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CRIMINAL POSSESSION OF CONTROLLED SUBSTANCES:  
ANALYSIS OF CRIMINAL JUSTICE PROCESSING

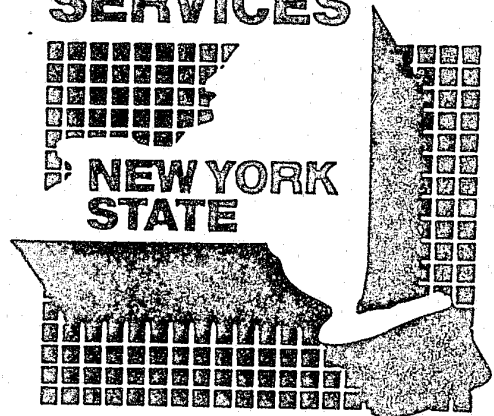
SEPTEMBER 1986

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CRIMINAL POSSESSION OF CONTROLLED SUBSTANCES:  
ANALYSIS OF CRIMINAL JUSTICE PROCESSING

SEPTEMBER 1986

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## EXECUTIVE SUMMARY

### Criminal Possession of Controlled Substances: Analysis of Criminal Justice Processing

This report explores the criminal justice system processing of Penal Law offenses involving the criminal possession of controlled substances in New York State. To facilitate comparison and to provide a more general picture of the criminal justice response to serious drug offending in New York State, data are also provided on the processing of Penal Law offenses involving the sale of controlled substances. The report does not analyze marihuana offenses or offenses involving the possession of narcotics paraphernalia.

#### ARRESTS

- o Controlled substance arrests, including both sale and possession, rose 121 percent between 1981 and 1985.
- o Statewide, drug possession arrests accounted for 70 percent of the arrests for controlled substances in 1985.
- o Almost three fourths of the possession arrests were misdemeanors.
- o New York City accounted for 87 percent of both the 1985 drug sale arrests and the 1985 drug possession arrests.

#### 1985 PROCESSING OUTCOMES

- o New York City disposed of 21 percent of its felony drug possession arrests in the upper courts; outside New York City 47 percent of such cases were disposed in the upper courts.
- o Of all dispositions resulting from felony possession arrests, 62 percent in New York City, 66 percent Upstate and 80 percent in the Suburban counties were convictions.
- o In Suburban New York City, 42 percent of dispositions were felony convictions as compared to 34 percent Upstate and 16 percent in New York City.
- o Statewide, the percentage of cases processed through the upper courts as well as overall conviction rates and convictions on felonies, were higher for the felony sale offenses than for the felony possession offenses.
- o In almost one-quarter of the convictions resulting from drug possession arrests, the conviction and arrest charge were for the same offense. However, this was far more common for the misdemeanor possession arrests than for the felony possession arrests. Eleven percent of the convictions on drug sale arrests resulted in convictions for the same offense.

- o For misdemeanor possession arrests, 80 percent of the dispositions were convictions, and almost half of these were for non-criminal offenses.

#### 1985 SENTENCES

- o Thirty percent of the offenders disposed on a felony possession arrest received a prison or jail sentence.
- o Seven percent of those disposed on a felony possession arrest were sentenced to prison, compared with 17 percent of those disposed on a drug sale arrest.
- o Offenders sentenced to prison following a conviction resulting from either a felony drug possession or sale arrest received a median minimum term of two years and a median maximum term of four years.
- o For misdemeanor possession arrests, a jail sentence was imposed in 40 percent of the disposed cases in New York City, compared with 13 percent in Suburban New York City and 9 percent in the Upstate region.
- o Approximately half of those convicted for a drug possession or sale offense received an incarcerative sentence.

This report shows that felony drug sale offenses were generally prosecuted more rigorously than felony possession offenses. Certain similarities in the processing of sale and possession arrests were evident. For both felony sale and possession arrests, New York City processed a higher proportion of cases in the lower courts than in the other regions of the State. Fewer felony arrests resulted in a conviction in New York City than in the other regions, and fewer resulted in felony convictions.

The disparities observed in drug processing may be explained at least in part by the concentration of arrests in the New York City area and the resulting strain placed upon the resources needed to fully prosecute felony offenses. Additional research is needed to more fully understand the findings presented in this report.

## I. INTRODUCTION

This report explores the criminal justice system processing of Penal Law offenses involving the criminal possession of controlled substances (PL 220). Marijuana offenses in Article 221 of the Penal Law are not analyzed, nor are offenses involving the possession of narcotics paraphernalia (see Appendix A).

This publication, and the report released in August 1986, entitled Criminal Sale of Controlled Substances: Analysis of Criminal Justice Processing together provide an overview of the New York State criminal justice system's response to drug crimes.

The existence of drug activity has grown steadily more acute in New York State. Arrest trends provide one indication of the magnitude of the current drug problem. In 1985, there were 74,188 arrests for drug offenses in New York State, representing an increase of 86 percent over the 39,822 arrests reported in 1981. Heightened public awareness and concern over the drug problem has prompted policy makers to develop initiatives aimed at curbing these trends.

Data presented in this report provide baseline information for decision makers considering possible changes in the policies and practices of the criminal justice system. The analyses are exploratory and do no more than identify possible problem areas in the processing of drug offenses. Certain factors normally associated with differential case outcomes, for example, the offender's prior record, have not been considered in this analysis. More focused research is therefore required before drawing definitive conclusions about the findings in this report.

## Structure of the Analysis

Data are presented for New York State as a whole and for three geographic regions: New York City, Suburban New York City (Nassau, Suffolk, Westchester and Rockland counties), and the remaining or "Upstate" counties.

Arrest trends for felony and misdemeanor possession offenses are presented for the years 1981 through 1985. Only those arrests occurring in the designated year in which the specified drug possession offense was the most serious (or only) offense charged are considered. Instances in which a more serious charge accompanied the drug possession charge in an arrest are excluded from the analysis; this occurred in only 11 percent of all 1985 drug possession arrests (425 felonies and 3,320 misdemeanors). Appendix C explains the charge ranking scheme used to select the most serious charge for this analysis.

The analyses of system processing and sentencing are based on the most serious disposition occurring in 1985 resulting from a felony or misdemeanor drug possession arrest. Dispositions may be for any charge, not necessarily drug possession. Section IV analyzes how the class of the most serious charge changes from arrest to conviction. Section V summarizes the sentencing outcomes for all PL 220 possession convictions resulting from any arrest charge.

## Data

Data for this analysis were obtained from the Computerized Criminal History/Offender-Based Transaction Statistics data system maintained by the Division of Criminal Justice Services (DCJS). Only the most serious final disposition in an arrest event reported to DCJS by July 20, 1986 was included in the analysis. The reporting of dispositions to this system through the Office of Court Administration is known to be incomplete. It is estimated that as many as 20 percent of the 1985 dispositions are missing; a higher percentage may be missing from the non-New York City regions.

Incomplete disposition information may result in an underrepresentation of the number and types of dispositions reported, particularly for the regions outside of New York City.

Minimum and maximum terms are summarized independently. These terms should not be interpreted as a range similar to the term to which an individual offender would be sentenced.

### The Context for this Analysis

In 1985, 421,470 individual criminal arrest events were reported to the Division of Criminal Justice Services pursuant to Article 35 of the Executive Law.

Drug offenses, including marihuana offenses in Articles 220 and 221, were the most serious charges in 67,448 arrest events in 1985. An additional 6,740 events contained a controlled substance or marihuana offense as a secondary charge. Arrests for controlled substances were the top arrest charge in 70 percent of all top drug arrests. Of the arrests for controlled substances, 65 percent were for possession, 29 percent for sale, and the remaining six percent involved paraphernalia offenses. These figures are summarized in Table 1.

The present analysis examines drug offenses involving the possession of controlled substances as defined in Penal Law Article 220; marihuana and "paraphernalia" offenses are not considered. Appendix A lists the offenses in Article 220, highlighting those examined in this report. While the study focuses on offenses involving the possession of a controlled substance, comparisons to sale offenses are made where appropriate to provide an overall picture of the criminal justice system's response to all controlled substance offenses. Appendix B presents relevant tables for felony drug sale arrest trends and processing.



TABLE 1  
SELECTED ARREST STATISTICS  
NEW YORK STATE  
1985

Total Arrests	421,470	
Felony	151,229	
Misdemeanor	270,241	
 Total Drug Arrests (PL 220/221)	 74,188	
Most Serious Arrest Charge	67,448	
Secondary Charge	6,740	
 Controlled Substance Arrests (Most Serious Charge)	 47,355	
Felony Sale		13,635
Felony Possession		8,891
Misdemeanor Possession		21,754
Paraphernalia		3,075
 Marihuana Arrests (Most Serious Charge)	 20,093	
Felony Sale		564
Misdemeanor Sale		9,961
Felony Possession		1,596
Misdemeanor Possession		7,972

## II. ARREST TRENDS (1981-1985)

This section highlights 1981-1985 trends in arrests for Criminal Possession of Controlled Substances. Appendix A lists the eight Penal Law offenses that constitute possession of a controlled substance. The offenses range from Class A-I felonies to Class A misdemeanors and cover a broad variety of controlled substances. The offense of Criminal Possession of a Controlled Substance - sixth degree was repealed on October 31, 1985, and this report presents data involving this offense through its repeal date. Table 2 presents regional arrest trend data for drug possession offenses by category. The number of arrest events is shown with the percent change from the previous year. Table 3 presents the class breakdown of possession arrests by region for 1985. Attempted offenses are reduced one class level and are displayed in their reduced class.

**Drug possession arrests more than doubled between 1981 and 1985; misdemeanor possession arrests tripled.**

According to data presented in Table 2, arrests for all drug possession offenses (PL 220) in New York State increased from 13,648 to 30,645, an increase of 125 percent between 1981 and 1985. Statewide, the increase was substantially greater for misdemeanor arrests (214 percent) than for felony arrests (32 percent). The overall upward trend in arrests was considerably greater in New York City (154 percent) than in Suburban New York City (75 percent) or in the Upstate counties (25 percent).

**The vast majority of drug possession arrests occurred in New York City.**

Since 1981, New York City has accounted for increasing proportions of the State's drug possession arrests, representing 73 percent of the statewide total in 1981 and 82 percent in 1985. New York City reported 81 percent of the misdemeanor possession arrests in the State in 1985 and 87 percent of the felony possession arrests.

Table 2

ARRESTS FOR CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE  
(PL 220) BY REGION 1981-1985

	1981	1982		1983		1984		1985	
Region/ Category	N	N	% Chg	N	% Chg	N	% Chg	N	% Chg
NEW YORK STATE									
Felony	6,717	6,165	- 8.2	6,279	1.8	8,159	29.9	8,891	9.0
Misdemeanor	6,931	9,738	40.5	14,982	53.9	19,041	27.1	21,754	14.2
Total	13,648	15,903	16.5	21,261	33.7	27,200	27.9	30,645	12.7
NEW YORK CITY									
Felony	5,704	5,141	- 9.9	5,431	5.6	7,173	32.1	7,711	7.5
Misdemeanor	4,235	6,334	49.6	11,517	81.8	15,353	33.3	17,510	14.0
Total	9,939	11,475	15.5	16,948	47.7	22,526	32.9	25,221	12.0
SUBURBAN NEW YORK CITY									
Felony	419	355	-15.3	285	-19.7	387	35.8	506	30.7
Misdemeanor	1,156	1,486	28.5	1,440	- 3.1	1,832	27.2	2,255	23.1
Total	1,575	1,841	16.9	1,725	- 6.3	2,219	28.6	2,761	24.4
UPSTATE COUNTIES									
Felony	594	669	12.6	563	-15.8	599	6.4	674	12.5
Misdemeanor	1,540	1,918	24.5	2,025	5.6	1,856	- 8.3	1,989	7.2
Total	2,134	2,587	21.2	2,588	0.0	2,455	- 5.1	2,663	8.5

Arrests for possession and sale of controlled substances increased 121 percent between 1981 and 1985.

Felony drug sale arrests rose 115 percent (from 6,352 to 13,635) between 1981 and 1985. (Appendix B, Table 1). This is a slightly smaller increase than that reported for all possession offenses (125 percent), but considerably larger than the increase in felony possession arrests (32 percent). As a proportion of all drug arrests, however, felony sale offenses declined slightly (from 32 percent in 1981 to 31 percent in 1985). New York City accounted for 87 percent of all 1985 drug sale arrests in the State; it accounted for an identical proportion of felony drug possession arrests.

TABLE 3  
ARRESTS FOR CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE  
BY CLASS AND REGION - 1985

Class	STATE TOTAL		REGION					
			NEW YORK CITY		SUBURBAN NEW YORK CITY		UPSTATE COUNTIES	
	N	%	N	%	N	%	N	%
A-I Felony	691	2.3	573	2.3	40	1.4	78	2.9
A-II Felony	586	1.9	485	1.9	33	1.2	68	2.6
B Felony	3,850	12.6	3,473	13.8	153	5.5	224	8.1
C Felony	1,717	5.6	1,284	5.1	204	7.4	229	8.3
D Felony	1,725	5.6	1,594	6.3	64	2.3	67	2.4
E Felony	322	1.1	302	1.2	12	0.4	8	0.3
A Misdemeanor	21,732	70.9	17,493	69.4	2,254	81.6	1,985	74.5
B Misdemeanor	22	0.1	17	0.1	1	0.0	4	0.2
TOTAL	30,645	100.0	25,221	100.0	2,761	100.0	2,663	100.0

Seventy one percent of drug possession arrests in 1985 were for misdemeanor offenses.

Table 3 shows that a greater proportion of drug possession arrests in Suburban New York City were at the misdemeanor level (82 percent) than in the Upstate region (75 percent) or in New York City (70 percent). Arrests for the most serious class felony (A-I) comprised only 2 percent of all 1985 drug possession arrests statewide (8 percent of the felony possession total). Class B offenses were most common in New York City (14 percent of the total; 45 percent of the felonies). Among felony offenses in the non-New York City regions, Class C felonies were most common, accounting for about 8 percent of all possession arrests. In contrast, 82 percent of drug sale arrests statewide were for offenses at the Class A and B levels. (Appendix B, Table 2).

### III. CRIMINAL JUSTICE PROCESSING

Tables 4 and 5 summarize the criminal justice processing of drug possession arrests that reached final disposition during 1985. The number and percent of dispositions processed through the upper and lower courts, conviction rates, and a breakdown of the types of sentences received for these convictions are presented separately for felony and misdemeanor drug possession arrests. The convictions cited in these tables may be for any charge, not necessarily for one of the specified drug possession offenses.

#### Prosecution

Table 4 displays the processing summary of drug possession offenses that entered the criminal justice system as felony arrests. Cases prosecuted in the upper courts can generally be assumed to have retained at least one felony charge through the indictment or Superior Court Information (SCI) stage of processing. Disposition in the lower courts, which have only preliminary jurisdiction over felony cases, generally indicates that the felony charge was dropped or reduced to a non-felony prior to the issuance of an indictment or SCI. Charges are often reduced in circumstances where the prosecutor cannot obtain witness cooperation or when other evidentiary problems arise.

The proportion of felony drug possession arrests processed through the upper courts varied greatly across regions.

In the Suburban and Upstate regions, about half (Suburban, 52 percent; Upstate, 44 percent) of all disposed felony drug possession arrests were processed in the upper courts. In New York City fewer than one quarter (21 percent) of these arrests were processed in the upper courts (Table 4).

Similar regional disparities were found in the processing of felony drug sale arrests.

New York City processed 44 percent of felony drug sale arrests in the upper courts, while the non-New York City areas prosecuted 77 percent of such arrests.

TABLE 4

CRIMINAL JUSTICE SYSTEM PROCESSING SUMMARY  
CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE (PL 220)  
FELONY ARRESTS DISPOSED IN 1985

Dispositions	STATE TOTAL		REGION					
			NEW YORK CITY		SUBURBAN NEW YORK CITY		UPSTATE COUNTIES	
	N	%	N	%	N	%	N	%
TOTAL DISPOSED	7,805	100.0	6,924	100.0	371	100.0	510	100.0
Prosecuted in:								
Lower Court	5,769	73.9	5,311	76.7	176	47.4	282	55.3
Upper Court	1,858	23.8	1,444	20.9	191	51.5	223	43.7
Total Convictions	4,956	63.5	4,323	62.4	295	79.5	338	66.3
Felony	1,416	18.1	1,089	15.7	154	41.5	173	33.9
Misdemeanor	2,329	29.8	2,078	30.0	103	27.7	148	29.0
Lesser Offenses	1,211	15.5	1,156	16.7	38	10.2	17	3.3
Sentences to:								
Prison	577	7.4	444	6.4	51	13.7	82	16.1
Jail	1,761	22.6	1,647	23.8	56	15.1	58	11.4
Total Incarcerations	2,338	30.0	2,091	30.2	107	28.8	140	27.5
Probation and Jail	233	3.0	156	2.3	38	10.2	39	7.6
Probation	651	8.3	479	6.9	85	22.9	87	17.1
Other	1,734	22.2	1,597	23.1	65	17.5	72	14.1
Prison Terms (Median Months)								
Minimum	24		23		24		24	
Maximum	48		48		50		54	
No. of Life Sentences	113		74		22		17	

## Notes:

- The percentages of cases processed in the upper and lower courts do not add to 100% because of decline to prosecute actions or a failure to return a bill of indictment.
- Disposition/Sentence data are based on the year of reported final disposition; conviction data are based on the year of sentencing.
- Disposition/Sentence data are based on an event unit of count; sentences to prison may not correspond to actual prison admissions.

in the upper courts. (Appendix B, Table 3). As noted in the previously released drug sale report, the volume of drug arrests in New York City (both sale and possession) was substantially greater than in the other regions of the State. The resulting strain on resources may impact negatively on the ability to effectively process these arrests, providing partial explanation of why a higher proportion of felony cases to be diverted to the lower courts in New York City than in the Suburban or Upstate regions.

The data demonstrate that the criminal justice system responds more seriously to offenses involving the sale of controlled substances than to those involving the possession of drugs. In all regions, a greater proportion of felony drug sale arrests were processed in the upper courts than were felony possession arrests. This suggests that possession offenses are diverted to the lower courts to reserve prosecutorial resources for more rigorous prosecution of drug sale offenses.

Table 5 shows that nearly all (98 percent) of the statewide misdemeanor drug possession arrests were disposed in the lower courts, that is, in courts with trial jurisdiction over misdemeanor and lesser offenses. Upper court processing (less than 1 percent of the misdemeanor dispositions) can result from indictment on the misdemeanor (CPL 190.05, CPL 190.65), a prosecutor (CPL 170.20) or defense (CPL 170.25) request for removal to the upper courts, or more serious charges being lodged after arrest as a result of further investigation of the case.

#### Conviction

In Tables 4 and 5, the "total conviction" percentage reflects the proportion of disposed drug possession arrests that resulted in a conviction to any charge. Convictions are further broken down in these tables into convictions for a felony offense or for a misdemeanor or lesser offense. Lesser offenses include violations and infractions which are considered non-criminal offenses. Most of the misdemeanor convictions are known to result from cases processed in the lower courts; a smaller number result from indicted cases in the upper courts reduced to misdemeanors upon conviction.



TABLE 5

CRIMINAL JUSTICE SYSTEM PROCESSING SUMMARY  
CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE (PL 220)  
MISDEMEANOR ARRESTS DISPOSED IN 1985

Dispositions	STATE TOTAL		REGION					
			NEW YORK CITY		SUBURBAN NEW YORK CITY		UPSTATE COUNTIES	
	N	%	N	%	N	%	N	%
TOTAL DISPOSED	18,254	100.0	15,172	100.0	1,494	100.0	1,588	100.0
Prosecuted in:								
Lower Court	17,902	98.1	14,840	97.8	1,484	99.3	1,578	99.3
Upper Court	45	0.2	26	0.2	9	0.6	10	0.6
Total Convictions	14,492	79.4	12,241	80.7	1,237	82.8	1,014	63.9
Felony	29	0.2	17	0.1	6	0.4	6	0.4
Misdemeanor	6,854	37.5	5,842	38.5	543	36.3	469	29.5
Lesser Offenses	7,609	41.7	6,382	42.1	688	46.1	539	33.9
Sentences to:								
Prison	14	0.1	7	0.0	5	0.3	2	0.1
Jail	6,317	34.6	5,986	39.5	188	12.6	143	9.0
Total Incarcerations	6,331	34.7	5,993	39.5	193	12.9	145	9.1
Probation and Jail	37	0.2	10	0.1	16	1.1	11	0.7
Probation	304	1.7	101	0.7	125	8.4	78	4.9
Fine	3,685	20.2	2,318	15.3	746	49.9	621	39.1
Conditional Discharge	3,544	19.4	3,305	21.8	99	6.6	140	8.8
Other	591	3.2	514	3.4	58	3.9	19	1.2

## Notes:

- The percentages of cases processed in the upper and lower courts do not add to 100% because of decline to prosecute actions or a failure to return a bill of indictment.
- Disposition/Sentence data are based on the year of reported final disposition; conviction data are based on the year of sentencing.
- Disposition/Sentence data are based on an event unit of count; sentences to prison may not correspond to actual prison admissions.

The majority of dispositions of felony drug possession arrests resulted in a conviction.

Statewide, 64 percent of the disposed felony possession arrests were convictions. In New York City, the rate was 63 percent; in the Suburban counties, it was nearly 80 percent and it was 66 percent in the Upstate region (Table 4).

In comparison to the convictions from felony drug possession arrests, conviction rates for felony sale arrests were higher across all regions, ranging from 70 percent in New York City to 90 percent in the Suburban counties. (Appendix B, Table 3).

Statewide, less than one-fifth of the disposed felony possession arrests resulted in a felony conviction.

The rate of conviction on felonies varied greatly across regions. In New York City, 16 percent of dispositions of drug possession arrests were felony convictions as compared to 42 percent in the Suburban counties and 34 percent Upstate (Table 4).

Felony conviction rates for the drug sale arrests showed a similar regional pattern but were considerably higher than for the possession arrests: 40 percent for New York City, 72 percent for the Suburban counties and 65 percent for the Upstate counties (Appendix B, Table 3). The higher rate of conviction on felonies for sale offenses is likely a function of the severity of the offense and the more stringent response to these offenses throughout the criminal justice system.

Statewide, 80 percent of disposed misdemeanor drug possession arrests resulted in a conviction.

The conviction rate was highest in Suburban New York City (83 percent) and lowest in the Upstate region (64 percent), (Table 5). Regionally, the

conviction rate on misdemeanors ranged from 30 percent Upstate to almost 40 percent in New York City. A somewhat greater proportion of the convictions in each region were for lesser (non-criminal) offenses. Across the State, less than one percent of the disposed misdemeanor possession arrests were upgraded and convicted at the felony level.

The lower conviction rates in the Upstate region may be a function of type of arrests. Misdemeanor drug possession charges may result from an initial arrest for a less serious offense. For example, an individual stopped for a traffic violation may be found to possess controlled substances. The manner in which the evidence is obtained may create evidentiary problems when a conviction is sought for the drug charge. Further research is needed before more definitive conclusions can be drawn.

### Sentencing

Prison sentences may be imposed only on a felony conviction. The "total incarceration" category used in this report is a summary of all prison and jail sentences imposed. Sentences where the offender was credited for "time served" were included in the jail category.

Approximately one offender out of three disposed on a felony possession arrest received a sentence of incarceration.

Total incarceration rates were similar across regions with approximately 30 percent receiving either a prison or jail sentence (Table 4). However, prison sentences were more likely to be imposed in the non-New York City regions than in New York City (New York City, 6 percent; Suburban New York City, 14 percent; Upstate, 16 percent). Despite the differences in the prison-rate, New York City accounted for the substantial majority of all prison sentences statewide: 444 versus a total of 133 from both of the other regions. Alternatively, jail sentences were proportionally more common in New York City (24 percent) than in the Suburban counties (15 percent) or in the Upstate region (11 percent).

Probation was more than three times as likely to be used in the Suburban and Upstate regions than in New York City.

For New York City, probation (either straight probation or in combination with a jail sentence) was ordered in 9 percent of the dispositions. The rate was highest in the Suburban counties (33 percent) and lowest in the Upstate region (25 percent). The non-New York City areas sentenced more cases to probation than to state prison (249 versus 133). (Table 4).

Incarcerative sentences were imposed more often for felony drug sale dispositions than for felony drug possessions.

Statewide, dispositions involving a drug sale arrest resulted in a sentence to state prison more than twice as frequently as felony drug possession arrests (17 percent vs. seven percent) (Appendix B, Table 3). These findings are expected given the larger proportion of drug sale arrests convicted at the felony level and the resulting larger group of offenders eligible for a prison sentence.

Alternatively, jail sentences were imposed slightly more frequently on offenders arrested for drug possession offenses than for those arrested for drug sale offenses (23 percent versus 20 percent). Overall incarceration rates were seven percent higher for felony drug sale dispositions than for felony possession dispositions.

Incarceration rates for dispositions on misdemeanor possession arrests were substantially higher in New York City than in other regions of the State.

Very few misdemeanor arrests result in a felony conviction; the overwhelming majority of incarcerations reflect local jail sentences for a period of up to and including one year. Table 5 shows that statewide, a sentence to jail was imposed in 35 percent of the misdemeanor possession dispositions. The use of jail was far more common in New York City (40 percent of disposed cases) than in the Suburban counties (13 percent) and Upstate region (9 percent).

Probation was imposed in a very small percentage of the dispositions of misdemeanor possession arrests (2 percent).

The use of split sentences or straight probation terms was highest in the Suburban counties (10 percent) and lowest in New York City (one percent).

The use of fines and conditional discharges for these convictions were very common across the State.

Statewide, fines and conditional discharges were imposed in 40 percent of disposed misdemeanor possession arrests. Within regions, fines were more common in Suburban New York City (50 percent of disposed arrests) than in the Upstate region (40 percent) or in New York City (15 percent). Conditional discharges were most commonly utilized in New York City (22 percent) compared with less than 10 percent in each of the other regions in the State. In both of the non-New York City regions, about four times the number of cases received fines than received jail sentences.

#### Sentence Terms

Data on the length of the minimum and maximum state prison sentences imposed and the number of sentences with life maximum terms are displayed at the bottom of Table 4. Life sentences were excluded from the calculation of the medians. Life maximums may be ordered for convictions on Class A felonies or for convictions on other class felonies for certain repeat offenders.

Offenders sentenced to prison as a result of an arrest for a felony drug possession offense received a median minimum term of two years, and a median maximum term of four years.

There was strong uniformity across all regions of the State on the minimum term imposed, although the median was slightly less for New York City than in

the other regions. The median maximum terms imposed were slightly higher outside of New York City (54 months in Upstate counties and 50 months in Suburban New York City) than in New York City (48 months). The proportion of prison sentences where a life maximum was imposed varied considerably across the regions. Seventeen percent of all prison sentences in New York City involved life maximums, 43 percent in the Suburban region and 21 percent in the Upstate region.

Prison terms imposed as a result of felony drug sale arrests showed more variation across regions than those imposed as a result of drug possession arrests.

New York City prison terms were similar for drug possession and sale dispositions (a median minimum of approximately two years and a median maximum of four years) (Appendix B, Table 3). However, subtle differences were found in the Suburban and Upstate regions. Longer minimum terms were imposed for dispositions of possession arrests than for sale dispositions (6 months more in Suburban New York City, and 1 month more in the Upstate region). For maximum terms, the median was 4 months longer for possession dispositions in Suburban counties and 5 months longer in Upstate counties, than the prison terms resulting from drug sale arrests.

A larger percentage of dispositions of drug sale arrests resulted in a prison sentence, but the prison terms were slightly shorter than those given for convictions resulting from possession arrests.

For all regions, a greater proportion of life sentences were imposed upon conviction for a possession arrest. Almost 20 percent of all prison sentences resulting from felony drug possession arrests were sentenced to a life maximum, compared with 12 percent for drug sale arrests. This disparity was greatest in New York City, where proportionally twice as many life sentences resulted from possession arrests than sale arrests. A more detailed analysis which controls for the offender's prior record, for other offenses charged at both arrest and conviction, and other factors would be needed to explain the differences between regions and types of drug arrests.

#### IV. CONVICTION CHARGE OUTCOMES

Tables 6 through 9 display the class level of convictions resulting from arrests for drug possession offenses. Arrests and convictions for Class A-I and A-II offenses are collapsed into a single category. Note that the percentages displayed in these tables are based on the total number of convictions and will differ from the felony, misdemeanor, and lesser (non-criminal) conviction rates presented in Tables 4 and 5. Data for felony drug sale arrests for New York State are presented in Appendix B, Table 4 for comparison.

Almost one-quarter of the convictions resulting from felony and misdemeanor drug possession arrests were convictions for the same offense.

The "same offense" conviction rate was lower in Suburban New York City (14 percent of all convictions) than in New York City (25 percent) or the Upstate region (23 percent) (Tables 7, 8, and 9). Statewide, slightly more Class A and Class C felony arrests that resulted in a conviction were for the same offense than for other felony classes (Table 6). The Upstate region had the highest "same offense" conviction rates for each felony class.

A larger proportion of convictions resulting from misdemeanor possession arrests were for the same offense charged at arrest than from those resulting from felony possession arrests. Statewide, 31 percent of the misdemeanor arrests and only 3 percent of the felony arrests resulted in a conviction for the same offense (Table 6). Overall, 45 percent of all convictions resulting from possession arrests were for non-criminal offenses.

Statewide, 37 percent of convictions that resulted from Class A felony arrests were convictions to Class A or B felony crimes.

The degree of reduction in Class A felony possession offenses varied across regions. It was highest in New York City, where 68 percent of Class A felony

TABLE 6

CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE  
ARREST OFFENSES VS. CONVICTION OFFENSES BY CLASS  
1985 CONVICTIONS

NEW YORK STATE

Conviction Offense	Class of Arrest Offense															
	A Felony		B Felony		C Felony		D Felony		E Felony		A Misdemeanor		B Misdemeanor		Total	
Same Offense	32	5.3%	58	2.8%	46	4.7%	17	1.6%	0	0.0%	4,531	31.3%	0	0.0%	4,684	24.1%
Felony																
Class A	78	13.0%	11	0.5%	6	0.6%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	95	0.5%
Class B	111	18.4%	14	0.7%	18	1.8%	8	0.8%	1	0.4%	1	0.0%	0	0.0%	153	0.8%
Class C	98	16.3%	186	8.9%	8	0.8%	28	2.7%	0	0.0%	5	0.0%	0	0.0%	325	1.7%
Class D	135	22.4%	242	11.6%	99	10.1%	26	2.5%	2	0.9%	9	0.1%	0	0.0%	513	2.6%
Class E	14	2.3%	93	4.5%	56	5.7%	28	2.7%	1	0.0%	14	0.1%	0	0.0%	206	1.1%
Misdemeanor																
Class A	73	12.1%	944	45.2%	424	43.0%	605	57.3%	102	45.1%	1,651	11.4%	4	22.2%	3,803	19.6%
Class B	10	1.7%	58	2.8%	49	5.0%	36	3.4%	15	6.6%	544	3.8%	1	5.6%	713	3.7%
Unclassified	0	0.0%	3	0.1%	7	0.7%	1	0.1%	2	0.9%	123	0.8%	0	0.0%	136	0.7%
Lesser Offense	51	8.5%	479	22.9%	272	27.6%	306	29.0%	103	45.6%	7,596	52.5%	13	72.2%	8,820	45.4%
TOTAL CONVICTIONS	602	100.0%	2,088	100.0%	985	100.0%	1,055	100.0%	226	100.0%	14,474	100.0%	18	100.0%	19,448	100.0%



convictions were reduced below the Class B felony level, and lowest in the Upstate area where 40 percent were reduced more than one class. (Tables 7-9).

In New York City, Class B felony arrests were most likely to have been reduced to a misdemeanor or lesser (non-criminal) offense upon conviction (75 percent).

Reductions to misdemeanor/lesser offenses on Class B felony possession arrests were far less common in the non-New York City regions (34 percent in the Suburban counties and 38 percent in the Upstate region). A much greater percentage of the convictions resulting from Class B felony possession offenses were reduced only one class level in these regions than in New York City (28 percent in Suburban counties and 32 percent Upstate, versus 6 percent in New York City). (Tables 7-9).

Misdemeanors and non-criminal offenses were the most common conviction offenses resulting from Class C through Class E felony possession arrests statewide.

Of the Class C possession arrests, 76 percent were reduced to non-felony offenses upon conviction. This rate was 90 percent for Class D and 98 percent of Class E felony convictions statewide. The number of convictions on Class D and E arrests in the two non-New York City regions was too low to draw meaningful regional comparisons. However, for convictions of Class C felony arrests, 79 percent were for non-felonies in New York City, 66 percent in the Suburban region and 70 percent in the Upstate region. (Tables 6-9).

Only three percent of the convictions resulting from felony possession arrests were for the same offense, compared to eleven percent of convictions resulting from felony drug sale arrests. (Table 6 and Appendix B, Table 4).

The majority of "same offense" convictions for possession arrests were misdemeanor arrests retaining their charge through the disposition process. Thus, a higher proportion of sale arrests resulted in a conviction to the same felony offense than the possession arrests. Statewide, a much smaller proportion of felony drug sale arrests were reduced to misdemeanor or non-criminal offenses upon conviction. (40 percent for sale offenses versus 71 percent for felony possession offenses).

TABLE 7

CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE  
ARREST OFFENSES VS. CONVICTION OFFENSES BY CLASS  
1985 CONVICTIONS

NEW YORK CITY

Conviction Offense	Class of Arrest Offense															
	A Felony		B Felony		C Felony		D Felony		E Felony		A Misdemeanor		B Misdemeanor		Total	
Same Offense	26	5.3%	40	2.1%	30	3.9%	14	1.4%	0	0.0%	4,052	33.1%	0	0.0%	4,162	25.1%
Felony																
Class A	48	9.7%	6	0.3%	5	0.7%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	59	0.4%
Class B	85	17.2%	8	0.4%	15	2.0%	7	0.7%	1	0.5%	1	0.0%	0	0.0%	117	0.7%
Class C	75	15.2%	118	6.3%	8	1.0%	27	2.7%	0	0.0%	1	0.0%	0	0.0%	229	1.4%
Class D	122	24.6%	208	11.2%	69	9.0%	24	2.4%	1	0.5%	7	0.1%	0	0.0%	431	2.6%
Class E	13	2.6%	81	4.3%	36	4.7%	21	2.1%	1	0.5%	8	0.1%	0	0.0%	160	1.0%
Misdemeanor																
Class A	66	13.3%	876	47.0%	317	41.4%	560	56.7%	95	45.2%	1,254	10.3%	3	18.8%	3,171	19.1%
Class B	10	2.0%	54	2.9%	42	5.5%	33	3.3%	15	7.1%	480	3.9%	1	6.3%	635	3.8%
Unclassified	0	0.0%	3	0.2%	5	0.7%	1	0.1%	1	0.5%	52	0.4%	0	0.0%	62	0.4%
Lesser Offense	50	10.1%	470	25.2%	239	31.2%	301	30.5%	96	45.7%	6,370	52.1%	12	75.0%	7,538	45.5%
TOTAL CONVICTIONS	495	100.0%	1,864	100.0%	766	100.0%	988	100.0%	210	100.0%	12,225	100.0%	16	100.0%	16,564	100.0%

TABLE 8

CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE  
ARREST OFFENSES VS. CONVICTION OFFENSES BY CLASS  
1985 CONVICTIONS

SUBURBAN NEW YORK CITY

Conviction Offense	Class of Arrest Offense														Total	
	A Felony		B Felony		C Felony		D Felony		E Felony		A Misdemeanor		B Misdemeanor			
Same Offense	1	2.0%	3	3.0%	8	7.3%	0	0.0%	0	0.0%	203	16.4%	0	0.0%	215	14.0%
Felony																
Class A	20	39.2%	3	3.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	23	1.5%
Class B	7	13.7%	1	1.0%	2	1.8%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	10	0.7%
Class C	14	27.5%	28	28.3%	0	0.0%	1	3.8%	0	0.0%	2	0.2%	0	0.0%	45	2.9%
Class D	5	9.8%	22	22.2%	19	17.3%	1	3.8%	1	11.1%	1	0.1%	0	0.0%	49	3.2%
Class E	0	0.0%	8	8.1%	8	7.3%	2	7.7%	0	0.0%	3	0.2%	0	0.0%	21	1.4%
Misdemeanor																
Class A	4	7.8%	27	27.3%	47	42.7%	17	65.4%	4	44.4%	271	21.9%	0	0.0%	370	24.2%
Class B	0	0.0%	0	0.0%	2	1.8%	1	3.8%	0	0.0%	35	2.8%	0	0.0%	38	2.5%
Unclassified	0	0.0%	0	0.0%	1	0.9%	0	0.0%	0	0.0%	34	2.7%	0	0.0%	35	2.3%
Lesser Offense	0	0.0%	7	7.1%	23	20.9%	4	15.4%	4	44.4%	688	55.6%	0	0.0%	726	47.4%
TOTAL CONVICTIONS	51	100.0%	99	100.0%	110	100.0%	26	100.0%	9	100.0%	1,237	100.0%	0	0.0%	1,532	100.0%

TABLE 9

CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE  
ARREST OFFENSES VS. CONVICTION OFFENSES BY CLASS  
1985 CONVICTIONS

## UPSTATE COUNTIES

Conviction Offense	Class of Arrest Offense															
	A Felony		B Felony		C Felony		D Felony		E Felony		A Misdemeanor		B Misdemeanor		Total	
Same Offense	5	8.9%	15	12.0%	8	7.3%	3	7.3%	0	0.0%	276	27.3%	0	0.0%	307	22.7%
Felony																
Class A	10	17.9%	2	1.6%	1	0.9%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	13	1.0%
Class B	19	33.9%	5	4.0%	1	0.9%	1	2.4%	0	0.0%	0	0.0%	0	0.0%	26	1.9%
Class C	9	16.1%	40	32.0%	0	0.0%	0	0.0%	0	0.0%	2	0.2%	0	0.0%	51	3.8%
Class D	8	14.3%	12	9.6%	11	10.1%	1	2.4%	0	0.0%	1	0.1%	0	0.0%	33	2.4%
Class E	1	1.8%	4	3.2%	12	11.0%	5	12.2%	0	0.0%	3	0.3%	0	0.0%	25	1.8%
Misdemeanor																
Class A	3	5.4%	41	32.8%	60	55.0%	28	68.3%	3	42.9%	126	12.5%	1	50.0%	262	19.4%
Class B	0	0.0%	4	3.2%	5	4.6%	2	4.9%	0	0.0%	29	2.9%	0	0.0%	40	3.0%
Unclassified	0	0.0%	0	0.0%	1	0.9%	0	0.0%	1	14.3%	37	3.7%	0	0.0%	39	2.9%
Lesser Offense	1	1.8%	2	1.6%	10	9.2%	1	2.4%	3	42.9%	538	53.2%	1	50.0%	556	41.1%
TOTALS CONVICTIONS	56	100.0%	125	100.0%	109	100.0%	41	100.0%	7	100.0%	1,012	100.0%	2	100.0%	1,352	100.0%

## V. SENTENCING OUTCOMES FOR DRUG CONVICTIONS

Table 10 displays the breakdown of sentences received for felony drug possession convictions. These convictions resulted from arrests for any offense, including arrests for non-drug offenses, and differ from the figures presented in Table 4 which were based on the arrest offense. The percentages are based on the total number of convictions for each class of offense. The median minimum and maximum prison terms imposed, as well as the number of life sentences are shown.

In 1985, there were 1,577 convictions for felony drug possession offenses in New York State.

Convictions for Class D offenses were the most numerous (577), followed by Class C, B and E. Only thirty of the convictions were for the most serious. Class A-I offense, with an additional 121 for the Class A-II offense. (Table 10).

Fifty-four percent of the convictions resulted in some form of incarcerative sentence.

Approximately, two out of every five offenders (41 percent) convicted for a felony drug possession offense received a sentence to state prison. Prison rates were highest for Class A-I (93 percent), Class A-II (89 percent) and Class B convictions (86 percent). In contrast, less than 30 percent of the Class C, D, or E convictions resulted in a sentence to prison.

All of the Class A-I possession convictions sentenced to state prison received life maximum terms, as did 106 of the 108 Class A-II convictions. Excluding Class A felonies, the median minimum prison sentences ranged from 13 months for Class B convictions to 35 months for Class C convictions. The median maximum terms were highest again for Class C convictions (71 months) and lowest for both Class B and Class E convictions (37 months).

TABLE 10

SENTENCE OUTCOMES FOR DRUG POSSESSION CONVICTIONS (PL 220)  
 RESULTING FROM ANY ARREST  
 1985 CONVICTIONS  
 NEW YORK STATE

Sentence Type	CONVICTION OFFENSE													
	Class A-I		Class A-II		Class B		Class C		Class D		Class E		Total	
Total Convictions	30	100.0%	121	100.0%	258	100.0%	460	100.0%	577	100.0%	131	100.0%	1,577	100.0%
Prison	28	93.3%	108	89.3%	222	86.0%	113	24.6%	140	24.3%	38	29.0%	649	41.2%
Jail	0	0.0%	2	1.7%	6	2.3%	68	14.8%	94	16.3%	24	18.3%	194	12.3%
Total Incarcerations	28	93.3%	110	91.0%	228	88.3%	181	39.4%	234	40.6%	62	47.3%	843	53.5%
Probation and Jail	0	0.0%	1	0.9%	10	3.9%	185	40.2%	68	11.8%	14	10.7%	278	17.6%
Probation	2	6.7%	6	5.0%	20	7.8%	91	19.8%	263	45.6%	53	40.5%	435	27.6%
Other	0	0.0%	1	0.8%	0	0.0%	3	0.7%	12	2.1%	2	1.5%	18	1.1%

## Prison Terms (Median Months)

Minimum	na	na	13	35	24	18	24
Maximum	na	na	37	71	48	37	48
No. of Life Sentences	28	106	1	0	0	0	134

## Notes:

- Medians exclude life sentences.
- na = not appropriate; fewer than 20 cases.

A brief examination was made into the type of offender sentenced to attempt to explain the shorter prison sentences for Class B felonies relative to the lower level felonies. Sentences may be enhanced for repeat offenders, or mitigated by the application of Youthful Offender (YO) status. The findings would be more readily understandable if the Class C or D arrest group showed more predicate offenders or if more YO's were present in the Class B group.

Among cases sentenced to prison as a result of a Class B drug possession conviction, 20 percent were offenders who had at least one prior felony conviction. Among those sentenced to prison for a Class C conviction, almost half (49 percent) were repeat felony offenders. The proportion was even higher for those sentenced to prison for Class D and E felonies (70 and 76 percent respectively). The number of Youthful Offenders accounted for less than 8 percent of the total number of convictions; consequently YO's did not have a great effect on the sentence terms. The smaller proportion of repeat offenders sentenced to prison as a result of a Class B felony drug possession conviction accounts for some portion of the discrepancy in the prison terms across classes.

There were 4,657 convictions for drug sale offenses in 1985, almost three times as many as felony-possession convictions (Appendix B, Table 5).

The class breakdown of sale conviction offenses was similar to that of the possession convictions. Most convictions were for the Class D offense (1,940) followed by Class C, B, E, A-II and A-I.

Incarcerative sentences were imposed in over half (56 percent) of the drug sale convictions.

For all felony sale convictions, 40 percent resulted in a sentence to prison. The prison rate again dropped considerably for felonies below the Class B level (from 83 percent for Class B felonies to less than 30 percent for the remaining classes).

Because the length of prison sentence is dictated by crime class, no substantial differences would be expected between the prison terms imposed for sale or possession convictions. However, some variation did exist within the Class B and E conviction offenses. The median minimum prison term for Class B offenses was 5 months longer for sale offenses than for possession offenses, while the median maximum was 14 months longer for sale offenses. The terms for Class C and D conviction offenses were identical for both types of drug offenses. Class E convictions were seven months longer for possession. Again, this may be attributable to the different types of offenders sentenced within each class and category.

Differences in the proportion of repeat offenders among the B and E sale and possession convictions were examined but were not large enough to explain adequately the differences in sentence terms noted. Additional research, focusing on a more detailed review of prior record and on accompanying charges is necessary to understand these observations.



## VI. CONCLUSION

Arrests for the possession and sale of controlled substances have increased 121 percent between 1981 and 1985. The overwhelming majority of these arrests occurred in New York City, although activity also increased elsewhere in the State. In 1985, almost two thirds of all drug arrests were for the possession of controlled substances; seven out of ten of these were for misdemeanor offenses. Among felony drug arrests however, more than 60% were for the sale of a controlled substance. As measured by arrests, law enforcement agencies appear to be responding to the public's outrage over drug abuse.

Disposition data for 1985 show that statewide felony drug sale arrests were more rigorously processed through the criminal justice system than the felony possession arrests. The regional disparities in processing outcomes previously observed for sale offenses were also evident for possession offenses. New York City prosecuted fewer possession felonies through the upper courts, convicted a lower proportion overall and a lower proportion on felonies. For misdemeanor possession arrests, the Upstate counties process these offenses less effectively than the other regions in the State. Statewide sentence data show that 17 percent of those disposed on a felony drug sale arrest and 7 percent disposed on a felony possession arrest received a sentence to state prison. Those sentenced for either offense received a median minimum term of two years and a median maximum term of four years.

The concentration of drug cases in New York City would appear to be an important factor in these regional differences in processing outcomes. The increasing volume of arrests alone would place special burdens upon all components of the criminal justice system. Specific criminal justice policy actions aimed at reducing drug activity must involve a broader focus than the apprehension of offenders. A coordinated effort is needed to enhance all components of the criminal justice system to more effectively respond to the increasing volume of cases brought into the process.

## APPENDIX A

### Summary of Article 220 of the New York State Penal Law

Penal Law Article and Section	Title	Class
<b>Possession Offenses</b>		
220.20	Controlled substances; definitions	
220.03	Criminal Possession - Seventh degree	(A Misdemeanor)
220.05	Criminal Possession - Sixth degree	(E Felony)
		(repealed 10/31/85)
220.06	Criminal Possession - Fifth degree	(D Felony)
220.09	Criminal Possession - Fourth degree	(C Felony)
220.16	Criminal Possession - Third degree	(B Felony)
220.18	Criminal Possession - Second degree	(A-II Felony)
220.21	Criminal Possession - First degree	(A-I Felony)
220.25	Criminal Possession; presumption	
220.46	Criminal Injection of a Narcotic Drug	(E Felony)
220.60	Criminal Possession of Precursors of Controlled Substances	(E Felony)
<b>Sale Offenses</b>		
220.31	Criminal Sale - Fifth degree	(D Felony)
220.34	Criminal Sale - Fourth degree	(C Felony)
220.39	Criminal Sale - Third degree	(B Felony)
220.41	Criminal Sale - Second degree	(A-II Felony)
220.43	Criminal Sale - First degree	(A-I Felony)
<b>Paraphernalia Offenses</b>		
220.45	Criminally Possessing a Hypodermic Instrument	(A Misdemeanor)
220.50	Criminally Using Drug Paraphernalia - Second degree	(A Misdemeanor)
220.55	Criminally Using Drug Paraphernalia - First degree	(D Felony)

# APPENDIX B

Table 1

## ARRESTS FOR CRIMINAL SALE OF A CONTROLLED SUBSTANCE (PL 220) BY REGION 1981-1985

	1981	1982		1983		1984		1985	
Region	N	N	% Chg	N	% Chg	N	% Chg	N	% Chg
New York State	6,352	9,384	47.7	10,513	12.0	12,655	20.4	13,635	7.7
New York City	5,142	7,790	51.5	8,924	14.6	11,160	25.1	11,895	6.6
Suburban New York City	646	830	28.5	837	0.8	825	- 1.4	888	7.6
Upstate Counties	564	764	35.5	752	-1.6	670	-10.9	852	27.2

TABLE 2  
ARRESTS FOR CRIMINAL SALE OF A CONTROLLED SUBSTANCE  
BY CLASS AND REGION - 1985

Class of Conviction Offense	Region							
	STATE TOTAL		NEW YORK CITY		SUBURBAN NEW YORK CITY		UPSTATE COUNTIES	
	N	%	N	%	N	%	N	%
A-I Felony	699	5.1	470	4.0	150	16.9	79	9.3
A-II Felony	383	2.8	179	2.0	93	10.5	111	13.0
B Felony	10,099	74.1	9,075	76.3	510	57.4	514	60.3
C Felony	197	1.4	170	1.4	9	1.0	18	2.1
D Felony	2,230	16.4	1,984	16.7	124	14.0	122	14.3
E Felony	27	0.2	17	0.1	2	0.2	8	1.0
Total	13,635	100.0	11,895	100.0	888	100.0	852	100.0

TABLE 3  
CRIMINAL JUSTICE SYSTEM PROCESSING SUMMARY  
CRIMINAL SALE OF A CONTROLLED SUBSTANCE (PL 220)  
ARRESTS DISPOSED IN 1985

Dispositions	REGION							
	STATE TOTAL		NEW YORK CITY				UPSTATE COUNTIES	
	N	%	N	%	N	%	N	%
TOTAL DISPOSED	11,622	100.0	10,206	100.0	804	100.0	612	100.0
Prosecuted in:								
Lower Court	5,905	50.8	5,588	54.8	161	20.2	156	25.5
Upper Court	5,546	47.7	4,463	43.7	636	79.1	447	73.0
Total Convictions	8,309	71.5	7,075	69.3	723	89.9	511	83.5
Felony Convictions	4,971	42.8	3,990	39.1	582	72.4	400	65.4
Misdemeanor/Lesser Convictions	3,338	28.7	3,085	30.2	141	17.5	111	18.1
Sentences to:								
Prison	1,998	17.2	1,652	16.2	209	26.0	137	22.4
Jail	2,305	19.8	2,170	21.3	73	9.1	62	10.1
Total Incarcerations	4,303	37.0	3,822	37.4	282	35.1	199	32.5
Probation and Jail	1,079	9.3	792	7.8	190	23.6	97	15.8
Probation	1,569	13.5	1,199	11.7	207	25.7	163	26.6
Other	1,358	11.7	1,262	12.4	44	5.5	52	8.5
Prison Terms (Median Months)								
Minimum	24		24		18		23	
Maximum	48		48		46		49	
No. of Life Sentences	237		136		79		22	

Notes:

- The percentages of cases processed in the upper and lower courts do not add to 100% because of decline to prosecute actions or a failure to return a bill of indictment.
- Disposition/Sentence data are based on the year of reported final disposition; conviction data are based on the year of sentencing.
- Disposition/Sentence data are based on an event unit of count; sentences to prison may not correspond to actual prison admissions.

TABLE 4

CRIMINAL SALE OF A CONTROLLED SUBSTANCE  
ARREST OFFENSES VS. CONVICTION OFFENSES BY CLASS  
1985 CONVICTIONS

NEW YORK STATE

Conviction Offense	Class of Arrest Offense											
	A Felony		B Felony		C Felony		D Felony		E Felony		Total	
Same Offense	49	7.8%	652	10.8%	1	0.8%	194	12.9%	0	0.0%	896	10.8%
Felony												
Class A	218	34.8%	9	0.1%	0	0.0%	1	0.1%	0	0.0%	231	2.8%
Class B	156	24.9%	37	0.6%	3	2.4%	17	1.1%	0	0.0%	217	2.6%
Class C	75	12.0%	1,292	21.4%	8	6.3%	14	0.9%	1	8.3%	1,399	16.8%
Class D	63	10.0%	1,806	29.9%	17	13.4%	24	1.6%	0	0.0%	1,903	22.9%
Class E	11	1.8%	78	1.3%	10	7.9%	168	11.2%	0	0.0%	325	3.9%
Misdemeanor												
Class A	39	6.2%	1,658	27.4%	68	53.5%	884	58.9%	7	58.3%	2,589	31.2%
Class B	2	0.3%	46	0.8%	0	0.0%	21	1.4%	0	0.0%	69	0.8%
Lesser Offense	14	2.2%	465	7.7%	20	15.7%	177	11.8%	4	33.3%	680	8.2%
TOTAL CONVICTIONS	627	100.0%	6,043	100.0%	127	100.0%	1,500	100.0%	12	100.0%	8,309	100.0%

TABLE 5

SENTENCE OUTCOMES FOR DRUG SALE CONVICTIONS (PL 220)  
 RESULTING FROM ANY ARREST  
 1985 CONVICTIONS

## NEW YORK STATE

Sentence Type	CONVICTION OFFENSE													
	Class A-I		Class A-II		Class B		Class C		Class D		Class E		Total	
Total Convictions	32	100.0%	216	100.0%	820	100.0%	1,324	100.0%	1,940	100.0%	325	100.0%	4,657	100.0%
Prison	28	87.5%	197	91.2%	680	82.9%	246	18.6%	620	32.0%	112	34.5%	1,883	40.3%
Jail	0	0.0%	0	0.0%	18	2.2%	196	14.8%	425	21.9%	65	20.0%	704	15.1%
Total Incarcerations	28	87.5%	197	91.2%	698	85.1%	442	33.4%	1,045	53.9%	177	54.5%	2,587	55.6%
Probation and Jail	1	3.1%	5	2.3%	46	5.6%	669	50.5%	228	11.8%	28	8.6%	977	21.0%
Probation	3	9.4%	13	6.0%	74	9.0%	202	15.3%	648	33.4%	105	32.3%	1,045	22.4%
Other	0	0.0%	1	0.5%	2	0.2%	11	0.8%	19	1.0%	15	4.6%	48	1.0%

## Prison Terms (Median Months)

Minimum	na	na	18	35	24	18	24
Maximum	na	na	51	71	48	30	48
No. of Life Sentences	28	191	3	0	0	0	222

## Notes:

- Medians exclude life sentences.
- na = not appropriate; fewer than 20 cases.

## APPENDIX C

### SELECTION OF CHARGE AND DISPOSITION FOR ANALYSES

The following rules apply to the selection of charge and disposition for the analysis:

- At arrest, if there was more than one charge, the most serious charge was selected.
- If the charges in the arrest event resulted in more than one disposition, the most serious disposition type was selected. (Disposition types were ranked as follows: Conviction, Acquittal, Dismissal, Other, No True Bill, Prosecution Declined.)
- If there was more than one charge within the selected disposition type, the most serious charge within that type was selected.

Charge seriousness was determined by the class of offense. Within classes, specific offenses were ranked with personal crimes considered most serious, followed by property crimes, drug offenses, and "public order" offenses (e.g., forgery, prostitution).





DIVISION OF CRIMINAL JUSTICE SERVICES  
OFFICE OF POLICY ANALYSIS, RESEARCH AND STATISTICAL SERVICES

**CRIMINAL POSSESSION OF CONTROLLED SUBSTANCES:  
ANALYSIS OF CRIMINAL JUSTICE PROCESSING**

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DIRECTOR OF CRIMINAL JUSTICE  
AND  
COMMISSIONER

STATE OF NEW YORK  
DIVISION OF CRIMINAL JUSTICE SERVICES

Executive Park Tower  
Stuyvesant Plaza  
Albany, New York 12203

November 7, 1986

Eileen Garry  
National Criminal Justice  
Reference Service  
Box 6000  
Rockville, MD 20850

Dear Colleague:

I am pleased to provide you with a copy of the report  
Criminal Possession of Controlled Substances: Analysis of  
Criminal Justice Processing, published by the Office of Policy  
Analysis, Research and Statistical Services.

The report describes patterns in the processing of Penal  
Law offenses involving the criminal possession of controlled  
substances. Data are also provided on the possession of drug  
sale offenses giving a general overview of the system's response  
to serious drug offending.

The Division would like to assess the utility of our  
informational products. A feedback questionnaire to record  
your responses to this report is attached to this letter. I ask  
that you complete it and return it to us at your earliest  
convenience.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence T. Kurlander".



LAWRENCE T. KURLANDER  
DIRECTOR OF CRIMINAL JUSTICE  
AND  
COMMISSIONER

STATE OF NEW YORK  
DIVISION OF CRIMINAL JUSTICE SERVICES  
Executive Park Tower  
Stuyvesant Plaza  
Albany, New York 12203

(518) 457-1260

November 7, 1986

Eileen Garry  
National Criminal Justice  
Reference Service  
Box 6000  
Rockville, MD 20850

Dear Colleague:

I am pleased to provide you with a copy of the report  
Criminal Sale of Controlled Substances: Analysis of Criminal  
Justice Processing, published by the Office of Policy Analysis,  
Research and Statistical Services.

This study describes patterns in the processing of Penal  
Law offenses involving the criminal sale of controlled  
substances in New York State with particular focus on Class A-II  
and B felony offenses. It provides baseline information to  
assist in the consideration of policy changes in the enforcement  
of our drug laws.

The Division would like to assess the utility of our  
informational products. A feedback questionnaire to record your  
responses to this report is attached to this letter. I ask that  
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A handwritten signature in black ink, appearing to read "Lawrence T. Kurlander", written over a horizontal line.

DIVISION OF CRIMINAL JUSTICE SERVICES  
OFFICE OF POLICY ANALYSIS, RESEARCH AND STATISTICAL SERVICES

CRIMINAL SALE OF CONTROLLED SUBSTANCES:  
ANALYSIS OF CRIMINAL JUSTICE PROCESSING

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[ ] Student      [ ] County  
[ ] Criminal Justice      [ ] Municipal  
Agency Employee  
(Specify) \_\_\_\_\_  
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Thank you for your cooperation.

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