



JUSTICE DELAYED, JUSTICE DENIED

A Study of Arrest-to-Arraignment Times
in New York City

October 2004 - October 2005

Justice Delayed, Justice Denied: A Study of Arrest-to-Arraignment Times in New York City

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• INTRODUCTION AND SUMMARY OF FINDINGS •

New York State's highest court ruled in 1991 that the NYPD and other city agencies have a legal obligation under the Criminal Procedure Law to present arrestees for judicial arraignment within 24 hours of arrest.¹ As the following study demonstrates,² fifteen years following the ruling by the Court of Appeals, the NYPD and other city agencies³ continue to fail to meet their legal obligations by detaining tens of thousands of New Yorkers for 30, 40, or 50 hours without arraignment.

Arraigning individuals within 24 hours of arrest represents more than a mere technicality of the law. Arraignment by a judge is the first occasion following an arrest that individuals find themselves formally informed of the charges against them, and their right to counsel and to seek bail. It represents the first opportunity for a person who has spent dozens of hours in detention, and who has been fingerprinted and photographed, to come into contact with their family, friends and legal counsel.

The personal, social, and economic costs to the City and its inhabitants are great when law enforcement fails to arraign individuals within 24 hours of arrest. Behind the numbers in this study are the stories of New Yorkers who miss work, fail to attend school or are unable to find childcare while they needlessly wait in jail.

African Americans and Latinos face the brunt of the City's violation of the 24 hour mandate. People of color represent approximately three-quarters of all those arrested in New York City. Moreover, in the Bronx, the borough with the highest percentage of African Americans and Latinos as a proportion of the total population, the NYPD and other city agencies detain 53% of arraigned arrestees for longer than 24 hours prior to arraignment.

The New York Civil Liberties Union prepared this study in order to highlight the problem of prolonged detention prior to arraignment. A New York Appellate Division court has ruled that the failure of New York City to meet its legal obligation to conduct arrests in a timely manner violates New Yorkers' liberty interests:

Suffice it to say that the [24 hour] presumption is a strong one and that a showing which would cause it to yield will not be permitted to consist of a generalized appeal to judicial sympathy for municipal woes. At issue is the fundamental right of citizens to be free from unwarranted deprivations of liberty..." People ex rel Michele Maxian on Behalf of Damon Roundtree, et al. v. Brown, 164 A.D.2d at 67 (1990).

¹ The Court of Appeals affirmed a ruling by the Appellate Division that arraignments past 24 hours are "presumptively unnecessary" within the meaning of the Criminal Procedure Law. People ex rel Michele Maxian on Behalf of Damon Roundtree, et al. v. Brown, 77 N.Y.2d 422 (1991)

² The data used in this study came from daily NYPD Arrest-to-arraignment Reports for the months of October 2004 through October 2005 (see Appendix for more information regarding methodology).

³ There are numerous city and state agencies that may have a role in the arrest-to-arraignment process, including: the NYPD and other city agencies with authority to arrest individuals in New York City; the Criminal Justice Agency; the district attorney's office; New York State Division of Criminal Justice Services; and the Department of Correction.

The following study presents a comprehensive analysis of arrest-to-arraignment data over a 13-month period in New York City. Part I concludes that during this period the NYPD and other city agencies held 99,217 New Yorkers, or 36% of arraigned arrestees, for more than 24 hours without being presented to a judge for arraignment. Part II includes a series of recommendations that, if acted upon, would facilitate the timely arraignment of arrestees. These recommendations include the enactment of legislation (the “Charge or Release” bill) that would ensure New York City meets its legal obligations to arraign all arrestees within 24 hours of arrest.

• SUMMARY OF FINDINGS •

- ❖ During the 13-month period covered in this study, 99,217 people, representing 36% of arraigned arrests, were detained for more than 24 hours prior to arraignment.
- ❖ Of those arraigned more than 24 hours after arrest, 59% (58,232 arrestees) were charged with misdemeanors. When factoring in violations, this number increases to 62%. This means that the majority of individuals detained for longer than 24 hours prior to arraignment were eventually charged with low-level offenses.
- ❖ In three out of the five boroughs—the Bronx, Brooklyn, and Manhattan—the number of individuals arraigned after 24 hours reached nearly 30,000.
- ❖ The Bronx holds a greater percentage of arrestees in violation of the 24-hour standard than any other borough. There are significantly greater numbers of arrests in both Brooklyn and Manhattan than in the Bronx; however, the majority of all arraignments in the Bronx (53%) occur more than 24 hours after arrest.
- ❖ The majority of people arraigned after 24 hours of detention were arraigned within 24 to 36 hours. However, more than 12,000 people were arraigned after being detained for longer than 36 hours.
- ❖ In the 13-month period examined in this report, 109,382 people, or 29% of all arrestees, were not arraigned. The disposition of these cases could not be determined.

• **ANALYSIS & PRESENTATION OF THE DATA** •

This study analyzes arrest-to-arraignment times for persons taken into police custody from October 2004 through October 2005. The study counters a common perception among policy makers that city agencies are meeting their legal obligations to arraign arrestees within 24 hours. While improvements have been made in average arrest-to-arraignment times since the 1991 court ruling that established the 24 hour standard, thousands of individuals still face prolonged detention with no access to a judge.

The following tables and charts present data regarding the total number, as well as percentage, of arraignments that took place after 24 hours; the number of arraignments that took place after 36 and after 48 hours; the types of criminal charges brought against those arraigned more than 24 hours following arrest; and the percentage of arrestees that were not arraigned before release.

• *Tens of Thousands Held Longer than 24 Hours* •

City agencies detained more than 99,000 people for longer than 24 hours prior to arraignment in the thirteen-month period covered by this report (see Figure 1). While the average arrest-to-arraignment time over the past few years has hovered slightly under 24 hours, averages do not tell the complete story. Monthly average arrest-to-arraignment times of less than 24 hours conceal the fact that the NYPD and other city agencies detained thousands of people for longer than 24 hours prior to arraignment. In three out of the five boroughs, the numbers reached into the tens of thousands.

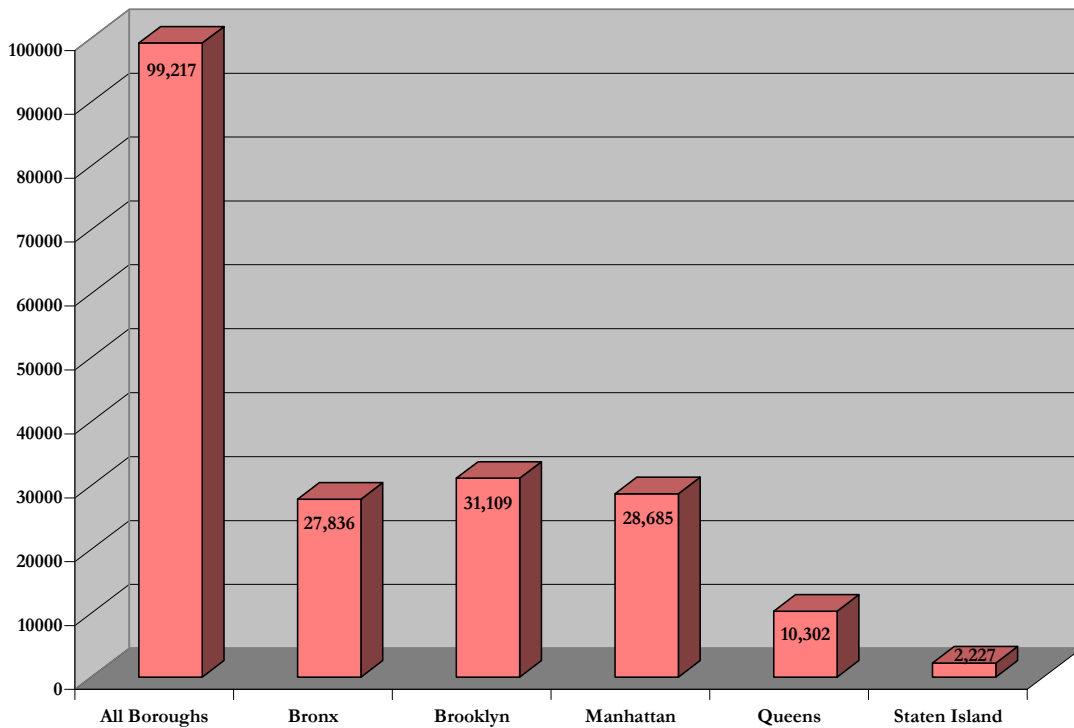


Figure 1. No. of People Held Over 24 Hours Before Arraignment: October 2004 – October 2005
Source: NYCPD Online Booking System Arrest-to-arraignment Reports

For all boroughs, as well as the city as a whole, these prolonged detentions represented a significant portion of arraigned arrests (see Figure 2). Even in Queens, the borough with the lowest percentage of violations of the 24-hour mandate, more than one-sixth of arrestees were arraigned after being detained for more than 24 hours.

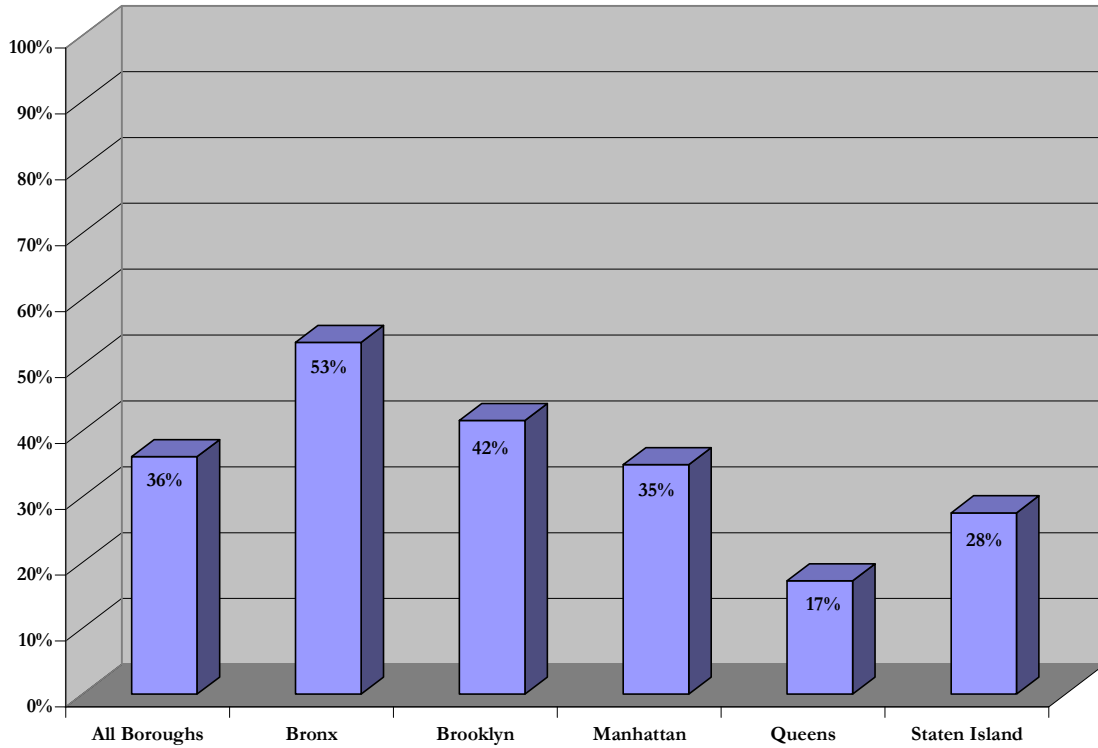


Figure 2. Percentage of People Held Over 24 Hours Before Arraignment: October 2004 – October 2005
Source: NYCPD Online Booking System Arrest-to-arraignment Reports

• *Thousands Detained for Longer than 36 Hours* •

The routine failure to conduct timely arraignments constitutes a severe violation of the 24-hour arrest-to-arraignment standard. More than 12,000 people detained during the 13-month period analyzed in this report were arraigned more than 36 hours after arrest. The majority of people arraigned after 24 hours of detention were arraigned within 24 to 36 hours.

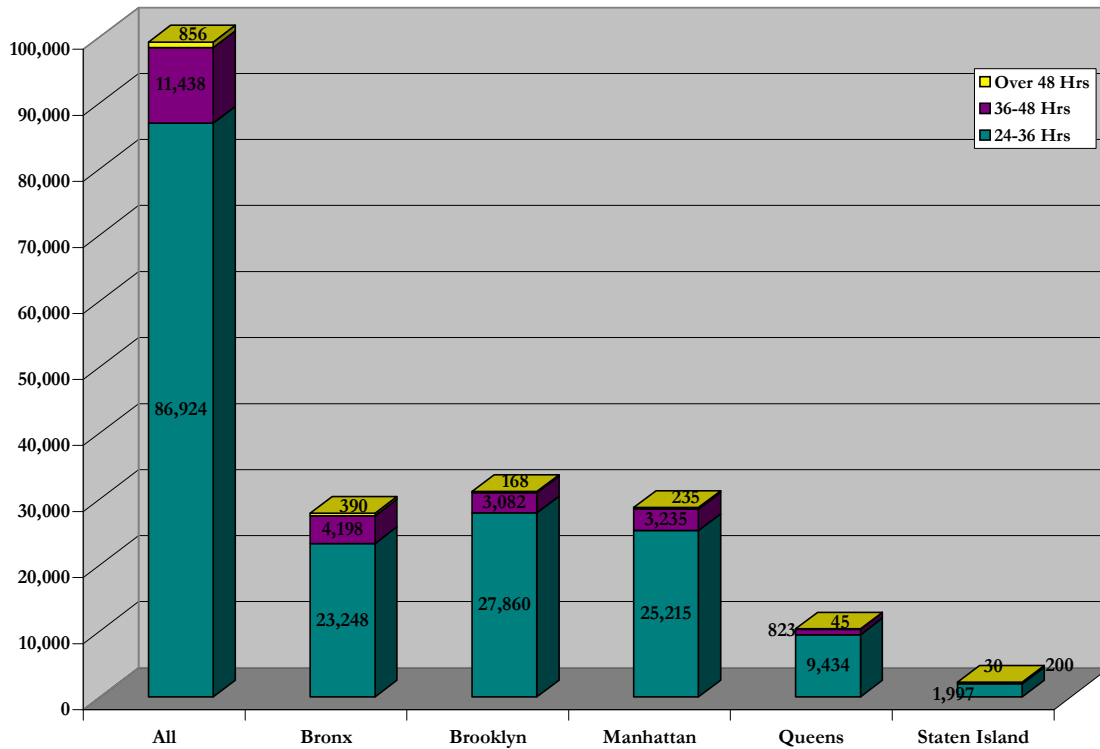


Figure 4. A-to-A Times for Arrests Arraigned After 24 Hours: October 2004 – October 2005
 Source: NYCPD Online Booking System Arrest-to-arraignment Reports

• *Majority Arraigned on Violations or Misdemeanors* •

The total number of violations of the 24-hour mandate represents just one aspect of this study. Further analysis reveals that the majority of people arraigned more than 24 hours after arrest were eventually arraigned on low-level offenses, mainly misdemeanors or violations (see Figure 5). Those charged with felonies represented a minority of arrestees held for longer than 24 hours prior to arraignment.

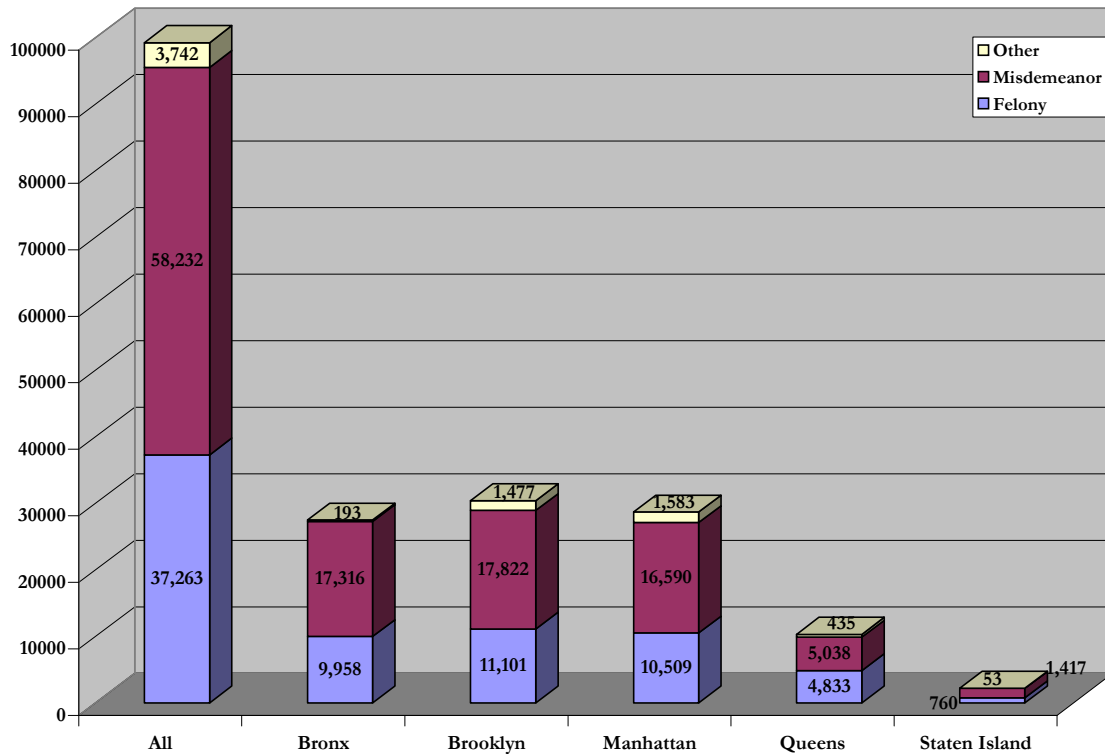


Figure 5. Percentage of People Held Over 24 Hours Before Arraignment: October 2004 – October 2005
Source: NYCPD Online Booking System Arrest-to-arraignment Reports

• *Thousands Not Arraigned* •

Lost in the above data is the number of individuals arrested but not arraigned. NYPD data on arrest-to-arraignment times do not explain what happens to these individuals, and such data is not readily available from other sources.

What the data obtained by the NYCLU does reveal is that in the 13-month period under examination, 109,382 people, or 29% of all arrestees, were not arraigned (see Figures 6 & 7). Without information as to why these individuals were not arraigned, the NYCLU cannot make an assessment as to the appropriateness of the arrest-to-arraignment process in these cases.

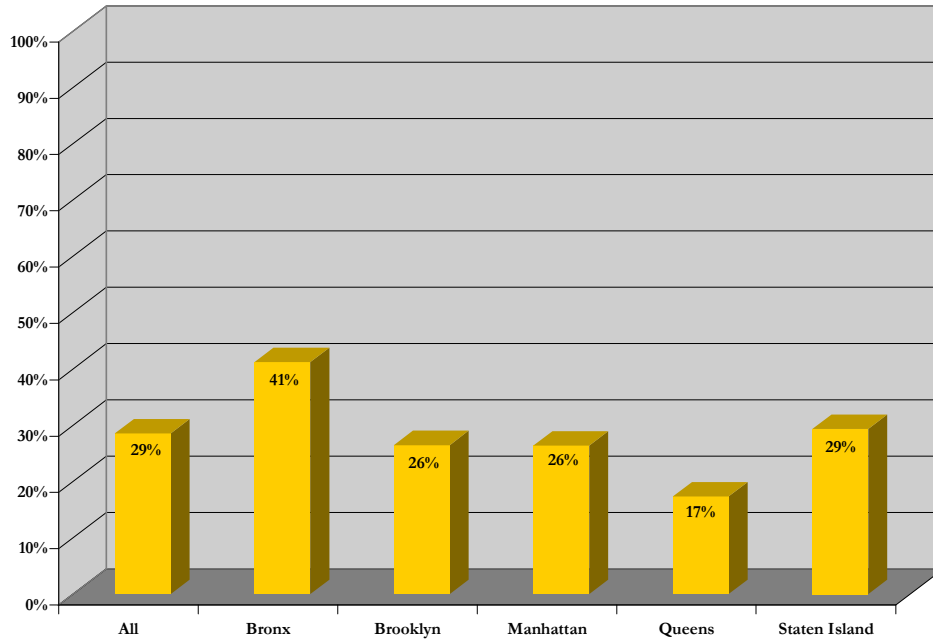


Figure 6. Percentage of Arrestees Released Without Arraignment: October 2004 – October 2005
Source: NYCPD Online Booking System Arrest-to-arraignment Reports

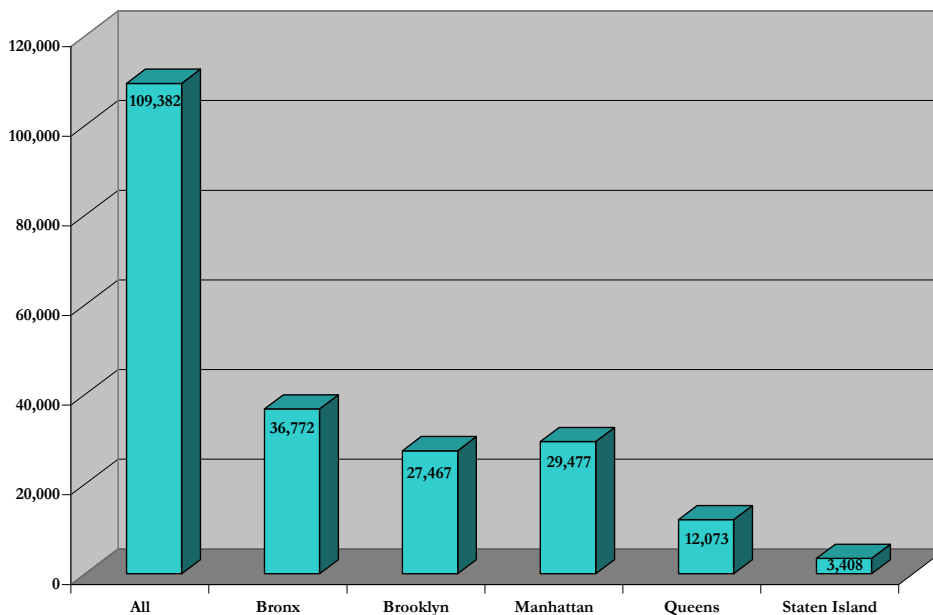


Figure 7. Number of Arrestees Released Without Arraignment: October 2004 – October 2005
Source: NYCPD Online Booking System Arrest-to-arraignment Reports

• *Worst Case Scenario: The Bronx* •

The Bronx holds a greater percentage of arrestees in violation of the 24-hour standard than any other borough. (see Figure 8). There are significantly greater numbers of arrests in both Brooklyn and Manhattan than in the Bronx; however, more than half of all arraignments in the Bronx occur more than 24 hours after arrest.

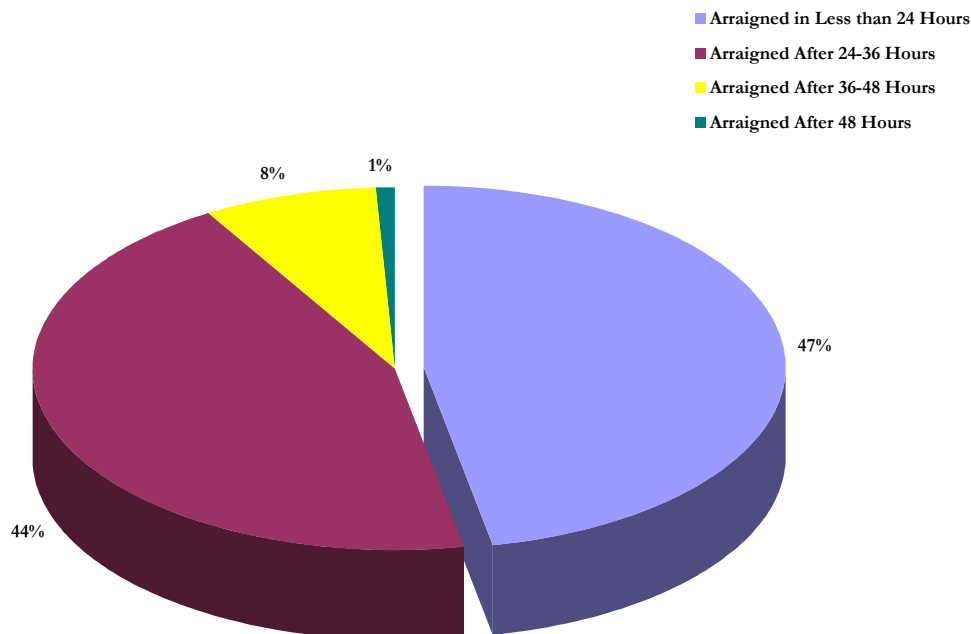


Figure 8. Arraigned Arrests in the Bronx: October 2004 – October 2005
 Source: NYCPD Online Booking System Arrest-to-arraignment Reports

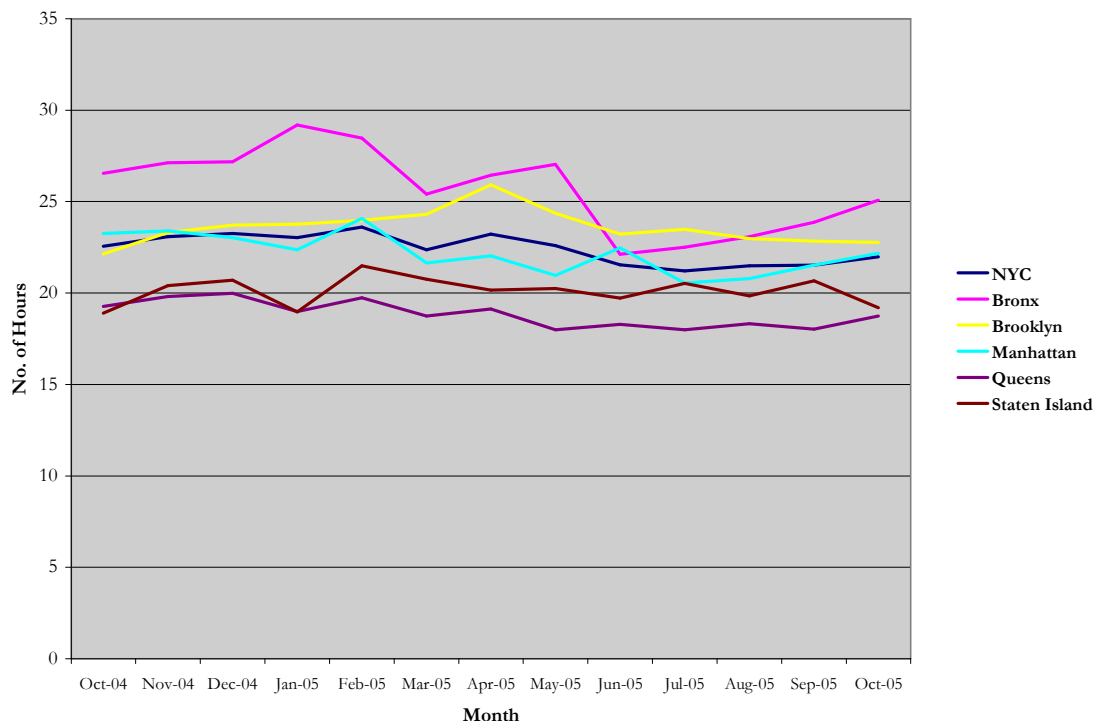


Figure 9. Trends in A-to-A Times in New York City: October 2004 – October 2005
 Source: NYCPD Online Booking System Arrest-to-arraignment Reports

• RECOMMENDATIONS •

The data presented above make clear that the City must take immediate action to correct the problem of prolonged detention. Below we include a number of recommendations for the City to adopt in order to bring it into compliance with its legal obligation to process arrestees in a timely manner.

1. The City Council must reintroduce and pass the Charge or Release bill. The legislation would bring New York City into compliance with its legal obligations to present arrestees for arraignment within 24 hours of arrest.

The Charge or Release bill would:

- ◆ Direct all city agencies to complete their pre-arraignment processing responsibilities in an expeditious and timely manner to ensure arraignment within 24 hours of arrest;
- ◆ Create an exception for the 24 hour rule in the event of an unforeseeable extraordinary circumstance;
- ◆ Encourage greater accountability and transparency by creating a quarterly reporting requirement by city agencies to the City Council and the Public Advocate on the number of cases arraigned after 24 hours;
- ◆ Create a private right of action for individuals held in violation of the Charge or Release bill.

Former Deputy Majority Leader Bill Perkins introduced the Charge or Release bill in the City Council in May 2005. The bill immediately received broad support in the City Council as twenty-three members signed on as co-sponsors, including a majority of the lawmakers on the Public Safety Committee, to which the bill was assigned. The Black, Latino, and Asian Caucus unanimously endorsed the legislation. The session ended without a hearing or vote on the bill, and with the departure of Council Member Perkins from the City Council, the bill now awaits reintroduction in the 2006 session.

2. The city should conduct an evaluation of the arrest-to-arraignment process. In 1988, the city commissioned an extensive survey of arrest-to-arraignment procedures in an effort to cut costs and reduce arrest-to-arraignment times. The findings of the study led to the city lowering arraignment times and saving money. Since one of the main arguments presented by opponents of the Charge or Release Bill is that it would be too costly to arraign *all* arrestees in less than 24 hours, such an analysis would be an indispensable tool for identifying a cost effective way to comply with the 24-hour rule.

3. The NYPD should issue more Desk Appearance Tickets. Since most arrests—and more specifically, most arrests arraigned after 24 hours—are misdemeanors or violations, issuing DATs for low level offenses would reduce the number of people arraigned after 24 hours, and would lower overall arrest-to-arraignment times.

4. The NYPD should account for the number of arrestees who are not arraigned. According to NYPD data, 29% of arrestees were not arraigned. However, it is impossible to determine the significance of this statistic without more information. The NYPD should release information explaining the discrepancy between the numbers of individuals arrested and those arraigned in New York City.

• APPENDIX •

Methodology

The data used in this study came from daily NYPD Arrest-to-arraignment Reports for the months of October 2004 through October 2005 (see sample Arrest-to-arraignment Report below). These reports contain data about the number of arrests in New York City and in each borough, broken down by the type of crime. The reports also record the amount of time it takes to complete various tasks in the arrest-to-arraignment process, as well as the percentage of arrestees arraigned in less than 24 hours, between 24 and 36 hours, etc. Data from these daily reports were combined to produce monthly totals and averages, which were in turn aggregated into the annual figures presented in this study.

PGM: BOOKALL4	N.Y.C.P.D. - ONLINE BOOKING SYSTEM										RUN ON 2/3/2005		
	ONLINE PRISONER ARRAIGNMENT												
	ARREST TO ARRAIGNMENT REPORT												
	REPORT FOR ARREST DATE: 02/01/2005												
	BOROUGH: BRONX												
	A	B	C	D	E	F	G	H	I	J	K	L	M
	ALL	ARRAIGN	AVG.TM	AVG.TM	AVG.TM	AVG.TM	AVG.TM	AVG.TM	AVG.TM	AVG.TM	AVG.TM	AVG.TM	AVG.TM
	ARRESTS	ARRESTS	LOGIN	NYSID	A/O RDY	PRIS CT	COMPL	CML RC	POL RDY	BREAKDOWN	DOCKET	PAPER CRT	ARRAIGN
FEL	99	63	2.78	7.14	2.79	21.68	15.10	16.60	15.19	20.15	20.34	20.34	24.37
MISD	248	124	1.77	7.05	1.77	21.47	13.37	15.20	13.71	18.86	19.26	19.26	24.10
OTHER	3	2	2.12	8.87	2.12	23.59	20.50	24.08	20.50	24.75	25.25	25.25	30.59
TOTALS	350	189	2.11	7.10	2.11	21.56	14.02	15.76	14.28	19.35	19.69	19.69	24.26
ONLINE ARRESTS			UNDER 24 HRS	24 - UNDER 36	36 - UNDER 48	OVER 48							
			PERCENT	PERCENT	PERCENT	PERCENT							
FEL	81		44.44 %	55.56 %	0.00 %	0.00 %							
MISD	207		50.00 %	49.19 %	0.81 %	0.00 %							
OTHER	2		0.00 %	100.00 %	0.00 %	0.00 %							
TOTALS	290		47.62 %	51.85 %	0.53 %	0.00 %							
NOTE:	THIS REPORT REFLECTS:												
	A) TOTAL ARRESTS FOR ARREST DATE IN REPORT HEADING.												
	B) TOTAL NUMBER OF ARRAIGNED ARRESTS.												
	C) AVERAGE TIME FROM ARREST TO LOGIN												
	D) AVERAGE TIME FROM ARREST TO NYSID ENTRY												
	FOR ARRAIGNED ARRESTS.												
	E) AVERAGE TIME FROM ARREST TO A/O READY												
	FOR ARRAIGNED ARRESTS.												
	F) AVERAGE TIME FROM ARREST TO PRISONER IN COURT												
	FOR ARRAIGNED ARRESTS.												
	G) AVERAGE TIME FROM ARREST TO COMPLAINT SWORN												
	FOR ARRAIGNED ARREST.												
	H) AVERAGE TIME FROM ARREST TO COMPLAINT RECEIVED												
	FOR ARRAIGNED ARRESTS.												
	I) AVERAGE TIME FROM ARREST TO POLICE READY TIME												
	FOR ARRAIGNED ARREST. THIS IS DEFINED AS												
	NYSID RECEIVED AND COMPLAINT SWORN.												
	J) AVERAGE TIME FROM ARREST TO BREAKDOWN												
	FOR ARRAIGNED ARREST.												
	K) AVERAGE TIME FROM ARREST TO DOCKET												
	FOR ARRAIGNED ARREST.												
	L) AVERAGE TIME FROM ARREST TO PAPERWORK IN COURTROOM												
	FOR ARRAIGNED ARREST.												
	M) AVERAGE TIME FROM ARREST TO ARRAIGNMENT												
	FOR ARRAIGNED ARREST.												
	ONLINE ARRESTS - ANY ARREST PROCESSED THROUGH OLPA SYSTEM												

Figure A1. Sample Arrest-to-arraignment Report