Evaluating the Impact of Desk Appearance Ticket Reform in New York State

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Chapter 1.
Introduction

On April 1, 2019, New York State passed extensive legislative reforms aimed at transforming the criminal legal system and its impact on New Yorkers. The first iteration of these reforms took effect in January 2020 and eliminated money bail for most misdemeanors and non-violent felonies and imposed new requirements related to discovery and speedy trials.[1]

There were also significant changes to the laws governing the issuance of desk appearance tickets (commonly referred to as "DATs" or "universal appearance tickets").[2] Replacing past discretion, police are now required by law to issue DATs for many categories of criminal charges, allowing people to appear in court on their own in lieu of pre-arraignment detention.

Although changes to bail and pretrial release decisions have received more public attention and scrutiny,[3] DAT reforms have important implications for an aspect of the criminal legal system that is perhaps more visible and commonly experienced by New Yorkers daily – contact with law enforcement. When an individual is arrested for a crime in New York, they typically experience one of two immediate outcomes: they are either taken into custody and detained for about 24 hours until their arraignment or issued a ticket with a notice to appear in court on a scheduled date. Pre-reform, DATs were predominantly issued for violations and misdemeanor offenses at the discretion of the arresting officer, inviting variability between different police departments, commands, and individual officers that the reform law sought to reduce.

Evaluating the Impact of DAT Reform

The analysis covers cases arraigned from 2019 to 2022 in 69 city and district courts (covering 42 counties) across the state and assesses the prevalence of DATs, how issuance varied by region and charge, warrant issuance for failure to appear at arraignment among those receiving a DAT, and disposition outcomes of DAT arraignments. We also take a close look at how racial disparities in DAT issuance and its associated outcomes have changed post-reform.

Key research questions include:

1. **DAT Issuance:** For affected misdemeanor and Class E felony charges, how has the proportion of DATs issued changed in the first three years of reform (2020-2022) compared to 2019?

2. **Time from DAT Issuance to Arraignment:** For cases receiving a DAT, what has been the impact of the reforms on the number of days from issuance to the scheduled arraignment date?

3. **Warrant Issuance for DATs:** How has the proportion of DAT arraignments resulting in a warrant for failure to appear in court changed following reform implementation?

4. **Dispositions at Arraignment:** How, if at all, did the proportion of cases disposed at the initial arraignment appearance change following reform implementation? What types of dispositions did DATs receive when they were disposed at arraignment?

5. **Geography and Charge:** How have changes brought about under DAT reform varied by geography, charge severity (misdemeanors and Class E felonies), and charge type?

6. **Racial Disparities:** How have changes brought about under DAT reform, and resulting post-reform rates of DAT issuance, varied by race/ethnicity? To the extent any disparities in DAT issuance preexisted reform, were they reduced?

A companion report from the Finn Institute addresses similar questions for cases handled in six counties' rural or semi-rural Town and Village Justice Courts, which are not technically part of the state's Unified Court System.[4] Perhaps surprisingly, this report did not find evidence that DAT issuance increased, on balance, after the reforms went into effect, although results were not identical in all six counties examined. The report also draws attention to overlapping reforms affecting many counties' Justice Courts – especially the establishment of Centralized Arraignment Parts that ensure people have access to a defense attorney at arraignment when a DAT is not issued – a coinciding change that may work at cross-purposes and could have dampened Justice Courts' implementation of DAT reform.

In complementary research, the CUNY Institute for State & Local Governance previously issued a research brief and in-depth report examining perceptions held by stakeholders across New York State concerning the DAT reform's planning and implementation process.[5] The report also cited police department statistics indicating that in New York City, the percentage of arrests receiving a DAT increased from 2019 (pre-reform) to 2021, but then declined in 2022.

About New York's Desk Appearance Ticket Reform

With DAT reform, legislators sought to reduce pre-arraignment detention in low-level cases and shrink potential inequities resulting from discretionary decision-making. Post-reform, officers are now mandated to issue DATs for most misdemeanors and Class E felonies (with carve outs). In addition to promoting uniformity of DAT issuance, thereby reducing disparate treatment of certain groups over others, the reforms also reduce unnecessary and prolonged contact with police for people arrested for minor, non-violent offenses.

The main exceptions where police officers retain discretion on whether to issue a DAT are domestic violence cases, sex offenses, vehicle offenses where a driver's license may be suspended or revoked, cases where the individual has a pending warrant or record of failure to appear in the past two years, cases where an individual's identity cannot be established, and cases where police believe the individual needs immediate medical or mental health care. Police are also not required to issue a DAT if they "reasonably" conclude the court will issue an order of protection, a carve-out with the likely practical effect of exempting many or most misdemeanor assault or related charges involving alleged violence against another person.

In addition, put into effect in May 2022 through subsequent amendments to the reform law, police now retain discretion with hate crimes, possession of a weapon on school grounds, and—in a particularly broad carve-out—any allegation involving "harm to an identifiable person or property" where there is also a pending case meeting this same criterion.

The reform law also required people issued a DAT to receive an arraignment date within 20 days (previously there was no time limit) except when participating in pre-arraignment diversion programs. This time limit was suspended at the onset of the COVID-19 pandemic, leading to a comparatively low number of DAT arraignments for several months starting in March 2020 (as this report documents below).

Data Source

Data for the current study were provided by the New York State Office of Court Administration (OCA), and includes docketed criminal court arraignments in 42 New York State counties from January 1, 2019, to December 31, 2022.[6] Our analysis excludes DAT arraignments for violations and infractions.[7] The data includes the county of arraignment, from which cases could be divided into three key regions: New York City, Suburban NYC (Nassau, Suffolk, and Westchester counties), and Upstate.

An important limitation is that for counties outside New York City, demographic data was only available starting in 2020, precluding a statewide analysis of changes in racial disparities since 2019.

Another limitation is that court data omit people who successfully complete pre-arraignment diversion. Yet in New York City in particular, some people arrested on low-level charges participate in such a diversion; and because program completion leads the prosecutor to decline to file any charges, court data would have no record of the case. However, data separately provided by the Center for Justice Innovation, which offers programming to the vast majority of pre-arraignment diversion participants citywide, indicates that any bias would be minimal. In all years from 2019 to 2022, less than 2% of DAT-eligible arrests completed pre-arraignment diversion programming. Hence, the omission of these cases from court data would not substantially impact the size of denominators or reported percentages of arrests avoiding pre-arraignment detention in this report's analyses.[8]

Context of Reform: Changing DAT Volume from 2019 to 2022

Overall, the volume of DAT arraignments in New York State fell by 31% from 2019 to 2020 but surpassed pre-reform levels by the second half of 2021. For most of 2022, the number of DAT arraignments statewide matched closely to pre-reform 2019 levels. The 2019-2020 decline is also reflected regionally (Exhibit 1.1). The return to pre-reform volume in 2021 was driven mainly by increases in New York City, but in Suburban NYC and Upstate, DAT arraignments continued to fall below pre-pandemic levels for most of 2021 and 2022.

Exhibit 1.1. Felony & Misdemeanor DATs in New York State

Legend: Statewide — Upstate Courts — Suburban NYC — New York City

Year	Statewide	Suburban NYC	New York City	Upstate Courts
2019	85,927	44,498	25,111	16,318
2020	61,403	27,052	13,745	20,606
2021	84,074	28,949	31,405	23,720
2022	85,788	34,025	26,663	25,100
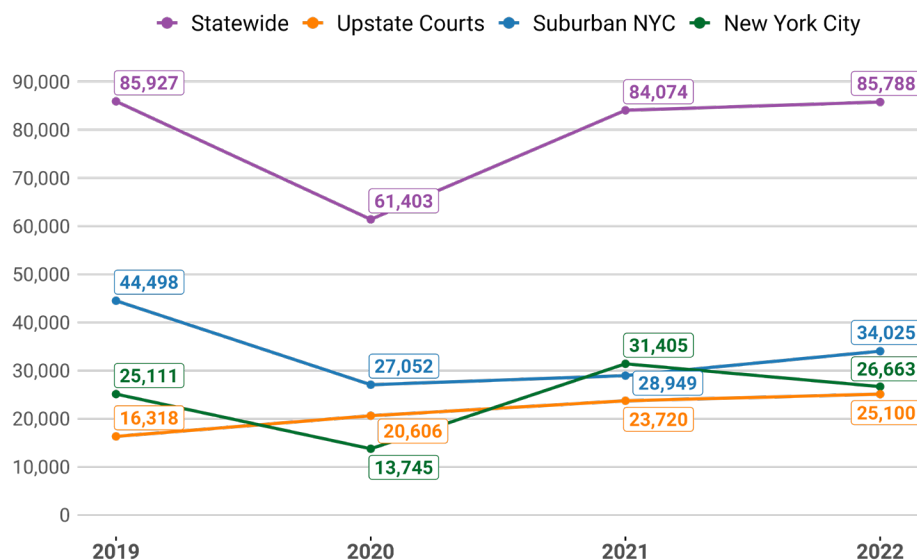
COVID-19 Effect. Between April and June of 2020, there were virtually no DAT arraignments anywhere in the state, as the pandemic led to the suspension of normal court operations and precipitated a state-ordered suspension of the 20-day limit to schedule an arraignment on a DAT. However, by July 2020, DAT arraignments were on the rise and in Upstate, reached a peak of 2,736 (73% of arraignments).

Upshot

Despite a 31% drop in volume from 2019 to 2020 amid the height of the pandemic, DAT issuance rose back to pre-reform levels by the second half of 2021, driven mainly by an increase in New York City. While these changes in overall DAT volume provide noteworthy context for the current report, they do not address its purpose of evaluating the impact of DAT reform relative to its absence. Fluctuation in overall DAT numbers largely reflect factors such as the shifting volume of low-level arrests generally, or pandemic-related effects on the scheduling of DAT arraignments. **A proper evaluation of DAT reform hinges on the percentage of targeted misdemeanors and Class E felonies, of those coming through the front door of the system in any given year, which receive a DAT in lieu of experiencing a custodial arrest** (addressed in Chapter 2).

Sampling Note

From here on, we examine arraignments for misdemeanors and Class E felonies only, and exclude cases that would be ineligible for mandatory issuance of a DAT based on criteria defined in the new legislation. These criteria include cases involving domestic violence; bail jumping, absconding, or escape charges (e.g., PL § 215.56, PL § 205.10, PL § 205.17, and PL § 205.19); sex offenses (e.g., PL § 130.55 and PL § 130.65); and individuals who have failed to appear in court within the previous two years.

Some carve-outs in the reform law could not be coded in the data, such as whether the individual could establish their identity, whether the officer considers them to need immediate medical or mental health care, or whether the officer believed the court would issue an order of protection. (The analysis does omit misdemeanor assault cases on the grounds that police would often opt against issuing a DAT due to the order of protection carve out.)

A general exception to the focus on cases subject to a mandatory DAT is that we *included* driving with a suspended or revoked license (VTL § 511). It was unaffected by the reform law, *per se*, but prior research found it to be among the charges that received a DAT most often, pre-reform.[9] Hence excluding this charge would have omitted a large quantity of DATs from this report's analyses at all time periods, besides which it is conceivable that reform could have had the indirect effect of further boosting police willingness to issue a DAT in these vehicle cases.

Lastly, we did not change our coding from May to December 2022, when additional cases became ineligible for a mandatory DAT, especially those that police considered to involve "harm to an identifiable person or property," where there is also a pending case meeting that same criterion.

Chapter 2.
Did DAT Reform Reduce Pre-Arraignment Detention?

Fundamentally, the primary purpose of DAT reform was to permit a larger percentage of people charged with low-level offenses to return home swiftly after an arrest in lieu of overnight detention before their arraignment. To what extent did this happen?

In answering this question, except where otherwise specified below or in Chapter 1's Sampling Note, this report focuses solely on misdemeanors and Class E felonies where the specific charge is subject to a mandatory DAT and the individual has not failed to appear in court in the past two years. Thus, we excluded cases where police officers have retained discretion *not* to issue a DAT based on charge, failure to appear, and warrant carve outs in the legislation. Insofar as police officers retained added discretionary carve outs (e.g., if they conclude the individual cannot prove their identity, appears to need medical or mental health care, or is likely to face a court-issued order of protection), the expectation was not that officers would issue a DAT in literally all cases analyzed. **In line with legislative intent, the governing hypothesis was that DAT issuance rates would rise significantly from the pre-reform period.**[10]

DAT Issuance Rates Pre- and Post-Reform

In general, DAT issuance rates increased from 2019 to 2021 (over the first two years, post-reform), before decreasing from 2021 to 2022.

Rising DAT Issuance from 2019 to 2021

Among reform-impacted charges, statewide DAT issuance increased from 38% of misdemeanor and Class E felonies in 2019 to 52% in 2020, followed by a further 6 percentage-point increase in 2021.

- **Upstate** saw the largest net increase from 2019 to 2021 (a 33 percentage-point increase from 29% to 62%).

- **Suburban NYC** had the highest rate of DAT issuance throughout the study period, never dropping below 70%; but reflecting its high starting point, Suburban NYC also saw the least change after the reforms went into effect.

- **New York City**, conversely, had the lowest DAT issuance rate throughout all years examined, with less than half (45%) of cases receiving a DAT even during the high watermark year of 2021, a figure that represented a near doubling from merely 24% in 2019.

Based on the statewide increase in the rate of DAT issuance from 2019 to 2021, approximately 28,000 more arrests in 2021 resulted in a DAT that allowed the individual to appear in court for arraignment on their own in lieu of being held in pre-arraignment detention.

Falloff in DAT Issuance from 2021 to 2022

As we show throughout this report and consistently across regions, the prevalence of DATs declined in 2022, particularly in New York City.[11] Statewide, DAT issuance declined from 58% in 2021 to 50% in 2022. **Based on the smaller net increase in DAT issuance from 2019 to 2022, approximately 20,000 more arrests in 2022 resulted in a DAT instead of pre-arraignment detention.**

Exhibit 2.1. DAT Issuance Rate for Reform-Impacted Charges

Legend: Statewide · Upstate Courts · Suburban NYC · New York City

Data points:
- Suburban NYC: 70% (2019), 77% (2020), 76% (2021), 74% (2022)
- Upstate Courts: 29% (2019), 58% (2020), 62% (2021), 59% (2022)
- Statewide: 38% (2019), 52% (2020), 58% (2021), 50% (2022)
- New York City: 24% (2019), 29% (2020), 45% (2021), 32% (2022)
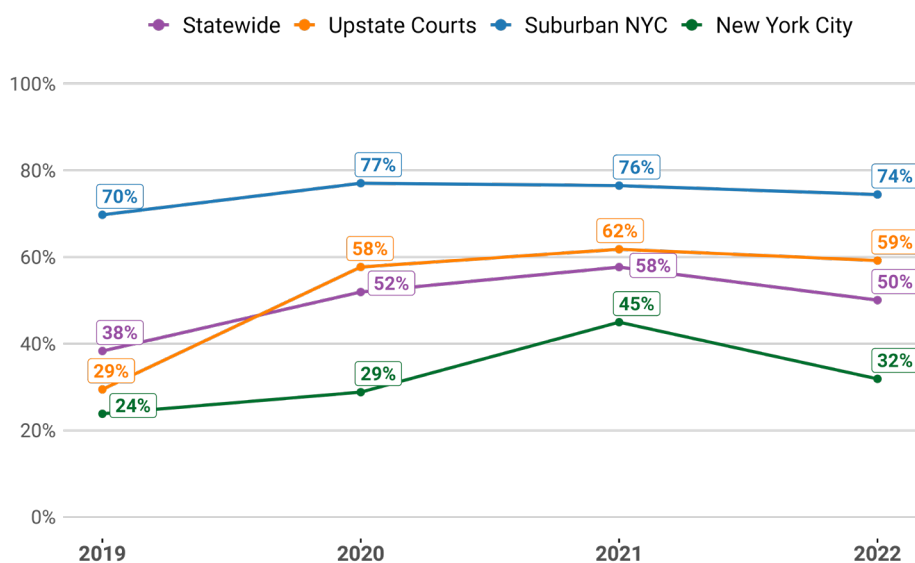
Finer Trends Before, During, and After COVID-19 Pandemic Onset

Depicted in Exhibit 2.2, DAT issuance rates had four distinct swings since the pre-reform year of 2019:

1. *Sharp increase immediately upon reform implementation* (January 1 - March 17, 2020).
2. *Decrease during the rest of 2020* amid pandemic-related disruptions.
3. *Gradual re-increase across the two halves of 2021.*
4. *Reversal across the two halves of 2022,* landing at a higher rate of DAT issuance than in 2019 in all regions but at a lower rate than in the early 2020 and late 2021 peak periods.

In Upstate courts, especially, DAT arraignments increased considerably in the first two and a half pre-pandemic months of 2020 compared to 2019 – *by 32 percentage points* – before leveling off. In both New York City and Suburban regions, there were similar but less dramatic increases in this same pre-COVID period (by 16 and 14 percentage points), followed by a near equally large drop in DAT arraignments in the rest of 2020. Though the magnitudes of change varied, all regions saw the same pattern of a 2021 re-increase and 2022 decrease.

In May 2022, amendments to DAT reforms were enacted, shrinking the pool of cases subject to a mandatory DAT.[12] This appears to have resulted in a decline in DATs in New York City but had little effect in Upstate or Suburban NYC (see Exhibit 2.2, changes across the two right-most bars for each region, reflecting periods within 2022 before and after these amendments went into effect).

Wide Variability Within Regions

This report's appendix provides DAT issuance rates for every city and district court from 2019 to 2022. Besides the broad regional differences shown above, the data also point to significant variability *within* regions. For instance, in Upstate, DAT issuance increased 53 percentage points (from 30% in 2019 to 83% in 2022) for arrests processed at the Norwich City Court, while declining 6 percentage points for arrests processed at the Gloversville City Court (from 53% to 47%). In addition, post-reform DAT issuance rates in 2022 varied from 26% (Rochester) to 83% (Norwich) in Upstate; and from 36% (Long Beach) to 82% (Suffolk District Court) in Suburban NYC. By contrast, New York City with its single police department, saw less variability. In each of the five boroughs, DATs were issued in 45% or fewer cases in 2022.

Exhibit 2.2. DAT Issuance Rate for Reform-Impacted Charges, Key Dates

Legend: 2019 | Jan-March 17, 2020 | Rest of 2020 | 1st Half 2021 | 2nd Half 2021 | Jan-April 2022 | May-December 2022

Statewide: 38%, 60%, 47%, 52%, 62%, 54%, 48%
Upstate Courts: 29%, 61%, 57%, 61%, 63%, 60%, 59%
Suburban NYC: 70%, 84%, 71%, 68%, 81%, 75%, 74%
NYC: 24%, 40%, 22%, 39%, 49%, 38%, 29%
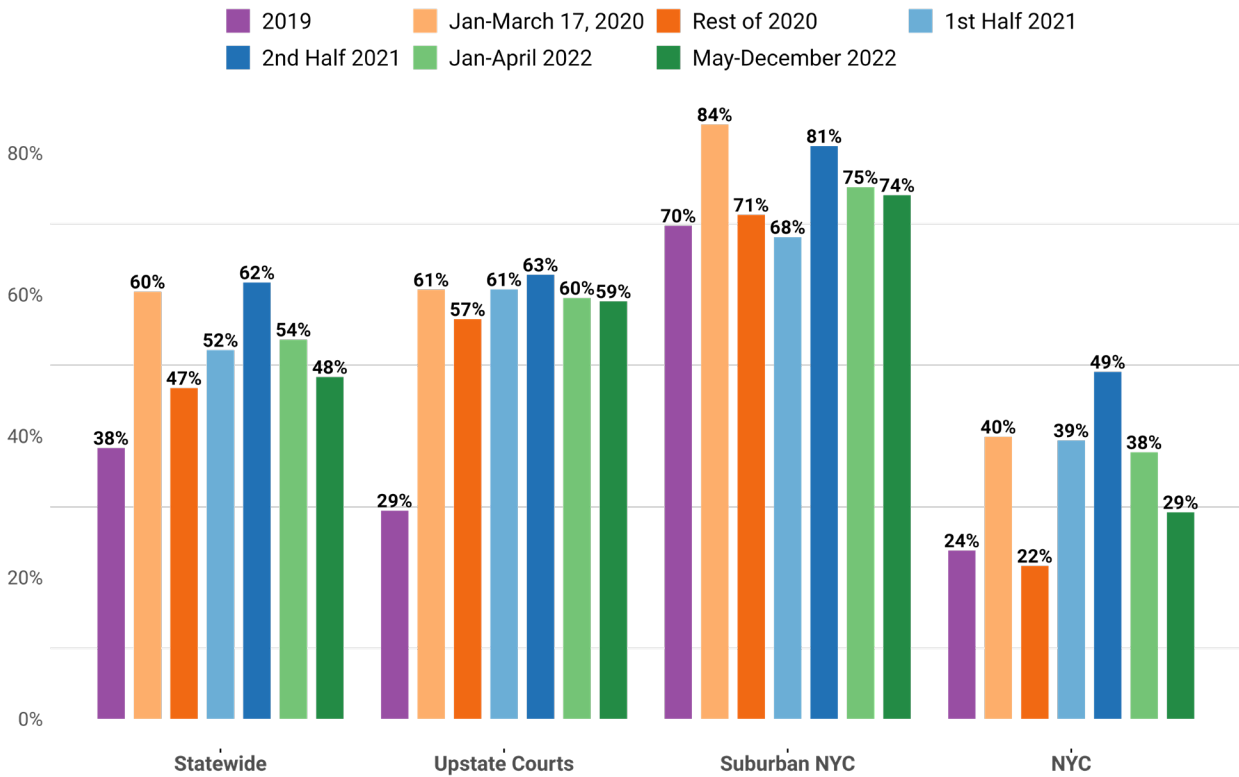
Upshot

The percentage of DATs increased for all applicable misdemeanor and Class E felony charges from 2019 to 2021, sometimes dramatically, before decreasing in 2022. While Suburban NYC had high DAT issuance rates throughout the study period and Upstate courts saw a 33 percentage-point increase from 2019 to 2021, DAT issuance was notably low in New York City even post-reform – with less than half of cases receiving a DAT in 2021 (though this figure reflected a near doubling from 2019), followed by a decline to 32% in 2022.

Changing DAT Issuance by Charge

DATs by Charge Class (Misdemeanors and E Felonies)

Statewide, **unclassified misdemeanors** (e.g., driving with a suspended or revoked license [VTL § 511]) were the charges most likely to receive a DAT for the entire four-year period, increasing from 57% in 2019 to 77% in 2022 (Exhibit 2.3). As noted above, DAT reform did not *directly* impact vehicle charges such as unlicensed operation of a vehicle, though we cannot rule out an indirect effect on police discretion, given that police officers already were frequently willing to issue a DAT in 2019 and may have been nudged further by knowledge of the new law's intent –a hypothesized upward change consistent with what the empirical data, in fact, shows.

The percentage of **Class E felonies** (e.g., grand larceny 4th degree [PL § 155.30]) receiving a DAT soared from 12% in 2019 to 56% in 2020 and further increased to 71% in 2021. A similar pattern for Class E felonies appears in each of the three regions, but the increase in New York City was especially dramatic, by 29 percentage points from 2019 to 2020, another 27 percentage points in 2021, followed by a 14 percentage-point drop in 2022.

Class A and B misdemeanors saw smaller increases than Class E felonies in all regions. Despite a universal decrease from 2021 to 2022, the proportion of DATs in 2022 remained above pre-reform levels in all regions except for Class B misdemeanors in Suburban NYC. (An especially sharp net drop in Suburban NYC meant that DAT issuance for Class B misdemeanors dropped modestly when averaging results across the entire State from 36% in 2019 to 33% in 2022.)

Exhibit 2.3. Arraignments and DATs by Charge Class and Geography								
	2019		**2020**		**2021**		**2022**	
	Total	**DAT**	**Total**	**DAT**	**Total**	**DAT**	**Total**	**DAT**
Statewide	222,305	38%	115,044	52%	141,727	58%	167,552	50%
Unclassified Misdemeanor	79,887	57%	39,358	78%	45,486	78%	51,787	77%
B Misdemeanor	13,897	36%	4,440	41%	4,509	41%	5,366	33%
A Misdemeanor	113,819	29%	60,536	41%	78,356	48%	95,587	38%
E Felony	14,702	12%	10,710	36%	13,376	49%	14,812	41%
Upstate	54,443	29%	34,100	58%	36,908	62%	40,922	59%
Unclassified Misdemeanor	23,865	36%	12,814	75%	14,958	80%	16,146	80%
B Misdemeanor	2,012	26%	1,041	59%	1,087	57%	1,237	56%
A Misdemeanor	23,295	26%	15,853	50%	16,580	52%	18,663	48%
E Felony	5,271	15%	4,392	36%	4,283	37%	4,876	34%
Suburban NYC	63,443	70%	34,722	77%	37,452	76%	45,308	74%
Unclassified Misdemeanor	35,808	80%	20,222	87%	22,206	87%	25,519	88%
B Misdemeanor	4,453	74%	966	65%	862	61%	913	56%
A Misdemeanor	19,480	58%	11,392	67%	11,690	64%	15,635	61%
E Felony	3,702	22%	2,142	43%	2,694	47%	3,241	41%
NYC	104,419	24%	46,222	29%	67,367	45%	81,322	32%
Unclassified Misdemeanor	20,214	39%	6,322	37%	8,322	53%	10,122	45%
B Misdemeanor	7,432	16%	2,433	23%	2,560	28%	3,216	17%
A Misdemeanor	71,044	22%	33,291	27%	50,086	43%	61,289	29%
E Felony	5,729	3%	4,176	32%	6,399	59%	6,695	45%

DATs by Charge Type

Among the most common DAT-eligible charges across the state, the ones most impacted by DAT reform over the study period were weapons possession (a low-level misdemeanor that does not involve a firearm), theft of services, and 4th degree criminal possession of stolen property (PL § 165.45). For these charges, the percentage of DAT arraignments increased by 30, 30, and 44 percentage points, respectively, from 2019 to 2021. Controlled substance possession and driving with a suspended or revoked license also saw large increases in DAT issuance from 2019 to 2021 (by 25 and 27 percentage points, respectively).

Shown in Exhibit 2.5, DAT issuance rates ranged widely by charge in 2022, the last year measured, from 28% for theft of services and 31% for criminal mischief, to 54% for drug possession and 55% for weapons possession. **The table also highlights sizable variability by region—with DAT issuance rates lower in New York City than the other regions for all eight charges represented and lower by more than 25 percentage-points for four of the eight charges.**

Exhibit 2.4. DAT Issuance Rate for Reform-Impacted Charges, Statewide
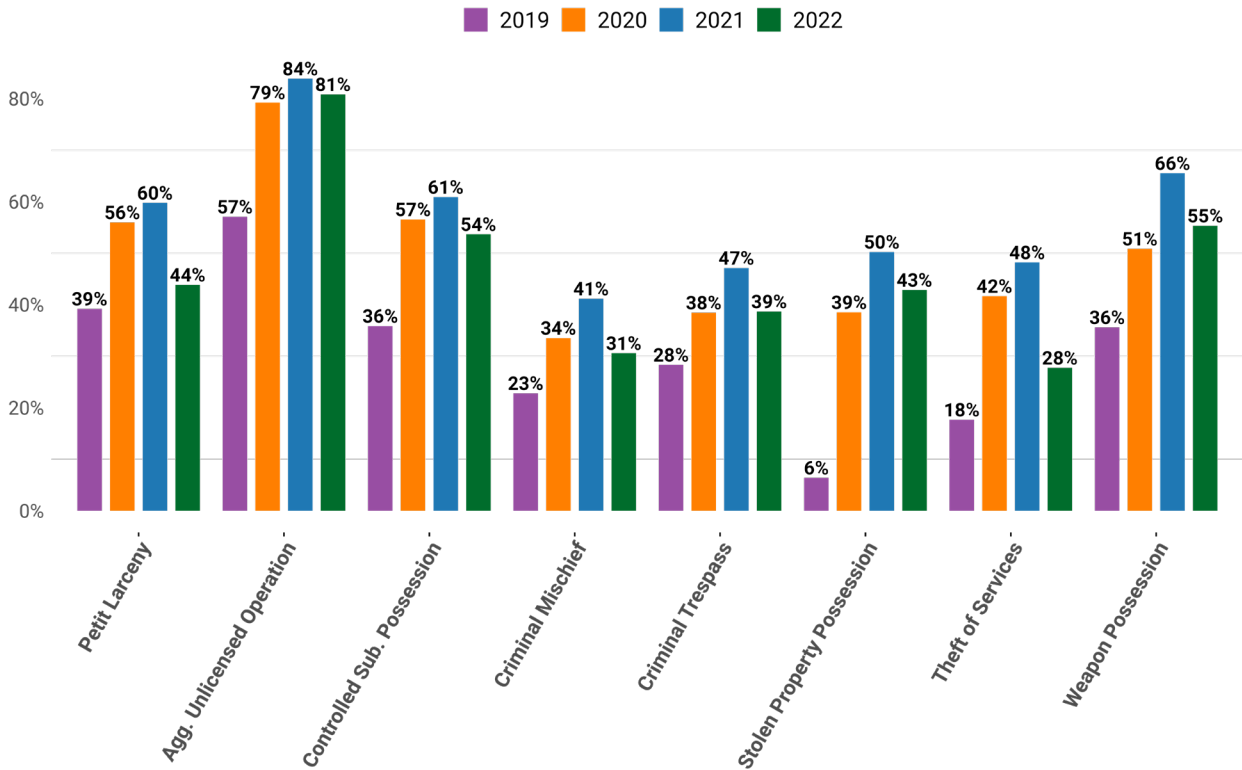
Exhibit 2.5. DAT Arraignments in 2022 by Geography and Charge Type				
	Upstate	**Suburban NYC**	**NYC**	**Statewide**
Petit Larceny	60%	83%	29%	44%
Agg. Unlicensed Operation	81%	93%	64%	81%
Controlled Substance Possession	67%	79%	30%	54%
Criminal Mischief	35%	34%	27%	31%
Criminal Trespass	57%	48%	22%	39%
Stolen Property Possession	47%	62%	35%	43%
Theft of Services	66%	86%	25%	28%
Weapon Possession	52%	84%	51%	55%

Upshot

Statewide, DATs significantly increased for all categories of charges from 2019 to 2021, particularly Upstate and especially for Class E felonies. In 2022 however, the proportion of DATs universally decreased but remained above pre-reform levels except for Class B misdemeanors in Suburban NYC. New York City had the lowest rates of DAT issuance within each charge category examined.

What Predicts DAT Issuance?

Exhibit 2.6 presents results from logistic regression models estimating the odds that an eligible case will be arraigned as a DAT in New York State.

- **Positive Net Impact of Reform:** Model 1 shows that 2020 cases had more than two times higher odds of being arraigned as a DAT than 2019 cases, with a greater effect in 2021 (almost 3.5 times higher odds compared to 2020), followed by a smaller effect in 2022 (2.7 times higher odds compared to 2021). Overall, non-New York City cases had significantly higher odds of a DAT arraignment – more than five times higher in Suburban NYC compared to New York City, and more than two times higher Upstate. However, interaction terms in model 2 show that the main region effect is significantly mediated by arraignment year. Specifically, 2020 cases had 150% higher odds of being a DAT arraignment than 2019 cases when they were arraigned Upstate compared to New York City, while 2022 cases had double the odds of a DAT arraignment Upstate.

- **Variations by Charge:** Unsurprisingly, the odds of a DAT arraignment were more than five times higher among misdemeanors compared to Class E felonies, and close to 2-2.5 times higher among aggravated unlicensed vehicle operation, stolen property possession, and weapon possession compared to other charge types.

- **Effect of the 2020 Amendments to DAT Reform:** Notably, amendments passed in May 2022 which expanded the criteria for giving law enforcement discretion to *not* issue a DAT had a significant *negative* effect on DAT issuance in subsequent months – cases arraigned between May and December 2022 had 22% lower odds of being a DAT compared to cases arraigned before May.

- **Reductions in Racial Disparities:** Model 3 includes the main effect of race/ethnicity but omits 2019 arraignments due to missing demographic data for that year. Overall, we found that Black and Hispanic people statewide have significantly lower odds of a DAT arraignment compared to white people (32% and 15% lower respectively). Model 4 restricts the sample to only New York City arraignments, but 2019 cases are retained to estimate race/ethnicity effects over the full four-year period. Consistent with statewide estimates, Black and Hispanic people in New York City have significantly lower odds of a DAT arraignment than white people (49% and 24% lower, respectively). However, interaction terms suggest that the overall Black-white and Hispanic-white disparities in DAT issuance declined during the reform years. The positive odds ratios for these interaction terms from 2020 to 2022 signify that DAT issuance rates for Black and Hispanic people increased by more during those years than for white people, especially in 2020 and 2022.

Exhibit 2.6. Logistic Regression Models Estimating the Likelihood of Receiving a DAT											
DAT Arraignment											
	Model 1 (Statewide)			Model 2 (Statewide w Interactions)			Model 3 (Statewide w Race)			Model 4 (NYC w Interactions)		
	OR	*95% CI*		*OR*	*95% CI*		*OR*	*95% CI*		*OR*	*95% CI*	
Arraignment Year (Ref=2019)†												
2020	2.33***	2.30	2.35	1.53***	1.49	1.56	-	-	-	1.40***	1.30	1.49
2021	3.43***	3.41	3.45	3.06***	3.03	3.09	2.04***	2.00	2.09	3.23***	3.15	3.31
2022	2.70***	2.67	2.73	1.66***	1.63	1.70	1.16***	1.11	1.20	1.78***	1.70	1.86

	Model 1 (Statewide)			Model 2 (Statewide w Interactions)			Model 3 (Statewide w Race)			Model 4 (NYC w Interactions)		
DAT Arraignment												
	OR	*95% CI*		*OR*	*95% CI*		*OR*	*95% CI*		*OR*	*95% CI*	
Region (Ref=NYC)												
Suburban NYC	5.12***	5.10	5.14	4.95***	4.92	4.98	3.77***	3.72	3.83	-	-	-
Suburbs*2020	-	-	-	1.16***	1.10	1.22	-	-	-	-	-	-
Suburbs*2021	-	-	-	0.61***	0.56	0.66	0.44***	0.36	0.52	-	-	-
Suburbs*2022	-	-	-	1.42***	1.37	1.47	1.10***	1.02	1.17	-	-	-
Upstate	2.12***	2.15	2.19	1.03***	0.99	1.06	3.53***	3.48	3.58	-	-	-
Upstate*2020	-	-	-	3.39***	3.34	3.45	-	-	-	-	-	-
Upstate*2021	-	-	-	2.18***	2.13	2.23	0.57***	0.50	0.64	-	-	-
Upstate*2022	-	-	-	4.18***	4.14	4.23	1.08***	1.02	1.15	-	-	-
Misdemeanor	5.22***	5.17	5.27	5.38***	5.33	5.43	4.47***	4.41	4.54	5.37***	5.27	5.47
Charge Type (Ref=Petit Larceny)												
Agg. Unlicensed Operation	2.49***	2.47	2.51	2.53***	2.51	2.56	2.96***	2.92	2.99	3.84***	3.81	3.88
Drug Possession	0.88***	0.86	0.91	0.88***	0.85	0.90	0.97***	0.94	1.00	0.76***	0.72	0.80
Criminal Mischief	0.46***	0.42	0.49	0.44***	0.41	0.48	0.48***	0.44	0.52	0.76***	0.71	0.80
Criminal Trespass	0.65***	0.58	0.71	0.62***	0.55	0.68	0.62***	0.56	0.70	0.85***	0.76	0.93
Stolen Property Possession	2.34***	2.27	2.42	2.35***	2.27	2.43	3.05***	2.95	3.14	3.65***	3.52	3.79
Theft of Services	0.66***	0.60	0.72	0.66***	0.60	0.72	0.81***	0.73	0.90	0.68***	0.60	0.75
Weapon Possession	1.76***	1.71	1.81	1.73***	1.69	1.79	2.14***	2.07	2.20	2.17***	2.11	2.22
Race/Ethnicity (Ref=white)												
Black	-	-	-	-	-	-	0.68***	0.65	0.71	0.51***	0.45	0.56
Black*2020	-	-	-	-	-	-	-	-	-	1.30***	1.19	1.41
Black*2021	-	-	-	-	-	-	-	-	-	1.22***	1.13	1.31
Black*2022	-	-	-	-	-	-	-	-	-	1.34***	1.25	1.43
Hispanic	-	-	-	-	-	-	0.85***	0.82	0.88	0.76***	0.70	0.81
Hispanic*2020	-	-	-	-	-	-	-	-	-	1.28***	1.16	1.39
Hispanic*2021	-	-	-	-	-	-	-	-	-	1.05***	0.95	1.14
Hispanic*2022	-	-	-	-	-	-	-	-	-	1.30***	1.21	1.39
May-Dec 2022	0.78***	0.75	0.81	0.78***	0.74	0.81	0.72***	0.68	0.76	0.58***	0.53	0.63
Constant	0.06**	0.00	0.11	0.07**	0.01	0.12	0.15***	0.06	0.23	0.09	-0.03	0.20
N	341,760			341,760			144,922			134,505		
McFadden's R²	0.18			0.19			0.12			0.15		

*Note: *p<0.05, **p<0.01, ***p<0.01*

†Race/ethnicity data for non-NYC counties were only available after 2020 therefore we excluded 2019 from Model 3 and the reference arraignment year is 2020.

Addendum: DAT Issuance Rates Pre- & Post-Reform for All Misdemeanors & Class E Felonies

While our analysis mostly focuses on misdemeanors and Class E felonies that are eligible for mandatory DAT issuance, it is helpful to show what preceding results look like against the backdrop of a larger universe of arraignments without carve outs. **Exhibit 2.7 shows that the percentage of DATs among all misdemeanor and Class E felonies, whether eligible for mandatory DAT issuance or not, increased from 2019 to 2021 and then modestly decreased in 2022.** On balance, DAT issuance among the larger universe of all misdemeanors and Class E felonies rose from 33% in 2019 to 41% in 2022, a modestly attenuated 8 percentage-point change compared to the 12 percentage-point increase for reform-impacted charges (see above, Exhibit 2.1). Among Class E felonies alone, the percentage of DATs increased by 16 percentage points in the first post-reform year and ultimately rose by 24 percentage points when comparing 2019 to 2022 (Exhibit 2.8).

Regional trends were mostly consistent with prior results. From 2019 to 2022, there was a net increase of 26 percentage points in DAT issuance in Upstate, compared to far more modest changes in Suburban NYC (5 percentage points) and New York City (4 percentage points). By 2022, people arrested in Suburban NYC on any misdemeanor or Class E felony charge experienced a DAT issuance rate of 69% compared to 51% in Upstate and 24% in New York City, indicating a continuation of significant regional disparities in issuance rates both before and after reform.

Exhibit 2.7. DAT Issuance Rate for All Misdemeanors & Class E Felonies

Statewide Upstate Courts Suburban NYC New York City

	2019	2020	2021	2022
Suburban NYC	64%	67%	67%	69%
Upstate Courts	25%	46%	49%	51%
Statewide	33%	40%	46%	41%
New York City	20%	20%	34%	24%
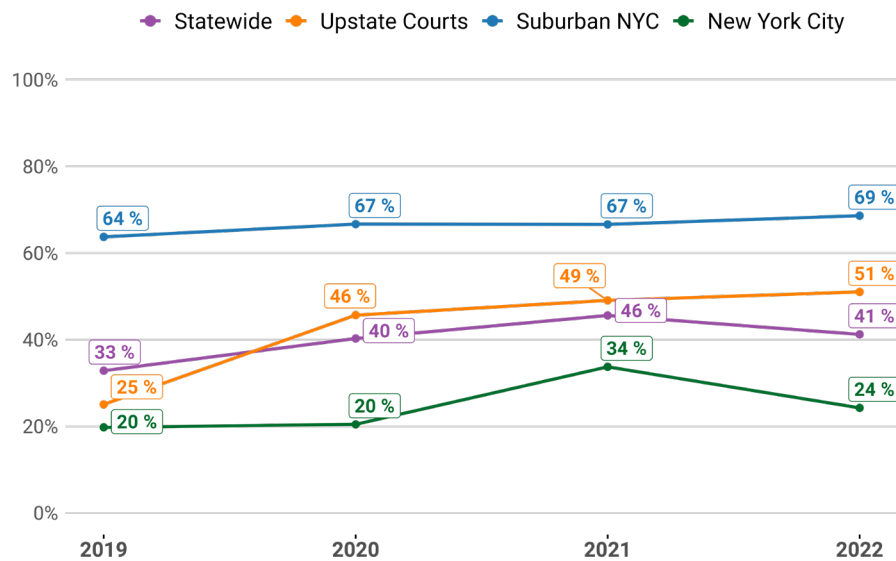
Exhibit 2.8. Arraignments and DATs for All Charges in New York State								
	2019		**2020**		**2021**		**2022**	
	Total	**DAT**	**Total**	**DAT**	**Total**	**DAT**	**Total**	**DAT**
Misdemeanor	240,324	35%	133,573	42%	161,716	47%	185,515	42%
E Felony	19,548	9%	15,196	25%	17,995	37%	18,430	33%
All Charges	259,872	33%	148,769	40%	179,711	46%	203,945	41%

Chapter 3.
Did DAT Reform Shorten the Time from Arrest to Arraignment?

Desk appearance tickets are issued with the expectation that individuals will appear in court for arraignment on their own accord, without the need to be detained. The 2020 reforms provide that individuals must receive a scheduled arraignment date within 20 days of DAT issuance (unless they are participating in a pre-arraignment diversion program). Failure to appear on this date could then result in a warrant. It is important to note that for most of 2020 and through nearly half of 2021, the 20-day return timeline was suspended due to the COVID-19 pandemic.[13]

In 2019, prior to the 20-day provision, people with DATs statewide had their arraignment within 20 days of arrest in only 14% of cases (dipping below 10% in both New York City and Suburban NYC) (Exhibit 3.1).

In 2020, more than a third of DAT arraignments occurred within 20 days, although this declined to 27% in 2021 before increasing to 55% in 2022, the first full year without a pandemic-related suspension of the 20-day provision.

The improved efficiency with which arraignments occurred and people returned to court in the first post-reform year is most evident in Suburban NYC and New York City, where the percentage of DAT arraignments occurring within 20 days of arrest increased by 31 and 35 percentage points, respectively. **By 2022, *93% of people were arraigned within 20 days of arrest in New York City, up from just 9% in 2019*.** The suburbs landed at 42%, up from 5% in 2019. In Upstate, on the other hand, far more cases (50%) were arraigned within 20 days *prior to the reforms* (in 2019), and this figure ticked downward to 41% in 2022.[14]

Further, the percentage of people with DATs taking more than three months to appear at arraignment decreased by 24 percentage points statewide from 2021 to 2022, and by 35 percentage points in Suburban NYC alone.

Upshot

The efficiency with which people with DATs appeared in court for arraignment improved post-reform, particularly in New York City and its suburbs (where fewer than one out of ten cases were arraigned within 20 days in 2019, pre-reform). By 2022, 55% of people statewide had their arraignment within 20 days of arrest compared to just 14% in 2019. In New York City and Suburban NYC, arraignments within 20 days of arrest increased by 37 and 84 percentage points, respectively, from 2019 to 2022 (landing at 42% and 93% of cases in 2022). Efficiency Upstate was greater at the start of the study period in 2019 (half of DATs cases were arraigned within 20 days) but did not improve (landing at a lower 41% figure in 2022).

Exhibit 3.1. Number of Days from Arrest to Arraignment for DATs

	Statewide	Upstate	Suburban NYC	NYC
2019				
Within 20 days	14%	50%	5%	9%
21-30 days	11%	25%	4%	17%
31-90 days	59%	18%	66%	72%
> 3 months	15%	6%	25%	1%
Median	*44*	*20*	*62*	*44*
Mean	*79*	*61*	*130*	*45*
2020				
Within 20 days	37%	34%	37%	44%
21-30 days	7%	14%	4%	3%
31-90 days	27%	32%	29%	16%
> 3 months	29%	20%	31%	37%
Median	*39*	*35*	*62.5*	*39*
Mean	*105*	*80*	*155*	*80*
2021				
Within 20 days	28%	30%	20%	34%
21-30 days	6%	16%	3%	1%
31-90 days	27%	36%	15%	34%
> 3 months	39%	16%	62%	31%
Median	*70*	*35*	*155*	*70*
Mean	*152*	*93*	*282*	*81*
2022				
Within 20 days	55%	41%	42%	93%
21-30 days	10%	20%	7%	2%
31-90 days	19%	28%	22%	4%
> 3 months	16%	10%	28%	1%
Median	*24*	*24*	*32*	*20*
Mean	*93*	*77*	*180*	*22*

Chapter 4.
How Did DAT Reform Impact Warrant Rates?

The intention of the 20-day provision was to ensure less elapsed time until the scheduled arraignment, potentially leading more people to remember the date and appear on their own. On the other hand, to the extent that DAT reform mandates issuance of a DAT to a larger swath of cases (confirmed in Chapter 2), it also cannot be ruled out that the law led more people who pose a risk of warranting to receive a DAT.

Warrant Rates Pre- and Post-Reform

Statewide, the percentage of warrants issued for failure to appear at arraignment for DATs hovered consistently at around 10% in 2019 and remained at a similar level for most of 2020 except for large fluctuations in the second quarter when the COVID-19 pandemic created extraordinary impediments to people's ability to appear in court for arraignment. (However, higher rates of warrant issuance during this period are offset by a very low volume of DATs.)

In the second half of 2021 and most of 2022, warrant issuance rose to more than 15% statewide, almost entirely due to higher rates and greater increases in New York City (which landed at a warrant rate above 30% in the last four months of 2022). Outside of the City, warrant issuance remained relatively stable over the study period at around 7% in the suburbs and around 18% Upstate.

Exhibit 4.1. Warrant Issuance for DATs

Legend: Statewide, Upstate Courts, Suburban NYC, New York City

Year	Statewide	Upstate Courts	Suburban NYC	New York City
2019	10%	16%	6%	14%
2020	11%	15%	7%	13%
2021	15%	18%	6%	21%
2022	17%	18%	7%	28%
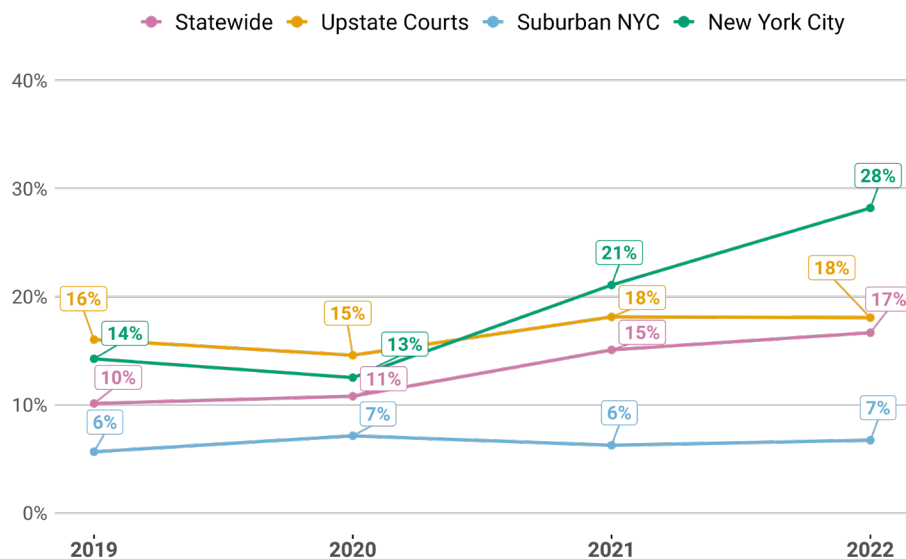
Warrant Issuance by Charge Class

Throughout the four-year period, warrant issuance was generally lower for DATs given for Class E felonies and unclassified misdemeanors (Exhibit 4.2). This was particularly evident in Suburban NYC, where warrants were issued for only 2% of unclassified misdemeanors. For Class A and B misdemeanors, meanwhile, warrant issuance statewide increased over the study period, reaching 56% overall in 2022, a 24 percentage-point increase from 2019. Once again, New York City saw the greatest increase.

Exhibit 4.2. Warrant Issuance for DATs by Charge Class and Geography								
	2019		**2020**		**2021**		**2022**	
	DAT	**Warrant**	**DAT**	**Warrant**	**DAT**	**Warrant**	**DAT**	**Warrant**
Statewide	**84,723**	**10%**	**59,405**	**11%**	**81,491**	**15%**	**83,498**	**17%**
Unclassified Misdemeanor	45,190	6%	29,481	5%	35,680	7%	39,894	7%
B Misdemeanor	4,896	18%	1,743	20%	1,853	25%	1,730	30%
A Misdemeanor	32,916	14%	24,342	17%	37,358	22%	35,898	26%
E Felony	1,721	10%	3,839	11%	6,600	20%	5,976	23%
Upstate	**15,882**	**16%**	**19,577**	**15%**	**22,737**	**18%**	**24,136**	**18%**
Unclassified Misdemeanor	8,561	15%	9,590	11%	11,925	12%	12,992	11%
B Misdemeanor	523	20%	612	20%	615	31%	684	34%
A Misdemeanor	6,043	18%	7,787	19%	8,636	26%	8,799	27%
E Felony	755	10%	1,588	12%	1,561	19%	1,661	19%
Suburban NYC	**43,976**	**6%**	**26,513**	**7%**	**28,468**	**6%**	**33,445**	**7%**
Unclassified Misdemeanor	28,722	2%	17,562	2%	19,369	2%	22,352	2%
B Misdemeanor	3,197	18%	577	28%	512	24%	495	21%
A Misdemeanor	11,238	12%	7,463	18%	7,327	15%	9,272	16%
E Felony	819	9%	911	14%	1,260	18%	1,326	17%
NYC	**24,865**	**14%**	**13,315**	**13%**	**30,286**	**21%**	**25,917**	**28%**
Unclassified Misdemeanor	7,907	13%	2,329	8%	4,386	13%	4,550	19%
B Misdemeanor	1,176	19%	554	13%	726	21%	551	32%
A Misdemeanor	15,635	15%	9,092	14%	21,395	23%	17,827	31%
E Felony	147	16%	1,340	8%	3,779	22%	2,989	27%

Warrant Issuance by Charge Type

Over the study period, warrant issuance rates for nearly all categories of charges increased. Criminal trespass 2nd degree (PL § 140.15) in particular experienced the largest overall increase, by 22 percentage points from 18% in 2019 to 40% in 2022.

Exhibit 4.3. Warrant Issuance for DATs by Charge, Statewide

Legend: 2019 · 2020 · 2021 · 2022

Charge	2019	2020	2021	2022
Petit Larceny	17%	23%	35%	37%
Agg. Unlicensed Operation	8%	7%	9%	10%
Controlled Sub. Possession	19%	21%	27%	34%
Criminal Mischief	11%	15%	18%	24%
Criminal Trespass	18%	24%	32%	40%
Stolen Property Possession	19%	14%	26%	31%
Theft of Services	22%	27%	28%	38%
Weapon Possession	11%	10%	12%	17%
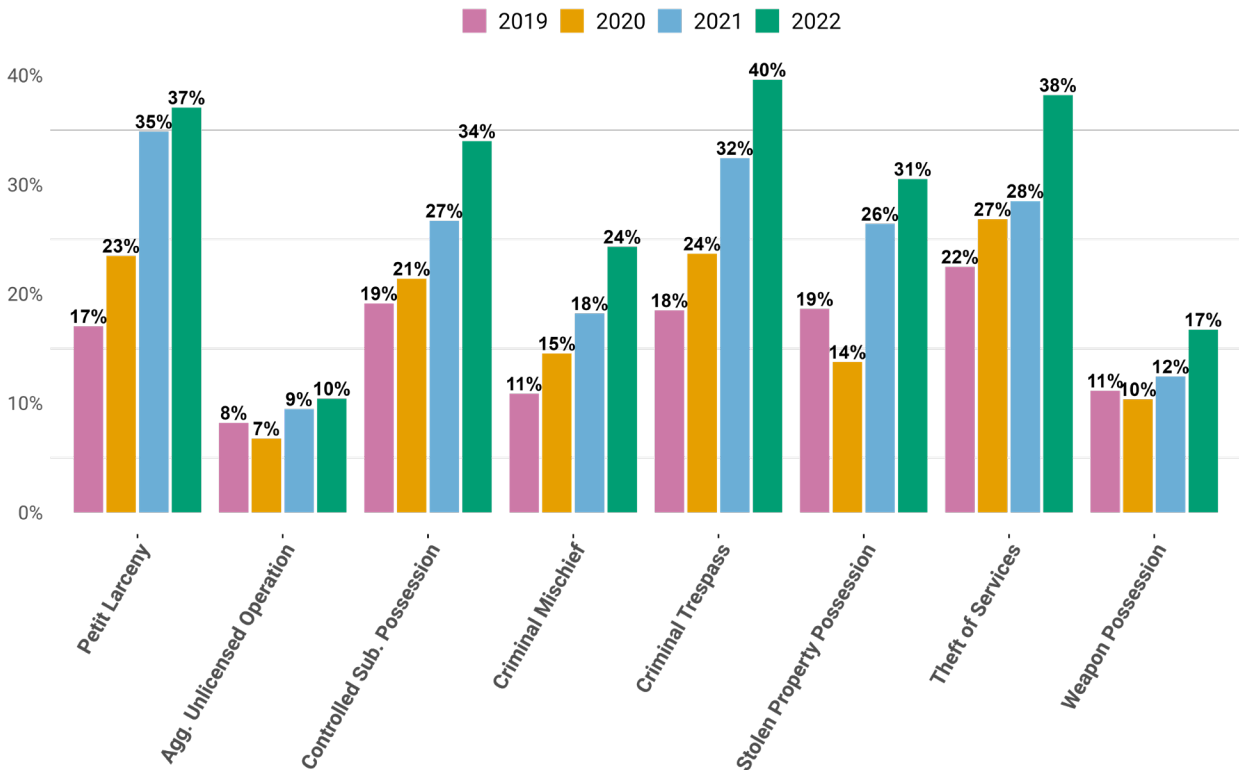
Upshot

Except for the second quarter of 2020 when the COVID-19 pandemic significantly impeded people's ability to appear in court, warrant issuance for DATs was relatively stable over the study period with higher rates in 2021 and 2022 due to greater increases in New York City in those years. While warrant issuance was generally lower for Class E felonies and unclassified misdemeanors, rates for Class A and B misdemeanors increased by 12 percentage points statewide from 2019 to 2022.

What Predicts Warrant Issuance for DATs in New York?

To examine the types of DAT cases mostly likely to result in warrant issuance for failure to appear, year, geographic, and charge characteristics were modeled in tandem in a set of logistic regression models estimating the likelihood of warrant issuance for DATs (Exhibit 4.4). Models 2 and 3 both show that overall, New York City cases had significantly higher odds (about 2.5 times higher) of receiving a warrant compared to Suburban NYC cases, but slightly lower odds (about 16% lower) compared to Upstate cases. However, the difference between New York City and other regions of the state widened significantly over the study period; DATs arraigned in the City in 2022 had about 5- and 2-times higher odds of warranting, respectively, than Suburban NYC and Upstate.

Controlling for year and regional variation, DATs for misdemeanors had 35% lower odds of warranting compared to Class E felonies, while the odds of receiving a warrant for petit larceny and drug possession charges were significantly higher compared to all other charge types.

Exhibit 4.4. Logistic Regression Models Estimating the Likelihood of Warrant Issuance for DATs

Warrant Issued									
	Model 1			Model 2			Model 3		
	OR	95% CI		OR	95% CI		OR	95% CI	
Arraignment Year (Ref=2019)[†]									
2020	1.07***	1.04	1.11	0.86***	0.80	0.92	0.97***	0.89	1.05
2021	1.58***	1.55	1.61	1.61***	1.56	1.65	1.75***	1.69	1.80
2022	1.78***	1.75	1.80	2.36***	2.32	2.41	2.87***	2.81	2.92
Region (Ref=NYC)									
Suburban NYC	-	-	-	0.36***	0.31	0.42	0.39***	0.32	0.45
Suburbs*2020	-	-	-	1.49***	1.09	1.20	1.48***	1.37	1.59
Suburbs*2021	-	-	-	0.69***	0.62	0.77	0.78***	0.68	0.87
Suburbs*2022	-	-	-	0.51***	0.44	0.58	0.53***	0.43	0.62
Upstate	-	-	-	1.15***	1.09	1.20	1.16***	1.09	1.22
Upstate*2020	-	-	-	1.04***	0.95	1.13	0.97***	0.86	1.08
Upstate*2021	-	-	-	0.72***	0.65	0.79	0.73***	0.64	0.82
Upstate*2022	-	-	-	0.49***	0.42	0.56	0.45***	0.37	0.54
Misdemeanor	-	-	-	-	-	-	0.65***	0.54	0.76
Charge Type (Ref=Petit Larceny)									
Agg. Unlicensed Operation	-	-	-	-	-	-	0.28***	0.24	0.31
Drug Possession	-	-	-	-	-	-	1.03***	0.99	1.07
Criminal Mischief	-	-	-	-	-	-	0.45***	0.38	0.52
Criminal Trespass	-	-	-	-	-	-	0.93***	0.83	1.04
DWI	-	-	-	-	-	-	0.11***	0.02	0.20
Stolen Property Possession	-	-	-	-	-	-	0.44***	0.29	0.60
Theft of Services	-	-	-	-	-	-	0.78***	0.66	0.89
Weapon Possession	-	-	-	-	-	-	0.29***	0.20	0.38
Constant	0.11***	0.09	0.14	0.17***	0.13	0.20	0.54***	0.42	0.66
N		309,117			309,117			178,306	
McFadden's R^2		0.01			0.05			0.12	

Note: *p<0.05, **p<0.01, ***p<0.01

Warrant Return

For DATs arraigned in 2019, people returned on a warrant within 30 days in 55% of cases statewide, with people in New York City over 20 percentage points more likely to be arraigned within a month of warrant issuance compared to people in Upstate and Suburban NYC.

Post-reform, the percentage of people returning on a warrant within 30 days decreased slightly to 49% in 2020 and declined further in 2021 and 2022. Compared to 2019, people in New York City were increasingly *less* likely to return to court on a warrant post-reform, shown by the 34 percentage-point decline from 68% in 2019 to 34% in 2022. Moreover, the percentage of people in New York City that took more than a year to return to court on a warrant increased from zero in 2019 and just 4% in 2020 to 12% in 2022.

Exhibit 4.5. Number of Days from Warrant Issuance to Arraignment for DATs				
	Statewide	**Upstate**	**Suburban NYC**	**NYC**
2019				
Within 1 Week	28%	22%	22%	36%
Within 1 Month	55%	48%	44%	68%
Within 3 Months	76%	70%	66%	87%
Within 6 Months	87%	82%	79%	97%
Within 1 Year	94%	90%	90%	100%
> 1 year	8%	12%	14%	--
Median	*34*	*34*	*42*	*14*
Mean	*133*	*158*	*205*	*36*
2020				
Within 1 Week	21%	18%	17%	30%
Within 1 Month	49%	46%	44%	57%
Within 3 Months	71%	70%	65%	76%
Within 6 Months	81%	80%	75%	85%
Within 1 Year	92%	89%	86%	97%
> 1 year	12%	12%	16%	4%
Median	*36*	*36*	*42*	*24*
Mean	*170*	*166*	*267*	*76*
2021				
Within 1 Week	17%	14%	12%	21%
Within 1 Month	42%	37%	36%	48%
Within 3 Months	67%	59%	57%	77%
Within 6 Months	82%	75%	68%	93%
Within 1 Year	90%	88%	78%	97%
> 1 year	11%	15%	24%	5%
Median	*60*	*60*	*60*	*34*
Mean	*218*	*193*	*385*	*76*

Exhibit 4.5. Number of Days from Warrant Issuance to Arraignment for DATs *(continued)*			
2022			
Within 1 Week	16%	17%	11%	17%
Within 1 Month	36%	43%	31%	34%
Within 3 Months	56%	64%	54%	53%
Within 6 Months	71%	76%	71%	68%
Within 1 Year	88%	87%	84%	89%
> 1 year	13%	15%	17%	12%
Median	*73*	*44*	*73*	*79*
Mean	*209*	*183*	*295*	*150*

Note: Based on arraignment year.

One Year Look Back at Open Warrants

For a further look into the nature of warrant issuance for DATs, we examined warrants for failure to appear that were still open (i.e., individuals did not appear in court) as of December 31, 2022. **There were 829 unreturned warrants as of the end of 2022, all of which were in New York City and 90% of which were for misdemeanor charges.** Of all open warrants as of year-end 2022, two-thirds were for DATs issued in that year, 24% were for DATs issued in 2021 alone, while 12% were for DATs issued in 2020 or earlier.

Chapter 5.
Did DAT Reform Impact Dispositions at Arraignment?

Disposition Outcomes for Arraigned DATs

Statewide from 2019 to 2022, an increasing percentage of DATs were disposed at arraignment; and a far *larger* **percentage of DATs were disposed at arraignment compared to custodial arrests with the same types of charges. By 2022, 53% of DATs and 20% of non-DATs were disposed at arraignment.**[15]

The gap between DATs and non-DATs was especially wide among misdemeanor charges and in New York City and its suburbs. In Suburban NYC, there was a 24 percentage-point pre-reform difference between the arraignment disposition rate of misdemeanor DATs and misdemeanor custodial arrests (32% vs. 8%), and a 27 percentage-point difference in New York City (51% vs. 25%). In all regions, the difference between DATs and non-DATs disposed at arraignment grew even wider by 2022, with a 45 percentage-point gap in Suburban NYC (54% vs. 9%), 36 points in New York City (59% vs. 23%), and 32 points Upstate (45% vs. 13%).

Exhibit 5.1. DATs & Non-DATs Disposed at Arraignment								
	2019		**2020**		**2021**		**2022**	
	DATs	**Non-DATs**	**DATs**	**Non-DATs**	**DATs**	**Non-DATs**	**DATs**	**Non-DATs**
Statewide	**35%**	**19%**	**47%**	**13%**	**47%**	**12%**	**53%**	**20%**
E Felony	6%	2%	15%	7%	16%	6%	10%	5%
Misdemeanor	36%	20%	48%	13%	49%	12%	54%	21%
Upstate Courts	**24%**	**12%**	**47%**	**21%**	**41%**	**17%**	**45%**	**13%**
E Felony	9%	4%	17%	16%	14%	13%	11%	7%
Misdemeanor	25%	13%	49%	22%	43%	18%	47%	14%
Suburban NYC	**31%**	**7%**	**47%**	**12%**	**51%**	**8%**	**54%**	**9%**
E Felony	3%	1%	15%	4%	6%	2%	3%	3%
Misdemeanor	32%	8%	48%	13%	52%	8%	55%	10%
NYC	**51%**	**24%**	**47%**	**11%**	**48%**	**11%**	**59%**	**23%**
E Felony	5%	2%	12%	1%	25%	2%	19%	4%
Misdemeanor	51%	25%	48%	11%	49%	11%	59%	24%

Note: Based on arraignment year.

Consistently over the study period, more than half of DATs were disposed by guilty plea at arraignment while around a quarter each were dismissed or received an adjournment in contemplation of dismissal (ACD) (Exhibit 5.2). There are notable regional differences in disposition outcomes: in 2022, 78% of DATs in Upstate courts pled guilty at arraignment compared to 60% in Suburban NYC and 41% in New York City (where close to half received an ACD).

Exhibit 5.2. Disposition Outcomes of DATs Disposed at Arraignment				
	Statewide	**Upstate Courts**	**Suburban NYC**	**NYC**
2019				
ACD	26%	8%	20%	41%
Dismissal	21%	19%	34%	5%
Pled Guilty	52%	71%	46%	53%
Transfer to Supreme Court	0%	1%	0%	0%
Other	0%	1%	0%	1%
2020				
ACD	18%	8%	9%	45%
Dismissal	23%	17%	38%	8%
Pled Guilty	56%	71%	53%	45%
Transfer to Supreme Court	0%	1%	0%	0%
Other	1%	3%	0%	2%
2021				
ACD	25%	7%	7%	50%
Dismissal	22%	17%	41%	7%
Pled Guilty	50%	72%	52%	37%
Transfer to Supreme Court	0%	1%	0%	0%
Other	3%	3%	0%	5%
2022				
ACD	22%	6%	9%	50%
Dismissal	18%	15%	31%	5%
Pled Guilty	58%	78%	60%	41%
Transfer to Supreme Court	0%	1%	0%	0%
Other	1%	1%	0%	4%

Note: Based on arraignment year.

Upshot

Throughout the state and *increasingly over the study period*, DATs were disposed at arraignment at far higher rates than custodial arrests. In 2022, 53% of DATs compared to 20% of custodial arrests were disposed at arraignment across the state, with similar results mirrored in all three regions. Among disposed DATs, more than half pled guilty and around a quarter each were dismissed or resolved with an ACD. Guilty dispositions were most prevalent in Upstate courts; in New York City, almost half of disposed DATs received an ACD.

Chapter 6.
Did DAT Reform Shrink Racial Disparities in DAT Issuance or Other Outcomes?

As in prior chapters, the analysis isolates all misdemeanor and Class E felony cases potentially eligible for a mandatory DAT after reform went into effect and examines the actual rate at which people received a DAT for each available year. (See the Sampling Note in Chapter 1.) Unfortunately, race/ethnicity information for 2019 arraignments was only available for New York City.

Racial Disparities in DAT Issuance Pre- and Post-Reform

Throughout the study period, Black people statewide were consistently less likely than white people to receive a DAT; DAT issuance rates for Hispanic people generally fell in the middle, except in Suburban NYC where Hispanic people had the lowest issuance rates (Exhibit 6.1).[16] In the most recent 2022 year, the Black-white gap was 15 percentage points in Upstate (41% vs. 56% received a DAT), and 7 points in New York City (28% vs. 35%).

**Exhibit 6.1. DAT Issuance Rate for Reform-Impacted Charges by Race**
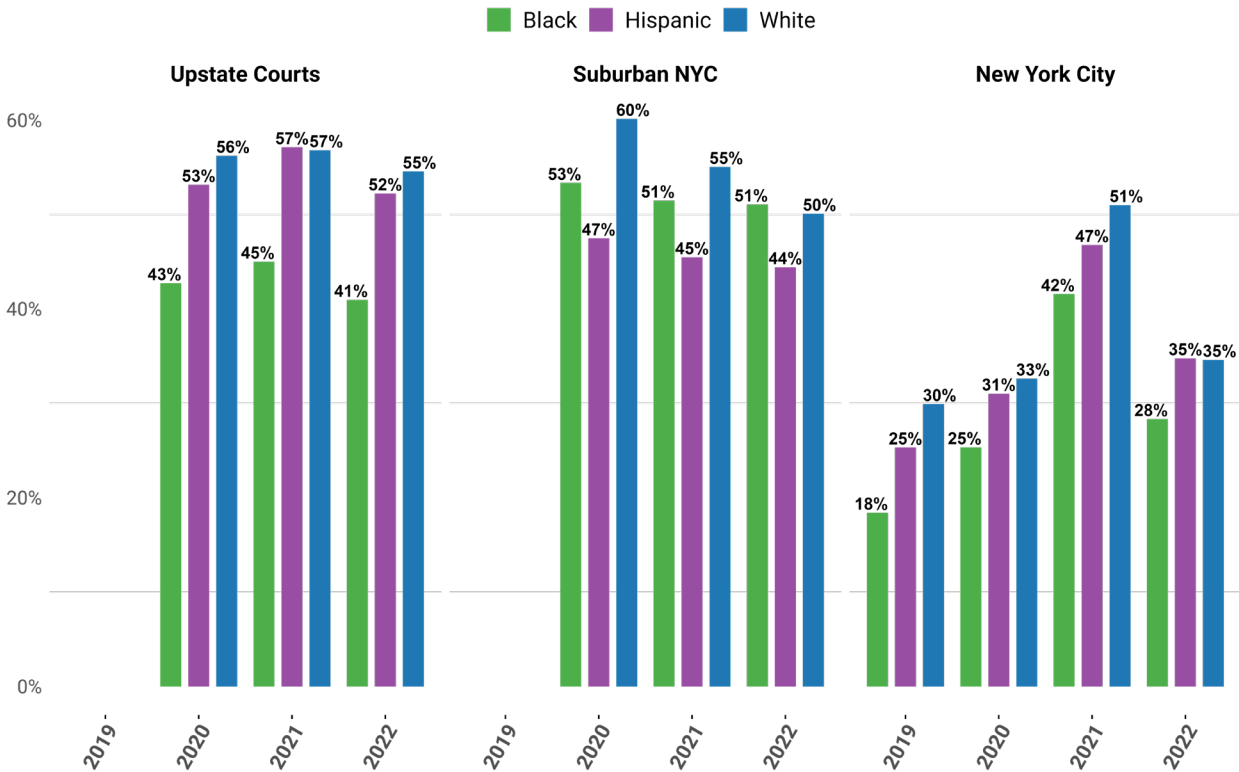
In general, the data points to shrinking racial disparities over time in New York City and its suburbs, alongside little change in Upstate. In New York City, the only region where available data permitted a comparison to the pre-reform year of 2019, the evidence points to an association between DAT reform and smaller racial disparities. The Black-white gap dropped from 12 percentage points in 2019 (18% vs. 30%) to 8 points in 2020 (25% vs. 33%), 9 points in 2021 (42% vs. 51%) and 7 points in 2022 (28% vs. 35%). The Hispanic-white gap dropped from 5 percentage points in 2019 to 2, 4, and minus 1 point in 2022. (By 2022, DAT issuance was 36% for Hispanic and 35% for white people.)

Logistic regression analysis presented in chapter 2 (Exhibit 2.3) shows that statewide, Black people had significantly lower odds of receiving a DAT compared to white people, regardless of charge and controlling for year effects. Hispanic people also had significantly lower odds of receiving a DAT compared to white people, though the Hispanic-white gap was about half as large as the Black-white gap. The disparities were wider in New York City alone, where Black people had 41% lower odds and Hispanic people had 16% lower odds than white people to receive a DAT. However, those same regression results also reconfirmed that disparities were reduced in New York City, post-reform.

Based on the statewide increase in the rate of DAT issuance from 2019 to 2021, about 11,000 more arrests of Black people in 2021 resulted in a DAT, while more than 6,000 among Hispanic and white people resulted in a DAT (Exhibit 6.2). To a lesser extent, approximately 8,000 more arrests of Black people in 2022 resulted in a DAT, compared to about 4,000 and 5,000 more among Hispanic and white people, respectively.

Exhibit 6.2. Estimated Increase in DAT Arrests by Race/Ethnicity

■ 2021 ■ 2022

Race/Ethnicity	2021	2022
Black	11,296	8,202
Hispanic	6,208	4,115
White	6,535	5,111
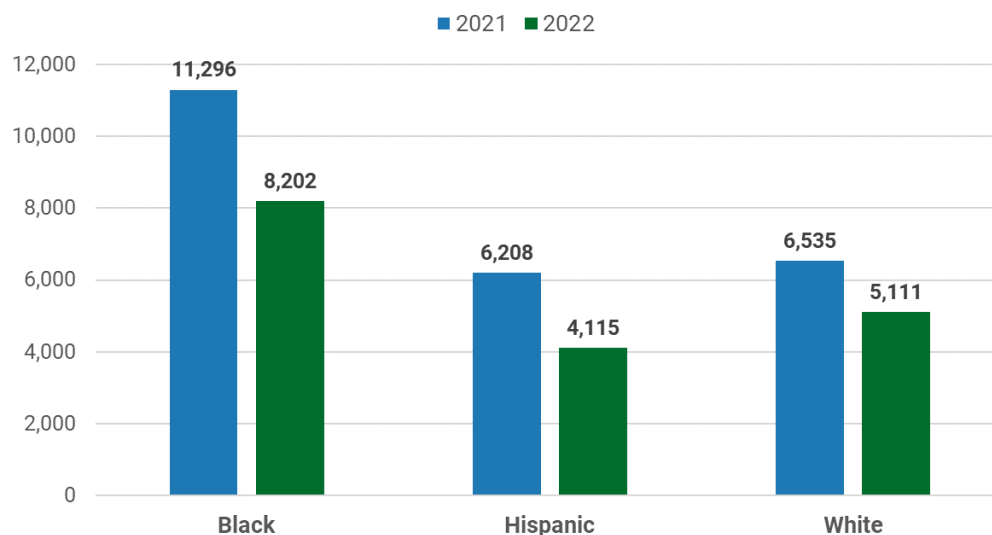
While racial differences Upstate were consistently large (an approximately 20 percentage-point difference between Black and white people), Black and white people in Suburban NYC were equally likely to receive DATs for misdemeanors in 2020 and 2021, with Black people slightly more likely in 2022.

Racial disparities in DAT-issuance were generally smaller among people arraigned on Class E felony charges but Black people were still consistently least likely to receive a DAT, especially Upstate and in New York City. In particular, Black people were far less likely to receive a DAT for criminal possession of a controlled substance, 7th degree (PL § 220.03) compared to white people. In fact, there was an approximately 30 percentage-point difference between Black and white people arrested on this charge in 2020 and 2021, and a 21 percentage-point difference in 2022.

Exhibit 6.3. DATs by Geography, Charge Level, and Race/Ethnicity								
	2019		**2020**		**2021**		**2022**	
	Total	DAT	Total	DAT	Total	DAT	Total	DAT
Upstate								
Misdemeanor	-	-	**18,513**		**19,717**		**21,969**	
Black	-	-	6,824	45%	6,923	48%	7,892	44%
Hispanic	-	-	1,568	55%	1,739	60%	2,192	55%
White	-	-	10,121	59%	11,055	60%	11,885	58%
E Felony	-	-	**3,847**		**3,753**		**4,343**	
Black	-	-	1,767	33%	1,571	32%	1,777	29%
Hispanic	-	-	351	44%	351	42%	412	36%
White	-	-	1,729	39%	1,831	37%	2,154	38%
Suburban NYC								
Misdemeanor	-	-	**10,547**		**11,022**		**13,402**	
Black	-	-	3,741	56%	3,660	53%	4,848	54%
Hispanic	-	-	2,817	49%	3,142	47%	3,329	46%
White	-	-	3,989	63%	4,220	56%	5,225	52%
E Felony	-	-	**1,744**		**2,107**		**2,383**	
Black	-	-	690	42%	808	43%	1,025	39%
Hispanic	-	-	536	40%	564	38%	555	35%
White	-	-	518	40%	735	49%	803	39%
NYC								
Misdemeanor	**90,634**		**38,996**		**56,640**		**69,911**	
Black	44,440	19%	19,787	25%	28,924	40%	36,041	40%
Hispanic	32,421	27%	13,986	31%	19,902	45%	24,892	49%
White	13,773	32%	5,223	32%	7,814	49%	8,978	44%
E Felony	**5,361**		**5,156**		**5,914**		**6,178**	
Black	2,833	2%	1,989	28%	2,916	55%	3,067	27%
Hispanic	1,708	3%	1,300	33%	2,046	61%	2,256	33%
White	820	3%	611	38%	952	63%	855	34%

Upshot

Black people were consistently least likely to receive DATs compared to Hispanic and white people for similar charges, with a larger gap in DAT issuance rates among misdemeanors than Class E felonies. The disparity between Black and white people decreased in New York City and its suburbs over the study period and had disappeared in the suburbs by 2022 (though the gap remained significant in New York City and Upstate).

Disparities in Warrant Issuance

Despite having consistently lower rates of DAT issuance, Black people were consistently most likely to receive a warrant for failure to appear at the scheduled arraignment date on a DAT while Hispanic people were least likely overall except in Suburban NYC in 2022. In New York City and its suburbs, the Black-white gap narrowed in the first two post-reform years but widened to 6 points in 2022. In Upstate counties, the widest disparity was between Hispanic and white people whereby white people had *higher* rates of warrant issuance while the Black-white gap was consistently small over the study period.

Exhibit 6.4. Warrant Issuance for DATs by Geography and Race/Ethnicity								
	2019		**2020**		**2021**		**2022**	
	DATs	**Warrant**	**DATs**	**Warrant**	**DATs**	**Warrant**	**DATs**	**Warrant**
Upstate								
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%
Suburban NYC								
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%
NYC								
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%

Upshot

Even though Black New Yorkers were consistently least likely to receive a warrant compared to Hispanic and white people for similar charges, they consistently had the highest rate of warrant issuance from 2020 to 2022. In New York City and its suburbs, the Black-white gap narrowed in the first two years post-reform but widened in 2022; in Upstate, the widest disparity was between white and Hispanic people.

Conclusion

Our analysis of DAT arraignments in New York State finds that after the implementation of reforms in 2020, DAT issuance expectedly increased for cases for which police are now mandated to issue a ticket rather than make a custodial arrest. However, post-reform levels raise questions about whether police are still exercising discretion and choosing to make custodial arrests even in cases that are no longer eligible for that option. In New York City especially, less than half of arraignments of applicable misdemeanors and Class E felonies were issued DATs in 2021, the peak year of DAT issuance in our analysis.

Nevertheless, some progress has been made toward other goals of DAT reform. For one, people with DATs were arraigned in less time post-reform. In other words, increasingly more people were arraigned within the 20-day return window provided in the legislation, which reduces the need for warrants and improves the efficiency of the system.

Further, warrant issuance for those who did not appear on their scheduled arraignment date has stayed relatively stable from 2019 to 2022, except in the first half of 2020 when the COVID-19 pandemic seriously impeded people's ability to travel to court. (An exception is New York City, where warrant rates have experienced a sustained increase from 2019 to 2022.)

Unfortunately, racial disparities in DAT issuance and warrant issuance still exist in all regions of the state, with Black people consistently *less* likely to receive a DAT than white and Hispanic people for similar charges, but consistently *more* likely to receive a warrant. Yet we also detected some evidence that racial disparities declined after DAT reform went into effect; the disparity between Black and white people decreased in New York City and its suburbs over the study period and had disappeared in the suburbs by 2022.

Collectively, our findings suggest that while the fundamental goal of reducing pre-arraignment detention by increasing the issuance of DATs for eligible charges was achieved in the first three years post-reform, it has not been uniform across the state, nor has the effect been nearly as large as could have been credibly expected based on mandatory issuance provisions in the new statute. Even by the third year of reform in 2022, there remained significant regional differences in DAT issuance among New York City, Suburban NYC, and Upstate, both overall and across each specific charge category.

Correspondingly, there is considerable uncertainty around whether and how police departments are fully complying with the law's intentions; yet our data are unable to capture internal policies and practices that could reflect arrest decisions in specific cases. Our data are also unable to account for some carve outs of the legislation that give police the discretion to make a custodial arrest, such as if no valid identification is available or if the individual is deemed to require medical or mental health care. We hope that as more data become available to follow a longer period under reform, and as better information can be collected from police departments regarding their exact policies for complying with the new statute and officer training, trends in DAT issuance, associated outcomes, and their proper interpretation will reveal a complete picture of the impact of the reforms.

Appendix

Exhibit A1. DAT Issuance for Reform-Impacted Charges by County and Court of Arraignment					
	2019	2020	2021	2022	Percentage Point Change 2019-2022
Upstate Courts					
Albany County					
Albany City Criminal Court	13%	57%	60%	49%	+36
Albany City Traffic Court	67%	100%	--	80%	+13
Cohoes City Court	43%	46%	37%	51%	+8
Watervliet City Court	20%	50%	49%	65%	+35
Broome County					
Binghamton City Court	13%	70%	70%	65%	+52
Cattaraugus County					
Olean City Court	41%	67%	67%	63%	+18
Salamanca City Court	47%	61%	69%	61%	+14
Cayuga County					
Auburn City Court	42%	60%	60%	67%	+25
Chautauqua County					
Dunkirk City Court	32%	61%	65%	47%	+15
Jamestown City Court	20%	43%	47%	42%	+22
Chemung County					
Elmira City Court	23%	67%	69%	66%	+43
Chenango County					
Norwich City Court	30%	79%	87%	83%	+53
Clinton County					
Plattsburgh City Court	42%	61%	65%	68%	+26
Columbia County					
Hudson City Court	49%	81%	76%	75%	+26
Cortland County					
Cortland City Court	22%	65%	66%	69%	+47
Dutchess County					
Beacon City Court	59%	66%	51%	63%	+4
Poughkeepsie City Court	30%	59%	57%	44%	+14
Erie County					
Buffalo City Court	20%	56%	67%	61%	+41
Lackawanna City Court	51%	75%	81%	79%	+28
Tonawanda City Court	49%	71%	78%	65%	+16

Fulton County					
Gloversville City Court	53%	57%	48%	47%	-6
Johnstown City Court	54%	79%	75%	67%	+13
Genesee County					
Batavia City Court	24%	56%	70%	71%	+47
Herkimer County					
Little Falls City Court	56%	83%	76%	68%	+12
Jefferson County					
Watertown City Court	32%	93%	91%	86%	+54
Madison County					
Oneida City Court	41%	65%	51%	49%	+8
Monroe County					
Rochester City Court	24%	49%	37%	26%	+2
Montgomery County					
Amsterdam City Court	23%	64%	55%	54%	+31
Niagara County					
Lockport City Court	38%	60%	64%	61%	+23
Niagara Falls City Court	49%	63%	73%	78%	+29
North Tonawanda City Court	28%	67%	68%	69%	+41
Oneida County					
Rome City Court	45%	85%	83%	77%	+32
Sherrill City Court	50%	58%	54%	71%	+21
Utica City Court	39%	64%	70%	64%	+25
Onondaga County					
Syracuse City Court	19%	28%	40%	46%	+27
Ontario County					
Canandaigua City Court	45%	69%	65%	57%	+12
Geneva City Court	42%	54%	64%	68%	+26
Orange County					
Middletown City Court	37%	71%	76%	70%	+33
Newburgh City Court	44%	63%	65%	63%	+19
Port Jervis City Court	14%	75%	79%	77%	+63
Oswego County					
Fulton City Court	32%	36%	60%	61%	+29
Oswego City Court	58%	78%	69%	74%	+16
Otsego County					
Oneonta City Court	24%	64%	49%	56%	+32

Rensselaer County					
Rensselaer City Court	56%	74%	48%	56%	0
Troy City Court	11%	40%	39%	40%	+29
Saratoga County					
Mechanicville City Court	48%	84%	81%	75%	+27
Saratoga Springs City Court	20%	69%	74%	73%	+43
Schenectady County					
Schenectady City Court	22%	59%	63%	48%	+26
St. Lawrence County					
Ogdensburg City Court	49%	63%	61%	67%	+18
Steuben County					
Corning City Court	39%	79%	77%	57%	+18
Hornell City Court	74%	81%	70%	70%	-4
Tompkins County					
Ithaca City Court	33%	39%	59%	59%	+26
Ulster County					
Kingston City Court	33%	52%	57%	59%	+26
Warren County					
Glens Falls City Court	40%	75%	64%	62%	+22
Suburban NYC					
Nassau County					
Glen Cove City Court	48%	86%	81%	66%	+18
Long Beach City Court	44%	63%	51%	36%	-8
Nassau District Court	75%	70%	78%	75%	0
Suffolk County					
Suffolk 1st District Court	77%	84%	81%	82%	+5
Westchester County					
Mount Vernon City Court	41%	64%	14%	50%	+9
New Rochelle City Court	25%	57%	51%	50%	+25
Peekskill City Court	44%	73%	49%	54%	+10
Rye City Court	65%	87%	67%	81%	+16
White Plains City Court	44%	67%	81%	66%	+22
Yonkers City Court	14%	38%	65%	47%	+33
New York City					
Bronx	22%	35%	45%	35%	+13
Brooklyn	16%	20%	31%	21%	+5
Manhattan	24%	31%	52%	33%	+9
Queens	33%	30%	48%	39%	+6
Staten Island	29%	40%	61%	45%	+16

Endnotes

1   See Rempel, M. & Rodriguez, K. (2019). *Bail Reform in New York: Legislative Provisions and Implications for New York City*. Center for Court Innovation. https://www.innovatingjustice.org/publications/bail-reform-NYS; Rodriguez, K. (2019, Updated 2022). *Discovery Reform in New York: Major Legislative Provisions*. Data Collaborative for Justice. https://datacollaborativeforjustice.org/work/case-processing/discovery-reform-in-new-york-major-legislative-provisions/; Jassin, K. & Ferone, J. (2023). *Reform in Action: Discovery & Evidence-Sharing: Initial Findings on Implementing Discovery Reform in New York State*. CUNY Institute for State & Local Governance. https://static1.squarespace.com/static/5fcea962a1b4d771ad256fcc/t/650321c9c809c123d436e2d0/1694704080399/Reform+in+Action+Discovery.pdf.

2   Ferone, J., Herrschaft, B., Jassin, K. Low-Weiner, C., & Ouellet, A. (2023). *Reform in Action: Findings and Recommendations from a 3-Year Process Evaluation of New York's 2020 Criminal Legal Reforms*. CUNY Institute for State & Local Governance. https://islg.cuny.edu/resources/reform-in-action-final-report; Ouellet, A., & Ferone, J. (2022). *Reform in Action: Appearance Tickets: Initial Findings on Implementing Appearance Ticket Reform in New York State*. CUNY Institute for State & Local Governance. https://static1.squarespace.com/static/5fcea962a1b4d771ad256fcc/t/650321c9c809c123d436e2d0/1694704080399/Reform+in+Action+Discovery.pdf; Lu, O., Bond, E., Chauhan, E. (2021). *Desk Appearance Tickets in New York State in 2019*. Data Collaborative for Justice. https://datacollaborativeforjustice.org/work/low-level-enforcement/desk-appearance-tickets-in-new-york-state-in-2019.

3   See the Data Collaborative for Justice's web page with updated research resources on Bail Reform in New York and Across the U.S. https://datacollaborativeforjustice.org/work/practitioner-resources/resources-bail-reform-in-new-york-across-the-us/#major-studies.

4   Worden, A. P., Holliday, B., Madison, M., & Miller, J. (2023). *Evaluating the Impacts of Desk Appearance Ticket Reform in Rural and Suburban New York, 2018-2022*. The John F. Finn Institute for Public Safety. Available at: https://datacollaborativeforjustice.org/work/case-processing/evaluating-the-impacts-of-desk-appearance-ticket-reform-in-rural-and-suburban-new-york-2018-2022/.

5   Ouellet, A. & Ferone, J. (2022). Op Cit.

6   Out of the 62 counties in New York State, 20 do not have city or district courts and therefore are not captured in the OCA data. These largely rural and semi-rural counties process criminal arraignments in town and village justice courts which are not bound to the same centralized reporting requirements as city and district courts.

7   Unlike felonies and misdemeanors, violations and infractions are not technically crimes, are not consistently issued by police in different counties of the state, and are not consistently handled in the criminal courts. (Many receive criminal summonses in lieu of arrests.)

8   Center for Justice Innovation data shows there were 1,699 pre-arraignment diversion completions in 2019, 799 in 2020, 844 in 2021, and 1,030 in 2022. (This data is for Project Reset, the program that serves the majority, but not all, people who receive pre-arraignment diversion in the City.) These numbers respectively reflect less than 2% of DAT-eligible arrests in each of those four years and closer to 1% in 2021 and 2022. This informs our conclusion that any bias related to the omission of diversion completers in this report is minimal. It is worth noting that many more people than are reflected in these numbers are eligible for diversion and referred to it. (Formal eligibility is similar to eligibility for a mandatory DAT under the reform law.) An evaluation of Manhattan's program found that only 54% of people referred to it completed programming. This large drop-off consists predominantly of people who program providers were never able to contact. (This drop-off also does not include people who may have been eligible but were not referred.) (See Anwar, S., Labriola, M., Holiday, S. B., & Mizel, M. L. (2023). *Process Evaluation of Project Reset*. Rand Corporation. https://www.rand.org/pubs/research_reports/RRA2473-1.html.)

9   Lu, O., et al. (2021), Op Cit.

10   Because our data only contains the top charge in any given case, it is also possible that some cases involve secondary charges that do not require issuance of a DAT even if the top charge does. Additionally, the court data may not perfectly identify all domestic violence cases or all cases with an outstanding warrant. For these reasons as well, whereas the analysis isolates types of cases that should be mostly subject to a mandatory DAT, and where DAT issuance should be especially likely to rise significantly, it would be an incorrect assumption that proper execution of the new DAT law requires close to uniform issuance.

11   The universal decline in DAT arraignments in 2022 may well reflect the most accurate post-reform, post-pandemic trends as data from that year are plausibly rid of most pandemic effects and ramifications of the suspension of the 20-day DAT-return timeline that could have artificially inflated the time from arrest to arraignment for 2021 cases.

12   Gelardi, C. (2022). "How New York State Just Rolled Back Criminal Justice Reforms." *New York Focus*. https://nysfocus.com/2022/04/09/hochul-criminal-justice-budget-roundup#:~:text=The%20budget%20bill%20also%20will,of%20bail%2Deligible%20repeat%20offenses.

13   Individuals who fail to appear at their first scheduled arraignment date are typically issued an arrest warrant. However, warrant issuance for DAT arraignments remains an area of judicial discretion. In some instances of non-appearance, a judge may choose to reschedule the arraignment for a later date in lieu of issuing a warrant; therefore, arraignment may occur more than 20 days after a DAT arrest.

14   In New York City, the 20-day timeline was suspended from March 20, 2020, to May 22, 2021.

15   It is important to reiterate that the universe of New York City DATs resulting in an arraignment disposition does not include cases where the person issued a DAT participated in and completed pre-arraignment diversion programming such as Project Reset and HOPE (Heroin Overdose Prevention and Education). In these cases, the district attorney will decline to prosecute and the DAT will not be arraigned, therefore will not appear in the arraignment data.

16   Statewide results are omitted to avoid conflating racial disparities with significant regional disparities shown in Chapter 2 and presenting misleading information; the statewide results would have shown wider racial disparities than in any of the three regions, a byproduct of police in regions outside NYC having a higher likelihood of issuing a DAT and, coupled with non-NYC regions having a larger white population. Nonetheless, the cumulative effect of racial and regional disparities is that by 2022, 33% of Black, 37% of Hispanic, and 47% of white people received a DAT.

About Us

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 justice 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/.