
Racial Disparities in Misdemeanor Justice

**Data for New York City,
2019-2020**

By Fred Butcher and Michael Rempel

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Racial Disparities in Misdemeanor Justice: Data for New York City, 2019-2020

This research brief examines racial disparities in New York City’s misdemeanor justice system. The results indicate that relative to the city’s general population, Black and Hispanic/Latinx people are significantly overrepresented among those charged with misdemeanors. The results also point to sizable variations in the magnitude of these racial and ethnic disparities based on the specific charge—offering policymakers a potential guide for how to mitigate unequal justice where it is greatest. The analysis further examines racial/ethnic differences in convictions, charge downgrades from arraignment to conviction, and jail sentences. The brief largely lets the data speak for itself, with a series of descriptive tables following a brief introduction and summary of the major themes. A companion report will propose state legislative changes that are responsive to the research.¹

The vast majority of the nation’s criminal cases are misdemeanors. In New York City, misdemeanors accounted for 77% of all cases arraigned on criminal charges in 2019 and 68% in 2020. These figures are lower than for previous years, reflecting less aggressive enforcement of quality-of-life crimes under the outgoing mayoral administration and, in 2020, a rise in serious violence relative to other alleged crimes, locally and nationally.² For instance, misdemeanors made up 84% of the city’s arraignments as recently as 2014. In absolute terms, misdemeanor arraignments dropped by almost half from 256,000 in 2014 to 129,000 in 2019 and then dropped by half again to 60,000 in 2020. Yet they continue to exceed two-thirds of cases handled in the criminal courts.

In New York City, just 12% of disposed misdemeanors were convicted of a crime in 2019 and 2020 combined. When adding cases that ended in a reduced plea to a non-criminal offense, a total of 44% were convicted of misconduct at any level. While most people, therefore, avoid the potentially serious collateral consequences that can result from a misdemeanor conviction, they may still experience harmful “process is punishment” effects.³ They are arrested, booked at a police precinct, typically detained in holding cells for up to 24 hours, and experience oftentimes daylong waits to see the judge for court appearances that routinely last no more than a few minutes.⁴ Research has found that such a description largely defines misdemeanor case processing nationwide.⁵ In New York City, it has been linked to low levels of perceived legitimacy among people facing charges.⁶ While some people experiencing the current system have been accused of domestic violence misdemeanors or other assaults resulting in physical injury, most misdemeanors—at least in New York City—lack any element involving violence, threats, or weapons.

Moreover, amidst the preponderance of process is punishment justice, for the small fraction of people whose cases end in a misdemeanor conviction or a jail sentence, recent Brennan Center

research points to significant future ramifications; for instance, the researchers found that a misdemeanor conviction results in a 16% reduction in earnings throughout someone's lifetime.⁷

About the Analysis

We examined the extent to which potentially deleterious components of misdemeanor justice disproportionately impact Black and Brown New Yorkers and identified specific charges involving greater or lesser racial disparities. We combined misdemeanor cases in 2019 and 2020, encompassing both the early COVID-19 pandemic (and potentially unique dynamics associated with it) and a full unaffected year preceding it.

The data presented below show race/ethnicity separated into three categories: Black, Hispanic/Latinx, and white. Asian and additional racial/ethnic groups were omitted, as they constituted too small a category to permit statistically meaningful comparisons.

In addition to examining misdemeanors, overall, we also distinguished results for *victimless misdemeanors*⁸ (i.e., charges that lack a civilian complainant who experienced violence or property loss); misdemeanors involving a domestic violence allegation, and 31 specific charges. These 31 charges each had a minimum of 200 arraignments in 2019 and 2020 combined in at least one racial/ethnic group and made up 93% of all misdemeanor arraignments in those two years. Our four outcomes of interest were as follows:

- **Charged:** Arrested and arraigned in the New York City Criminal Court.
- **Convicted** (of either a crime or a non-criminal violation or infraction).
- **Downgraded Charge from Arraignment to Conviction** (e.g., from a Class A to Class B misdemeanor; or from any misdemeanor to a non-criminal offense).
- **Sentenced to Jail** (if convicted).

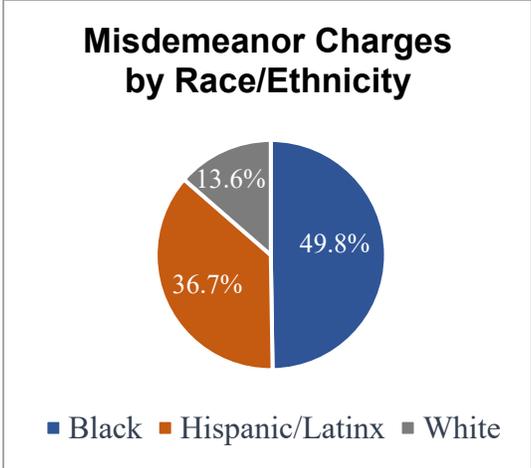
When analyzing the first outcome (charged with a crime), cases were included if they were *arraigned* within 2019 or 2020. When analyzing the second through fourth outcomes, all of which concern how cases were ultimately resolved, they were included if *disposed* during those two years.

Table 1 shows the percentage of all arraignments involving the three most common racial/ethnic groups (Black, Hispanic/Latinx, and white). The percentages in Tables 2-5 concern case dispositions and sentences. They respectively display the percentage of cases in which people from each racial/ethnic group are convicted of a crime, convicted of any offense (including violations), have their charge downgraded, and are sentenced to jail. Table 6 shows the results of logistic regression models predicting convictions, downgraded charges, and jail sentences, after controlling for charge, criminal history, and demographic characteristics. All tables can be found beginning on page seven.

Major Findings

Racial Disparities in Misdemeanor Arraignments

- Black New Yorkers accounted for 50% of people charged with misdemeanors in 2019 and 2020, more than twice their representation in the city’s general population.** The detailed results in Table 1 also indicate: (1) which misdemeanor offenses were the most frequently charged, and (2) for which charges the disparities were relatively greater or lesser in magnitude.
- Only four charges accounted for six out of ten of the city’s misdemeanors.** Assault in the third degree, petit larceny, misdemeanor drug possession, and driving with a suspended or revoked license constituted 60% of all misdemeanor charges arraigned in 2019 and 2020.



- Black individuals were overrepresented across every one of the 31 charges examined.** There were wide variations in the magnitude of disparities, with Black New Yorkers making up 76% of unlicensed vending charges on one end of the spectrum and 31% of driving while intoxicated charges on the other end—but in every single instance, the percentage Black exceeded that in the city’s general population of 24%. Hispanic/Latinx individuals were also overrepresented relative to the city’s general population among all except one misdemeanor (unlicensed vending). When reducing misdemeanor charges to a few high-level categories, disparities were comparable across (1) all domestic violence cases, (2) other misdemeanors involving violence, threats, or weapons, and (3) victimless misdemeanors; but as noted below, disparities were especially high among the subset of victimless misdemeanors where there was literally no civilian complainant experiencing violence or property loss or damage.

- Racial disparities were greatest among specific charges stemming from interactions with police officers and involving significant officer discretion, not charges involving a civilian complainant.** Compared to 50% of all misdemeanors, Black New Yorkers accounted for over 60% of those charged with the seven specific misdemeanors shown at right. These charges all fell within

Seven Charges with the Greatest Disparities Impacting Black New Yorkers

	Percent Black
NYC General Population (as of 2018)	24.4%
All Misdemeanors in 2019-2020	49.8%
Unlicensed Vending	76.0%
Criminal Sale of Marihuana 4 th	66.9%
Obstructing Governmental Administration 2 nd	65.6%
Resisting Arrest	64.6%
False Personation	63.7%
Criminal Possession of a Forged Instrument 3 rd	61.5%
Aggressive Solicitation	60.4%

a broader category that we call “victimless,” because they lack a civilian victim or complainant. But in addition, *most of these charges emerge from and are driven by police-civilian interactions that lead the police officer to exercise discretion in deciding whether a law was broken. Perhaps the clearest examples are these four:*

- RESISTING ARREST (PL 205.30) requires a police officer to decide that someone’s conduct prevented them from making an arrest. The law itself does not require that the conduct was violent or specify any qualifying actions that could “prevent” the arrest.
- FALSE PERSONATION (PL 190.23) requires a police officer to judge that someone intentionally gave the police false information about their identity, presumably during a police-civilian interaction initiated in the first place for some other reason.
- OBSTRUCTING GOVERNMENTAL ADMINISTRATION 2^o (PL 195.05) applies to any action a police officer believes “intentionally obstructs, impairs, or perverts the administration of law or other governmental function ... whether or not physical force is involved.” Again, the charge affords officers wide latitude to determine whether conduct merits an arrest.
- AGGRESSIVE SOLICITATION (AC 10-136) usually involves a police officer’s direct observation and judgment that an individual soliciting money was intimidating or otherwise soliciting in aggressive ways that rise to the level of violating this law.

One of the three remaining charges with especially outsized disparities involved marijuana and is no longer on the books in New York State. All told, these seven charges with the greatest disparities accounted for 6% of all misdemeanors in 2019-2020, totaling 10,242 cases.

Final Case Dispositions and Racial Disparities

- ***Nearly all misdemeanors are resolved through guilty pleas or case dismissals, not trials:*** In 2019 and 2020, 27% of misdemeanors were disposed at arraignment. While people facing charges in the other 73% of cases had to appear at subsequent court dates, the system rarely adjudicated guilt or innocence at a trial. Only 0.3% of disposed misdemeanors in 2019 and 0.1% in 2020 were resolved at trial. Of the few misdemeanor trials that took place, almost half were before the judge, not a jury. There were 205 misdemeanor *jury trials* in 2019 (0.15% of disposed misdemeanors) and 21 in 2020 (0.04% of disposed misdemeanors).
- ***Relatively few people charged with misdemeanors are convicted of a crime:*** Overall, just 12% of people charged with a misdemeanor pled guilty or were convicted of one; another 32% pled guilty to a downgraded violation or other lesser offense, not technically considered a crime—making for a total of 44% convicted of any offense at all, criminal or non-criminal. Notably, conviction rates are especially low for domestic violence misdemeanors (4% convicted of a misdemeanor and another 18% convicted of a reduced non-criminal violation), with this latter finding reflecting in part the unique legal and social dynamics of prosecuting these cases.⁹ While some people who avoid a conviction may have done so on condition of completing court-ordered

programming, the state court system does not systematically track all such outcomes, except insofar as the data indicates that 6% of misdemeanors resolved with any type of conviction involved a sentence to perform community service.

- ***Conviction rates were modestly lower for Black and Hispanic/Latinx compared to white people.*** Across all misdemeanor charges, 12% of Black, 11% of Hispanic/Latinx, and 14% of white were convicted of a crime. When combining both criminal and reduced violation-level convictions, 42% of Black, 45% of Hispanic/Latinx, and 49% of white people had their cases end in a conviction. Conviction rates were lower for Black than white people for 22 of the 31 most frequently charged misdemeanors—pointing to the reverse of the usually hypothesized racial disparity. Yet, paired with the above-noted results that Black New Yorkers are disproportionately likely to be arrested and charged with misdemeanors in the first place, these results raise the prospect that Black New Yorkers may more often be arrested and arraigned on charges that cannot be proven, leading to a dismissal after further case processing. We caution, however, that the data itself does not permit testing different interpretations.
- ***The majority of misdemeanors ending in conviction (75.3%) had the conviction charge downgraded from arraignment.*** Overall, charges were downgraded at a similar rate across racial/ethnic groups (from Class A to B misdemeanor or from misdemeanor to violation).

Jail Sentences and Racial Disparities

- ***Jail sentences were rare for misdemeanors, with marginal differences by race/ethnicity.*** Overall, 9% of misdemeanors ending in a conviction resulted in a jail sentence, including 10% of Black, 9% of white, and 8% of Hispanic/Latinx people. Among domestic violence cases, nearly double the percentage of convictions involving Black as compared to white people involved a jail sentence (12% vs. 7%). More than doubling the overall jail sentence rate for all misdemeanors, petit larceny convictions ended in a jail sentence 20% of the time; and this one charge accounted for 35% of all misdemeanor jail sentences, totaling 2,317 jail sentences in 2019 and 2020, of which 1,926 (83%) involved Black and Hispanic/Latinx New Yorkers.

Additional Considerations

- ***Prior criminal history was a strong driver of final case outcomes.*** After simultaneously controlling for the effects of demographics, borough, charge type, and criminal history, people with a prior arrest and/or conviction were significantly more likely than others to have their misdemeanor case end in a conviction; less likely to have the conviction charge downgraded from what it had been at arraignment, and more likely to be sentenced to jail (see Table 6).
- ***Criminal history significantly varied by race/ethnicity.*** Reflecting the overrepresentation of Black people among those arrested and arraigned on all charges, they were disproportionately likely to have accumulated criminal histories in the first place. Among those facing misdemeanor charges in 2019 and 2020, 55% of Black compared to 46% of Hispanic/Latinx, and 42% of white people 2020 had a prior conviction. Further, 38% of Black compared to 30%

of Hispanic/Latinx and 26% of white people facing misdemeanor charges had a prior felony arrest. Sixty-four percent of Black compared to 55% of Hispanic/Latinx and 48% of white people had a prior misdemeanor arrest.

- ***Borough was a significant driver of conviction, downgraded charges, and jail sentences.*** The results in Table 6 also indicate that, net of other factors, misdemeanor cases in the Bronx and Brooklyn experienced the least punitive outcomes of the city's five boroughs (significantly lower rates of conviction, higher rates of downgraded charges, and less use of jail sentences).

Summary

Findings summarized above and displayed in the tables that follow point to sizable racial disparities regarding who is arrested and charged with misdemeanors in New York City. These disparities at the front door of the system have a profound effect on the rate at which Black and Brown people are exposed to the criminal court process. This process ends in neither a criminal conviction nor a jail sentence in the overwhelming majority of cases; yet it has the potential to upend people's lives through arrest, booking, pre-arraignment detention, and a court experience portrayed and quantified in prior research as eliciting relatively low levels of perceived legitimacy.

When cases do end in misdemeanor convictions or incarceration, outsized racial disparities are reproduced, once again. Given the wide disparities that begin in the early stages of the misdemeanor case processing, we found that there were 2.1 times the number of jail sentences involving Black New Yorkers than would have been predicted based on their proportionate representation in New York City's general population.

A companion publication includes state legislative options for New York to improve the delivery of justice, fairness, and racial equity in what are now classified as misdemeanor cases.¹⁰

Table 1. Misdemeanors Charged in the New York City Criminal Court in 2019 and 2020 by Race/Ethnicity

	Section	Black		Hispanic/Latinx		White		Total	
		%	n	%	n	%	n	%	n
NYC General Population		24%		27%		32%			
Total Misdemeanors (with non-missing race/ethnicity data)		49.8%	86,612	36.7%	63,813	13.6%	23,644	100%	174,069
Victimless		47.1%	24,524	39.7%	20,676	13.3%	6,914	100%	52,114
Domestic Violence		50.4%	19,663	37.7%	14,723	11.9%	4,642	100%	39,028
All Other Misdemeanors		51.2%	42,425	34.3%	28,414	14.6%	12,088	100%	82,927
Unlicensed Vending	AC 20-453	76.0%	215	22.6%	64	1.4%	4	100%	283
Criminal Sale of Marihuana in the 4 th	PL 221.40	66.9%	949	31.1%	441	2.0%	28	100%	1,418
Obstructing Governmental Administration in the 2 nd	PL 195.05	65.6%	1,153	25.9%	456	8.5%	149	100%	1,758
Resisting Arrest	PL 205.30	64.6%	1,294	28.4%	569	6.9%	139	100%	2,002
False Personation	PL 190.23	63.7%	313	31.8%	156	4.5%	22	100%	491
Criminal Possession of a Forged Instrument in the 3 rd	PL 170.20	61.5%	2,192	32.4%	1,156	6.1%	219	100%	3,567
Aggressive Solicitation	AC 10-136	60.4%	437	28.1%	203	11.5%	83	100%	723
Unauthorized Use of a Vehicle in the 3 rd	PL 165.05	57.6%	636	32.3%	357	10.1%	111	100%	1,104
Criminal Trespass in the 2 nd	PL 140.15	57.4%	1,136	32.6%	645	10.0%	199	100%	1,980
Menacing in the 2 nd	PL 120.14	57.3%	2,929	33.1%	1,689	9.6%	490	100%	5,108
Theft of Services	PL 165.15	57.2%	1,873	29.1%	953	13.7%	450	100%	3,276
Unlawful Possession of Marihuana	PL 221.10	56.6%	478	40.4%	328	4.4%	39	100%	845
Criminal Possession of Marihuana in the 4 th	PL 221.15	55.6%	299	40.5%	218	3.9%	21	100%	538
Public Lewdness	PL 245.00	52.8%	210	31.1%	124	16.0%	64	100%	398
Obstruction of Breathing	PL 121.11	52.2%	513	36.0%	354	11.7%	115	100%	982
Assault in the 3 rd	PL 120.00	51.4%	25,561	37.4%	18,607	11.2%	5,559	100%	49,727
Aggravated Harassment in the 2 nd	PL 240.30	51.0%	2,362	34.6%	1,606	14.4%	666	100%	4,634
Criminal Possession of a Weapon in the 4 th	PL 265.01	50.7%	1,386	37.6%	1,028	11.7%	321	100%	2,735
Criminal Mischief in the 4 th	PL 145.00	50.4%	4,123	33.3%	2,724	16.3%	1,332	100%	8,179
Criminal Trespass in the 3 rd	PL 140.10	49.9%	952	31.8%	607	18.2%	348	100%	1,907
Petit Larceny	PL 155.25	48.0%	10,841	33.6%	7,599	18.3%	4,132	100%	22,572
Criminal Contempt in the 2 nd	PL 215.50	47.1%	3,308	34.5%	2,423	18.4%	1,295	100%	7,026
Forcible Touching	PL 130.52	45.6%	653	40.1%	576	14.2%	204	100%	1,433
Operation with a Suspended or Revoked License	VTL 511	45.5%	8,544	41.6%	7,797	12.9%	2,420	100%	18,761
Synthetic Phenethylamines or Cannabinoids Prohibited	PL PHL 9.2	45.0%	286	43.8%	278	11.2%	71	100%	635
Possession of Burglar’s Tools	PL 140.35	44.8%	408	39.7%	362	15.5%	141	100%	911
Endangering the Welfare of a Child	PL 260.10	44.8%	376	41.5%	348	13.7%	115	100%	839
Patronizing a Person for Prostitution in the 3 rd	PL 230.04	43.6%	262	47.1%	283	9.3%	56	100%	601
Criminal Possession of a Controlled Substance in the 7 th	PL 220.03	42.4%	5,516	40.9%	5,330	16.6%	2,165	100%	13,011
Aggravated Driving While Intoxicated	VTL 1192.20	33.1%	1,257	49.4%	1,875	17.5%	663	100%	3,795
Driving While Intoxicated	VTL 1192.30	31.1%	591	44.3%	843	24.6%	467	100%	1,901

Note: Seven percent of all 2019-2020 arraignments were missing race/ethnicity data and are omitted. Asian and additional racial/ethnic groups accounted for less than 1.0% of misdemeanors in the data and were also excluded. The 31 charges shown are listed in order of the percent Black (from highest to lowest). Charges were included where there were at least 200 cases in one or more groups. Percentages are for each row. AC = Administrative Code, PHL = Public Health Law, PL = Penal Law, VTL = Vehicle and Traffic Law.

Table 2. Criminal Conviction in the New York City Criminal Court in 2019 and 2020

	PL Section	Black			Hispanic/Latinx		White		Total	
		%	n	+/-	%	n	%	n	%	n
NYC General Population		24%			27%		32%			
Misdemeanor Criminal Convictions (non-missing race/ethnicity data)		12.4%	10,655	-1.7%	11.2%	7,117	14.1%	3,419	12.2%	21,191
Domestic Violence		4.5%	839	-0.1%	4.1%	558	4.6%	203	4.4%	1,600
Victimless		14.5%	3,786	-2.1%	37.3%	3,009	16.6%	1,265	14.5%	8,060
All Other Misdemeanors		14.5%	6,030	-1.5%	12.6%	3,550	16.0%	1,951	14.1%	11,531
Possession of Burglar’s Tools	PL 140.35	38.4%	152	7.6%	29.1%	98	30.8%	41	33.6%	291
Forcible Touching	PL 130.52	23.3%	117	5.1%	20.1%	111	18.2%	37	21.1%	265
Unlicensed Vending	AC 20-453	4.5%	10	4.5%	3.1%	2	0.0%	0	4.1%	12
Criminal Trespass in the 3 rd	PL 140.10	11.5%	115	3.8%	8.6%	55	7.7%	28	9.9%	198
Unlawful Possession of Marihuana	PL 221.10	5.7%	43	3.8%	4.2%	23	1.9%	1	4.9%	67
Criminal Possession of a Forged Instrument in the 3 rd	PL 170.20	7.9%	174	3.5%	5.8%	69	4.4%	10	7.0%	253
Petit Larceny	PL 155.25	33.4%	3,534	3.3%	28.5%	2,118	30.1%	1,201	31.1%	6,853
Public Lewdness	PL 245.00	22.2%	48	3.3%	21.8%	34	18.9%	17	21.4%	99
Operation with a Suspended or Revoked License	VTL 511	7.9%	736	2.2%	6.8%	575	5.7%	150	7.2%	1,461
Criminal Possession of Marihuana in the 4 th	PL 221.15	6.4%	19	1.6%	7.3%	16	4.8%	1	6.7%	36
Criminal Possession of a Weapon in the 4 th	PL 265.01	5.8%	97	1.4%	4.4%	56	4.4%	18	5.1%	171
Obstruction of Breathing	PL 121.11	2.1%	9	1.2%	1.6%	5	0.9%	1	1.7%	15
Criminal Possession of a Controlled Substance in the 7 th	PL 220.03	27.0%	1,565	1.1%	22.4%	1,220	25.9%	627	25.0%	3,412
Patronizing a Person for Prostitution in the 3 rd	PL 230.04	3.9%	13	1.1%	1.0%	3	2.8%	2	2.5%	18
Unauthorized Use of a Vehicle in the 3 rd	PL 165.05	6.8%	40	0.6%	5.6%	20	6.2%	8	6.3%	68
Assault in the 3 rd	PL 120.00	4.2%	1,010	0.4%	3.0%	534	3.8%	204	3.7%	1,748
Criminal Sale of Marihuana in the 4 th	PL 221.40	10.8%	111	0.3%	6.2%	31	10.5%	4	9.3%	146
Criminal Mischief in the 4 th	PL 145.00	6.1%	237	0.2%	5.7%	150	5.9%	78	5.9%	465
Criminal Contempt in the 2 nd	PL 215.50	9.5%	265	0.1%	9.3%	185	9.4%	101	9.4%	551
Criminal Trespass in the 2 nd	PL 140.15	10.5%	115	0.1%	13.2%	85	10.4%	20	11.4%	220
Aggravated Driving While Intoxicated	VTL 1192.20	27.1%	374	0.0%	28.8%	559	27.1%	211	27.9%	1,144
Endangering the Welfare of a Child	PL 260.10	6.3%	24	-0.1%	11.8%	41	6.4%	7	8.6%	72
Obstructing Governmental Administration in the 2 nd	PL 195.05	7.3%	84	-0.3%	6.3%	29	7.6%	12	7.1%	125
Menacing in the 2 nd	PL 120.14	5.0%	129	-0.6%	6.2%	95	5.6%	25	5.5%	249
Aggravated Harassment in the 2 nd	PL 240.30	4.6%	96	-2.0%	5.0%	73	6.6%	41	5.0%	210
Driving While Intoxicated	VTL 1192.30	20.6%	138	-3.0%	19.6%	181	23.6%	127	20.9%	446
Resisting Arrest	PL 205.30	8.4%	115	-5.6%	8.1%	50	14.0%	21	8.7%	186
Aggressive Solicitation	AC 10-136	6.8%	27	-6.1%	9.4%	17	12.9%	9	8.2%	53
Theft of Services	PL 165.15	9.0%	195	-7.3%	6.8%	73	16.3%	79	9.3%	347
Synthetic Phenethylamines or Cannabinoids	PHL 9.2	47.9%	124	-8.2%	38.0%	103	56.1%	37	44.3%	264
False Personation	PL 190.23	13.5%	47	-10.5%	12.4%	19	24.0%	6	13.7%	72

Note: Criminal convictions include all convictions at the misdemeanor and felony levels while excluding infractions and violations. The percentage point difference between cases involving Black and white defendants is presented for each charge. The 31 most common charges are listed in order of the Black-white gap, where the first charge listed (Possession of Burglar’s Tools) has a criminal conviction rate 7.6 percentage points higher for Black than white individuals. Numbers represent cases with a criminal conviction.

Table 3. Any Conviction (Violations Included) in the NYC Criminal Court in 2019 and 2020 by Race/Ethnicity

	PL Section	Black			Hispanic/Latinx		White		Total	
		%	n	+/-	%	n	%	n	%	n
NYC General Population		24%			27%		32%			
Misdemeanor Convictions (with non-missing race/ethnicity data)		42.1%	36,260	-6.7%	44.8%	28,531	48.8%	11,819	44.0%	76,610
Domestic Violence		20.1%	3,699	-7.6%	23.4%	3,224	27.7%	1,223	22.2%	8,146
Victimless		65.1%	17,002	-6.1%	68.5%	14,949	71.2%	5,416	67.3%	37,367
All Other Misdemeanors		37.5%	15,559	-4.9%	36.9%	10,358	42.4%	5,180	38.0%	31,097
Criminal Possession of a Forged Instrument in the 3 rd	PL 170.20	60.9%	1,337	9.8%	55.5%	655	51.6%	116	58.6%	2,108
Criminal Trespass in the 3 rd	PL 140.10	32.6%	325	8.1%	27.7%	177	24.5%	89	29.6%	591
Possession of Burglar’s Tools	PL 140.35	64.4%	255	6.5%	57.3%	193	57.9%	77	60.6%	525
Criminal Possession of Marihuana in the 4 th	PL 221.15	39.7%	117	6.4%	37.2%	81	33.3%	7	38.4%	205
Unauthorized Use of a Vehicle in the 3 rd	PL 165.05	39.7%	235	5.1%	35.7%	128	34.6%	45	37.7%	408
Operation with a Suspended or Revoked License	VTL 511	84.2%	7,803	1.6%	84.2%	7,089	82.6%	2,164	84.0%	17,056
Petit Larceny	PL 155.25	57.7%	6,105	1.4%	53.1%	3,954	56.3%	2,249	55.9%	12,308
Criminal Possession of a Weapon in the 4 th	PL 265.01	43.4%	725	1.0%	41.2%	519	42.4%	172	42.4%	1,416
Criminal Sale of Marihuana in the 4 th	PL 221.40	42.9%	441	0.8%	38.7%	194	42.1%	16	41.5%	651
Obstructing Governmental Administration in the 2 nd	PL 195.05	36.5%	421	-1.7%	33.3%	154	38.2%	60	35.8%	635
Resisting Arrest	PL 205.30	34.3%	469	-1.7%	39.3%	242	36.0%	54	35.8%	765
Forcible Touching	PL 130.52	46.6%	234	-3.6%	49.4%	273	50.2%	102	48.4%	609
Aggravated Driving While Intoxicated	VTL 1192.20	90.6%	1,249	-3.9%	91.0%	1,766	94.5%	735	91.5%	3,750
Criminal Trespass in the 2 nd	PL 140.15	28.7%	316	-4.1%	32.6%	210	32.8%	63	30.4%	589
Criminal Possession of a Controlled Substance in the 7 th	PL 220.03	59.5%	3,440	-4.3%	59.3%	3,237	63.8%	1,545	60.2%	8,222
Unlawful Possession of Marihuana	PL 221.10	27.3%	207	-4.8%	25.0%	136	32.1%	17	26.6%	360
Assault in the 3 rd	PL 120.00	19.9%	4,785	-5.2%	21.5%	3,769	25.1%	1,364	21.1%	9,918
Criminal Mischief in the 4 th	PL 145.00	25.1%	974	-5.9%	28.1%	742	31.0%	412	27.1%	2,128
Theft of Services	PL 165.15	33.6%	727	-6.7%	27.5%	295	40.3%	195	32.7%	1,217
Criminal Contempt in the 2 nd	PL 215.50	30.1%	838	-7.1%	33.7%	671	37.2%	398	32.6%	1,907
Obstruction of Breathing	PL 121.11	15.7%	68	-7.2%	19.7%	63	22.9%	25	18.1%	156
Driving While Intoxicated	VTL 1192.30	78.5%	525	-7.8%	77.7%	719	86.3%	465	80.1%	1,709
Menacing in the 2 nd	PL 120.14	22.1%	567	-8.5%	26.3%	400	30.6%	136	24.4%	1,103
Public Lewdness	PL 245.00	51.9%	112	-9.1%	59.0%	92	61.0%	55	56.1%	259
Endangering the Welfare of a Child	PL 260.10	28.8%	109	-10.3%	37.9%	132	39.1%	43	34.0%	284
Synthetic Phenethylamines or Cannabinoids	PHL 9.2	64.9%	168	-10.9%	58.3%	158	75.8%	50	63.1%	376
Patronizing a Person for Prostitution in the 3 rd	PL 230.04	34.5%	114	-12.0%	41.1%	127	46.5%	33	38.6%	274
Aggravated Harassment in the 2 nd	PL 240.30	21.5%	451	-12.3%	25.4%	374	33.8%	210	24.7%	1,035
Aggressive Solicitation	AC 10-136	46.3%	183	-16.6%	44.4%	80	62.9%	44	47.6%	307
False Personation	PL 190.23	60.7%	212	-19.3%	63.4%	97	80.0%	20	62.4%	329
Unlicensed Vending	AC 20-453	29.3%	65	-30.7%	18.5%	12	60.0%	3	27.4%	80

Note: The percentage point difference between cases involving Black and white defendants is presented for each charge. The 31 most common charges are listed in order of the Black-white gap, where the first charge listed (Criminal Possession of a Forged Instrument in the 3rd) has a conviction rate 9.8 percentage points higher for Black than white individuals. Numbers represent cases with a conviction.

Table 4. Downgraded Misdemeanor Charges in the New York City Criminal Court in 2019 and 2020

	PL Section	Black			Hispanic/Latinx		White		Total	
		%	n	+/-	%	n	%	n	%	n
NYC General Population (Asian and other groups omitted)		24%			27%		32%		83%	
Total Misdemeanors (with non-missing race/ethnicity data)		73.8%	26,186	-0.3%	77.9%	21,850	73.5%	8,571	75.3%	56,607
Domestic Violence		81.6%	2,963	-3.7%	85.8%	2,735	85.3%	1,039	83.8%	6,737
All Other Misdemeanors		64.7%	9,779	-0.4%	69.7%	7,034	65.1%	3,305	66.4%	20,118
Victimless		80.3%	13,444	1.1%	81.8%	12,081	78.9%	4,227	80.7%	29,752
Unlicensed Vending	AC 20-453	85.9%	55	-14.1%	83.3%	10	100%	3	86.1%	68
Forcible Touching	PL 130.52	60.7%	139	-12.8%	73.2%	199	73.5%	75	68.5%	413
Public Lewdness	PL 245.00	57.1%	64	-12.0%	65.9%	58	69.1%	38	62.7%	160
Unlawful Possession of Marihuana	PL 221.10	83.6%	178	-10.5%	87.0%	120	94.1%	16	85.3%	314
Possession of Burglar’s Tools	PL 140.35	43.9%	107	-8.2%	52.9%	100	52.1%	38	48.4%	245
Patronizing a Person for Prostitution in the 3 rd	PL 230.04	90.2%	101	-6.8%	97.6%	124	97.0%	32	94.5%	257
Criminal Possession of a Controlled Substance in the 7 th	PL 220.03	57.8%	1,947	-6.4%	65.7%	2,082	64.2%	971	62.1%	5,000
Criminal Mischief in the 4 th	PL 145.00	80.0%	762	-5.5%	83.7%	606	85.5%	341	82.3%	1,709
Petit Larceny	PL 155.25	44.6%	2,607	-4.2%	49.4%	1,867	48.8%	1,064	46.9%	5,538
Menacing in the 2 nd	PL 120.14	80.3%	449	-4.1%	79.3%	311	84.4%	114	80.5%	874
Criminal Contempt in the 2 nd	PL 215.50	73.2%	591	-3.8%	76.9%	503	77.0%	305	75.3%	1,399
Assault in the 3 rd	PL 120.00	82.3%	3,880	-3.8%	88.2%	3,304	86.1%	1,174	85.0%	8,358
Endangering the Welfare of a Child	PL 260.10	86.7%	91	-3.8%	82.3%	107	90.5%	38	85.2%	236
Criminal Trespass in the 2 nd	PL 140.15	66.3%	203	-3.5%	67.8%	135	69.8%	44	67.3%	382
Aggravated Harassment in the 2 nd	PL 240.30	81.8%	364	-3.4%	84.7%	310	85.2%	173	83.5%	847
Criminal Possession of a Weapon in the 4 th	PL 265.01	90.8%	645	-3.2%	94.6%	475	94.0%	158	92.6%	1,278
Criminal Trespass in the 3 rd	PL 140.10	65.6%	210	-2.9%	71.1%	123	68.5%	61	67.7%	394
Criminal Possession of a Forged Instrument in the 3 rd	PL 170.20	91.9%	1,207	-2.9%	92.3%	602	94.8%	109	92.2%	1,918
Obstruction of Breathing	PL 121.11	89.6%	60	-2.7%	93.5%	58	92.3%	24	91.6%	142
Operation with a Suspended or Revoked License	VTL 511	91.7%	7,085	-2.0%	93.0%	6,525	93.7%	2,023	92.5%	15,633
Aggravated Driving While Intoxicated	VTL 1192.20	71.7%	875	-0.4%	68.9%	1,207	72.1%	524	70.4%	2,606
Synthetic Phenethylamines or Cannabinoids	PHL 9.20	27.2%	44	0.1%	35.5%	55	27.1%	13	30.7%	112
Criminal Possession of Marihuana in the 4 th	PL 221.15	87.1%	101	1.4%	85.2%	69	85.7%	6	86.3%	176
Driving While Intoxicated	VTL 1192.30	74.7%	387	1.5%	75.6%	538	73.2%	338	74.6%	1,263
False Personation	PL 190.23	86.5%	180	1.5%	89.7%	87	85.0%	17	87.4%	284
Obstructing Governmental Administration in the 2 nd	PL 195.05	86.7%	359	1.7%	84.3%	129	85.0%	51	86.0%	539
Unauthorized Use of a Vehicle in the 3 rd	PL 165.05	85.7%	198	2.0%	87.4%	111	83.7%	41	86.0%	350
Criminal Sale of Marihuana in the 4 th	PL 221.40	79.5%	349	3.0%	87.6%	169	76.5%	13	81.8%	531
Aggressive Solicitation	AC 10-136	87.2%	156	3.9%	78.8%	63	83.3%	35	84.4%	254
Theft of Services	PL 165.15	75.2%	540	12.8%	78.8%	230	62.4%	118	74.1%	888
Resisting Arrest	PL 205.30	82.5%	376	18.3%	86.6%	207	64.2%	34	82.5%	617

Note: The percentage point difference between cases involving Black and white defendants is presented for each charge. The 31 most common charges are listed in order of the Black-white gap, where the first charge listed (Unlicensed Vending) has a rate of downgrading that is 14 percentage points lower for Black than white individuals. Numbers represent cases ending in a conviction with a downgraded charge.

Table 5. Jail Sentences for Misdemeanors in the New York City Criminal Court in 2019 and 2020 by Race/Ethnicity

	PL Section	Black			Hispanic/Latinx		White		Total	
		%	N	+/-	%	n	%	n	%	n
NYC General Population (Asian and other groups omitted)		24%					32%		83%	
Total Misdemeanors (with non-missing race/ethnicity data)		9.9%	3,503	1.1%	7.5%	2,083	8.8%	1,009	8.9%	6,595
Victimless		5.2%	872	0.5%	4.3%	634	4.7%	249	4.8%	1,755
All Other Misdemeanors		14.6%	2,194	1.1%	12.1%	1,211	13.5%	678	13.6%	4,083
Domestic Violence		12.3%	437	5.3%	7.6%	238	7.0%	82	9.7%	757
Forcible Touching	PL 130.52	24.3%	52	14.4%	13.3%	33	9.9%	9	17.0%	94
Public Lewdness	PL 245.00	21.3%	23	10.2%	15.1%	13	11.1%	6	16.9%	42
Aggravated Harassment in the 2 nd	PL 240.30	11.4%	50	7.2%	9.9%	35	4.2%	8	9.5%	93
Criminal Contempt in the 2 nd	PL 215.50	16.9%	133	6.8%	14.4%	92	10.1%	38	14.6%	263
Obstructing Governmental Administration in the 2 nd	PL 195.05	15.0%	61	6.5%	11.3%	17	8.5%	5	13.4%	83
Obstruction of Breathing	PL 121.11	5.9%	4	5.9%	3.2%	2	0.0%	0	3.9%	6
Unlawful Possession of Marihuana	PL 221.10	5.4%	11	5.4%	5.3%	7	0.0%	0	5.1%	18
Patronizing a Person for Prostitution in the 3 rd	PL 230.04	5.3%	6	5.3%	0.8%	1	0.0%	0	2.6%	7
Synthetic Phenethylamines or Cannabinoids	PHL 9.20	9.0%	15	4.9%	3.8%	6	4.1%	2	6.2%	23
Assault in the 3 rd	PL 120.00	11.4%	524	4.5%	6.2%	229	6.9%	91	8.8%	844
Criminal Mischief in the 4 th	PL 145.00	11.4%	106	4.1%	8.2%	59	7.3%	29	9.5%	194
Criminal Possession of Marihuana in the 4 th	PL 221.15	3.5%	4	3.5%	2.5%	2	0.0%	0	3.0%	6
Criminal Possession of a Weapon in the 4 th	PL 265.01	4.9%	35	2.5%	2.5%	13	2.4%	4	3.7%	52
Criminal Possession of a Forged Instrument in the 3 rd	PL 170.20	4.0%	53	2.3%	3.7%	24	1.7%	2	3.8%	79
Possession of Burglar’s Tools	PL 140.35	21.0%	53	1.6%	24.7%	47	19.4%	14	22.2%	114
Petit Larceny	PL 155.25	20.4%	1,215	1.6%	18.5%	711	18.8%	411	19.5%	2,337
Driving While Intoxicated	VTL 1192.30	2.0%	10	1.1%	4.3%	29	0.9%	4	2.7%	43
Operation with a Suspended or Revoked License	VTL 511	2.0%	155	0.9%	1.6%	112	1.1%	24	1.7%	291
Menacing in the 2 nd	PL 120.14	10.4%	57	0.8%	9.8%	38	9.6%	13	10.1%	108
Aggravated Driving While Intoxicated	VTL 1192.20	1.6%	19	0.2%	2.7%	45	1.4%	10	2.1%	74
Unlicensed Vending	AC 20-453	0.0%	0	0.0%	8.3%	1	0.0%	0	1.3%	1
Criminal Possession of a Controlled Substance in the 7 th	PL 220.03	11.3%	384	-0.2%	9.6%	307	11.5%	171	10.7%	862
Criminal Trespass in the 2 nd	PL 140.15	8.8%	27	-2.7%	14.7%	30	11.5%	7	11.2%	64
Unauthorized Use of a Vehicle in the 3 rd	PL 165.05	8.7%	20	-2.9%	8.7%	11	11.6%	5	9.0%	36
False Personation	PL 190.23	11.7%	24	-3.3%	7.4%	7	15.0%	3	10.6%	34
Aggressive Solicitation	AC 10-136	7.9%	14	-4.0%	6.3%	5	11.9%	5	8.0%	24
Criminal Trespass in the 3 rd	PL 140.10	7.8%	25	-4.6%	10.4%	18	12.4%	11	9.3%	54
Resisting Arrest	PL 205.30	8.8%	40	-6.0%	7.6%	18	14.8%	8	8.8%	66
Criminal Sale of Marihuana in the 4 th	PL 221.40	7.2%	31	-6.1%	2.6%	5	13.3%	2	5.9%	38
Theft of Services	PL 165.15	6.6%	47	-8.2%	8.2%	24	14.8%	28	8.3%	99
Endangering the Welfare of a Child	PL 260.10	28.8%	109	-10.3%	37.9%	132	39.1%	43	34.0%	284

Note: The percentage point difference between cases involving Black and white defendants is presented for each charge. The 31 most common charges are listed in order of the Black-white gap, where the first charge listed (Forcible Touching) has a rate of jail sentencing 14 percentage points higher for Black than white individuals. Numbers represent cases receiving a jail sentence.

Table 6. Logistic Regression Models Predicting Conviction, Downgraded Charges, and Jail Sentences

	Conviction			Downgraded			Jail Sentence		
	B	SE	Exp(B)	B	SE	Exp(B)	B	SE	Exp(B)
Race									
Black	-.19***	.02	.83	.08**	.03	1.08	.00	.04	1.00
Hispanic/Latinx	-.11***	.02	.89	-.09**	.03	1.09	-.09*	.04	.92
Age	.01***	.00	1.01	-.03***	.00	.96	.01***	.00	1.01
Male	.34***	.01	1.41	-.31***	.03	.74	.59***	.05	1.80
Borough									
Bronx	-1.06***	.03	.35	.86***	.04	2.35	-.86***	.07	.42
Brooklyn	-1.30***	.03	.27	1.13***	.04	3.11	-.57***	.06	.57
Manhattan	-.70***	.03	.49	-.33***	.04	.72	-.09	.06	.91
Queens	-.54***	.03	.58	.84***	.04	2.31	-.16*	.06	.86
Prior Conviction	.71***	.02	2.03	-.74***	.04	.48	.82***	.06	2.27
Prior Felony Arrest	.08***	.01	1.09	-.63***	.02	.53	.84***	.03	2.32
Prior Misdemeanor Arrest	-.02	.02	.98	-.33***	.04	.72	.43***	.06	1.53
Charge Type									
Victimless	.79***	.02	2.21	-.24***	.03	.79	-.50***	.05	.61
Domestic Violence	-.49***	.02	.61	.20***	.04	1.23	-.01	.04	.99
Five Most Common Misdemeanor Charges									
Assault 3 rd	-.52***	.02	.59	.24***	.04	1.27	.15**	.05	1.16
Petit Larceny	.58***	.02	1.79	-.83***	.03	.44	.43***	.04	1.54
Operation of a Susp. or Revoked License	1.41***	.03	4.10	1.25***	.04	3.49	-.99***	.08	.37
Possession of Controlled Substance 7 th	-.08***	.02	.92	-.02	.04	.98	.31***	.06	1.37
Criminal Mischief 4 th	-.38***	.03	.68	.32***	.07	1.38	-.00	.08	1.00
χ^2	38,860.40***			17,374.70***			5,969.20***		
Nagelkerke R ²	.28			.32			.18		
N	167,376			70,468			69,742		

*** p < .001 ** p < .01 * p < .05

Note 1: The reference group for race was white, Staten Island for borough, and all other misdemeanors for the charge type variable. Technically, prior arrest variables are only counted if the prosecutor filed charges with the court in the prior case.

Note 2: In a separate bivariate analysis, we examined whether race was related to having a prior conviction. We found that the odds of having a prior conviction were 1.69 times greater for Black defendant than a white defendant.

Notes

¹ Rodriguez, K., Rempel, M., & Butcher, F. (2022). *Reducing Racial Disparities and Overcriminalization*. New York, NY: Center for Court Innovation. This companion report with concrete legislative recommendations has a publication date in February 2022 and will be available at the same landing page as the current report:

<https://www.courtinnovation.org/publications/misdemeanor-race-NYC>.

² Rosenfeld, R., Abt, T., & Lopez, E. (2021). *Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update*. Washington, D.C.: Council on Criminal Justice. Available at: build.neoninspire.com/counciloncj/wp-content/uploads/sites/96/2021/07/Year-End-Crime-Update_Designed.pdf.

³ Feeley, M. (1992). *The Process is the Punishment: Handling Cases in a Lower Criminal Court*. New York, NY: Russell Sage Foundation.

⁴ See, e.g., Zeidman, S. (February 25, 2016). “Shut Down the Criminal Court.” *Gotham Gazette*. Available at: [Shut Down the Criminal Court \(gothamgazette.com\)](https://www.gothamgazette.com/shut-down-the-criminal-court).

⁵ See Mayson, S. G. & Stevenson, M. T. (2020). “Misdemeanors by the Numbers.” *Boston College Law Review*, 61, 972-1044. Available at: lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=3851&context=bclr; and Natapoff, A. (2018). *Punishment Without Crime: How Our Massive Misdemeanor System Traps the Innocent and Makes America More Unequal*. New York, NY: Basic Books.

⁶ Swaner, R., White, E., Kralstein, & Lyons, L. (2019). *Procedural Justice at the Manhattan Criminal Court*. New York, NY: Center for Court Innovation. Available at [courtinnovation.org/publications-Manhattan-procedural](https://www.courtinnovation.org/publications-Manhattan-procedural).

⁷ Craigie, T., Grawert, A., & Kimble, C. (2020). *Conviction, Imprisonment, and Lost Earnings*. New York, NY: Brennan Center for Justice. Available at: [EconomicImpactReport_pdf.pdf \(brennancenter.org\)](https://www.brennancenter.org/~/media/Files/2020/08/EconomicImpactReport.pdf).

⁸ Victimless charges include all charges that typically do not involve a criminal complainant. These charges include Aggravated Driving While Intoxicated, Aggravated Unlicensed Operation of a Motor Vehicle in the 3rd degree, Theft of Services (sub-division 3), Criminal Possession of a Controlled Substance in the 7th degree, Criminal Possession of a Forged Instrument in the 3rd degree, 4th degree, Criminal Sale of Marijuana in the 4th degree, Criminal Trespassing in the 3rd degree, Driving While Intoxicated, False Personation, Obstructing Governmental Administration in the 2nd degree, Patronizing a Person for Prostitution in the 3rd degree, Possession of Burglars’ Tools, Resisting Arrest, Synthetic Phenethylamines or Cannabinoids, Unlawful Possession of Marijuana, and Unlicensed Vending. Notably, on March 31, 2021, all prior marijuana charges were repealed and replaced by a limited number of new charges. Those that would have been defined as victimless misdemeanors are Criminal Possession of Cannabis in the 3rd degree and Criminal Sale of Cannabis in the 3rd degree. In addition, effective August 28, 2019, Criminal Possession of Marijuana in the fifth degree (before its later repeal in 2021) was reduced from a misdemeanor to a non-criminal violation.

⁹ See, e.g., Davis, R. C., O’Sullivan, C. S., Farole, D. J., & Rempel, M. (2008). “A Comparison of Two Prosecution Policies in Cases of Intimate Partner Violence: Mandatory Case Filing Versus Following the Victim’s Lead.” *Criminology and Public Policy* 7:4 (November): 633-662. Available at:

<https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1745-9133.2008.00532.x>; Kerodal, A., & Rempel, M. (2018).

Domestic Violence Case Processing in New York City: Results at the Pretrial and Dispositional Stages. New York, NY: Center for Court Innovation. Available at: <https://www.courtinnovation.org/publications/domestic-violence-case-processing>;

and Peterson, R. R. & Dixon, J. (2005). “Court Oversight and Conviction Under Mandatory and Non-Mandatory Domestic Violence Case Filing Policies.” *Criminology and Public Policy* 4, 535-558. Available at: <https://www.ojp.gov/ncjrs/virtual-library/abstracts/court-oversight-and-conviction-under-mandatory-and-nonmandatory>.

¹⁰ Rodriguez, K., et al. (2022), Op Cit. Available at or later than the end of February 2022 at <https://www.courtinnovation.org/publications/misdemeanor-race-NYC>.