

Desk Appearance Tickets in New York State in 2019

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Table of Contents

	Page
Introduction	1
Overview of 2020 DAT Reforms	2
Key Findings	4
Comparison to DAT Arraignments in 2018	5
Analysis	6
Analysis, Statewide	6
Analysis by Geography	7
Analysis by Charge Category	9
Conclusion and Questions for Future Research	12
Endnotes	13
Appendix A - Data and Definitions	15
Appendix B - DAT Arraignments in 2019 by Court	17
Appendix C - DAT Arraignments in 2019 by Charge Class	20
Appendix D - DAT Arraignments in 2019 by Charge Category	21

The Data Collaborative for Justice (DCJ) at John Jay College of Criminal Justice houses a group of research initiatives that raise important questions and share critical research about the criminal legal system and its role in creating safe, just, and equitable communities. DCJ conducts data analysis and research on enforcement in the community, the adjudication of cases in the courts, and the use of confinement in jails and prisons. DCJ's work has informed policy reforms, facilitated partnerships between researchers and government agencies across the country, spurred new scholarly research on lower-level enforcement, and has been cited extensively in the press. For more information about the Data Collaborative for Justice please visit: <https://datacollaborativeforjustice.org/>

INTRODUCTION

On April 1, 2019, New York State passed extensive legislative reforms (“2020 Criminal Justice Reforms”)¹ aimed at transforming the criminal legal system and its impact on New Yorkers.² The 2020 Criminal Justice Reforms eliminated money bail for most misdemeanors and non-violent felonies and imposed new requirements related to discovery and speedy trials.³ They also made changes to the laws governing the issuance of desk appearance tickets (commonly referred to as “DATs” or “universal appearance tickets”) and police are now required to issue DATs, rather than make custodial arrests, for many types of criminal charges. These changes to the arrest process have taken on new significance in the era of Covid-19 given that individuals who receive a DAT are not held in custody before their first court appearance (“arraignment”) and therefore have fewer contacts with police, other individuals who are arrested, and court actors.

This report provides an overview of the reforms related to DATs (“2020 DAT Reforms”). It also provides data on the use of DATs prior to the reforms so that in the future, it is possible to measure the impact of the reforms. Specifically, this report examines DAT arraignments in 2019 (before the reforms went into effect) across 67 city and district courts in New York State to assess the proportion of arraignments that were DATs, the most common charges among DAT arraignments, and the rates of appearance at arraignment for DATs.⁴ In addition, these metrics are disaggregated by charge type, by geographic region (New York City, Suburban New York City and Upstate City Courts), and by individual courts. Previously, DCJ released a [report](#) conducting these same analyses for 2018 arraignments.

How is a DAT Different from a Custodial Arrest?

Typically, when a police officer makes a custodial arrest, an individual remains in the custody of the police for up to 24 hours until their arraignment.⁵ An individual who receives a DAT will generally be released from police custody within several hours of being arrested. DAT recipients are permitted to remain in the community and are directed to appear for arraignment on a designated date. The 2020 DAT Reforms now require this first appearance to take place within 20 days unless the individual is scheduled to participate in a diversion program in lieu of arraignment.

In the past, unless a DAT was resolved through a dismissal or plea at arraignment, a judge would make a pretrial release decision for the DAT recipient, which could have included “release on recognizance” (release based on the person’s promise to return to court), release under supervision or with conditions, or some form of bail. However, post-implementation of the 2020 Criminal Justice Reforms, judges are no longer permitted to order money bail for most of the crimes for which DATs are now required.

OVERVIEW OF 2020 DAT REFORMS

Prior to January 1, 2020, state law gave law enforcement the *discretion*⁶ to issue DATs to individuals charged with non-felony offenses and most class E felony offenses.⁷ **As of January 1, 2020, police officers are now required to issue DATs for all non-felony offenses and most class E felony offenses with two categories of exceptions.**

1. Charge-Based Exceptions

Police officers maintain the discretion to make a custodial arrest instead of issuing a DAT for the following charges:

- *Sex offenses*: The charges designated as sex offenses under Article 130 of the penal law, such as sexual abuse in the 3rd degree (PL § 130.55), a class B misdemeanor, and aggravated sexual abuse in the 4th degree (PL § 130.65[a]), a class D misdemeanor.
- *Specific class E felonies for absconding*: Escape in the 2nd degree (PL § 205.10), absconding from temporary release in the 1st degree (PL § 205.17), absconding from a community treatment facility (PL § 205.19), and bail jumping in the 2nd degree (PL § 215.56).
- *Domestic violence crimes*: Qualifying crimes are defined in CPL § 530.11 and are crimes involving members of the same family or household such as harassment in the 2nd degree (PL § 240.36), a violation, and criminal obstruction of breathing (PL § 121.11), a class A misdemeanor.
- *Crimes for which the court may suspend or revoke a driver's license*: For example, a court may suspend or revoke an individual's license for driving under the influence of alcohol or drugs (VTL § 1192).

2. Other Exceptions

Police have the discretion to make a custodial arrest when responding to crimes for which a DAT is otherwise mandated under the following circumstances:

- *Open warrants*: The person has one or more outstanding criminal court or superior court warrant(s).
- *History of failure to appear*: The person has failed to appear in court in the last two years.
- *No identification*: The police are unable to verify the identity of the person. The law specifies that: 1) photo identification is not necessary to verify identity, 2) certain types of identification must be accepted,⁸ and 3) an officer's personal knowledge of an individual may be used to verify identity.
- *Orders of protection*: Based on the facts of the case or the nature of the crime, a person should be brought before a court for consideration as to whether an order of protection should be issued pursuant to CPL § 530.13 (protection of victims of crime, other than family offenses).
- *Medical/mental health needs*: The officer observes the person behaving in a way that indicates an immediate need for medical or mental health care and it would be "in such person's interest" to bring them before the court to address their needs. However, the law also specifies that, "... before making the arrest, the officer shall make all reasonable efforts to assist the person in securing appropriate services."

New Procedural Requirements

In addition to expanding the list of charges for which police must issue DATs, **the reforms impose a number of new procedural requirements**, including:

- *First court appearance in 20 days:* The return date listed on a DAT must be no later than 20 days (unless the individual is enrolled in a pre-arraignment diversion program), which means that individuals are now arraigned within 20 days of receiving a DAT⁹ (previously DATs could direct someone to appear weeks or months after the date of issuance).
- *Collection of contact information by police:* Officers are instructed to inform a person to whom they are issuing a DAT that they may provide contact information to receive court notifications.¹⁰ The issuing officer must file the DAT and the recipient's contact information with the local criminal court within 24 hours of issuance.¹¹
- *Court notification:* Local criminal courts or certified pretrial services agencies will issue court appearance reminders to recipients of DATs by text message, telephone call, electronic mail, or first-class mail,¹² unless the DAT is returnable within 72 hours or no contact information is provided.¹³

How Might 2020 DAT Reforms Influence Arraignment Appearance Rates?

There are a number of reasons to believe that appearance rates at arraignment could improve after implementing the 2020 DAT Reforms, thus driving down the number of warrants generated by individuals who fail to appear for court on a DAT. First, the 2020 DAT Reforms require that DAT recipients receive notifications of their court dates, which may reduce the rates of failure to appear and associated warrants after the reforms came into effect.¹⁴ Second, the requirement that DAT arraignments take place within 20 days of issuance may further reduce rates of failure to appear by decreasing the likelihood that individuals will forget the date as a result of the passage of time. The New York City Criminal Justice Agency (CJA) found that from 2017 to 2019, in New York City specifically, appearance rates for DAT arraignments increased as the number of days from arrest to arraignment decreased.¹⁵ Moreover, rates of appearance were found to be higher in boroughs where individuals were arraigned within fewer days.¹⁶ Third, law enforcement is still permitted to make custodial arrests for crimes that otherwise would require a DAT when the individual already has an open warrant or a history of failure to appear in the last two years, thereby removing individuals at higher risk of failing to appear from the pool of DAT arraignments. On the other hand, the total number of warrants issued for failure to appear at arraignment for DATs may increase simply as a result of more people receiving DATs. Future reports from DCJ will assess both the total volume of warrants for failure to appear and whether appearance rates improve post-implementation of the 2020 DAT Reforms.

1. How many DATs were arraigned in New York State courts in 2019?

- A total of 80,202 DATs were arraigned in 2019, representing 30.3% of all felony and misdemeanor arraignments (264,705). Of the DATs arraigned in 2019, 53.9% were for unclassified misdemeanors (43,236 arraignments), 43.3% were for class A and B misdemeanors (34,695 arraignments), and 2.8% were for felonies (2,271 arraignments). See Appendix A for charge class definitions.

2. How did 2019 DAT arraignments vary by geography?

- Suburban New York City (defined as Westchester, Suffolk, and Nassau counties) had the largest proportion of DAT arraignments – 58.0% (44,583 arraignments) compared to 17.1% in New York City (19,098 arraignments)¹⁷ and 21.8% in Upstate City Courts (16,521 arraignments).

3. How did 2019 DAT arraignments vary by arrest charge category?

- Vehicle and Driving, Marijuana, and Property charges (e.g., petit larceny; see Appendix A for definition) had the largest proportions of DAT arraignments. For Vehicle and Driving charges, 55.9% of arraignments were DATs (43,364 arraignments), while 49.8% of arraignments for Marijuana charges were DATs (2,971 arraignments), and 28.3% of arraignments for Property charges were DATs (12,111 arraignments).
- Person charges (e.g., assault; see Appendix A for definition) had the smallest proportion of DAT arraignments, with only 10.5% of Person charges arraigned as DATs (4,691 arraignments).

4. How did appearance rates for DATs arraigned in New York State courts in 2019 vary by geography and charge?

- Statewide, the majority of DAT recipients (85.9%) showed up for arraignment, though appearance rates did vary by geography. Suburban New York City had the highest appearance rate for DATs (91.4%), followed by Upstate City Courts (85.2%), and New York City (81.8%).
- DAT arraignments for Vehicle and Driving charges had the highest appearance rate at arraignment (92.5%), while theft of services¹⁸ had the lowest appearance rate (74.6%).

How Do DAT Arraignments and Appearance Rates in 2019 Compare to 2018?

This report, which analyzes 2019 data, updates DCJ's prior report examining DAT arraignments and appearance rates in New York State courts in 2018. This report updates DCJ's prior work by using 2019 case data to provide updated baseline trends in DAT arraignments in New York State. There were a few notable differences between DAT arraignments in 2019 compared to 2018:

1. Almost 55,000 fewer misdemeanors and felonies were arraigned in New York State in 2019 compared to 2018. Furthermore, there were over 16,000 fewer DAT arraignments statewide in 2019 compared to 2018. However, there was little difference in the proportion of DAT arraignments compared to non-DAT arraignments (30.2% in 2018 and 30.3% in 2019).
2. There were some differences in the classes of charges that were arraigned as DATs. Specifically, the proportion of unclassified misdemeanors and E felonies arraigned as DATs was larger in 2019 compared to 2018 (56.1% compared to 48.4%). In contrast, A and B misdemeanors were less likely to be arraigned as DATs in 2019 than in 2018 (43.3% compared to 50.9%).
3. There were some differences in the types of charges that were arraigned as DATs. The proportion of DAT arraignments increased for Property, Vehicle and Driving, and Other Drug charges but decreased for Person, Weapons, Marijuana, Theft of Services, and Other charges. In particular, the proportion of Marijuana charges that were arraigned as DATs decreased from 57.7% in 2018 to 49.8% in 2019.
4. There were differences in geographic variation in DAT arraignments.
 - New York City and Upstate City Courts had fewer DAT arraignments in 2019 (111,953 and 75,932 respectively) compared to 2018 (166,573 and 81,328 respectively), while the total number of DATs arraignments in Suburban New York City increased from 71,331 in 2018 to 76,820 in 2019.
 - New York City and Suburban New York City had smaller proportions of DAT arraignments in 2019 (17.1% and 58% respectively) compared to 2018 (22.5% and 59.7% respectively). In contrast, the proportion of DAT arraignments in Upstate City Courts was slightly larger in 2019 compared to 2018 (21.8% and 20.2% respectively).

ANALYSIS

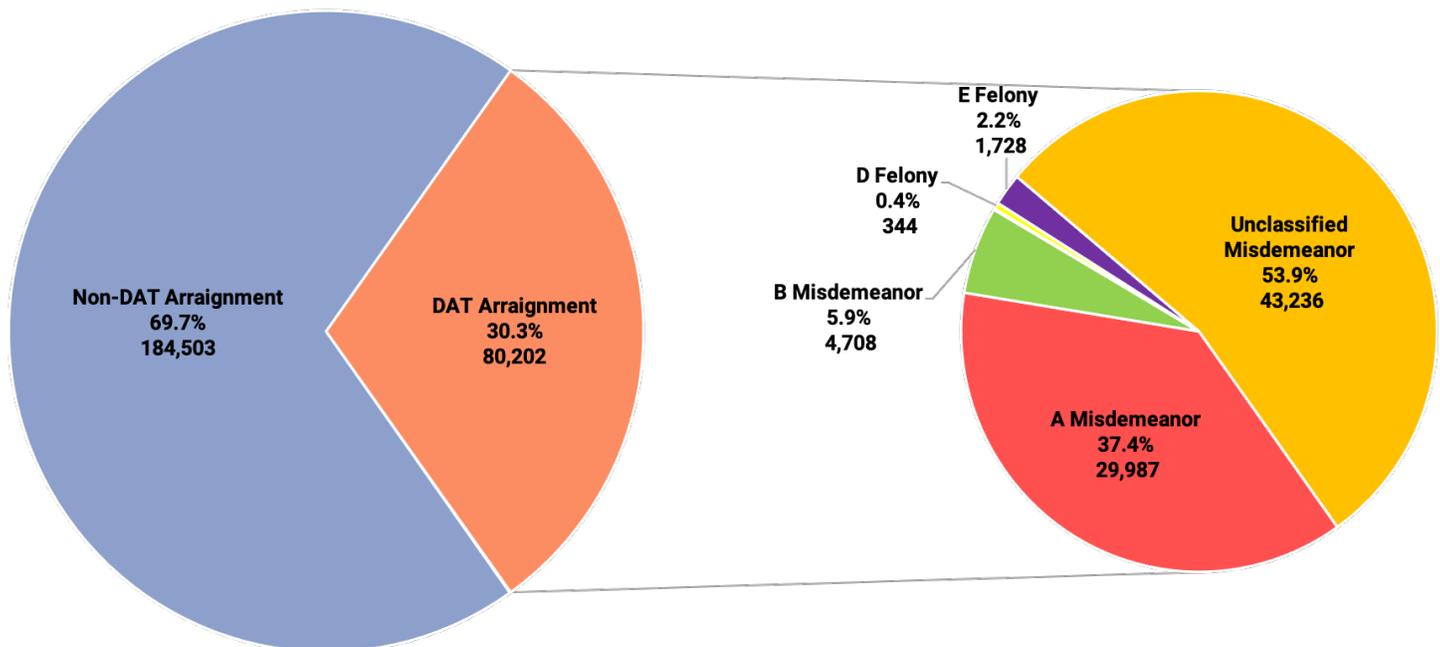
In order to provide a baseline for DAT arraignments in New York State prior to the implementation of the 2020 DAT Reforms, DCJ analyzed New York State Office of Court Administration (OCA) data from 2019. DCJ conducted a statewide analysis, which uses data from 67 city and district courts captured in the OCA dataset. These data do not include cases that are processed in the approximately 1,200 town and village courts throughout New York State for which there is no centralized reporting mechanism. A detailed methodology is provided in Appendix A, which includes more information on the data, as well as definitions of terms and coding criteria.

DAT and Non-DAT Arraignments in 2019, Statewide

In 2019, 264,705 felony and misdemeanor cases were arraigned in 67 city and district courts in New York State, 79.9% of which were misdemeanors (211,600 arraignments) while 2.8% were felonies (2,271 arraignments). Of all felony and misdemeanor arraignments, 30.3% were DATs (80,202 arraignments), while the remaining 69.7% include custodial arrests and other non-DAT arraignments (184,503 arraignments). Further, 36.8% of the 211,600 misdemeanor arraignments in 2019 were DATs (77,931 arraignments). See Appendix B for DAT arraignments by individual courts.

Over half (53.9%) of all DAT arraignments were for unclassified misdemeanors (43,236 arraignments), with the most common charge being aggravated unlicensed operation of a motor vehicle (VTL § 511).¹⁹ Further, 43.3% were for class A and B misdemeanor arrests (34,695 arraignments), and 32.0% of these were for petit larceny (PL § 155.25). A small proportion of DAT arraignments were for class D and E felonies (2.6% or 2,072 arraignments), the majority of which were for grand larceny (PL § 155.30 and 155.35). Only 0.2% of DAT arraignments were for class A, B, and C felonies (199 arraignments). See Appendix C for the three most common charges arraigned as DATs among D and E felonies, and A, B, and unclassified misdemeanors.

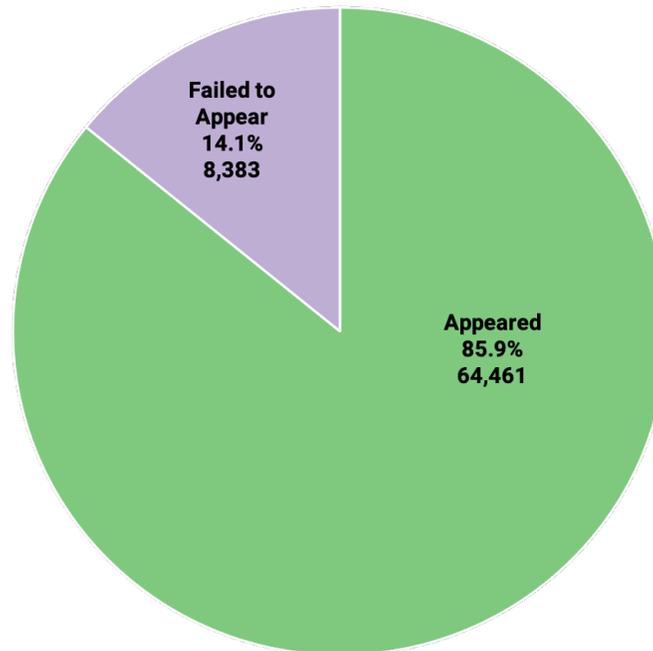
Figure 1: DAT vs. Non-DAT Arraignments in 2019, Statewide



Appearance Rates for DAT Arraignments in 2019, Statewide

Figure 2 shows that in 2019, the appearance rate for DAT arraignments across 67 city and district courts was 85.9%. In other words, individuals failed to appear at arraignment in 14.1% of DAT arraignments.

Figure 2: Appearance Rates for DAT Arraignments in 2019, Statewide

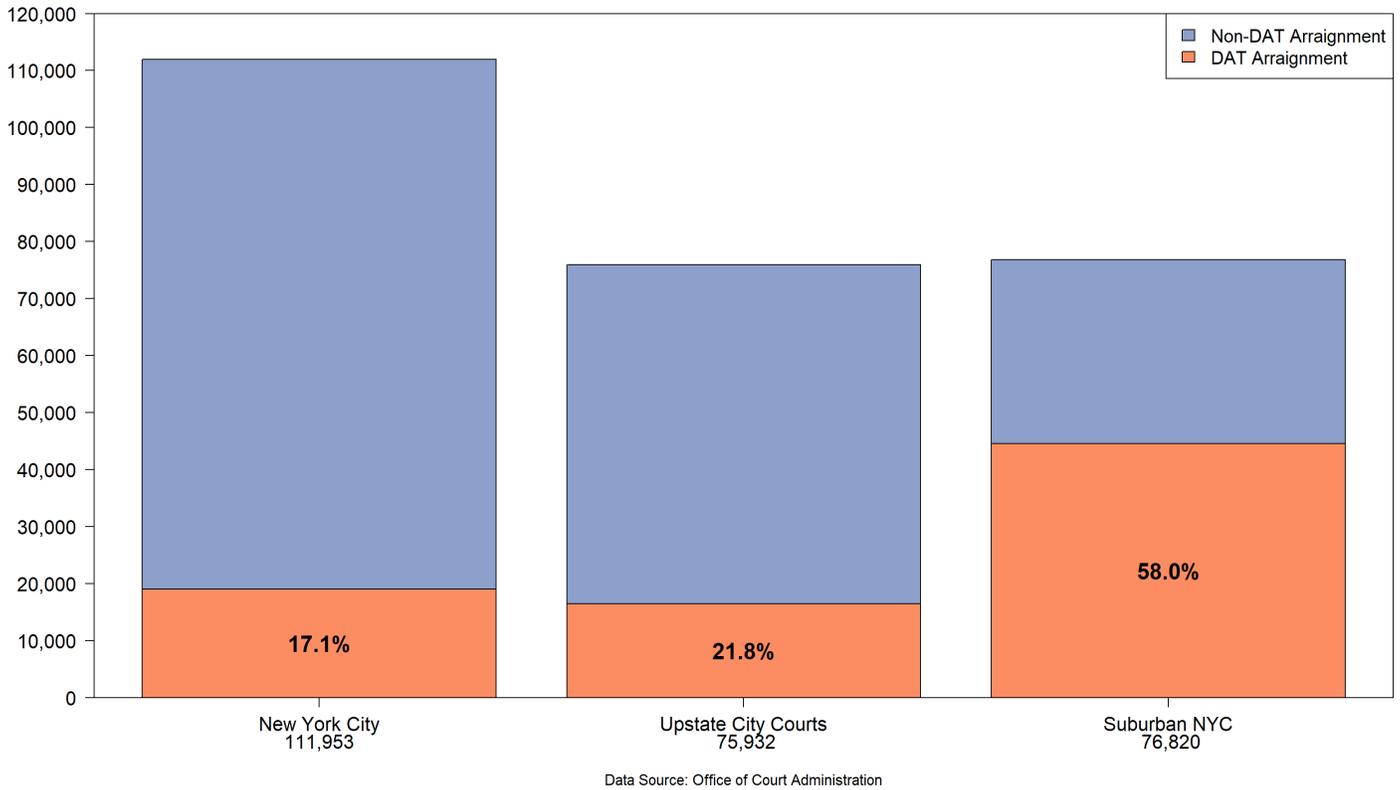


DAT and Non-DAT Arraignments in 2019 by Geography

In 2019, the overall volume of felony and misdemeanor arraignments and the share of DAT arraignments varied by geography. Figure 3 shows that while New York City criminal courts had the largest volume of arraignments overall (111,953), only 17.1% were DAT arraignments (19,098). Of the 90,352 misdemeanor arraignments in New York City, 20.9% were DAT arraignments (18,847). In Upstate City Courts, 21.8% of all felony and misdemeanor arraignments were DATs (16,521), while 27.3% of misdemeanor arraignments in Upstate City Courts were DATs (15,532). Although courts in Suburban New York City (Westchester, Nassau, and Suffolk counties) had slightly more felony and misdemeanor arraignments than Upstate City Courts (76,820), 58.0% were DAT arraignments (44,583). Furthermore, 67.8% of misdemeanor arraignments in Suburban New York City were DATs (43,552 arraignments).

Among individual courts, Suffolk County 1st District Court had the largest number and proportion of DAT arraignments (66.4% or 27,592 arraignments), while Albany City Criminal Court had the smallest proportion of DAT arraignments (8.2% or 232 arraignments). Appendix B provides the number and proportion of DAT arraignments for all city and district courts included in the analyses.

Figure 3: DAT vs. Non-DAT Arraignments in 2019 by Geography

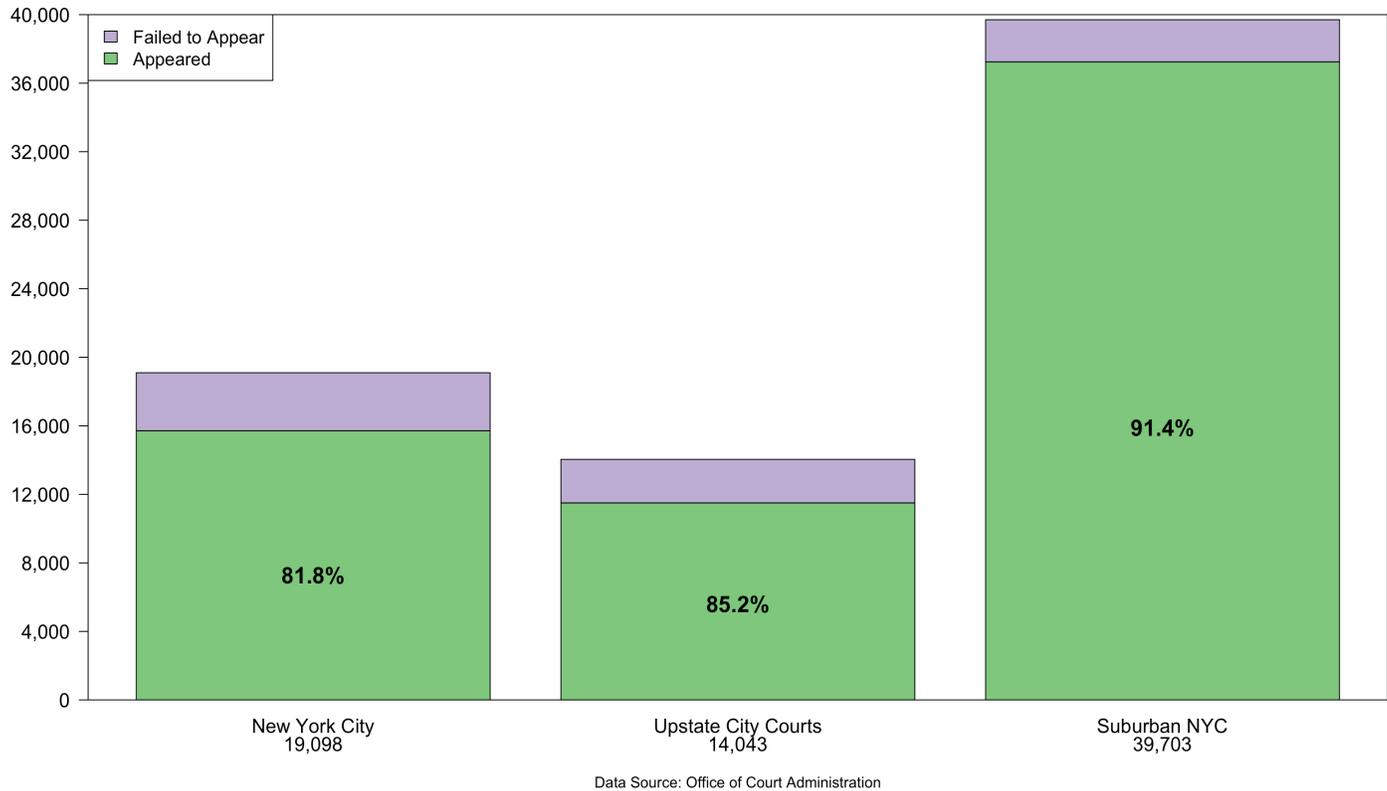


Appearance Rates for DAT Arraignments in 2019 by Geography

Across the 67 city and district courts, 85.9% of people with a DAT arraignment appeared in court in 2019. However, there was variation by geographic region and between individual courts. Figure 4 shows the appearance rate for DAT arraignments in New York City, Upstate City Courts, and Suburban New York City. In 2019, courts in Suburban New York City had the highest appearance rate (91.4%), ranging from 76.0% in Yonkers City Court (Westchester County) to 98.3% in Long Beach City Court (Nassau County).

The appearance rate for DAT arraignments in Upstate City Courts was 85.2%, ranging from 61.8% in Fulton City Court (Oswego County) to 97.7% in North Tonawanda City Court (Niagara County). Finally, New York City criminal courts had the lowest appearance rate for DATs in 2019, with 81.8% of people appearing at arraignment for DATs. Within New York City, appearance rates ranged from 69.3% in Bronx Criminal Court to 90.3% in Richmond Criminal Court (Staten Island). See Appendix B for appearance rates for all courts in the analysis.

Figure 4: Appearance Rates for DAT Arraignments in 2019 by Geography



DAT and Non-DAT Arraignments in 2019 by Charge Category

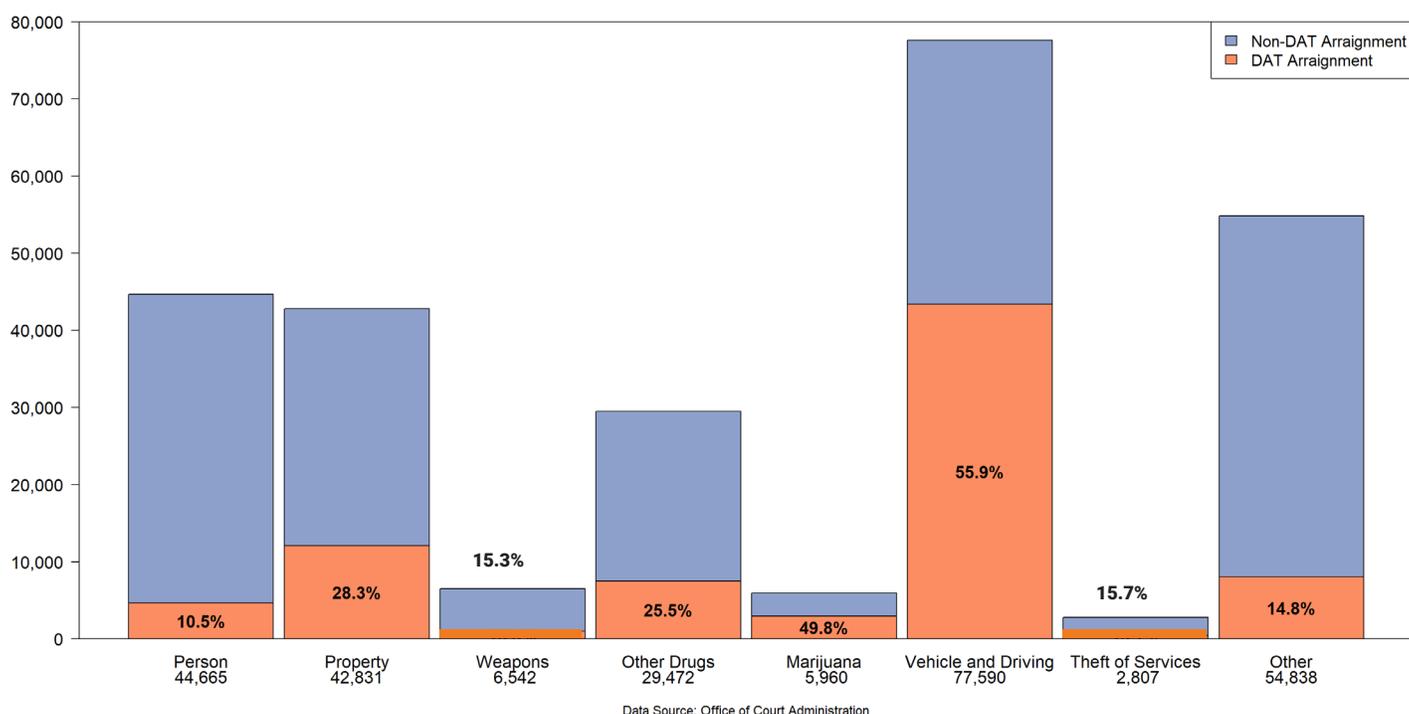
Figure 5 shows the number and proportion of DAT and non-DAT arraignments in 2019 for Person, Property, Weapons, Other Drug (i.e., charges related to drugs other than marijuana), Marijuana, Vehicle and Driving, Theft of Services (primarily fare evasion on public transit, see footnote 17), and Other charges (primarily criminal contempt in the 2nd degree). Consistent with past DCJ work, arrest charge penal codes are grouped into these eight categories, and each category includes both misdemeanors and felonies related to that category (e.g., grand larceny in the 4th degree [E felony] and petit larceny [A misdemeanor] are both under Property charge). Overall, Vehicle and Driving charges were most likely to result in a DAT arraignment while Person charges (“charges involving direct harm to another person”) were least likely to be arraigned as a DAT. Appendix D provides the number and proportion of DAT arraignments for each charge category as well as the top three charges within each category in terms of volume.

In 2019, 28.3% of arraignments for Property charges were DATs (12,111 arraignments), 79.5% of which were for petit larceny (PL § 155.25). In contrast, only 10.5% of Person charges were arraigned as DATs (4,691 arraignments). Among Other Drug charges, 25.5% of arraignments were DATs (7,527 arraignments) and among Weapons charges, 15.3% were DAT arraignments (998).

Vehicle and Driving charges had the largest volume of arraignments overall in 2019, and 55.9% of the 77,590 arraignments were DATs (43,364 arraignments). Other charges had the second largest number

of arraignments (54,838) but only 14.8% were DATs (8,100 arraignments). There were relatively few arraignments for Marijuana charges in 2019 overall (5,960 arraignments) and among these, 49.8% were DATs (2,971 arraignments). Lastly, of the 2,807 arraignments for Theft of Services charges, 15.7% were DATs (440 arraignments).

Figure 5: DAT vs. Non-DAT Arraignments in 2019 by Charge Category

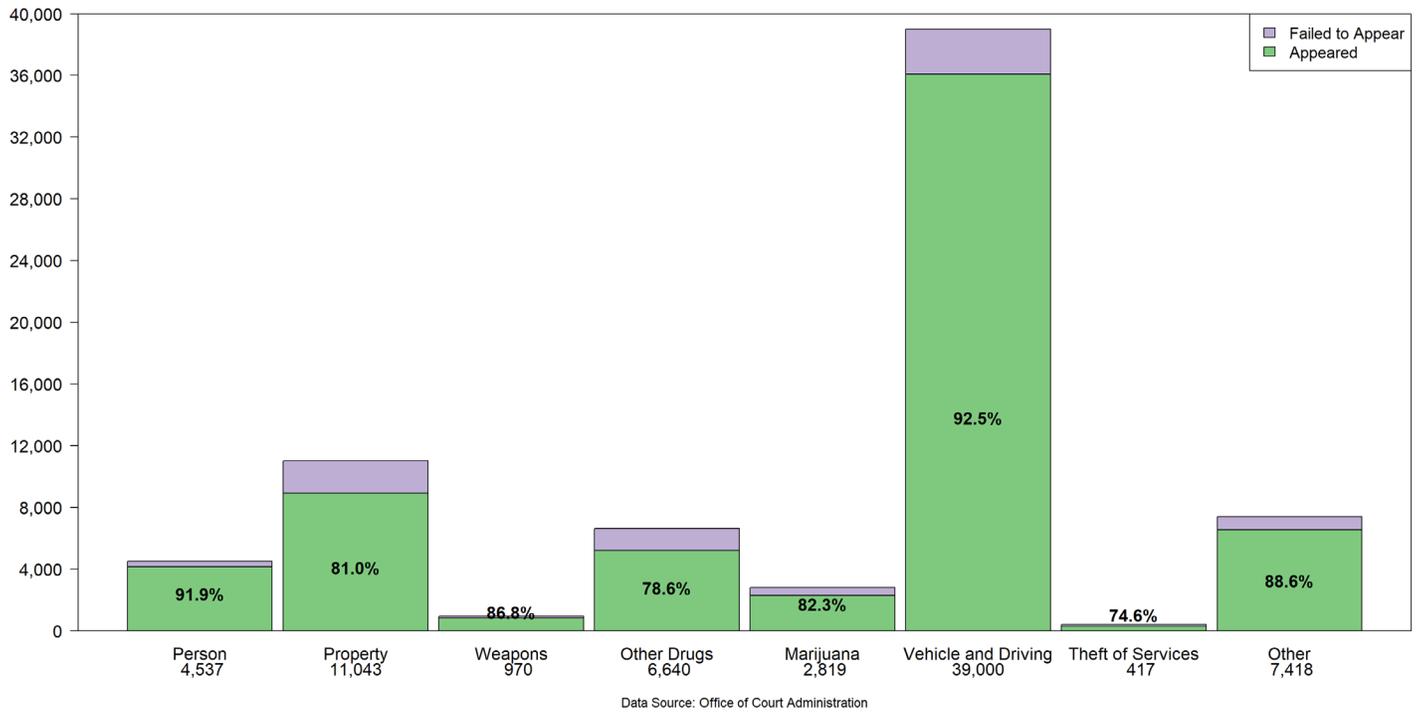


Appearance Rates in DAT Arraignments in 2019 by Charge Category

Just as appearance rates for DAT arraignments in 2019 varied by geography, there was variation across different charge categories. Figure 6 shows appearance rates for DAT arraignments in 2019 for Person, Property, Weapons, Other Drugs, Marijuana, Vehicle and Driving, Theft of Services, and Other charges. In general, for most charge categories, over 80% of people appeared at arraignment for DATs in 2019. In particular, people arraigned on Vehicle and Driving charges were most likely to appear at arraignment (92.5%), while people charged with Theft of Services had the lowest appearance rate (74.6%).

Although Person charges such as assault had the smallest proportion of DAT arraignments in 2019 (10.5%), the appearance rate was high (91.9%). Furthermore, 92.2% of people charged with assault in the 3rd degree (PL § 120.00) appeared at arraignment for DAT arraignments. Among DAT arraignments for Property charges, 81.0% appeared at arraignment. In particular, 80.7% of people charged with petit larceny (PL § 155.25) appeared at arraignment for DAT arraignments. Finally, among arraignments for drug charges, 82.3% appeared at arraignment for Marijuana charges, while 78.6% appeared for Other Drug charges.

Figure 6: Appearance Rates for DAT Arraignments in 2019 by Charge Category



CONCLUSION

The findings presented in this report illustrate how DAT arraignments in New York State and associated appearance rates varied widely by geography and charge type in 2019. The data presented here may be used by practitioners and policymakers to target programs and investments that can help boost rates of appearance (and reduce the warrants associated with failure to appear) in specific areas of the state and by specific charge types for which appearance rates are lower. This report also establishes a baseline against which to measure changes in DAT arraignments now that law enforcement is required to issue DATs for all non-felony offenses and most class E felonies. Future research from DCJ will examine trends in DAT issuance and associated appearance rates post-implementation of the 2020 Criminal Justice Reforms.

Questions for Future Research

1. For cases where officers have the discretion to issue a DAT, how does issuance vary by individual characteristics such as demographics (e.g., race/ethnicity, age and gender), neighborhood, and socio-economic status?
2. What is the impact of Covid-19 on the issuance of DATs in circumstances where police officers still have the discretion to make a custodial arrest (e.g., for domestic violence crimes or when someone lacks ID)?
3. How do local law enforcement policies and practices contribute to geographic differences in DAT issuance?
4. In 2020, given the impacts of Covid-19 on the operations of the criminal legal system, were the courts able to arraign individuals issued DATs within 20 days (either in-person or remotely), as required by the 2020 DAT Reforms?
5. Compared to custodial arrests, how will the issuance of DATs impact collateral consequences such as interruptions to employment, child-care, and other social responsibilities of individuals who are arrested?

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Any data provided herein does not constitute an official record of the New York State Unified Court System, which does not represent or warrant the accuracy thereof. The opinions, findings, and conclusions expressed in this publication are those of the authors and not of the New York State Unified Court System, which assumes no liability for its contents or use thereof.

ENDNOTES

1. 2019 N.Y. Ch. 59 § 1-a (Part JJJ), (effective Jan 1, 2020).
2. A number of amendments to the reforms were passed as part of the New York State FY 2020-2021 Budget.
3. An earlier report from DCJ calculated how these bail reforms would have altered pretrial outcomes had they been in place in prior years. See Lu, O., Bond, E., & Chauhan, P. (January, 2021). [Assessing the Potential Impact of 2020 Bail Reforms on 2019 New York City Criminal Court Cases](#). New York, NY: Data Collaborative for Justice.
4. The analyses contained in this report rely on a dataset that only includes DATs that were arraigned in 2019 and excludes DATs that were issued but then diverted. A number of local prosecutors in New York State have recently been involved in efforts to divert DATs pre-arraignment. For example, Project Reset offers diverse programming for people of any age in Manhattan, Brooklyn, and the Bronx. See Bellan, R. (2019, October 22). [NYC: Where the Police Offer a Free Art Class Instead of Prosecution](#). Citylab.
5. In New York State, arraignment is the first time an individual appears in front of a judge after being arrested and is formally advised of the charges against them. For additional explanation of the arraignment process in New York State, see: <http://www.nycourts.gov/courthelp/Criminal/arraignments.shtml>.
6. Different police departments adopted different policies for exercising that discretion in keeping with criminal procedure laws. For instance, in New York City, the police department did not permit DATs to be issued for certain offenses (e.g., patronizing a person for prostitution in the 3rd degree [PL § 230.04]) that qualified under state law. See [New York City Police Department Patrol Guide](#), Procedure 208-27 (effective March 18, 2019).
7. The law previously excluded the following class E felonies from receiving DATs: Rape in the 3rd degree (PL § 130.25); criminal sexual act in the 3rd degree (PL § 130.40); escape in the 2nd degree (PL § 205.10); absconding from temporary release in the 1st degree (PL § 205.17) [expired September 1, 2020]; absconding from a community treatment facility (PL § 205.19) [expired September 1, 2020]; and bail jumping in the 2nd degree (PL § 215.56).
8. The new law requires that police accept as proof of identity: 1) any valid driver's license or non-driver identification card issued by the New York State DMV, federal government, a U.S. territory, commonwealth or possession, the District of Columbia, U.S. state or municipal government, or a Canadian provincial government, 2) any valid passport from any country, 3) identification cards issued by the U.S. military, or 4) public benefits cards. See CPL §150.20.
9. CPL § 150.40
10. CPL § 150.10(3)
11. CPL § 150.80(1)
12. CPL § 150.80(2)
13. CPL § 150.80(3)
14. New York City was already providing court date notifications prior to the 2020 DAT Reforms via the New York City Criminal Justice Agency (CJA). See: <https://www.nycja.org/pretrial-services>. A study by ideas42 and the University of Chicago Crime Lab found that text message reminders reduced failure to appear rates in New York City by 26%. See Cooke, B., Diop, B.Z., Fishbane, A., et al.

(January, 2018). [*Using Behavioral Science to Improve Criminal Justice Outcomes: Preventing failures to appear in court.*](#)

15. From 2017 to 2019, the average number of days from arrest to arraignments for DAT arraignments in New York City dropped from 60 to 46 days. Over the same period, the citywide appearance rate for DAT arraignments increased from 76% to 78%. See Solomon, F.F. (November, 2020). [*Desk Appearance Tickets: Prelude to Bail Reform.*](#) New York, NY: New York City Criminal Justice Agency.

16. The CJA analysis found that in 2019 in Staten Island, where the average number of days to arraignment was lowest at 30 days, the rate of appearance for DATs was highest at 89%. In contrast, the Bronx had the lowest appearance rate for DATs at 67% but an average of 64 days to arraignment. For detailed borough-level findings, see Solomon, F.F. (November, 2020). [*Desk Appearance Tickets Among the Boroughs: 2013-2019.*](#) New York, NY: New York City Criminal Justice Agency.

17. The volume of arraignments for New York City does not include the 70,441 criminal summonses issued in 2019 (29.4% of which were unclassified misdemeanors). The appearance rate for criminal summonses in 2019 was 65.3%. A criminal summons is another type of appearance ticket (authorized by CPL § 150) that directs an individual to appear for arraignment at a future date and is issued by law enforcement for non-fingerprintable misdemeanors and quality of life offenses as defined in state law and local ordinances and codes. A summons allows a police officer to write up the accusatory instrument and, unlike a DAT, does not require the prosecutor to file a complaint. See New York County Lawyers' Association. (2011). [*New York City Criminal Courts Manual.*](#) New York, NY. p.96.

18. In New York State, Theft of Services charges consist primarily of fare evasion on public transit (PL § 165.15). In New York City specifically, Theft of Services can be charged for jumping the subway turnstile.

19. Aggravated unlicensed operation of a motor vehicle can be a felony or misdemeanor charge depending on the number of prior convictions for the same offense, and on the specific characteristics of the charge. Therefore, this charge appears in two categories.

20. Michael Rempel, Director of Jail Reform at the Center for Court Innovation, estimates that in 2019, approximately 5,300 cases originated as indictments in superior court (personal communication, February 22, 2021). DCJ is grateful to Mr. Rempel for his assistance in providing this information.

APPENDIX A: DATA AND DEFINITIONS

Data and Sample

The full dataset from the New York State Office of Court Administration (OCA) includes 73 city and district courts but for this report, we analysis data from 67 courts. We exclude five courts that did not have data for the full 2019 calendar year (Suffolk County 2nd, 3rd, 4th, 5th and 6th District Courts). We also exclude Albany City Traffic Court, which only had three arraignments in 2019, two of which were DAT arraignments with a 100% appearance rate. We exclude data from this court to prevent overestimating the appearance rates statewide and in Upstate City Courts.

In 20 counties across New York State, 100% of criminal court arraignments occur in town and village courts and are therefore not represented in the data: Allegany, Delaware, Essex, Franklin, Greene, Hamilton, Lewis, Livingston, Orleans, Putnam, Rockland, Schoharie, Schuyler, Seneca, Sullivan, Tioga, Washington, Wayne, Wyoming, and Yates counties.

The OCA dataset includes cases that were issued a Desk Appearance Ticket as well as cases that resulted in custodial arrests. It excludes the small proportion of cases that were filed in superior court²⁰ (which only adjudicates felony cases) rather than criminal court (where all misdemeanors and most felonies are arraigned), as well as any DAT that was issued at arrest but was later diverted. In our analyses, we also exclude all violations, as well as any case that is missing arrest charge severity (approximately 19,000 arraignments in New York City in 2019).

DAT and Non-DAT Arraignments

In this report, DAT arraignments are defined using the following parameters: arraigned felony and misdemeanor cases flagged as a DAT (60.2% of all DAT arraignments); cases with a first appearance date set 15 days or more after the date of first arrest (65.9% of DAT arraignments in non-NYC courts only); and cases missing an arraignment date but with a first warrant issued 15 days after the date of first arrest (no DAT arraignments in 2019 were missing an arraignment date).

Non-DAT arraignments are all other arraigned felony and misdemeanor cases that are not flagged as a DAT in the data (e.g., hospital arraignment, domestic violence case, a 14 or 15-year-old with a violent felony charge).

Appearance Rates for DATs

The appearance rate for DAT arraignments is defined as the proportion of warrants issued for failure to appear at arraignment. Appearance rates are calculated using a combination of first arrest date, first court appearance date, and warrant issuance date. Only DATs that had complete warrant information were included in these calculations. Therefore, the number of DATs shown in Figures 2, 4, 7, and 8 is lower than the total number of DATs for each corresponding category. Complete warrant information is missing for 7,358 DAT arraignments (9.2% of DATs in 2019).

The statewide appearance rate is the average of the appearance rates for DAT arraignments for the

67 individual courts included in the analysis. The appearance rate for each geography is calculated by taking the average of the appearance rates for each individual court within each geographic region.

Definitions of Charge Class and Charge Categories

Felony and misdemeanor charge classes are defined based on Article 55 of the penal law code. Unclassified misdemeanors are any offenses not defined in the penal law for which a sentence of imprisonment of longer than 15 days but not in excess of one year may be imposed (PL § 55.10).

Consistent with past DCJ work, arrest charge penal codes are grouped into eight broad categories: Person, Property, Weapons, Other Drugs, Marijuana, Vehicle and Driving, Theft of Services, and Other. For this report, each category includes both felonies and misdemeanors related to that category (e.g., grand larceny in the 4th degree [E felony] and petit larceny [A misdemeanor] are both categorized as Property charges). The most common charge in Other Drugs in 2019 was criminal possession of a controlled substance in the 7th degree (PL § 220.03). The most common Vehicle and Driving charge in 2019 was aggravated unlicensed operation (VTL § 511).

Property charges are defined as offenses that typically involve a complainant or victim and result in the unlawful possession or destruction of property. These include offenses such as burglary, larceny, and motor vehicle theft. The most common Property charge in 2019 was petit larceny (PL § 155.25).

Person charges are defined as offenses that typically result in direct harm to a known victim or victims. These include offenses such as murder, rape, robbery, assault, and related offenses. The most common Person charge in 2019 was assault in the 3rd degree (PL § 120.00)

We categorize charges as “Other” when the charge descriptions are ambiguous or lack sufficient detail to easily place them in another category (e.g., PL § 240.61 - Placing a false bomb or hazardous substance in the 2nd degree). The most common charge in this category in 2019 was criminal contempt in the 2nd degree (PL § 215.50).

APPENDIX B: DAT ARRAIGNMENTS IN 2019 BY COURT

Court	All Arraignments	Non-DAT Arraignments		DAT Arraignments	Appearance Rate for DATs	Failure-to-Appear Rate for DATs
Upstate City Courts						
Albany County						
Albany City Criminal Court	2,813	2,581	91.75%	232	8.25%	21.76%
Albany City Traffic Court*	3	1	33.33%	2	66.67%	0.00%
Cohoes City Court	602	380	63.12%	222	36.88%	15.03%
Watervliet City Court	444	370	83.33%	74	16.67%	14.29%
Broome County						
Binghamton City Court	2,514	2,250	89.50%	264	10.50%	16.09%
Cattaraugus County						
Olean City Court	614	408	66.45%	206	33.55%	10.05%
Salamanca City Court	530	319	60.19%	211	39.81%	9.04%
Cayuga County						
Auburn City Court	973	641	65.88%	332	34.12%	17.18%
Chautauqua County						
Dunkirk City Court	477	346	72.54%	131	27.46%	7.27%
Jamestown City Court	2,392	2,091	87.42%	301	12.58%	9.51%
Chemung County						
Elmira City Court	1,445	1,174	81.25%	271	18.75%	27.75%
Chenango County						
Norwich City Court	348	263	75.57%	85	24.43%	5.80%
Clinton County						
Plattsburgh City Court	581	402	69.19%	179	30.81%	7.32%
Columbia County						
Hudson City Court	465	276	59.35%	189	40.65%	18.60%
Cortland County						
Cortland City Court	832	688	82.69%	144	17.31%	6.11%
Dutchess County						
Beacon City Court	377	202	53.58%	175	46.42%	7.48%
Poughkeepsie City Court	1,111	863	77.68%	248	22.32%	14.36%
Erie County						
Buffalo City Court	12,664	10,891	86.00%	1,773	14.00%	35.66%
Lackawanna City Court	714	401	56.16%	313	43.84%	23.16%
Tonawanda City Court	600	351	58.50%	249	41.50%	8.97%
Gloversville City Court	632	364	57.59%	268	42.41%	14.64%
Johnstown City Court	411	201	48.91%	210	51.09%	27.07%
Genesee County						
Batavia City Court	651	517	79.42%	134	20.58%	10.66%
Herkimer County						
Little Falls City Court	181	100	55.25%	81	44.75%	7.79%

Court	All Arraignments	Non-DAT Arraignments		DAT Arraignments		Appearance Rate for DATs	Failure-to-Appear Rate for DATs
Upstate City Courts							
Jefferson County							
Watertown City Court	1,293	975	75.41%	318	24.59%	90.65%	9.35%
Madison County							
Oneida City Court	628	392	62.42%	236	37.58%	89.22%	10.78%
Monroe County							
Rochester City Court	7,356	6,289	85.49%	1,067	14.51%	82.48%	17.52%
Montgomery County							
Amsterdam City Court	776	622	80.15%	154	19.85%	85.38%	14.62%
Niagara County							
Lockport City Court	1,074	702	65.36%	372	34.64%	85.96%	14.04%
Niagara Falls City Court	2,689	1,734	64.48%	955	35.52%	89.08%	10.92%
North Tonawanda City Court	702	541	77.07%	161	22.93%	97.66%	2.34%
Oneida County							
Rome City Court	1,666	1,002	60.14%	664	39.86%	95.11%	4.89%
Sherrill City Court	22	11	50.00%	11	50.00%	87.50%	12.50%
Utica City Court	3,171	2,238	70.58%	933	29.42%	75.23%	24.77%
Onondaga County							
Syracuse City Court	7,253	6,231	85.91%	1,022	14.09%	68.86%	31.14%
Ontario County							
Canandaigua City Court	376	239	63.56%	137	36.44%	91.41%	8.59%
Geneva City Court	566	383	67.67%	183	32.33%	82.95%	17.05%
Orange County							
Middletown City Court	1,394	961	68.94%	433	31.06%	79.71%	20.29%
Newburgh City Court	1,738	1,154	66.40%	584	33.60%	86.65%	13.35%
Port Jervis City Court	776	690	88.92%	86	11.08%	92.50%	7.50%
Oswego County							
Fulton City Court	556	419	75.36%	137	24.64%	61.79%	38.21%
Oswego City Court	1,161	595	51.25%	566	48.75%	86.82%	13.18%
Otsego County							
Oneonta City Court	460	372	80.87%	88	19.13%	88.46%	11.54%
Rensselaer County							
Rensselaer City Court	206	111	53.88%	95	46.12%	82.72%	17.28%
Troy City Court	2,053	1,875	91.33%	178	8.67%	91.55%	8.45%
Saratoga County							
Mechanicville City Court	453	257	56.73%	196	43.27%	88.33%	11.67%
Saratoga Springs City Court	990	833	84.14%	157	15.86%	95.27%	4.73%
Schenectady County							
Schenectady City Court	2,644	2,328	88.05%	316	11.95%	84.89%	15.11%

Court	All Arraignments	Non-DAT Arraignments	Non-DAT %	DAT Arraignments	DAT %	Appearance Rate for DATs	Failure-to-Appear Rate for DATs
Upstate City Courts							
St. Lawrence County							
Ogdensburg City Court	423	268	63.36%	155	36.64%	81.88%	18.12%
Steuben County							
Corning City Court	508	338	66.54%	170	33.46%	82.73%	17.27%
Hornell City Court	409	161	39.36%	248	60.64%	82.23%	17.77%
Tompkins County							
Ithaca City Court	596	420	70.47%	176	29.53%	76.92%	23.08%
Ulster County							
Kingston City Court	985	748	75.94%	237	24.06%	79.23%	20.77%
Warren County							
Glens Falls City Court	637	443	69.54%	194	30.46%	88.13%	11.88%
Suburban NYC							
Nassau County							
Glen Cove City Court	455	258	56.70%	197	43.30%	97.38%	2.62%
Long Beach City Court	654	412	63.00%	242	37.00%	98.25%	1.75%
Nassau District Court	24,048	9,939	41.33%	14,109	58.67%	92.84%	7.16%
Suffolk County							
Suffolk 1 st District Court	41,548	13,956	33.59%	27,592	66.41%	94.74%	5.26%
Suffolk 2 nd District Court	-	-	-	-	-	-	-
Suffolk 3 rd District Court	-	-	-	-	-	-	-
Suffolk 4 th District Court	-	-	-	-	-	-	-
Suffolk 5 th District Court	-	-	-	-	-	-	-
Suffolk 6 th District Court	-	-	-	-	-	-	-
Westchester County							
Mount Vernon City Court	2,197	1,561	71.05%	636	28.95%	86.64%	13.36%
New Rochelle City Court	1,317	1,074	81.55%	243	18.45%	92.34%	7.66%
Peekskill City Court	866	537	62.01%	329	37.99%	92.04%	7.96%
Rye City Court	150	68	45.33%	82	54.67%	91.03%	8.97%
White Plains City Court	1,710	973	56.90%	737	43.10%	92.69%	7.31%
Yonkers City Court	3,875	3,459	89.26%	416	10.74%	75.98%	24.02%
New York City							
Bronx County Criminal Court	17,908	14,870	83.04%	3,038	16.96%	69.26%	30.74%
Kings County Criminal Court	32,908	29,289	89.00%	3,619	11.00%	75.27%	24.73%
New York County Criminal Court	28,291	23,267	82.24%	5,024	17.76%	85.35%	14.65%
Queens County Criminal Court	27,550	21,171	76.85%	6,379	23.15%	88.74%	11.26%
Richmond County Criminal Court	5,296	4,258	80.40%	1,038	19.60%	90.27%	9.73%
Total	264,708	184,504		80,204			

* Arraignments from Albany City Traffic Court are excluded from the final analyses to prevent overinflation of appearance rates.

APPENDIX C: DAT ARRAIGNMENTS IN 2019 BY CHARGE CLASS, TOP 3 CHARGE CODES

Charge Class	Charge Code	DAT Arraignments		Appearance Rate for DATs
D Felony		344	1.96%	90.80%
	Grand larceny 3 rd degree (PL § 155.35)	104	6.90%	96.91%
	Assault 2 nd degree (PL § 120.05)	41	0.84%	87.80%
	Criminal possession of a controlled substance 5 th degree (PL § 220.06)	40	2.67%	94.29%
E Felony		1,728	9.98%	89.39%
	Grand larceny 4 th degree (PL § 155.30)	580	15.81%	88.24%
	Operation while license of privilege is suspended or revoked; aggravated unlicensed operation (VTL § 511)	281	14.13%	89.24%
	Criminal mischief 3 rd degree (PL § 145.05)	182	10.81%	89.61%
A Misdemeanor		29,987	24.34%	83.89%
	Petit larceny (PL § 155.25)	9,590	31.98%	80.79%
	Criminal possession of a controlled substance 7 th degree (PL § 220.03)	7,031	23.45%	79.09%
	Assault 3 rd degree (PL § 120.00)	3,492	15.94%	92.20%
Unclassified Misdemeanor		43,236	57.96%	92.59%
	Operation while license of privilege is suspended or revoked; aggravated unlicensed operation (VTL § 511)	24,248	58.89%	89.58%
	Surrender of license and evidence of registration (VTL § 340)	8,614	94.07%	97.86%
	Operation while registration or privilege is suspended or revoked (VTL § 512)	3,812	68.57%	93.80%
B Misdemeanor		4,708	34.12%	80.68%
	Criminal possession of marijuana 5 th degree (PL § 221.10)	2,491	73.46%	81.76%
	Criminal trespass 3 rd degree (PL § 140.10)	673	28.57%	77.69%
	Loitering 1 st degree (PL § 240.36)	584	82.49%	74.27%

APPENDIX D: DAT ARRAIGNMENTS IN 2019 BY CHARGE CATEGORY, TOP 3 CHARGE CODES

Charge Category	Charge Code	DAT Arraignments	Appearance Rate for DATs
Person		4,691	10.50%
	Assault 3 rd degree (PL § 120.00)	3,541	14.65%
	Endangering the welfare of a child (PL § 260.10)	363	15.02%
	Menacing 2 nd degree (PL § 120.14)	339	8.87%
Property		12,111	28.28%
	Petit larceny (PL § 155.25)	9,625	38.08%
	Criminal Trespass 3 rd degree (PL § 140.10)	915	35.21%
	Grand larceny 4 th degree (PL § 155.30)	590	15.58%
Weapons		998	15.26%
	Criminal possession of a weapon 4 th degree (PL § 265.01)	963	34.17%
	Criminal possession of a weapon 3 rd degree (PL § 265.02)	21	1.95%
	Criminal possession of a weapon 2 nd degree (PL § 265.03)	7	0.30%
Other Drugs		7,527	25.54%
	Criminal possession of a controlled substance 7 th degree (PL § 220.03)	7,041	36.56%
	Criminally possessing a hypodermic instrument (PL § 220.45)	184	49.46%
	Criminally using drug paraphernalia 2 nd degree (PL § 220.50)	113	52.56%
Marijuana		2,971	49.85%
	Criminal possession of marijuana 5 th degree (PL § 221.10)	2,491	73.46%
	Criminal possession of marijuana 4 th degree (PL § 221.15)	288	39.94%
	Criminal sale of marijuana 4 th degree (PL § 221.40)	121	10.96%
Vehicle and Driving		43,364	55.89%
	Operation while license or privilege is suspended or revoked; aggravated unlicensed operation (VTL § 511)	24,529	56.83%
	Surrender of license and evidenc of registration (VTL § 340)	8,614	94.07%
	Operation while registration or privilege is suspended or revoked (VTL § 512)	3,812	68.57%
Theft of Services		440	15.68%
	Theft of services (PL § 165.15)	417	16.08%
	Unauthorized sale of certain transportation services (PL § 165.16)	23	10.80%
Other		8,100	15.74%
	Criminal mischief 4 th degree (PL § 145.00)	1,396	16.07%
	Loitering 1 st degree (PL § 240.36)	584	82.49%
	Aggravated harassment 2 nd degree (PL § 240.30)	421	13.37%

DATA COLLABORATIVE FOR **JUSTICE**

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