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From Arrest to Jail: Arraignment Processing and the Detention Population

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Since January 1982, New York City has experienced very rapid growth in its jail population, from a daily average of 8,905 inmates to 14,925 by December 1987, a 67 percent increase. The size of the jail population has become a major concern for criminal justice policymakers and practitioners. An increasing jail population creates the need for more jail cells or programs providing alternatives to incarceration, and places an increased burden on the city budget. Moreover, the city is under a federal court order regarding jail conditions, so a rapidly increasing population raises the possibility of a repeat of the 1983 mandated release of detainees. While these concerns have been reduced by recent increases in the availability of beds and a leveling off of population, jail crowding is a recurring issue that is certain to resurface.

Pretrial detainees—defendants being held in detention pending disposition of their cases—comprise approximately two-thirds of the jail population. Their number has increased from 6,472 in 1982 to 9,528 in 1987, a 47 percent increase (somewhat less than the growth of the jail population as a whole).¹ Criminal justice practitioners contend that this increase is largely due to increased arrests, which rose from 17,238 per month in 1982 to 23,832 in 1987. While this increase may partly explain changes in jail population, decisions made during court processing can also have an impact on jail populations independent of increases in arrests. Arraignment, in particular, is a critical but often overlooked stage of court processing that can affect the size of the detention population.²

The rate at which defendants enter pretrial detention after arraignment, either because they cannot post bail or because they are remanded, varies according to the type of case (specifically, drug and nondrug) and the

severity, or seriousness, of the underlying offense. The distribution of case types and severities determines the rate at which all defendants are held (the held rate) and,

This is the first in an ongoing series of short papers designed to inform members of the criminal justice community about research conducted by the New York City Criminal Justice Agency, Inc. (CJA). CJA's research efforts cover a broad spectrum of issues, including court case processing for various defendant groups and evaluations of criminal justice programs, policies, and legislation. We hope that this Brief Report Series will broaden the audience for this research and serve as a catalyst for discussions of current research and policy, thus enhancing the role of research in shaping policy.

This paper examines recent increases in New York City's pretrial detention population in terms of changes in arrest volume and changes in the way particular types of offenses are handled at arraignment. The authors find that it can be misleading to explain the rise in detention population simply from arrest trends. Decisions about bail and release made at the arraignment hearing determine who goes to jail after arrest; thus, changes in the pattern of outcomes with respect to these decisions will affect the size of the pretrial detention population, independent of changes in arrest volume. The authors show how the recent shift toward higher detention rates for drug offenders has affected the city's detention population. They also discuss the implications of these findings for policymakers responsible for the projection of future jail population and the management of scarce detention resources.

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thus, the number of defendants who then enter pretrial detention at a given time. Also, the held rate for particular types and severities of cases may change. Consequently, trends in the overall held rate are affected by changes in the distribution (or shares) of cases entering arraignment, by changes in the way cases are treated at arraignment, or by both. This paper examines how the interaction of arrest volume and the arraignment process affects the size of the pretrial detention population over time.³

Charge Shares and Detention Decisions

At the arraignment hearing, charges are formally presented to the defendant for the first time, and the defendant enters a plea. Cases may be disposed by dismissal of the charges, by adjournment in contemplation of dismissal, or by guilty pleas by defendants in cases where the amended charge (the charge leaving ar-

Table 1
Proportion of Drug and Nondrug Arrests

Year	Percent Drug	Percent Nondrug
1982	16	84
1983	18	82
1984	21	79
1985	23	77
1986	25	75
1987	27	73

Source: Computed from data in *Statistical Report Complaints and Arrests*. Police Department, City of New York, 1982-87.

Note: Table includes misdemeanor and felony summary arrests and misdemeanor DAT (Desk Appearance Ticket) arrests.

raignment) is a misdemeanor or lower. If cases are not disposed, the judge may release defendants on their own recognizance, set bail, or remand defendants to jail pending subsequent court activity. Defendants who cannot post bail at arraignment or who are remanded to custody enter the pretrial detention population.⁴ Hence, decisions about release determine who goes to jail after arrest; changes in the pattern of outcomes with respect to these decisions will affect the size of the pretrial detention population even if there is no change in arrest volume.⁵

Arraignment outcomes vary greatly by charge.⁶ Different types of charges result in differing rates of pretrial

detention and lengths of time for processing from arraignment to final disposition. Consequently, changes in the shares of charges may affect the size of the detention population even if the volume of arrests remains the same. When arrest volume is increasing, as it has been in New York City during the 1980s, changes in shares can aggravate or ameliorate the expected effects of arrest volume on the pretrial population. The effect will depend on whether the pattern of arrests shifts toward cases with higher or lower rates of pretrial detention and longer or shorter arraignment to disposition processing times.⁷

Recently, drug arrests have gained high visibility. These arrests have become a substantial proportion of all arrests and are growing both in number and as a proportion of total arrests. The spread of the use and sale in New York City of cocaine and its derivative, crack, has led to intensive police enforcement strategies, including periodic "sweeps" over the past four years in certain areas of the city where street drug activity has been prevalent. Drug defendants now comprise a disproportionate share of the city's detention population. Moreover, based on an examination of arraignment outcome data, prosecutors and judges treat drug and nondrug cases differently. Hence, it is particularly important to consider drug arrests separately from nondrug arrests.

Arrests also vary in terms of the severity of the underlying offense. More serious offenses receive more restrictive treatment at arraignment and take longer to reach final disposition than less serious offenses. Changes in the severity distribution of arrests can therefore have a profound impact on the size of the pretrial detention population, so this paper also investigates the impact of charge severity, specifically the share of felony versus misdemeanor charges, on arraignment outcomes.⁸

Arrest Volume and the Pretrial Detention Population

A substantial proportion of the 38 percent increase in arrests between 1982 and 1987 is due to drug arrests.⁹ In each year, drug arrests comprised an increasing proportion of the total, rising from 16 percent in 1982 to 27 percent in 1987 (see Table 1). For most of this period, misdemeanor drug arrests grew more rapidly than felony drug arrests, but in 1986 and 1987, the growth rate for felony drug arrests exceeded that of misdemeanors (see

Table 2
Drug and Nondrug Arrests
(Percentage of Change in Annual Average of Monthly Arrests)

Year	Annual Average	% Change Total	% Change Misdemeanor	% Change Felony
Total Arrests				
1982	17,238	n.a.	n.a.	n.a.
1983	17,999	4.4	9.3	- 0.1
1984	19,524	8.5	8.9	7.9
1985	19,463	- 0.3	0.9	- 1.5
1986	22,370	14.9	13.9	16.0
1987	23,832	6.5	7.5	5.5
Drug Arrests				
1982	2,783	n.a.	n.a.	n.a.
1983	3,248	16.7	21.7	10.0
1984	4,205	29.5	31.7	26.2
1985	4,668	11.0	16.1	3.4
1986	5,640	20.8	7.1	40.5
1987	6,533	15.8	10.6	22.7
Nondrug Arrests				
1982	14,455	n.a.	n.a.	n.a.
1983	14,752	2.1	6.0	- 2.2
1984	15,318	3.7	2.6	4.7
1985	14,795	- 3.3	- 4.0	- 2.6
1986	16,730	12.8	15.9	9.9
1987	17,299	3.6	6.3	1.0

Source: *Statistical Report Complaints and Arrests*. Police Department, City of New York, 1982-87.

Note: Table includes misdemeanor and felony summary arrests and misdemeanor DAT (Desk Appearance Ticket) arrests.
n.a. = not applicable.

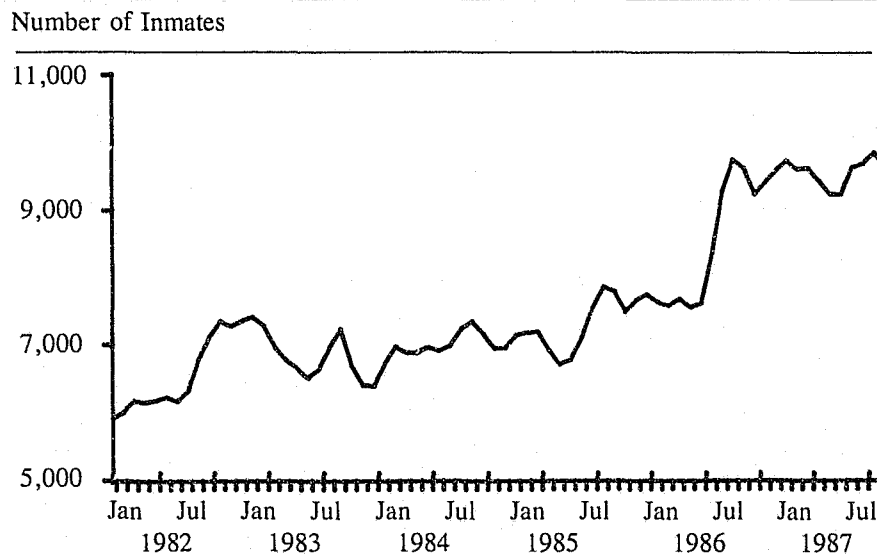
Table 2). With the exception of 1986, the growth rate for all nondrug arrests was small compared with drug arrests (less than 5 percent). In 1986, nondrug arrests grew by 13 percent—still less than the 21 percent growth rate in drug arrests—but, unlike drug arrests, the growth rate was higher for misdemeanors. Thus, drug arrests increased in volume, severity, and as a proportion of all arrests.

The pretrial detention population increased gradually from January 1982 to June 1986, then rose sharply from July to October 1986 (see Figure 1). After an increase in detention population of 6.6 percent from 1982 to 1983, the population increased modestly (2.7 percent annually) through 1985 and then showed little change through June 1986. From July to October 1986, there was a steep increase—average daily population rose 26

percent, from 7,599 to 9,593 detainees. After peaking in October 1986, the detention population leveled off but remained well above pre-July 1986 levels. Further examination reveals a clear seasonal pattern: In each year, population rose from July to October before leveling off (in 1984 the increase began in June).¹⁰ However, it is apparent that the 1986 increase was significantly larger than in any of the other years.

Total arrests also grew modestly (4.2 percent annually) from 1982 to 1985, but at a somewhat higher rate than detention population (see Figure 2). Despite monthly fluctuations, nondrug arrests were fairly constant, with almost no change in the share of felonies and misdemeanors. Hence, most of the growth in arrests during this four-year period was due to drug arrests, with misdemeanors growing at a higher rate than felonies. Also,

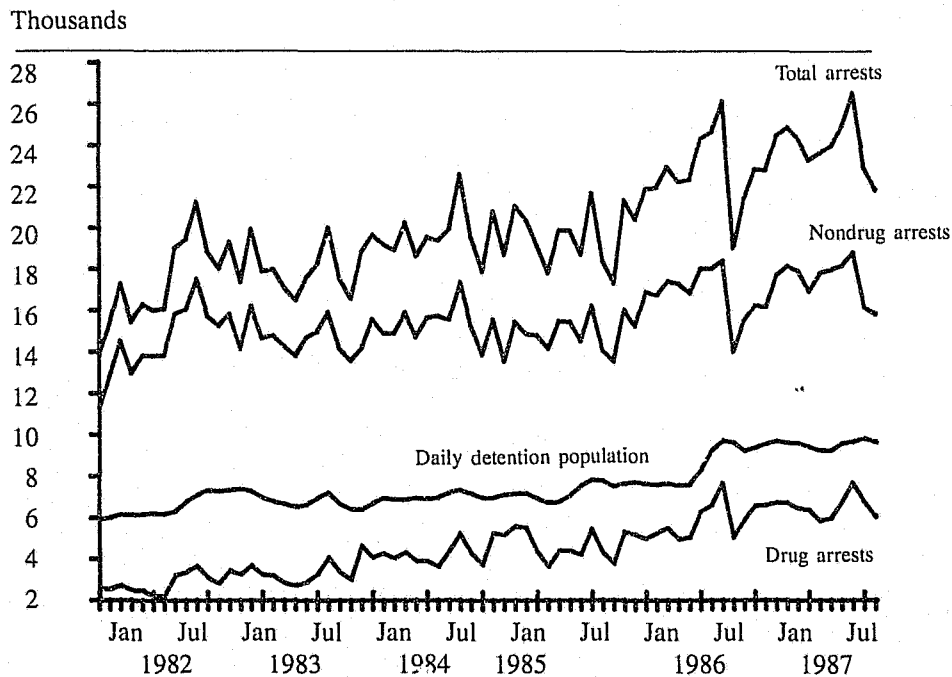
Figure 1
Average Daily Pretrial Population (January 1982–December 1987)^a



Source: New York City Department of Correction Monthly Inmate Population Summary, 1982–87.

^a Includes defendants awaiting disposition and convicted defendants awaiting sentence.

Figure 2
Drug and Nondrug Arrests and Detention Population (January 1982–December 1987)^a



Source: New York City Department of Correction Monthly Inmate Population Summary, 1982–87; New York City Police Department Complaints and Arrests, 1982–87.

^a Includes misdemeanor and felony summary arrests and misdemeanor DAT (Desk Appearance Ticket) arrests. The sharp decline in total arrests in November 1986 reflects a job action by police officers.

from August 1983 to December 1985 the held rate for defendants charged with drug offenses also grew slowly (see Figure 4).¹¹ Since misdemeanor drug arrests increased more rapidly than felonies, this increase in the held rate for drug defendants cannot be explained solely by changes in the severity distribution of the underlying offense. Thus, while part of the increase in the detention population during the 1982-85 period was due to increased arrest volume, some of the increase must be attributed to a shift in the treatment of drug cases at arraignment.

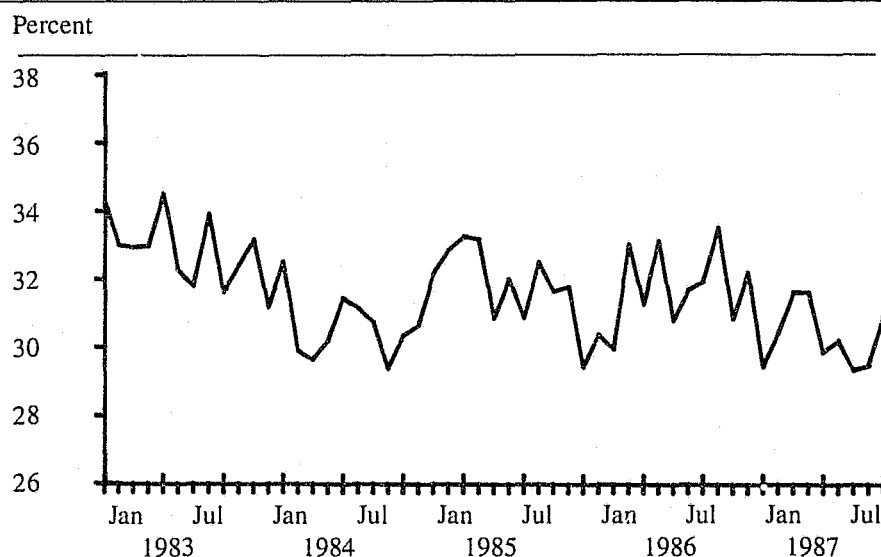
The detention population change for 1986 is par-

strong an impact on the detention population. Thus, the increase in arrest volume alone does not explain the sudden upsurge in detention population beginning in the second half of 1986. The effect of changes in the share of drug and nondrug arrests on detention population size can only be fully understood by examining what occurred in the arraignment process during this period.

Arraignment Outcomes

Arraignment outcomes can be divided between cases that are disposed at arraignment and cases that are ad-

Figure 3
Citywide Percentage Held at Criminal Court Arraignment^a



Source: New York City Criminal Justice Agency, *Semi-Annual Reports*, 1983-87.

^a Percentage of total arraignments; total does not include arraignments for misdemeanor DAT (Desk Appearance Ticket) arrests.

ticularly difficult to explain by arrest volume alone. From late 1985 to June 1986 there was virtually no change in detention population, despite a steady rise in total arrest volume. This growth was concentrated in nondrug arrests, which increased by about 10 percent. By contrast, the growth rate for drug arrests during this period was minimal (see Figure 2). However, drug arrests rose dramatically from July to October 1986, and the detention population rose as well. Prior to July 1986, there were other periods when drug arrests rose sharply, but none of these increases appears to have had as

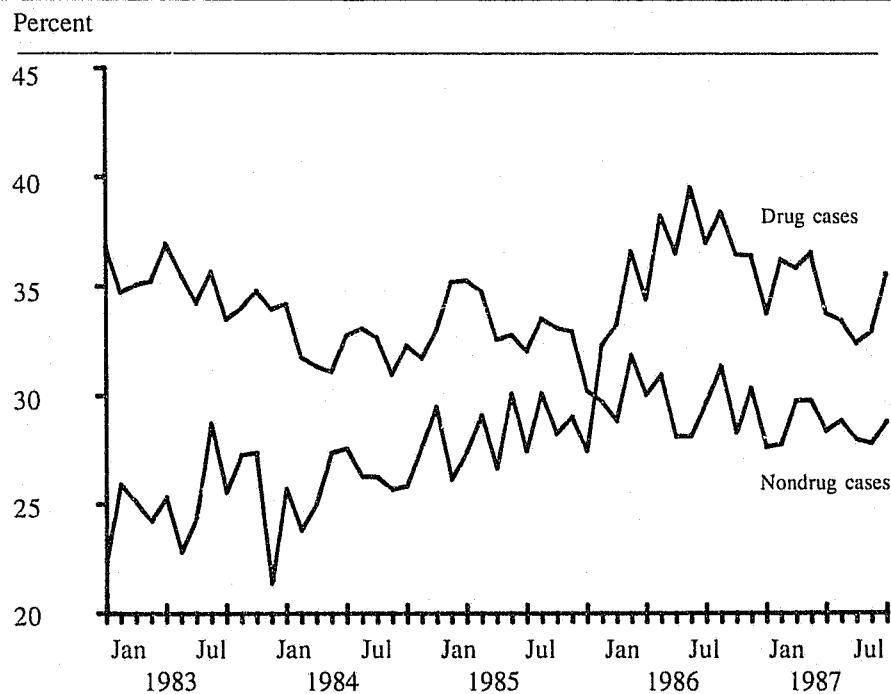
journe (not disposed). Adjourned cases can be divided between cases in which defendants are released without having to post bail (released on recognizance) or by posting bail, and cases in which defendants are held either because they are unable to post bail or because bail has been denied.¹² The distribution of these outcomes has shifted over the past several years for all cases. The proportion of all arraigned defendants who are held in lieu of bail or are remanded is particularly important. Since changes in this rate can have a significant impact on the size of the detention population indepen-

dent of changes in arrest volume, this section focuses primarily on the held rate.

Looking beyond the considerable monthly variation, there was a downward trend in the held rate from August 1983 to October 1984; then, despite fluctuations, it remained fairly constant through December 1987 (see Figure 3). However, the apparent stability in the held rate for all cases masked significant shifts in the treatment of drug and nondrug cases (see Figure 4). The held rate for drug defendants increased steadily from

held rate declined from late 1983 to 1987.¹⁴ Again, April 1986 is an important dividing point in the time series. Specifically, held rates dropped from a monthly average of 34 percent to between 30 and 32 percent.¹⁵ The drop in the nondrug held rates corresponded to an increase in the arraignment disposition rate, from 28 to 32 percent.¹⁶ Notably, before April 1986 the held rate for defendants arraigned on nondrug charges was consistently higher than it was for drug defendants; after this date it was consistently lower.

Figure 4
Citywide Percentage Held at Criminal Court Arraignment: Drug and Nondrug Cases ^a



Source: New York City Criminal Justice Agency, *Semi-Annual Reports*, 1983-87.

^a Percentage of total arraignments; total does not include arraignments for misdemeanor DAT (Desk Appearance Ticket) arrests.

late 1983 to April 1986, then rose sharply for some months. In late 1986, it reached a new, higher plateau, but fell somewhat in 1987.¹³ On average, the held rate for drug cases jumped from a rate of about 26 percent in the pre-April 1986 period to about 35 percent in the post-April period. The increase in the held rate corresponded to a drop in the percentage of cases disposed at arraignment (from 39 to 35 percent) and in the percentage released (from 35 to 29 percent). This contrasts sharply with the pattern for nondrug cases, where the

Hence, changes in arraignment outcomes reflect both a change in the share of drug and nondrug cases in total arraignments and a change in the way these types of cases were treated at arraignment. That is, arrests included a higher proportion of drug cases subject to increasing rates of detention and a smaller proportion of nondrug cases subject to declining rates. Even if arrest volume had not increased, the change in the share and shift in detention rates for drug and nondrug cases would have resulted in higher overall detention rates. The question

Table 3
Drug and Nondrug Arraignments:^a Felony and Misdemeanor Proportions

	July and August 1985		July-December 1986 ^b	
	<i>Misdemeanor</i>	<i>Felony</i>	<i>Misdemeanor</i>	<i>Felony</i>
Drug Cases	62.2%	36.2%	56.0%	42.6%
B Felony ^c	n.a.	65.0	n.a.	77.0
Nondrug Cases	39.8	55.4	41.7	46.9
B Felony ^c	n.a.	14.0	n.a.	13.2

Source: New York City Criminal Justice Agency.

^a Arraignment figures for DAT (Desk Appearance Ticket) arrests, violations, and infractions are not included; thus, misdemeanor and felony figures do not sum up to 100 percent.

^b Arraignment data for September 1986 are not included.

^c B felonies as a percentage of all drug felony arraignments; for nondrug cases it is the percentage of all nondrug felony arraignments. n.a. = not applicable.

remains whether this shift in outcomes can be explained by changes in the severity mix of drug and nondrug cases.

Data were available on the severity mix—the mix of cases by misdemeanor and felony classes—for two months in 1985 (July and August) and five months in 1986 (July, August, October, November, and December). These data are particularly important, since this includes the late 1986 period when the detention population rose dramatically. The two months in 1985 provided a baseline for determining the effect of changes in severity mix and arraignment outcomes.¹⁷

Drug cases increased not only as a share of all cases (from 25 to 30 percent from mid-1985 to late 1986), but there was a marked increase in the share of drug felonies, particularly of class B felonies (see Table 3). In mid-1985, 36 percent of drug cases involved a felony charge compared with 43 percent in late 1986; the share of misdemeanor drug cases declined from 62 to 56 percent.¹⁸ Within severity levels, these changes were even more revealing. For felony drug cases there was a substantial increase in the share of class B felony charges, from 65 percent in mid-1985 to 77 percent in late 1986. For misdemeanor drug cases the change in

Table 4
Drug and Nondrug Arraignments:^a Felony and Misdemeanor Held Rates^b

	July and August 1985		July-December 1986 ^c	
	<i>Misdemeanor</i>	<i>Felony</i>	<i>Misdemeanor</i>	<i>Felony</i>
Drug Cases	13.0%	51.9%	17.0%	63.8%
B Felony	n.a.	54.3	n.a.	64.8
Nondrug Cases	19.0	49.0	17.0	46.0
B Felony	n.a.	77.1	n.a.	74.3

Source: New York City Criminal Justice Agency.

^a Arraignment figures for DAT (Desk Appearance Ticket) arrests, violations, and infractions are not included.

^b Held rates as a percentage of all arraignments.

^c Arraignment data for September 1986 are not included.

n.a. = not applicable.

share was modest; class A misdemeanors rose from 88 to 92 percent (data not shown).

Even more significant, the increased share of felony drug cases, particularly class B felonies, was accompanied by a marked change in the held rate (see Table 4). Overall, the held rate for all drug felonies increased from 52 to 64 percent. The rate remained the same or increased for each felony class during this period (data not shown). For defendants charged with a class B felony drug offense, it increased from 54 percent in mid-1985 to 65 percent in late 1986. The held rate for misdemeanor drug defendants also increased—from 13 to 17 percent.

Perhaps some of the increase in the held rate is due to changes in the criminal records of arrestees. In particular, the same low-level street users and dealers might be arrested repeatedly in successive police drug sweeps, resulting in a defendant population with accumulating arrests and convictions. Available information on changes in the criminal histories of drug defendants during this period is spotty at best, but at least one study contradicts the opinion that criminal histories were becoming increasingly lengthy.¹⁹ Moreover, the considerable media and public attention to the drug problem since 1985 was accompanied by public statements from enforcement and prosecutorial agencies that they were "getting tough" on drugs. These considerations suggest that criminal history by itself is limited in accounting for changes in the held rate for drug cases. Rather, these shifts appear to reflect largely changes in prosecutorial and judicial policies.

In contrast to felony drug cases, the proportion of felonies in all nondrug cases decreased from 55 percent to 47 percent during this mid-1985 to late 1986 period (see Table 3).²⁰ At the same time, the share of nondrug misdemeanors increased from 40 to 42 percent.²¹ Despite changes in the overall distribution of felonies and misdemeanors, there was little change within severity classes (less than two percentage points for each felony severity classification, and a four-percentage-point increase for A misdemeanors—data not shown). Not only were there fewer felony nondrug cases, but their held rate declined from 49 to 46 percent, including a small decline (from 77 to 74 percent) for class B felonies (see Table 4). Also, misdemeanor held rates declined from 19 to 17 percent, but most of this should be discounted.²²

These data demonstrate the pivotal role of the interaction of arraignment outcomes and arrest patterns in

determining the size of the detention population. The stability in the detention population from October 1985 to July 1986 was due primarily to a shift in the pattern of arraignment outcomes, which began in the last half of 1985. From late 1985 to 1986, defendants in drug cases were being held at a greater rate over time (partly because of the increased share of serious felonies). However, fewer nondrug defendants were being held at arraignment, although the volume of nondrug arrests was sharply increasing. If the nondrug held rate had remained constant, the detention population would have risen substantially in the first half of 1986. After July 1986, the decline in the nondrug held rate would have slowed the growth in the detention population were it not offset by a reduction in the share of nondrug felonies. Thus, the sharp rise in population in late 1986 reflects an increase in the share of drug arrests, particularly on more serious drug charges, and the shift toward holding more drug defendants at arraignment.²³

Conclusions

These findings make it clear that it is misleading to explain changes in the detention population simply from trends in arrest volume. For example, we would have expected a steeper rise in detention population from late 1985 to mid-1986, and a slower rise in the third quarter of 1986 than actually occurred. Over the entire period, the shift toward detaining more drug defendants at arraignment was a key factor in the rising detention population. To understand the numbers and composition of the detention population fully, it is necessary to understand police enforcement and prosecutorial policies. This is particularly critical when policies are changing.

Over longer periods of time, attempts to project the detention population from current trends can also be seriously misleading. The leveling off of this population after the steep 1986 rise is a good illustration. The increase resulted from a one-time shift in policies, which generated new levels of detention for particular classes of offenses. Once these changes were absorbed, the detention population leveled off. In planning, policy-makers must distinguish long-term trends from short- and intermediate-term shifts that can have dramatic, but inconsistent, impacts on the detention population.

The arraignment data reveal that beginning in mid-1985 the courts began to treat drug defendants more restrictively, that is, to dispose of fewer cases and to

hold more defendants during the pretrial period. This change represented a clear shift from previous treatment, a shift that is most evident in the treatment of class B felony drug cases. At the same time, a smaller proportion of felony nondrug defendants was held. These shifts in treatment occurred at a time of widespread political and media attention to the city's drug problem, perhaps leading judges and prosecutors to get tough on drug defendants. The question is whether this type of atten-

tion to a specific class of offenses had other, unintended consequences, that is, the decline in nondrug felony held rates. It is not clear that this shift resulted from any conscious change in policy by judges or prosecutors. Nonetheless, these findings suggest that policymakers need to take into account the opportunity costs of proposed changes in enforcement policy on other uses of enforcement and detention resources.

Notes

1. Besides pretrial detainees, the New York City jail population includes defendants who are sentenced to less than one year in jail, defendants who have been sentenced to state prison but who are waiting for placement, and defendants who have been detained for other reasons.

2. Here and throughout the paper we use arraignment hearing to mean criminal (lower) court arraignment hearing.

3. The approach in this paper draws on "shift-share" analysis used in economics. As an example, changes in regional income can be accounted for by changes in the distribution, that is, shares of firms in higher- and lower-paying sectors and shifts in the wage rates in each sector.

4. Some defendants who cannot make bail at arraignment will make it subsequently and will leave jail, while some who initially make bail may be placed in custody after a guilty plea or finding or if they willfully fail to appear at subsequent appearances (skip bail).

5. Also, if arraignment outcomes differ from borough to borough, changes in arrest rates among boroughs will have an effect on the citywide pretrial detention population.

6. For data on arraignment outcomes by charge, see the New York City Criminal Justice Agency's (CJA) *Semi-Annual Reports*. In this paper, charges may mean either arrest charges, the charges specified by the arresting officer, or affidavit charges, the charges drawn by the prosecutor at the time of arraignment. Discussions of types and seriousness of arrests refer to arrest charges; discussions of charges in conjunction with arraignment outcomes refer to affidavit charges. References to charge severity, that is, felony or misdemeanor class, always refer to the most serious, or severe, charge when there is more than one.

7. Changes in processing time for pretrial detainees can have an impact on the size of the detention population to the extent that it affects length of stay in jail. Unfortunately, data on processing time were unavailable, so this factor is not included in the analysis in this paper. However, we do know

that criminal court processing time and length of stay in jail have been increasing (see *The New York City Speedy Disposition Program* by Sally Hillsman et al. [Vera Institute of Justice, December 1986] and *Misdemeanor Trial Law Study, Final Report* by Paul Dynia [New York City Criminal Justice Agency, June 1987]). This has undoubtedly increased the pretrial detention population by some, albeit unknown, amount. For an example of how processing time may vary in specific instances, see note 10.

8. Felony charges carry indeterminate sentences of at least one year in New York State, while misdemeanors carry sentences of one year or less. Felonies are divided into five classes, A through E, and misdemeanors into three, A, B, and unclassified (most to least serious).

9. Arrests refer to felony and misdemeanor summary and DAT (Desk Appearance Ticket) arrests. Summary arrests result in the holding of defendants for arraignment; DAT arrests result in the defendant being released at the precinct station with a date to appear for arraignment. Drug arrests refer to arrests where the most serious charge, in terms of the Federal Bureau of Investigation's Uniform Crime Report hierarchy, involves sections 220 or 221 of the New York State Penal Law. All other cases are considered nondrug cases. (Note that prior to July 1985, violations and infractions under section 221 [marijuana offenses] were not included in affidavit [arraignment] charges, but inclusion would not make a material difference to the results presented in this paper.)

10. Court administrators attribute this seasonal increase to the reduction in the number of judges sitting in criminal court during the summer months. Cases are adjourned, often for long periods of time, to accommodate the vacation schedules of attorneys and judges. Also, arrest volume typically rises during the summer. The increased arrest volume and slow case-processing time combine to create a backlog that causes the build-up in pretrial population through the fall. However, while drug and nondrug arrests do increase in June, July, and

August, the rate of increase is much greater in the early fall months (see Figure 2). The seasonal increases in 1982 and 1983 were followed by sharp drops; however, in each instance, the decline was brought about by a special event. The decrease in the first half of 1983 was related to a job action by the Legal Aid Society in the fall of 1982. During the strike, cases were adjourned because some defendants were not represented by counsel. This practice slowed case processing, resulting in a build-up in the detention population. When the strike ended, there was a push in the courts to dispose as much of the strike backlog as possible before new cases were added to it. The decrease in the last two months of 1983 resulted from an order by the United States District Court, Southern District of New York, to reduce population in the city's detention facilities. In accordance with this order, the Department of Correction released 611 detainees in November 1983. For more information about the effects of this release, see *Court-Ordered Releases—November 1983* by Marian Gewirtz (New York City Criminal Justice Agency, December 1987).

11. August 1983 is the earliest month for which we have arraignment outcome data for drug and nondrug offenses by severity level.

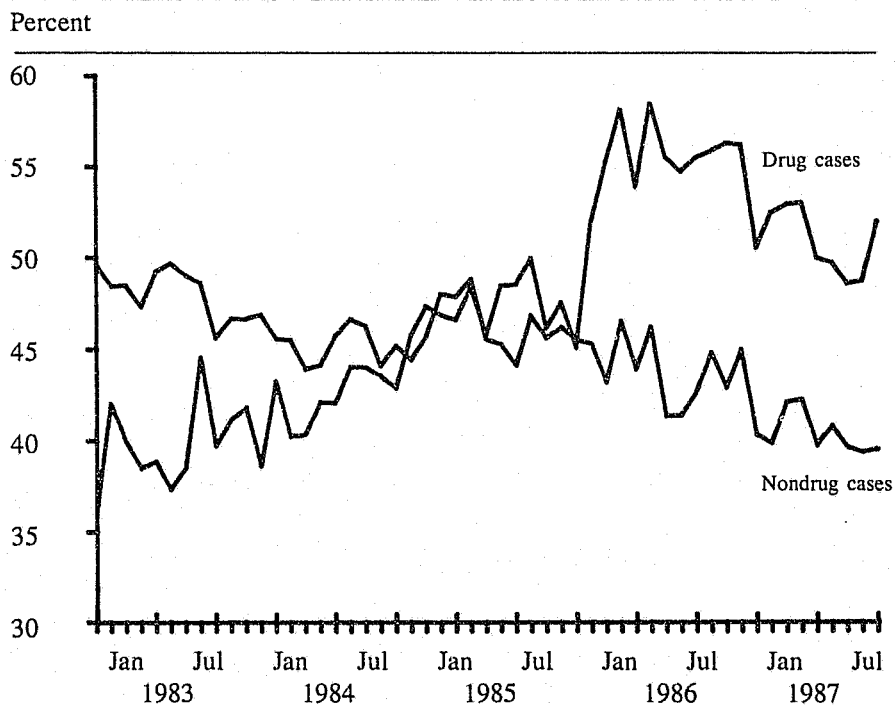
12. As the pretrial services agency for New York City, the New York City Criminal Justice Agency, Inc. (CJA), main-

tains a computerized database comprised of information about virtually all New York City defendants. Arrest and other demographic information is collected during a prearrest interview through which CJA assesses defendants' community ties and their likelihood of returning to court if released on recognizance (without posting bail). In addition to these data, court information, obtained from criminal court calendars for all interviewed defendants, is also entered into this database. Arrest and court information is not collected for the following: defendants arrested solely on a bench warrant, defendants arrested for loitering for purposes of prostitution in Brooklyn, defendants given summonses, and defendants charged as juvenile delinquents. Before April 1986 those persons arrested for prostitution in Manhattan were not interviewed and thus not included in the database; as of April 1986, arrest and court information was added for these cases even though the defendants are not interviewed.

13. This increase in the held rate cannot be explained simply by changes in the severity of the underlying offenses, since misdemeanor drug arrests increased more rapidly than felony drug arrests through the end of 1985.

14. This decline in the held rate for nondrug cases can be explained, at least in part, by the increasing proportion of misdemeanors in total nondrug arrests.

Figure 5
Citywide Arraignment Outcomes: Proportion Held in Nondisposed Cases



Source: New York City Criminal Justice Agency, *Semi-Annual Reports*, 1983-87.

15. The rate, calculated from CJA published data, is 30 percent. However, part of this drop in held rates represents a change in CJA reporting. Beginning with April 1986, Manhattan prostitution arrests, virtually all of which are disposed at arraignment, were included in reported CJA arraignment data. We estimate that, for late 1986, this reporting shift may cause the published data to understate the true (that is, on the basis of pre-April 1986 reporting) disposed rate by, at most, one to two percentage points. The underestimation is probably less for subsequent periods. Note that this affects the misdemeanor rates only; estimates of felony held rates, which also dropped (see Table 4), are unaffected.

16. It might be thought that the held rate (the proportion of all defendants who are held) increased for drug cases and decreased for nondrug cases because the disposed rate decreased for drug and increased for nondrug cases. In fact, when we look at the rate at which defendants were held in nondisposed cases, we find a similar post-April 1986 pattern to the held rate in all cases (Figure 5).

17. While this baseline is determined by the availability of data, we have no reason to believe that the distribution for these two months is unrepresentative. While arrest volume increases during the summer months, nothing we have seen suggests that arrest patterns have a specific bias.

18. Violations and infractions are not included in these figures, so they do not sum to 100 percent.

19. This study compared defendants arrested for crack offenses in 1986 with a matched sample arrested for cocaine offenses in 1983-84. The study found a higher proportion of first arrests (28 versus 17 percent) and no prior convictions (28 versus 24 percent) for the crack arrestees compared with the cocaine arrestees. Moreover, smaller proportions of crack arrestees than cocaine arrestees had misdemeanor convictions (24 versus 32 percent) or felony convictions (21 versus 27 percent). *Crack and the Criminal Justice System* by Steven Belenko and Jeffrey Fagan (New York City Criminal Justice Agency, November 1987).

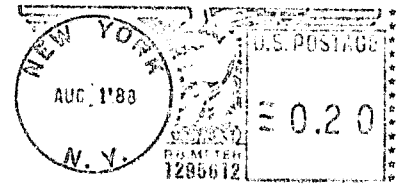
20. It would be hard to account for the relative decline in nondrug felony cases in terms of a reduction in felony com-

plaints to the police. According to New York City Police Department data, total felony complaints did decline substantially from 1980 to 1984 and again from 1986 to 1987, the latter due primarily to a change in the definition of felony grand larceny (data not shown). However, during the period under examination—1984-86—felony complaints declined slightly (1984-85) and then rose (1985-86), while the share of felony arrests declined substantially.

21. Part of the decline in misdemeanors is due to the inclusion of Manhattan prostitution arrests in CJA-reported data beginning in April 1986. Also, violations and infractions are excluded, as with drug cases, so figures do not add to 100 percent.

22. A substantial proportion of this decline was probably due to the inclusion of Manhattan prostitution arrests beginning in April 1986, which are generally disposed at arraignment, increasing the disposition rate and lowering the held rate for misdemeanors.

23. Of course, the citywide detention population in New York is determined by arrests and case processing decisions in the five boroughs. Arraignment outcomes vary markedly by borough (see CJA's *Semi-Annual Reports*). The rates at which defendants were held varied, in 1986, from 20-25 percent of all arraigned summary arrests for Manhattan to rates around 60 percent in Queens. There has been a tendency in nondrug cases for held rates to rise in drug cases and to remain constant (Queens and the Bronx) or fall (Brooklyn and Manhattan). However, the most dramatic increases occurred in Brooklyn and the Bronx for drug cases, and the most dramatic decrease occurred in Manhattan for nondrug cases. Changes in these three boroughs made the greatest contributions to the citywide trends in case processing and their consequent effect on the detention population, presented above. By contrast, the held rate in Queens and the Bronx for nondrug cases was virtually constant throughout the 1982-87 period, reducing the effects of declines in the other two boroughs on decline in the citywide nondrug held rate. Differences in outcome, particularly in held rates, likely reflect differences in prosecutorial policies.



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About the Agency

The New York City Criminal Justice Agency, Inc., is a not-for-profit New York State corporation whose staff interviews arrested defendants in New York City, makes recommendations for pretrial release, and notifies released defendants of upcoming criminal court appearances. The Agency also conducts research on crime and the criminal justice system in New York City. A contract with the Mayor's Office of the Criminal Justice Coordinator provides primary funding for the Agency's operations. Additional funding for its research activities is provided by other city, state, and federal agencies, and private foundations.

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