had the same value on the variable for which the margin is estimated, based on a logistic regression model. In the example above, the 19% predicted probability of FTA for Bronx cases represents the average predicted probability if all cases were treated as if they were Bronx cases and had the average value on all other characteristics.