

# Beyond Bail: How Reforms to Discovery & Appearance Tickets Impacted New York's Criminal Legal System

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Presented by



CUNY INSTITUTE  
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AT JOHN JAY COLLEGE



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# Evaluating the Impact of DAT Reform in New York State

# Research Questions

1. Did DAT Reform Increase DAT Issuance?
2. Did DAT Reform Shorten Time from Arrest to Arraignment?
3. How did DAT Reform Impact Warrant Rates?
4. Did Dispositions for DATs Change Post-Reform?
5. Did DAT Reform Shrink Racial Disparities?

# Data & Definitions

## Data –

- Criminal court arraignments in 69 NYS city and district courts (42 counties)
- January 1, 2019, to December 31, 2022

## Sampling –

- Excludes violations and infractions
- Excludes cases ineligible for mandatory issuance of DAT because of carve outs

## Geography –

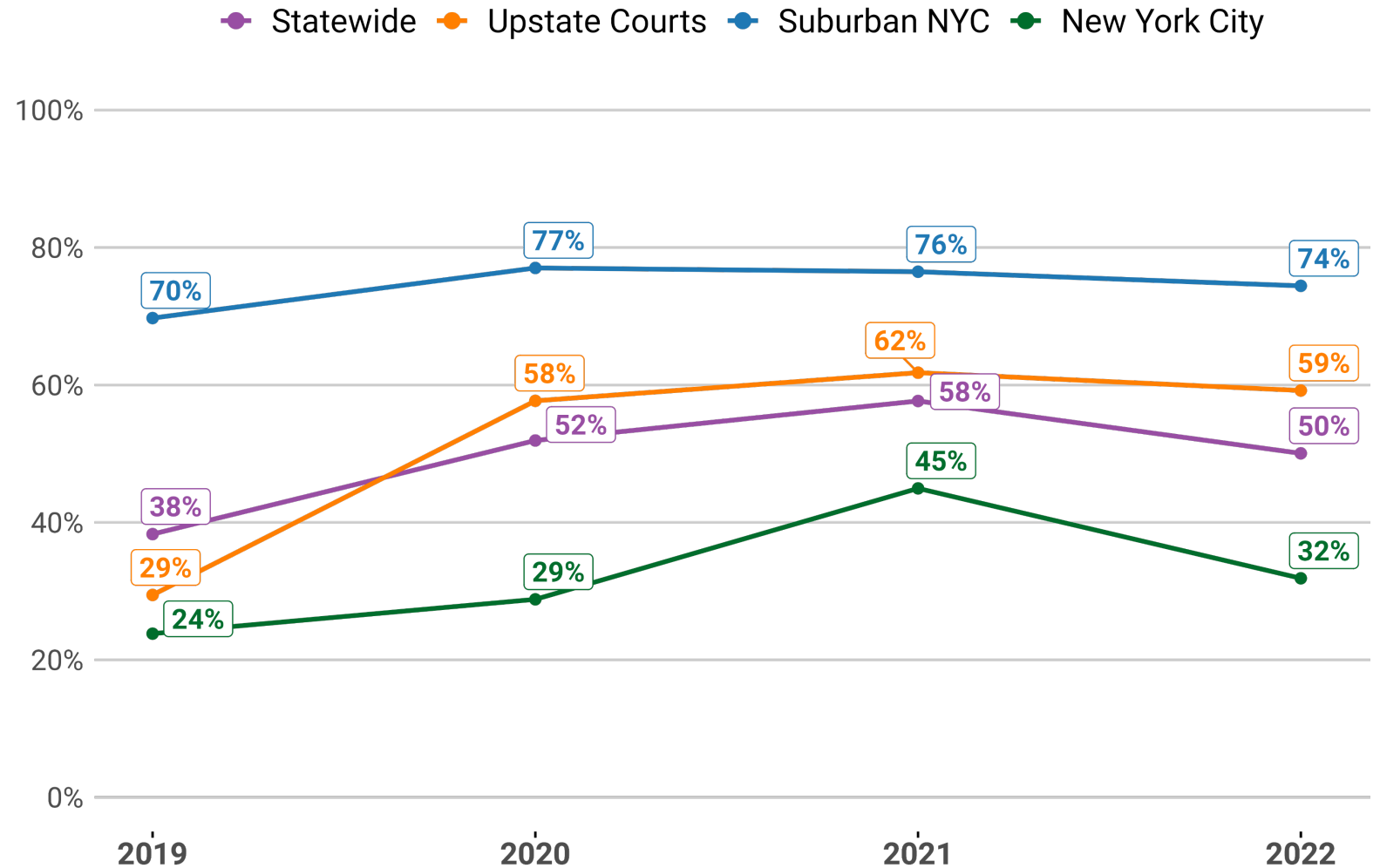
- Suburban NYC = Westchester, Nassau, Suffolk
- NYC = 5 boroughs
- Upstate = all other NYS counties

# New York State DAT Reform

- Pre-reform, DATs issued to low-level offenses (violations, infractions, and misdemeanors) and some non-violent felonies *with discretion*
- Post-reform, DATs must be issued to most misdemeanors and Class E felonies *with carve outs*
- Carve outs -
  - DV cases
  - Sex offenses
  - Vehicle offenses resulting in suspended/revoked license
  - Pending warrant or FTA in past 2 years
  - Identity can not be established
  - Individual needs immediate medical or mental health care
  - Order of protection will be issued
  - Hate crimes
  - Weapons possession on school grounds
  - Harm to an identifiable person or property with pending case

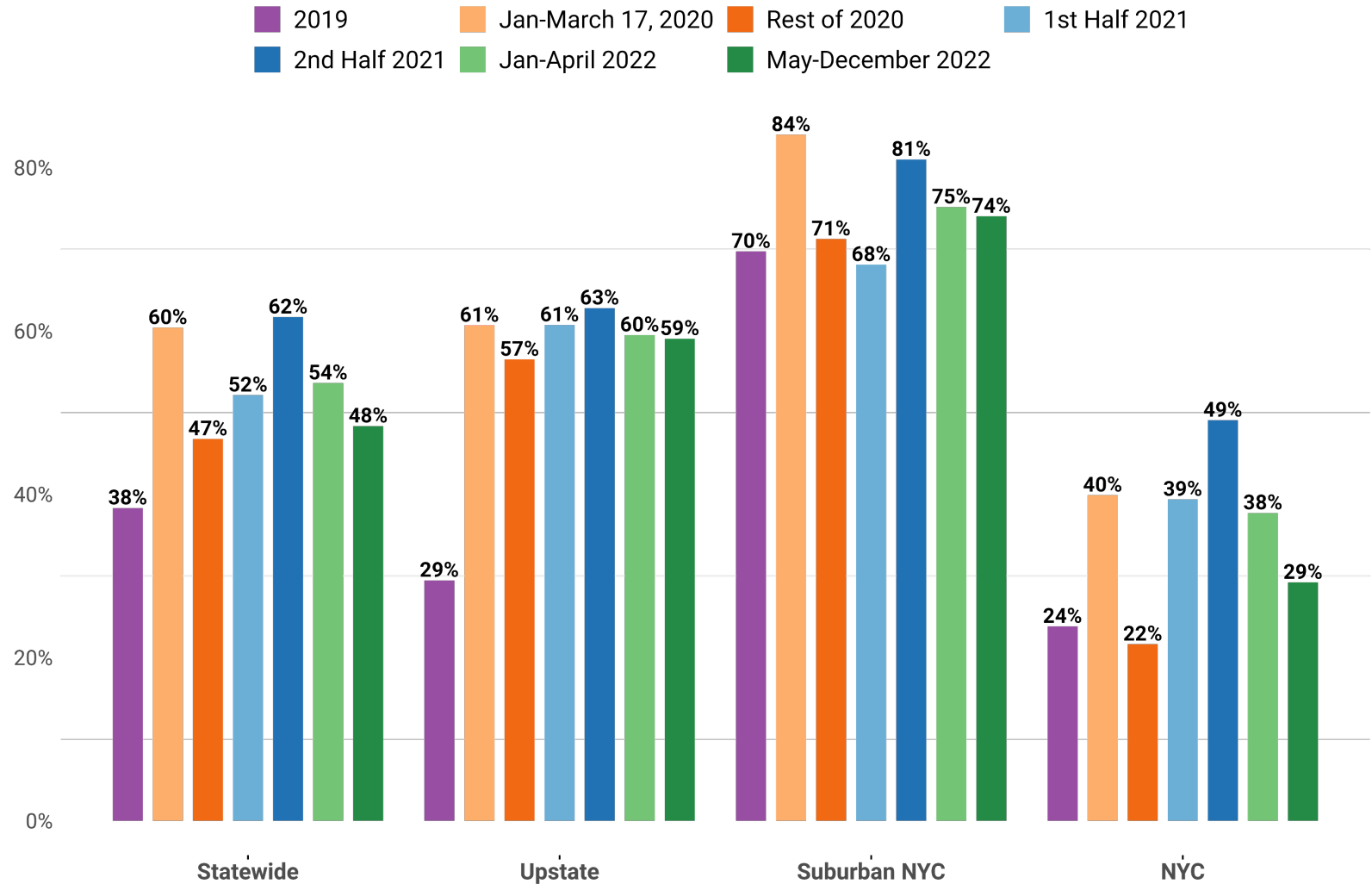
# DAT Issuance Rates Pre- & Post-Reform

- % of DATs doubled in 2020 in Upstate
- % of DATs almost doubled from 2019-2021 in NYC
- Universal decrease in 2022
- **Approx. 20,000 more arrests in 2022 resulted in a DAT**



# DATs Before, During, and After COVID-19

- Sharp increase immediately after reform implementation
- Decrease during 2020 amid pandemic disruptions
- Gradual re-increase across two halves of 2021
- Reversal across two halves of 2022



# Time from Arrest to Arraignment

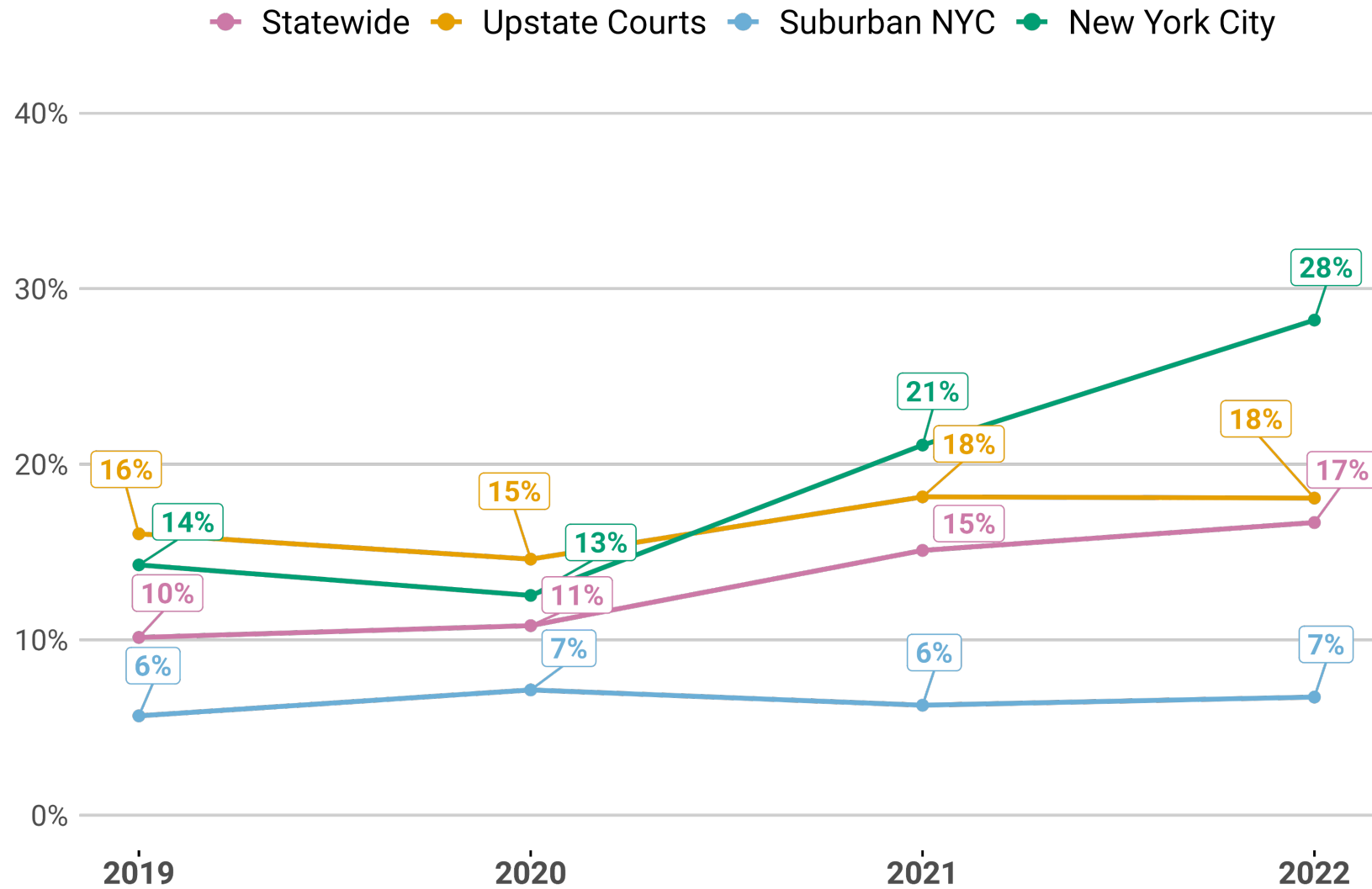
- Pre-reform, arraignments occurred within 20 days in 14% of cases
- Increase to 37% in 2020 then decline to 28% in 2021
- Over half of cases were arraigned within 20 days in 2022
- Efficiency in returning to court most evident in Suburban NYC and NYC – 37 and 84 percentage-point increase from 2019 to 2022

	Statewide	Upstate	Suburban NYC	NYC
<b>2019</b>				
<b>Within 20 days</b>	14%	50%	5%	9%
<i>Median</i>	44	20	62	44
<i>Mean</i>	79	61	130	45
<b>2020</b>				
<b>Within 20 days</b>	37%	34%	37%	44%
<i>Median</i>	39	35	62.5	39
<i>Mean</i>	105	80	155	80
<b>2021</b>				
<b>Within 20 days</b>	28%	30%	20%	34%
<i>Median</i>	70	35	155	70
<i>Mean</i>	152	93	282	81
<b>2022</b>				
<b>Within 20 days</b>	55%	41%	42%	93%
<i>Median</i>	24	24	32	20
<i>Mean</i>	93	77	180	22

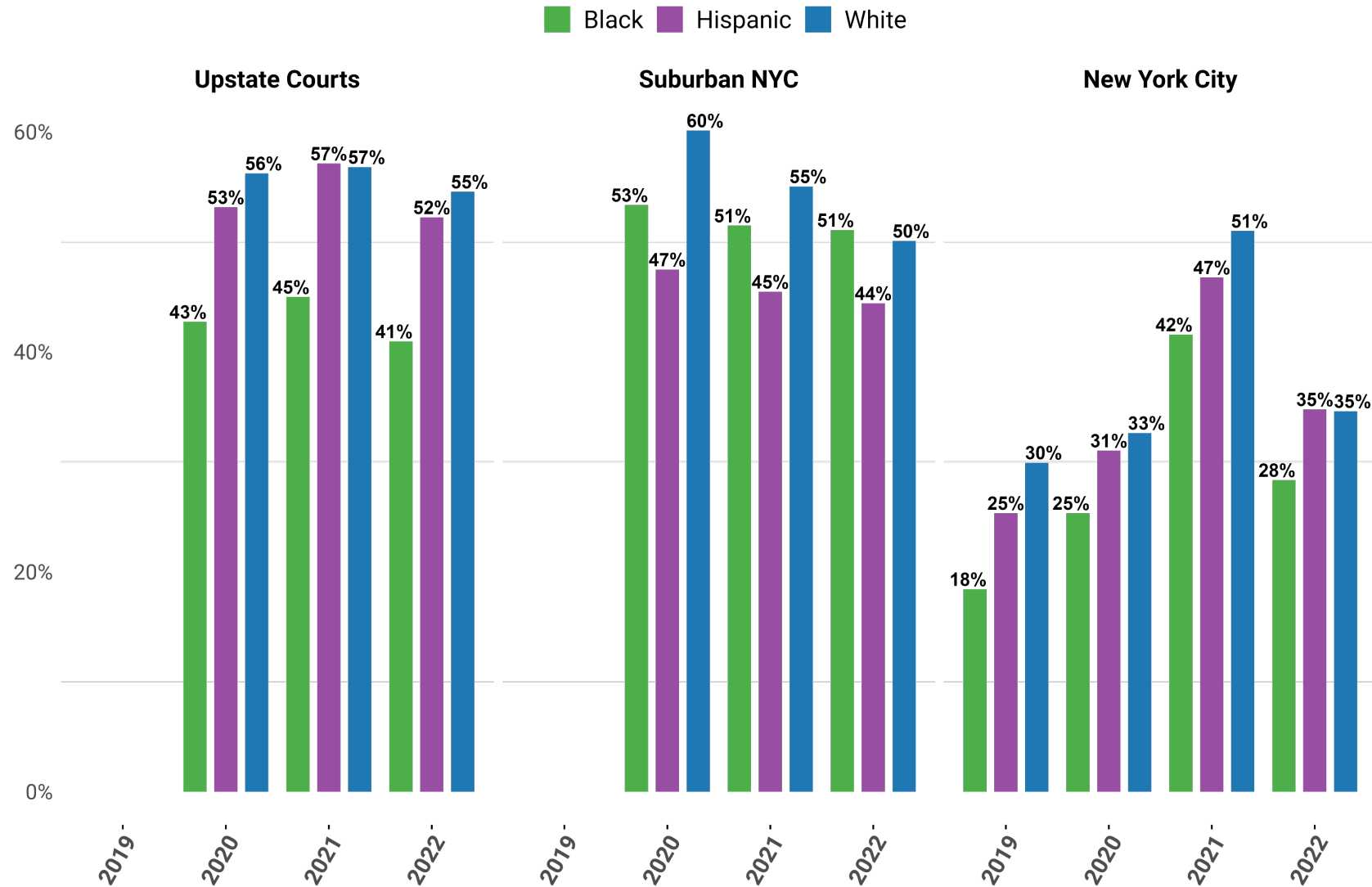
Note: Excludes cases issued a warrant for FTA.



# Warrant Issuance for DATs Pre- & Post-Reform



# Racial Disparities in DAT Issuance



# Racial Disparities in Warrant Issuance for DATs

	2019		2020		2021		2022	
	DATs	Warrant	DATs	Warrant	DATs	Warrant	DATs	Warrant
<b>Upstate</b>								
Black	-	-	3,640	18%	3,808	24%	3,947	24%
Hispanic	-	-	1,008	12%	1,192	15%	1,360	18%
White	-	-	6,628	16%	7,279	22%	7,620	24%
<b>Suburban NYC</b>								
Black	-	-	2,346	20%	2,280	18%	2,972	21%
Hispanic	-	-	1,578	13%	1,681	12%	1,723	16%
White	-	-	2,688	14%	2,714	14%	2,984	15%
<b>NYC</b>								
Black	8,704	18%	5,534	15%	13,261	24%	11,095	33%
Hispanic	8,644	16%	4,750	12%	10,284	19%	9,454	26%
White	4,366	10%	1,912	13%	4,480	21%	3,412	27%

# Takeaways & Implications

- Expected but *inconsistent* increase in DAT issuance for applicable misdemeanors and Class E felonies
- More people arraigned within 20-day window, reducing need for warrants and improving efficiency of system
- Racial disparities still exist in all regions but is shrinking in NYC
- Questions around uniformity of compliance

# New York State Criminal Justice Reform

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## Implementation

*Kate Jassin, Research Associate*



# Discussion Roadmap

- **Legislative Overview**
- **CUNY ISLG's Process Evaluation**
- **Implementing AT and Discovery Provisions**
  - **Successes and Challenges**



# Legislative Overview



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# More Than Bail Reform

## Appearance Tickets

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Mandated appearance tickets be issued for all misdemeanors and class E felonies (with some exceptions); and specified that those issued AT's would be arraigned within 20 days

## Bail

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Prohibited cash bail for most non-violent charges (with some exceptions)

Established charges to include in bail eligibility list

## Pre-trial Release

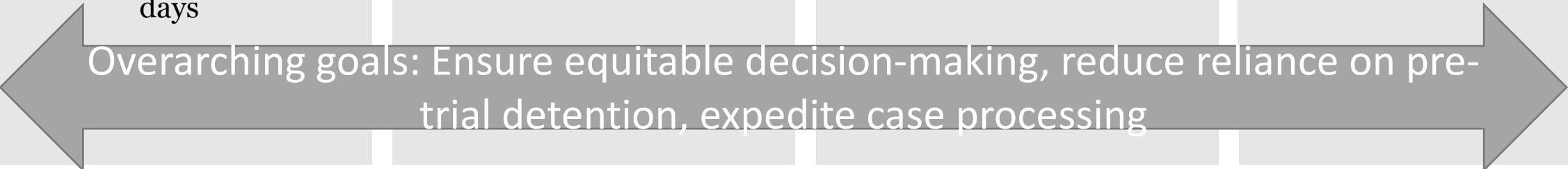
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Included language for judges to consider the least restrictive option available to ensure court appearance; this included significant expansion of supervised release

## Discovery

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Reduced discovery timelines and expanded the information required to be shared between the prosecution and defense



Overarching goals: Ensure equitable decision-making, reduce reliance on pre-trial detention, expedite case processing



# CUNY ISLG's Process Evaluation



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# Process Evaluation Sample and Data Sources

## Site Selection

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Criminal legal agencies within NYC and in several counties outside NYC

## Interviews and Focus Groups

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Interviews with key stakeholder groups across executives, managers and supervisors

Focus groups with line staff and those impacted by the system

Law enforcement, prosecution, defense, pretrial/probation, direct service, community members

## Administrative Data

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Collected aggregate data from some agencies

Reviewed publicly available data and research reports

Focused on criminal legal system outcomes

## Context Setting Reviews

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Reviewed documents provided by agencies, largely training curriculums and new policies/protocols

Observed a selection of NYC arraignment hearings

Reviewed public testimony

Media review

# Appearance Tickets and Discovery



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# Stakeholder Experiences: Appearance Tickets

- Required fewer operational changes than other provisions, and therefore involved less planning, but some challenges for jurisdictions outside of NYC and during COVID-19
  - Shortened timeline was problematic for counties outside NYC
  - Courts shut down and timeline suspended, leading to large AT backlog
- Conversations centered around impacts on public safety, and highlighted disagreement between law enforcement and public defenders
  - Law enforcement perceived the requirements fully eliminated their discretion; worried about “revolving door” of AT arrests
  - Public defenders believed legislation still left room for officer discretion given the list of possible exceptions

# Stakeholder Experiences: Discovery

- Stakeholders agreed with the need for discovery reform, but had very different views of the impact of the legislation on day-to-day work and outcomes
- Discussions among public defenders centered on the ability to more effectively advise clients
  - Saw increases in case dismissals as evidence of improved fairness
  - Anecdotally reported fairer case outcomes
- Prosecutors felt left out of the conversation, and believed did not consider how reforms would impact their practice
  - Need for increased technology infrastructure to coordinate between agencies without funding
  - Amount of information required with shorter timelines and limited staff
  - Need to develop methods to “triage” cases to keep up with discovery requirements and timelines

## Stakeholder Experiences: Discovery

- Discussions among prosecutors generally centered on the impacts of discovery reform on public safety, broadly, and shifted the unfairness to victims and the larger community
  - Concerned with witness safety due to requirements for sharing witness contact info
  - Believed cases would be dismissed on technicalities for cases that were otherwise strong
  - Less time for victim support and alternatives to incarceration programs