

Justice Brief

The Jail Population

Recent declines
and opportunities for
further reductions



The City of New York
Mayor Bill de Blasio

NYC[®]

Criminal Justice
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Director

NOTE FROM ELIZABETH GLAZER, DIRECTOR OF THE MAYOR'S OFFICE OF CRIMINAL JUSTICE

Jails hold up a mirror to the fair functioning of society. Who goes in and how long they stay are the two barometers of the size of a jail population and reflect how the many different parts of the criminal justice system, and New Yorkers themselves, act. How many people commit offenses? What decisions do police officers make about arrest? How do prosecutors weigh the evidence? What determinations do judges make about bail and what options do they have to release or detain? Do New Yorkers serve as jurors or testify as witnesses? How quickly do courts, district attorneys and defenders move a case to conclusion? These are just some of the factors that affect the size and composition of our jail population.

The complexity of reducing the jail population while ensuring the public is safe is deepened by the absence of any one “boss” of the criminal justice system and the intentional independence of various parts of government. The court system operates as a separate branch of state government. The District Attorneys—one for each county in New York City—are elected. The Police Department and the Department of Correction are Mayoral agencies. Defenders are dedicated by ethical canon to the zealous defense of their clients.

Despite these complexities, New York, singularly among the nation's large cities, has been successful in both keeping crime rates low and reducing the size of the jail population. Over the span of more than 20 years, crime has declined by 76% while the jail population has dropped by half. Over the last three years that trend has accelerated due to the partnership and focus of all the parts of the criminal justice system: as crime has gone down by 9%, the jail population has reduced by 16%, the single biggest drop since 2001.

In the last three years—because of deliberate efforts to rethink policing strategy, expand alternatives to jail, and reduce case delay—fewer people are entering city jails and those who do enter are staying for less time. This has led to steep declines for some people in jail: those detained on bail under \$2,000, down 36%; detainees facing misdemeanor charges, down 25%; those serving city sentences, down 34%; people under 21, down 18%; and mental health service users, down 7%. And for the first time in decades, the average length of a Supreme Court case in New York City has shrunk by 18 days.

How much further can we reduce the jail population? That is the question of the moment. Over the past twenty years, the number of people held on violent offenses has increased by 56%, while lower level offenses (in particular drug offenses) have dropped 51%. Today 68% of the pre-trial population at Rikers is held on a felony charge (42% on violent felony charges), over half of the jail population is facing multiple cases and 69% are at medium or high risk of failing to appear in court, the primary basis on which a New York State judge can hold a defendant. As we look to the future, further reductions will depend upon the actions of New Yorkers themselves in reducing crime and on every part of the criminal justice system working together to ensure that we use jail as parsimoniously as possible while ensuring public safety.

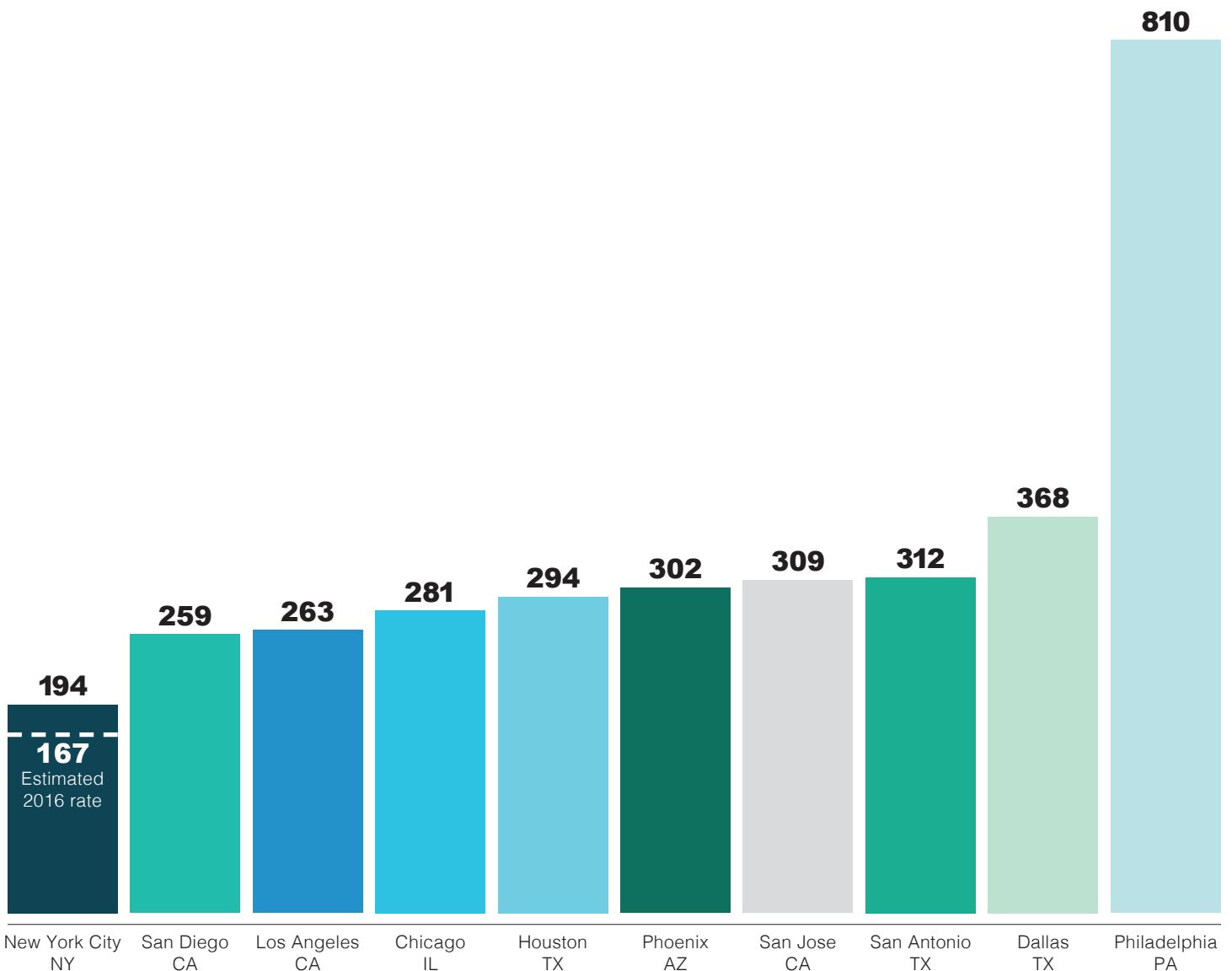
NYC CONTEXT: DECLINING CRIME, DECLINING USE OF JAIL

New York City has the lowest incarceration rate of all large U.S. cities and is focusing its efforts on bringing that number still lower. This Justice Brief shows:

- what drives the size of the jail population;
- how the composition of the jail population has changed over time; and
- where the path lies to the sharpest reductions possible while still lowering crime.

NYC JAIL USE IS THE LOWEST AMONG LARGEST U.S. CITIES

2014 INCARCERATION RATE PER 100,000 PEOPLE



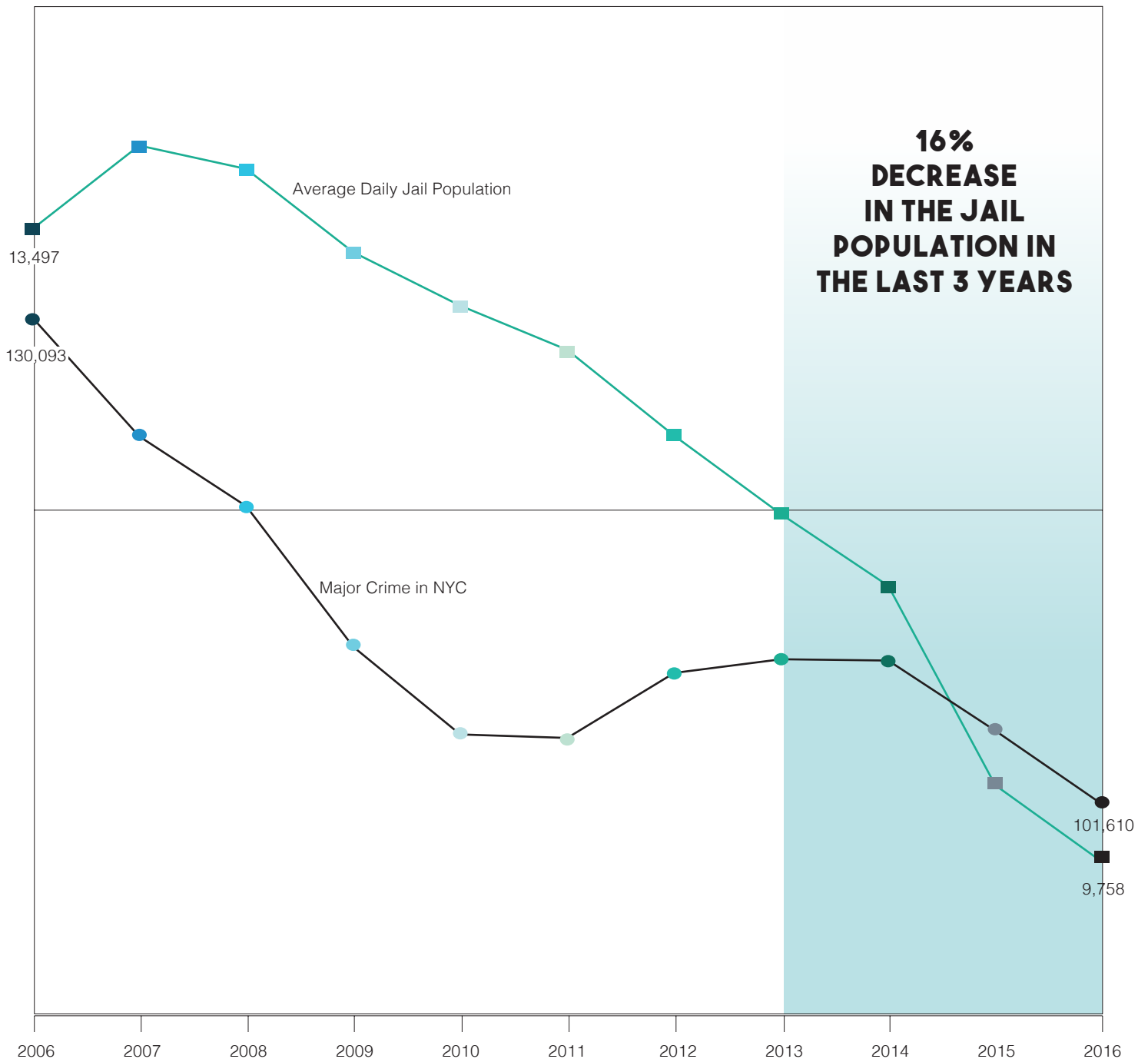
NYC CONTEXT: DECLINING CRIME, DECLINING USE OF JAIL

Since 1993, major crime* in New York City has declined by 76%, and the average daily jail population has declined by 50%. That trend has accelerated in the last three years, with major crime declining by 9%, and the jail population by 16%, the single biggest drop since 2001.

BOTH MAJOR CRIME & THE SIZE OF THE JAIL POPULATION HAVE DROPPED DRAMATICALLY OVER TIME

AVERAGE DAILY JAIL POPULATION; MAJOR CRIME IN NEW YORK CITY

■ Average Daily Jail Population ● Major Crime in NYC



NYC CONTEXT: DECLINING CRIME, DECLINING USE OF JAIL

In the past three years, the following jail populations have shown the steepest size declines:

JAIL POPULATIONS WITH STEEPEST DECLINES

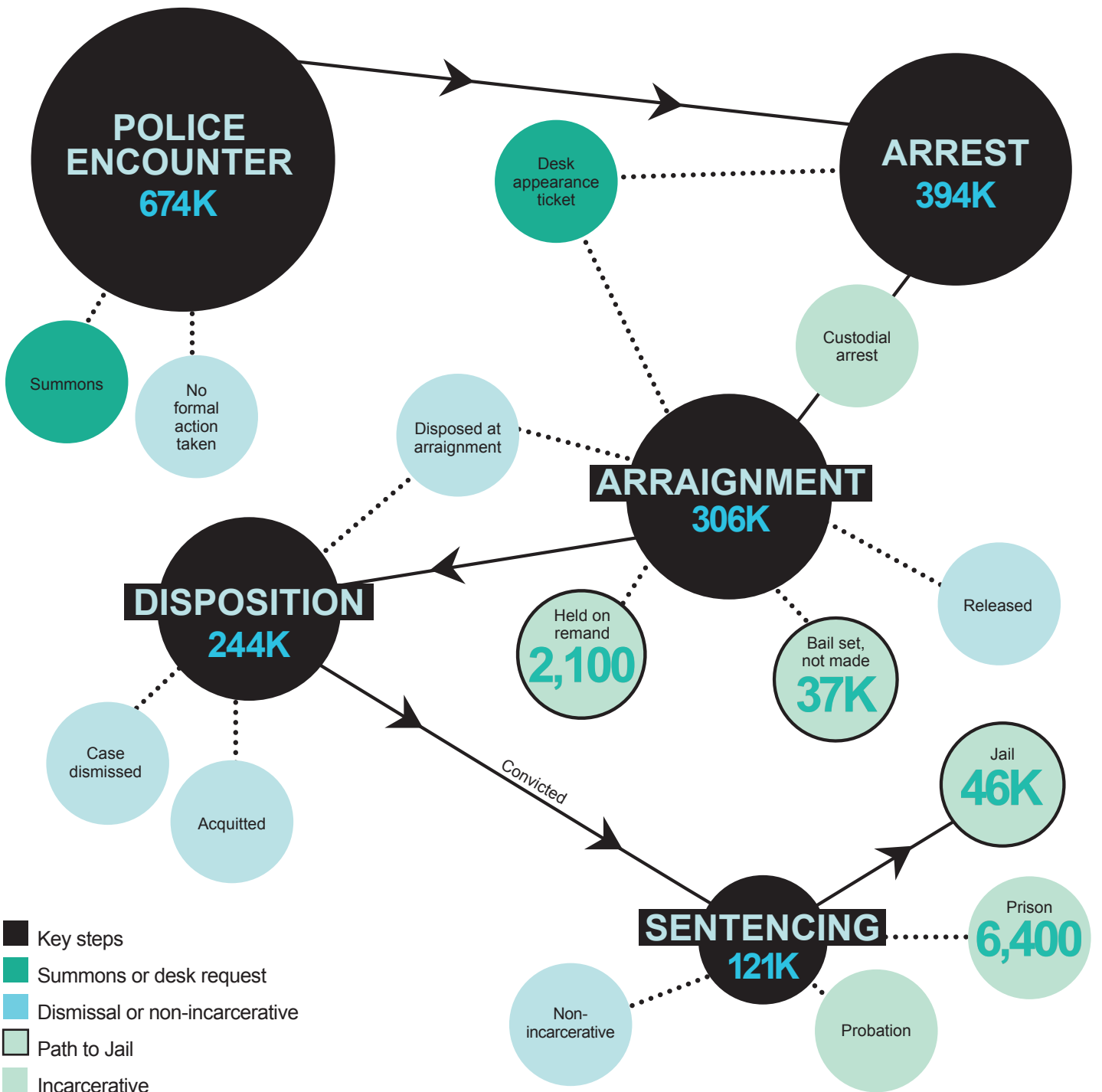
JAIL POPULATION REDUCTIONS OVER THE LAST THREE YEARS

POPULATION	DECLINE	REDUCTION STRATEGY
Misdemeanor detainees	5600 fewer jail admissions (-25%)	Reduce admissions (Supervised Release, bail reform, enforcement strategy)
City-sentenced population	3900 fewer jail admissions (-34%)	Reduce admissions (alternatives to incarceration)
Non-violent felony detainees	2530 fewer jail admissions (-13%)	Reduce admissions (Supervised Release, bail reform, enforcement strategy)
Mental health service users	297 fewer in custody on an average day (-7%)	Reduce admissions (diversion) and reduce length of stay (enhanced programming and services in custody to avoid decompensation and case delay)
Detainees with bail up to \$2,000	244 fewer in custody on an average day (-36%)	Reduce admissions (Supervised Release, bail reform, enforcement strategy)
People in custody for longer than one year	110 fewer in custody on an average day (-8%)	Reduce length of stay (shortening case processing times)
Adolescents (16 to 17) and young adults (18-21)	64 fewer adolescents in custody on an average day (-30%); 233 fewer young adults in custody on an average day (-18%)	Reduce admissions (diversion) and reduce length of stay (shortening case processing times)

WHAT DRIVES THE SIZE OF THE JAIL POPULATION?

People enter jail because of a series of decisions made by police, judges, prosecutors, defenders, and defendants at different points in the criminal justice system. At each decision point, an individual is either directed away from or to jail: a police officer may make an arrest or not; a prosecutor may bring charges or not; and the judge may at any time dismiss a case, set bail, remand to jail, or release with either no conditions or some conditions.

2016 NYC CRIMINAL JUSTICE MAP¹

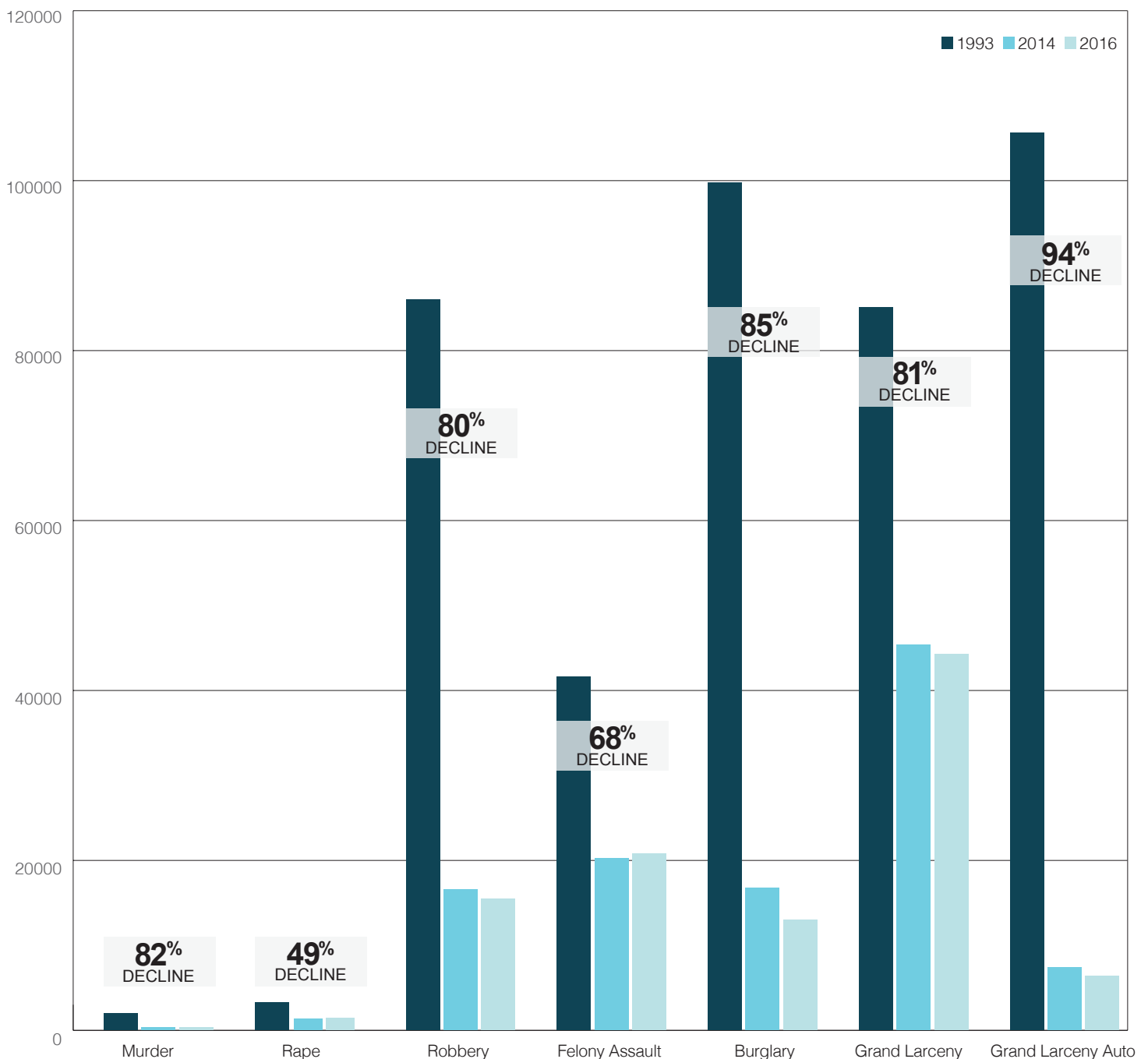


WHAT DRIVES THE SIZE OF THE JAIL POPULATION?

1. CRIME TRENDS Crime drives jail: without crime there would be no jail, even though not every arrest results in a person entering jail. As crime rates have fallen, so has the number of people held in custody on any given day. The total number of the seven major crimes² in New York City has fallen 76% since 1993, from 429,486 in 1993 to 101,610 in 2016. Arrests for offenses most likely to result in the individual being jailed have dropped dramatically since 1993: murder is down 82%, robbery 80%, and felony assaults 68%.

EVERY TYPE OF MAJOR CRIME HAS DECLINED IN THE LAST 20 YEARS

TOTAL NUMBER OF 7 MAJOR CRIMES IN NEW YORK CITY

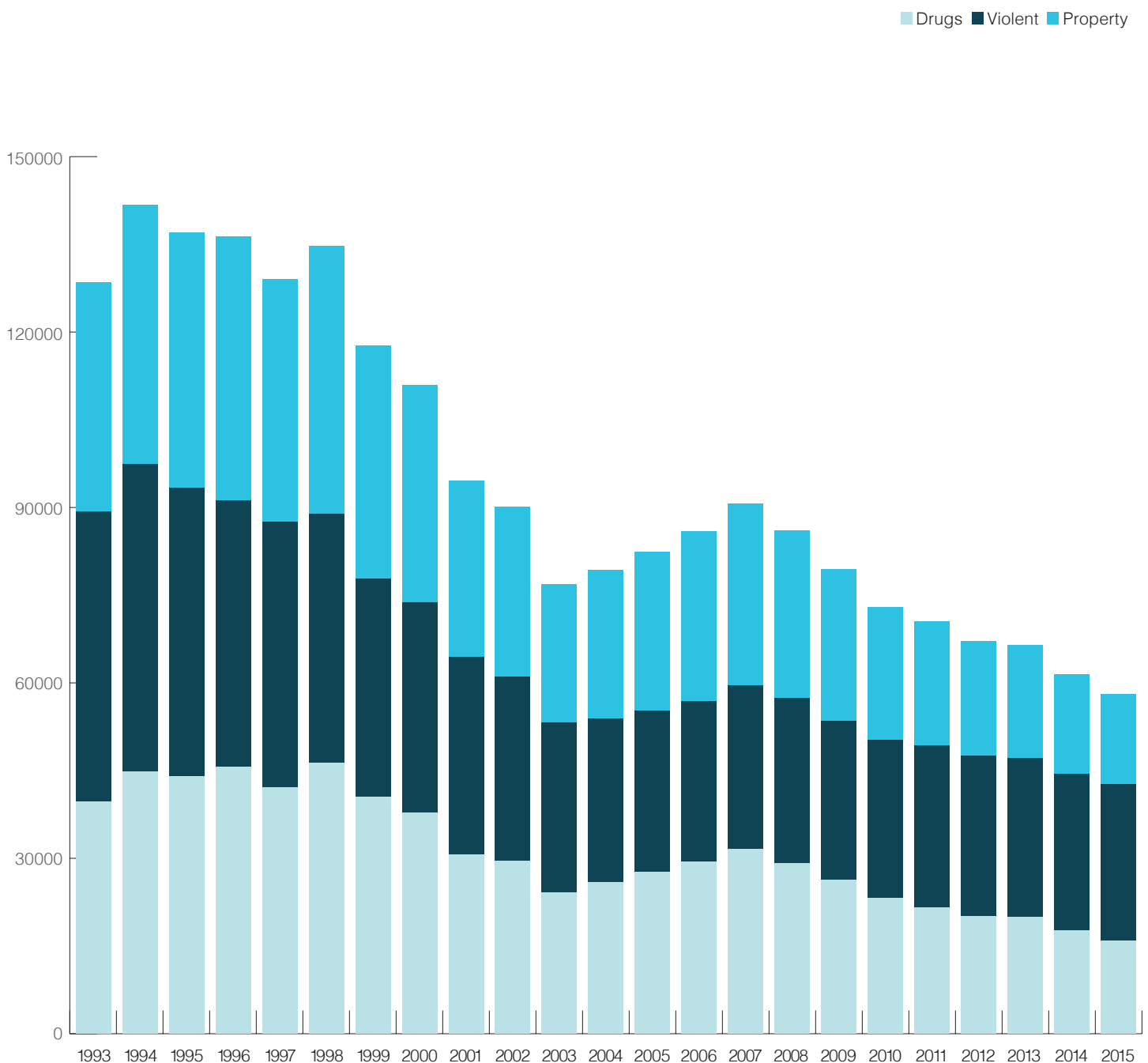


WHAT DRIVES THE SIZE OF THE JAIL POPULATION?

2. POLICE ENFORCEMENT Overall felony arrests, which 32% of the time result in a jail admission, have fallen in recent years as police have increasingly focused on enforcement of violent crime. This focus can be seen in the subset of felony gun arrests, which have increased by 22% since 2014. At the same time, policing policies have led to a de-escalation in enforcement of lower-level offenses. Misdemeanor arrests—which result in jail admission 9% of the time, much less frequently than felony arrests—have dropped by 22% since 2013.

FELONY ARRESTS HAVE BEEN FALLING SINCE 1994: DRUG ARRESTS DECLINED THE MOST

ADULT FELONY ARRESTS BY TYPE



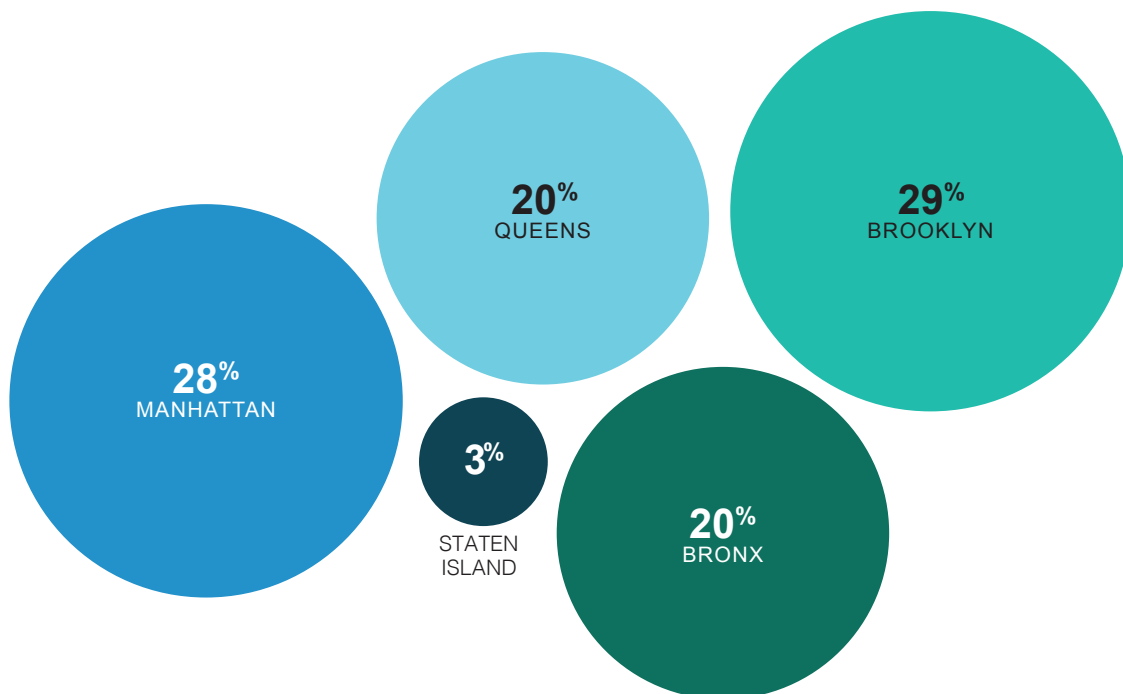
WHAT DRIVES THE SIZE OF THE JAIL POPULATION?

3. PROSECUTORIAL ACTIONS After an arrest, prosecutors decide whether to charge an individual with a crime. At the first court appearance, called arraignment, prosecutors can recommend to the judge that an individual be released with or without conditions, have bail set, or be remanded to jail.

4. JUDGES' DECISIONS Judges decide whether to release an individual at arraignment. To assist in this decision, the City's pre-trial services agency interviews the defendant and uses a scientific risk assessment instrument to determine the likelihood of a person returning for future court dates. Except in limited circumstances, the law forbids judges from considering the danger a person poses to the community. In New York City, of all the cases that continue past arraignment (that is, they are not dismissed or defendants do not take a plea), judges release 70% of people without setting any conditions (known as release on recognizance or ROR); set bail in 29% of cases (8% pay bail at arraignment); and remand 1% to custody (ordered held with no bail) for the length of their case. Those who do not pay bail at arraignment enter jail. Judges are more likely to release a defendant without conditions or set low bail in cases where people are charged with lower level offenses or present a lower risk, while they are more likely to set higher bail in cases with more serious charges or risk. The majority of remands are for violent felony charges.³

BROOKLYN AND MANHATTAN ARRAIGN THE MOST CASES

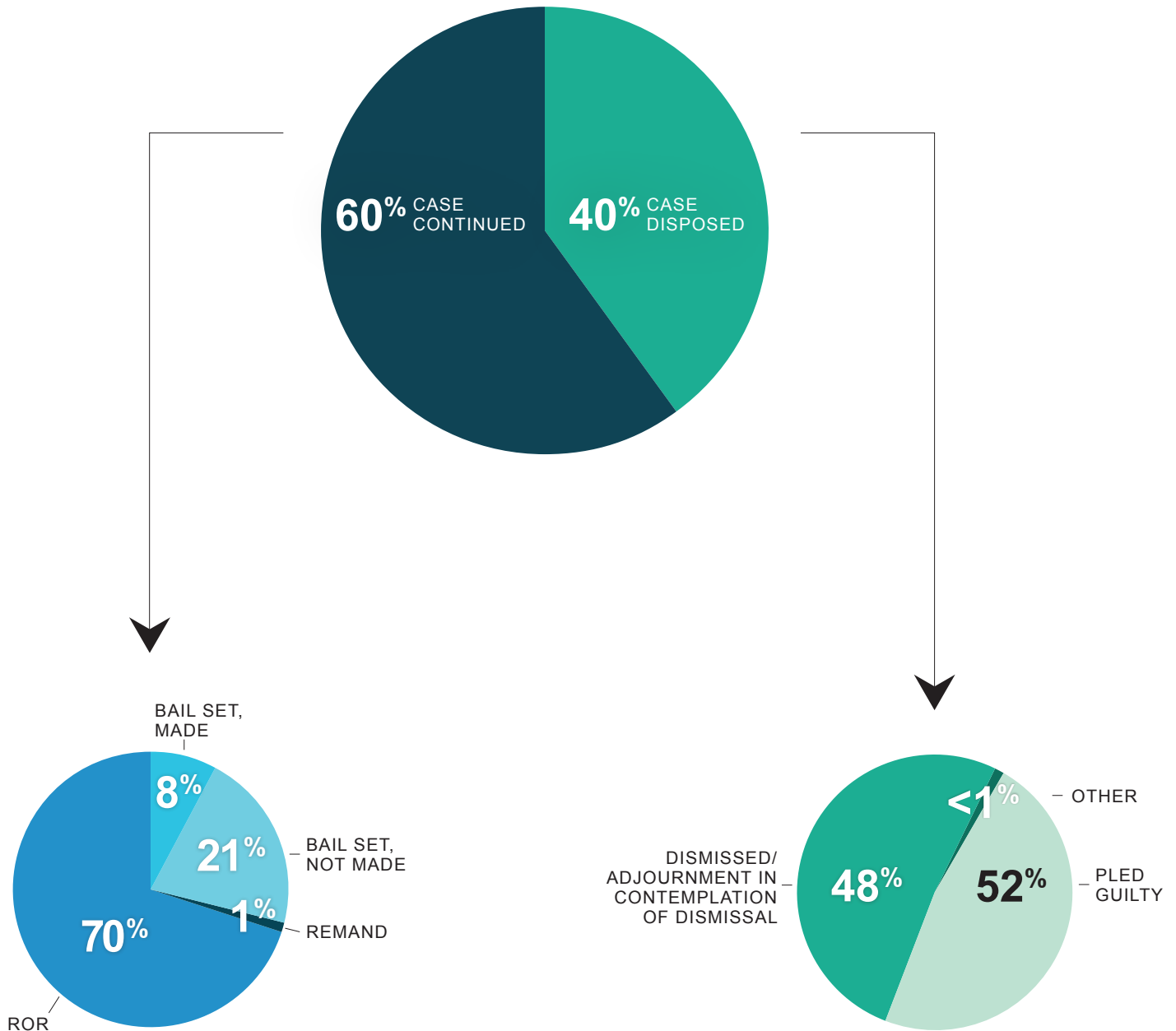
BOROUGH OF ARRAIGNMENT



WHAT DRIVES THE SIZE OF THE JAIL POPULATION?

**FOUR OUT OF EVERY 10 CASES ARE DISPOSED AT ARRAIGNMENT;
FOR THOSE CONTINUED, 78% ARE RELEASED AT ARRAIGNMENT;
22% ARE TAKEN INTO DEPARTMENT OF CORRECTION CUSTODY**

CRIMINAL COURT ARRAIGNMENT OUTCOMES



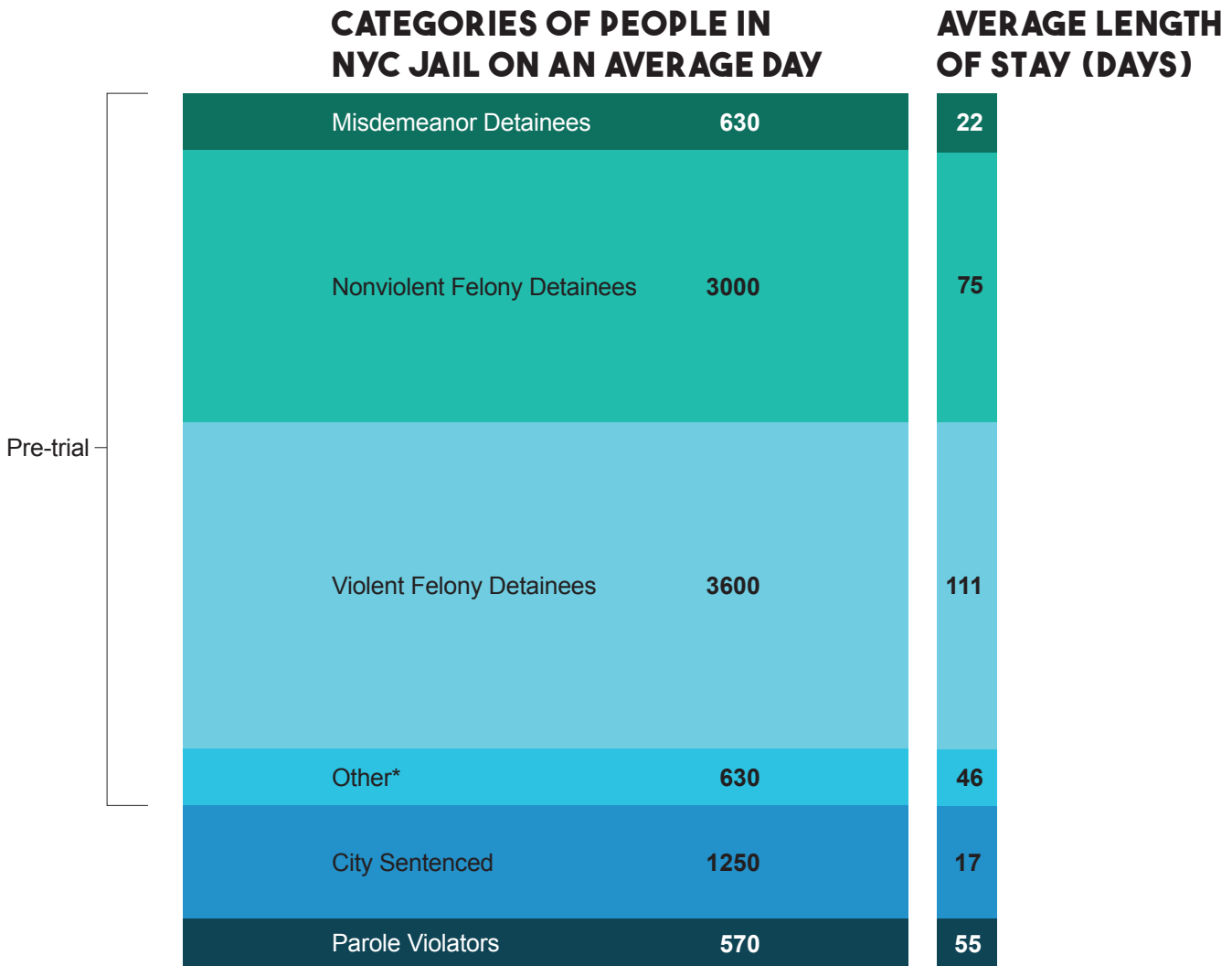
WHO IS IN JAIL?

JAIL SERVES THREE MAIN PURPOSES:

- 1. Detention of those facing criminal charges.** 75% of the New York City jail population are people charged with a misdemeanor or felony who are held without bail (remand) or have bail set but have not paid it. These individuals can be released within a few days or stay for longer periods of time while their case (or cases) resolve.⁴
- 2. Punishment for those convicted of an offense of one year or less of incarceration.** 13% of the New York City jail population is serving a sentence of one year or less. Sentences of over one year are served in state prisons.
- 3. Incarceration holds required by law.** 12% of the New York City jail population is either detained on court warrants or parole violations, or waiting transfer to state custody or another jurisdiction.

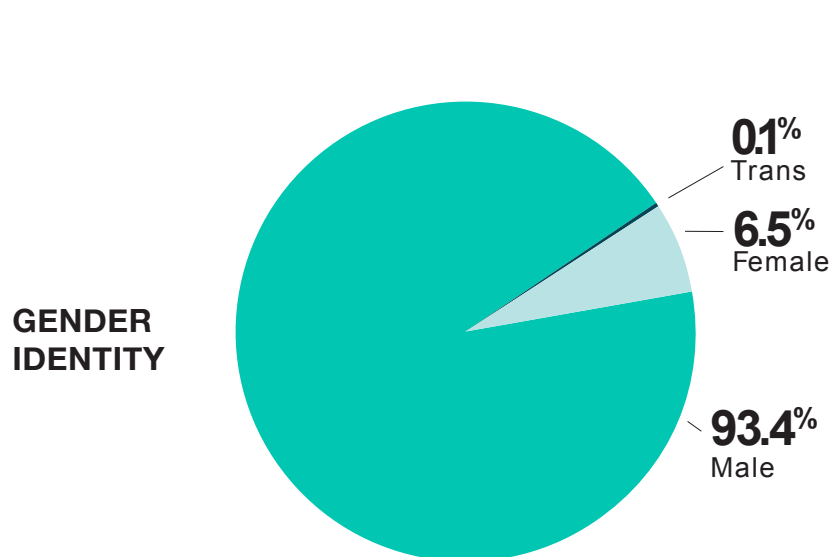
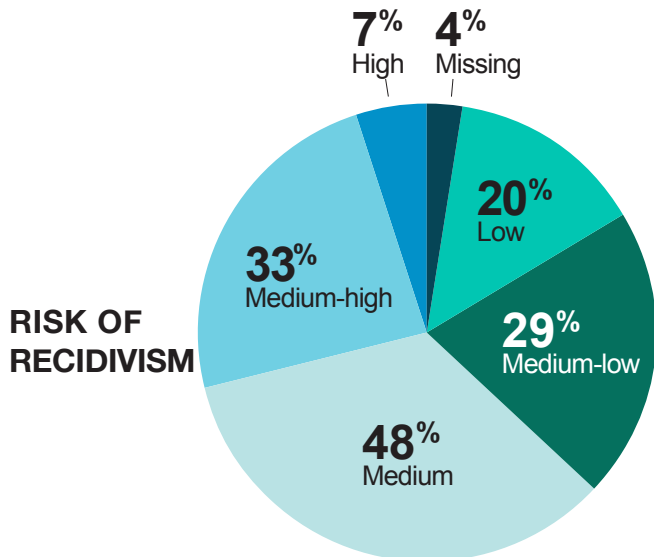
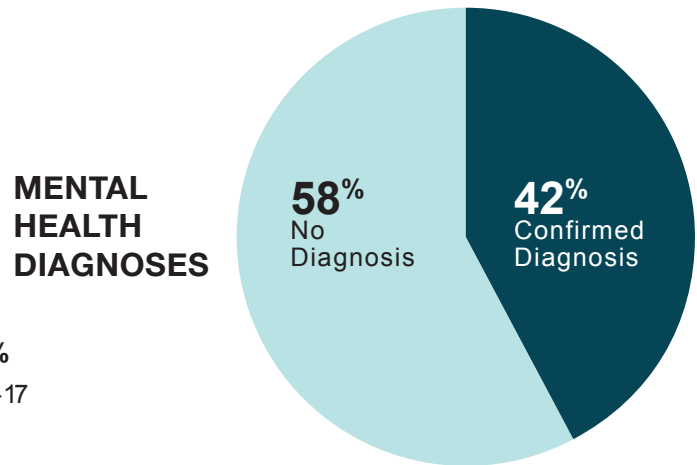
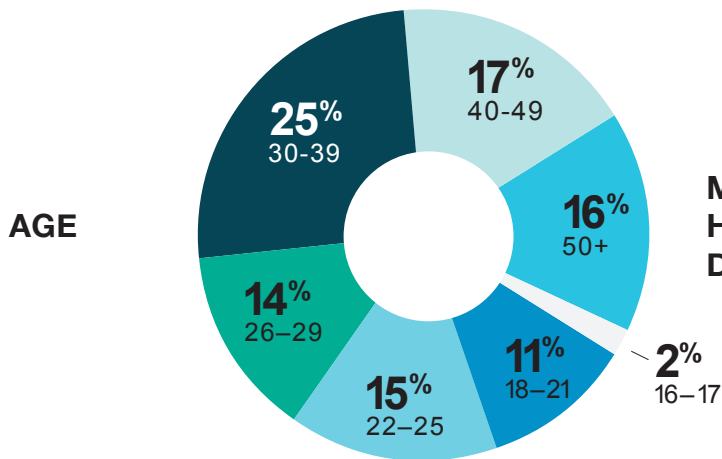
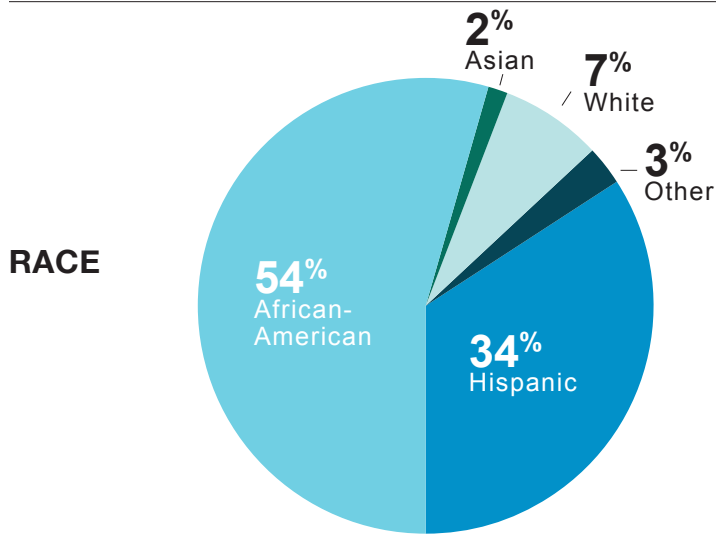
WHO IS IN JAIL AND HOW LONG THEY STAY (2016)

75% OF THE AVERAGE DAILY POPULATION ARE PRE-TRIAL DETAINEES;
25% ARE JAILED FOR OTHER REASONS



WHO IS IN JAIL?

DEMOGRAPHICS OF THE CURRENT JAIL POPULATION

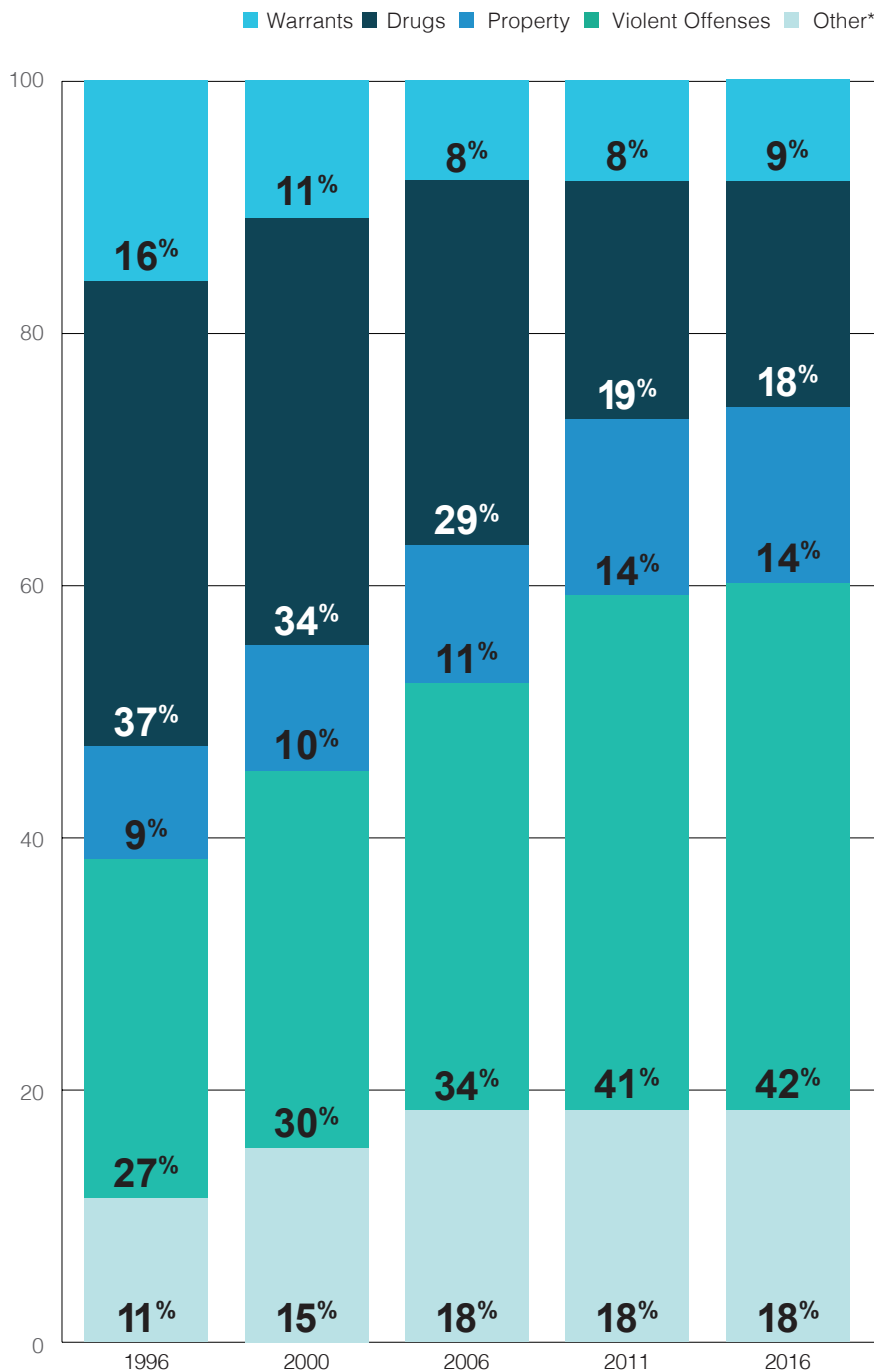


WHO IS IN JAIL?

Over the past 20 years, the composition of the jail population has shifted as it has decreased in size. Changes in police enforcement and an expansion of diversion programs have reduced the number of people held on misdemeanor and non-violent felony charges (such as drug possession). As the population becomes smaller, a greater percentage are held on serious or violent charges or a judge has determined that they pose a high risk of missing a court appearance.

FEWER INDIVIDUALS IN JAIL FOR DRUGS, MORE FOR VIOLENT OFFENSES

JAIL POPULATION BY CHARGE TYPE



- Mirroring the pattern of arrests, the number of people held on drug charges has fallen by 51% since 1996.

- Over the same period, the proportion of people held on violent charges has increased by 56%.

- 69% of today's jail population are medium or high risk of missing future court appearances.

- Approximately 51% of the average daily jail population have multiple cases. For some, a warrant may keep them in custody even though they are eligible for release or have bail on another case. For others, there may be multiple serious charges against them, resulting in a longer stay in custody while each case is resolved.

HOW TO FURTHER REDUCE THE SIZE OF THE JAIL POPULATION

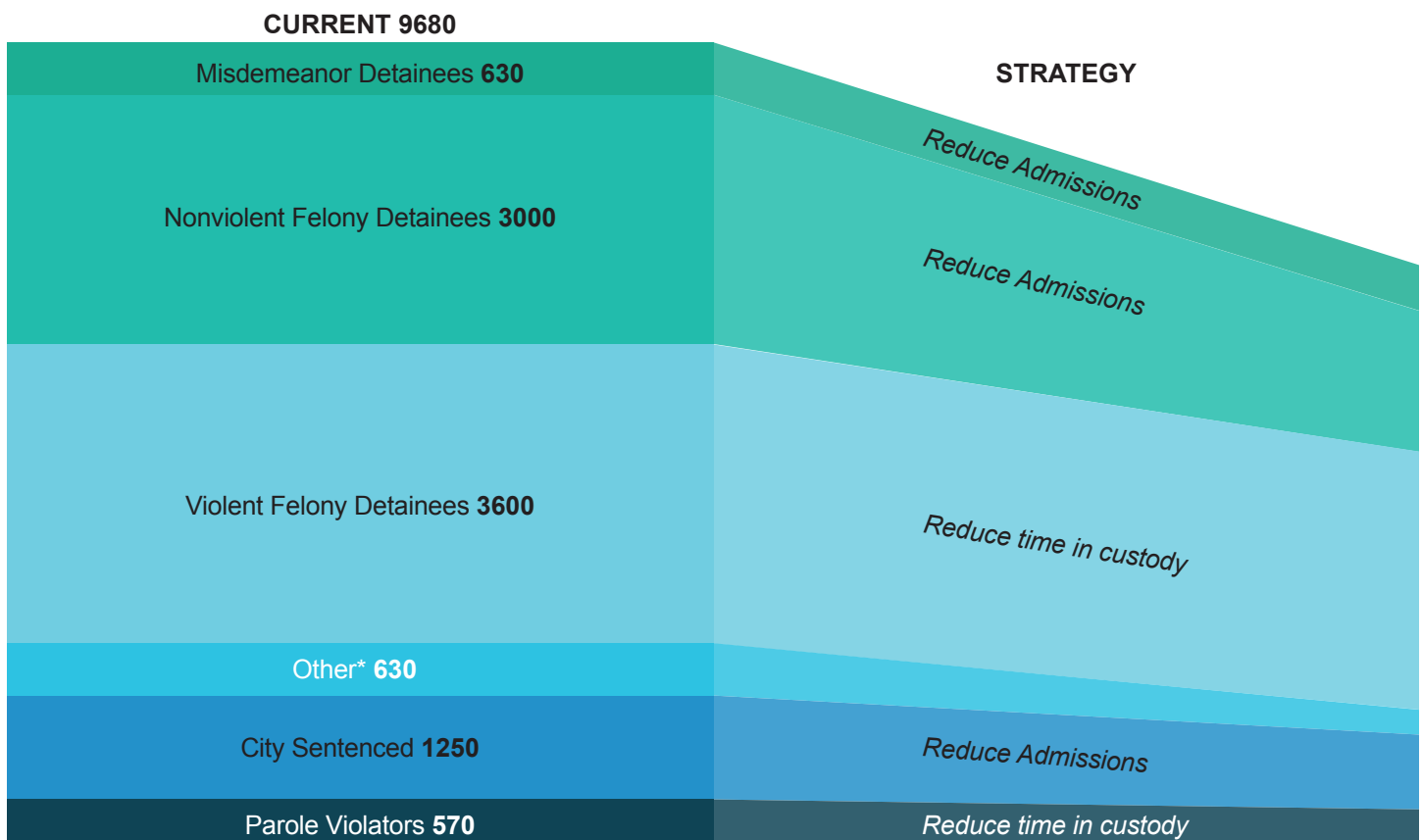
As the composition shifts towards a population primarily composed of those charged with violent crimes or at risk of not returning to court, further reduction is challenging though not impossible. Two strategies can reduce the number of people in jail:

1. Reduce the number of people who are admitted to Rikers: There were approximately 61,000 admissions into DOC custody in 2016. About half of these people were out in fewer than nine days. This population tends to have lower-level charges and most make bail after a few days in jail, while others plead guilty to low-level offenses and receive short jail sentences. Often this population has a history of chronic returns to jail. Identifying programs that could interrupt this cycle might reduce the number of people admitted.

2. Reduce time spent in custody: In fiscal year 2016, the average length of time spent in custody was 57 days, with violent felony detainees averaging 111 days and misdemeanor detainees averaging 22 days. Even within these groups there is a variance in length of stay. Those who stay the longest are homicide defendants who stay an average of 606 days. By shortening the amount of time these groups of people spend in jail, the daily population could decrease further.

Although there were approximately 61,000 jail admissions last year, the average daily population was around 9,700. Half of the people admitted leave in under nine days but account for a very small number of beds on an average daily basis. Those staying for longer periods of time occupy more beds on an average daily basis.

Below is a visual summarizing the reduction strategy for each segment of the population. Additional details on each strategy follows.



SUMMARY OF INTERVENTIONS CURRENTLY IN PROGRESS

STRATEGY ONE: REDUCE ADMISSIONS

Diverting misdemeanor and non-violent felony detainees, and those serving a city sentence, could reduce the average daily population over the coming years.

1. Improve risk assessment⁵

Populations reduced: Misdemeanor and non-violent felony detainees

System point: Arraignment

Providing an updated aid to judges to assist in their assessment of a defendant's risk of flight could further reduce the jail population. The City's pre-trial services agency interviews all arraigned individuals and provides an assessment to the courts on that person's likelihood of returning for future court dates. This type of assessment has been in use since the 1960s. The City is currently working to update the instrument using more recent data and new technology that will allow for more accurate assessments, which could reduce the average daily population in city jails.

SUMMARY OF INTERVENTIONS CURRENTLY IN PROGRESS

2. Reform the bail system

Populations reduced: **Misdemeanor and non-violent felony detainees**

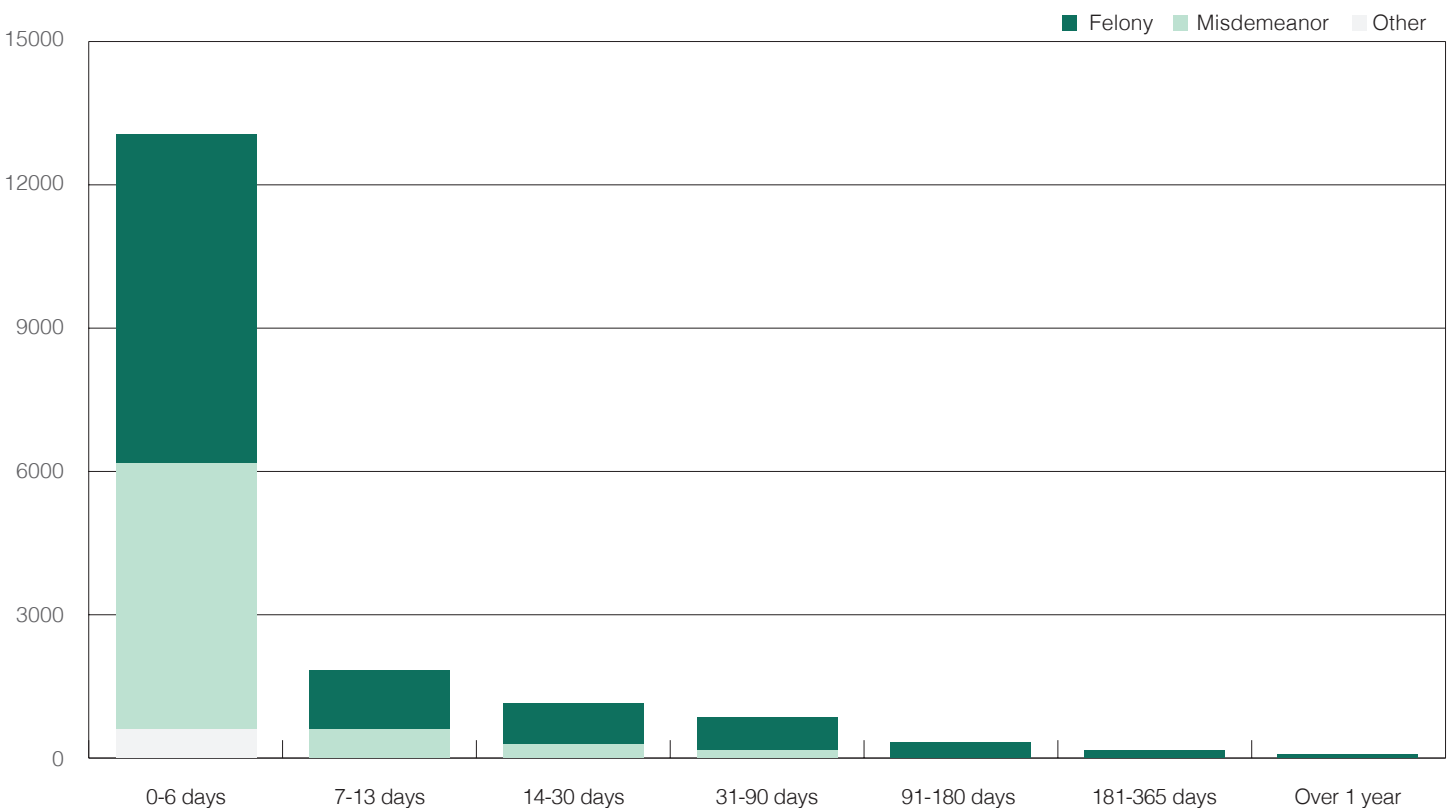
System point: **Arraignment**

A. Help post bail when it is unaffordable. Each year approximately 14,000 people with bail set at \$2,000 or below are unable to post it at arraignment and are taken into DOC custody. For some defendants and their families, low amounts of bail can be out of reach financially. This spring, New York City will launch a citywide charitable bail fund. Three programs that perform the same service have been in place in the Bronx and Brooklyn since 2012 and have achieved returns to court of 97%. Created by the City Council with public funds, the new fund will pay bail in amounts of \$2,000 or below for low-and medium-risk misdemeanor defendants.⁶

B. Reduce inefficiencies in the bail payment process. Approximately 75% of people who pay bail do so within seven days of arraignment. To avoid these unnecessary days in jail, the City is working to make it easier for defendants to pay the bail a judge has set. An online bail payment system and ATMs in every courthouse will be in place by spring 2017. Additionally, the City anticipates expanding the number of “bail expeditors” citywide, staff who can assist defendants in identifying who could help them post bail, contact those people to let them know that bail has been set, and ensure that defendants are held at courthouses, not in jail, until bail has been posted. Currently, bail expeditors help approximately 1,000 people per year to avoid a jail admission and could assist additional individuals after the expansion.

OVER 75% OF PEOPLE WHO POST BAIL DO SO IN UNDER 1 WEEK

LENGTH OF TIME INDIVIDUALS ARE DETAINED BEFORE POSTING BAIL



SUMMARY OF INTERVENTIONS CURRENTLY IN PROGRESS

3. Increase pre-trial diversion

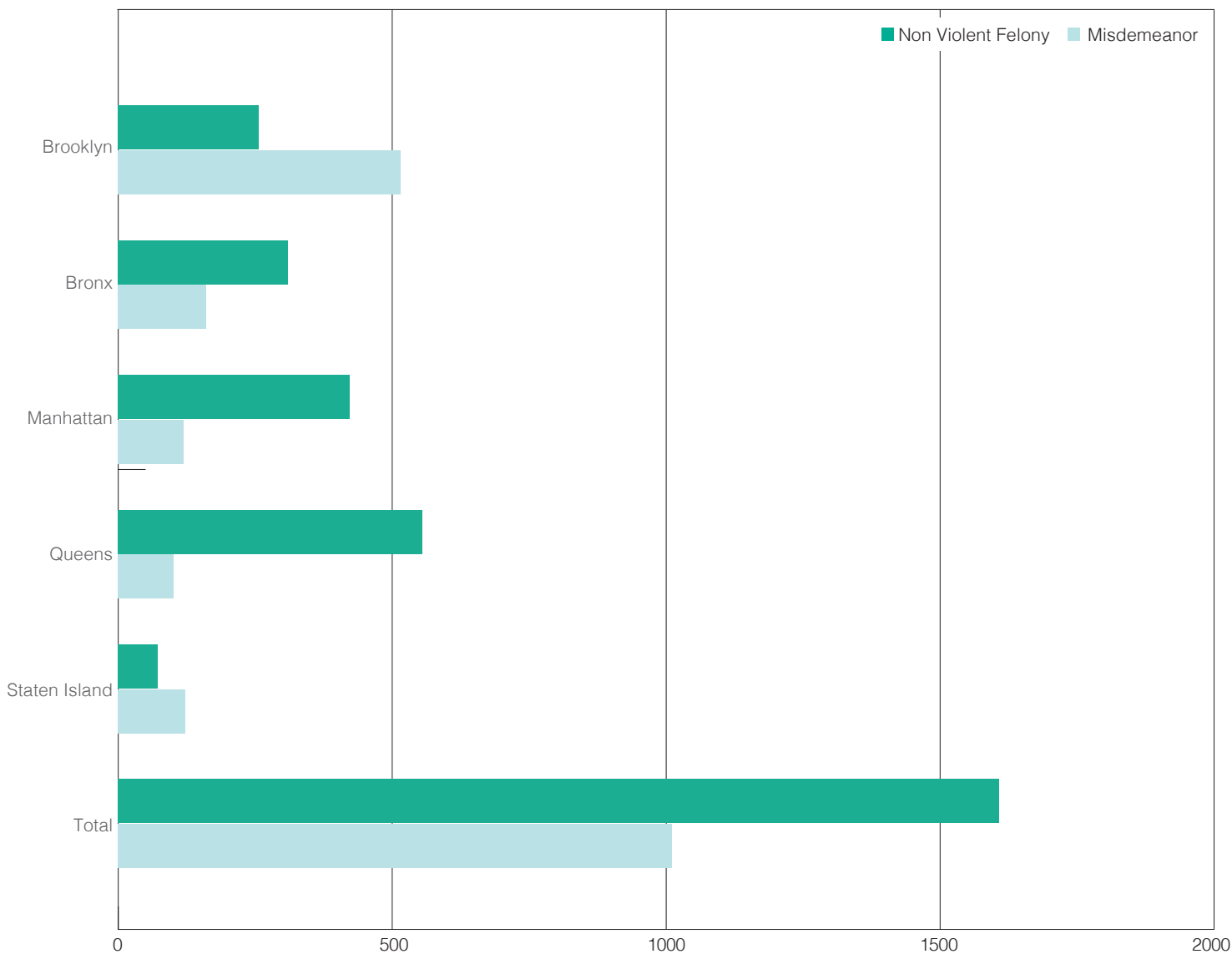
Populations reduced: Misdemeanor and non-violent felony detainees

System point: Arraignment

New York City has multiple diversion options that judges can use instead of setting bail at arraignment. Currently, approximately 12,000 New Yorkers are diverted from jail every year through these alternatives to detention. One of the newest and largest options, which started in March 2016, is called Supervised Release. Crafted by judges, prosecutors, and defenders, Supervised Release is a program that gives judges the option at arraignment to release low-and medium-risk defendants, with modest mechanisms in place to ensure their return to court. To date, the program has served 3,000 people with a 91% success rate in defendants returning to court. Expanding this intervention could reduce the average daily jail population.

1 YEAR OF SUPERVISED RELEASE INTAKES BY BOROUGH (3.2016-3.2017)

NUMBER OF INDIVIDUALS PARTICIPATING IN SUPERVISED RELEASE



SUMMARY OF INTERVENTIONS CURRENTLY IN PROGRESS

4. Replace short jail sentences with programs that can reduce returns to jail

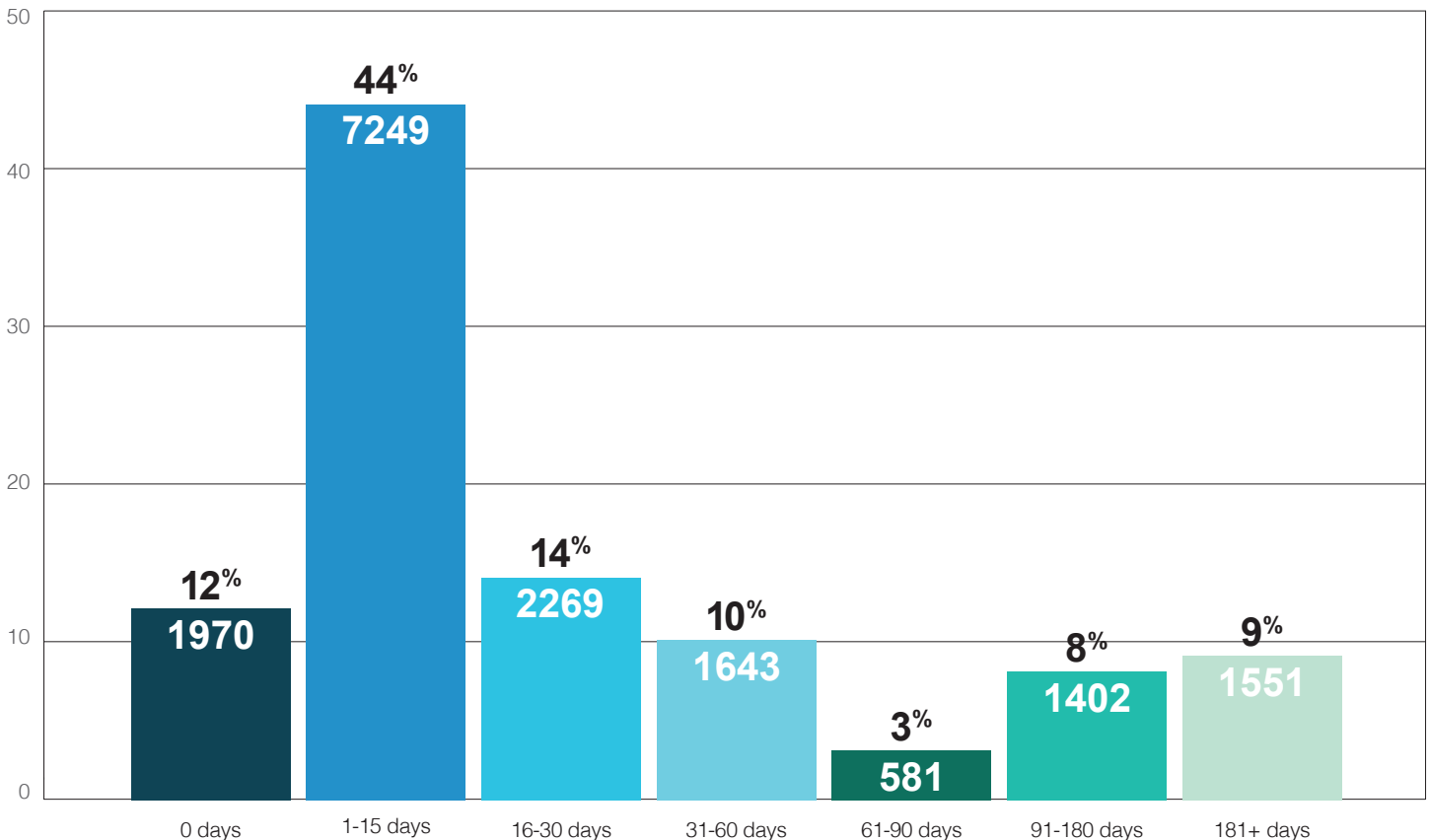
Population reduced: **City sentenced**

System point: **Disposition and sentencing**

Over the course of a year, there are approximately 9,000 admissions to jail on sentences of less than 30 days. Because the stays are short, there are few in custody on any given day. Many of these individuals have had multiple short stays in jail over the course of their adult lives—a pattern often exacerbated by homelessness and behavioral health needs. To help change this pattern and prevent future returns to jail, the City is rolling out new alternatives to short jail sentences beginning in the summer of 2017. Judges will have the option to assign individuals to short-term programs that can include community service, vocational training, case management, and health treatment. Research has shown that this approach reduces future returns to jail.⁷ Programs will be specifically tailored to individuals’ risks and needs and will help address some of the issues—such as chronic homelessness or substance abuse—that could be leading to repeated jail stays, providing instead a pathway to stability.

TOTAL TIME SPENT IN JAIL FOR THOSE RECEIVING A CITY JAIL SENTENCE

DISTRIBUTION OF CITY SENTENCES



SUMMARY OF INTERVENTIONS CURRENTLY IN PROGRESS

STRATEGY TWO: REDUCE THE LENGTH OF STAY

5. Continue close coordination with all parts of the criminal justice system to reduce the amount of time it takes a case to get to conclusion

Populations reduced: Violent felony detainees and parole violators

System point: In jail

Today, the average length of stay for individuals facing violent felony charges is 105 days and 660 days for those facing homicide charges. If the average time it took for a non-homicide violent felony case to get to conclusion were 20 days shorter than it currently is, there would be 500 fewer people in New York City jails today. For parole violators, the average length of stay is 55 days. If the average time it took to process a parole violation case were 11 days shorter, there would be 120 fewer people in New York City jails today.

Reducing case length is possible only with the participation of every part of the criminal justice system and every New Yorker:

- The Department of Correction must get people to court on time so that they do not miss scheduled appearances;
- Judges must be leaders in setting high expectations for using each court appearance productively, and in setting adjournment dates that are no longer than necessary;
- Prosecutors and defenders must be ready for each court session; and
- Every New Yorker must answer the call to serve as a juror, grand juror, and witness.

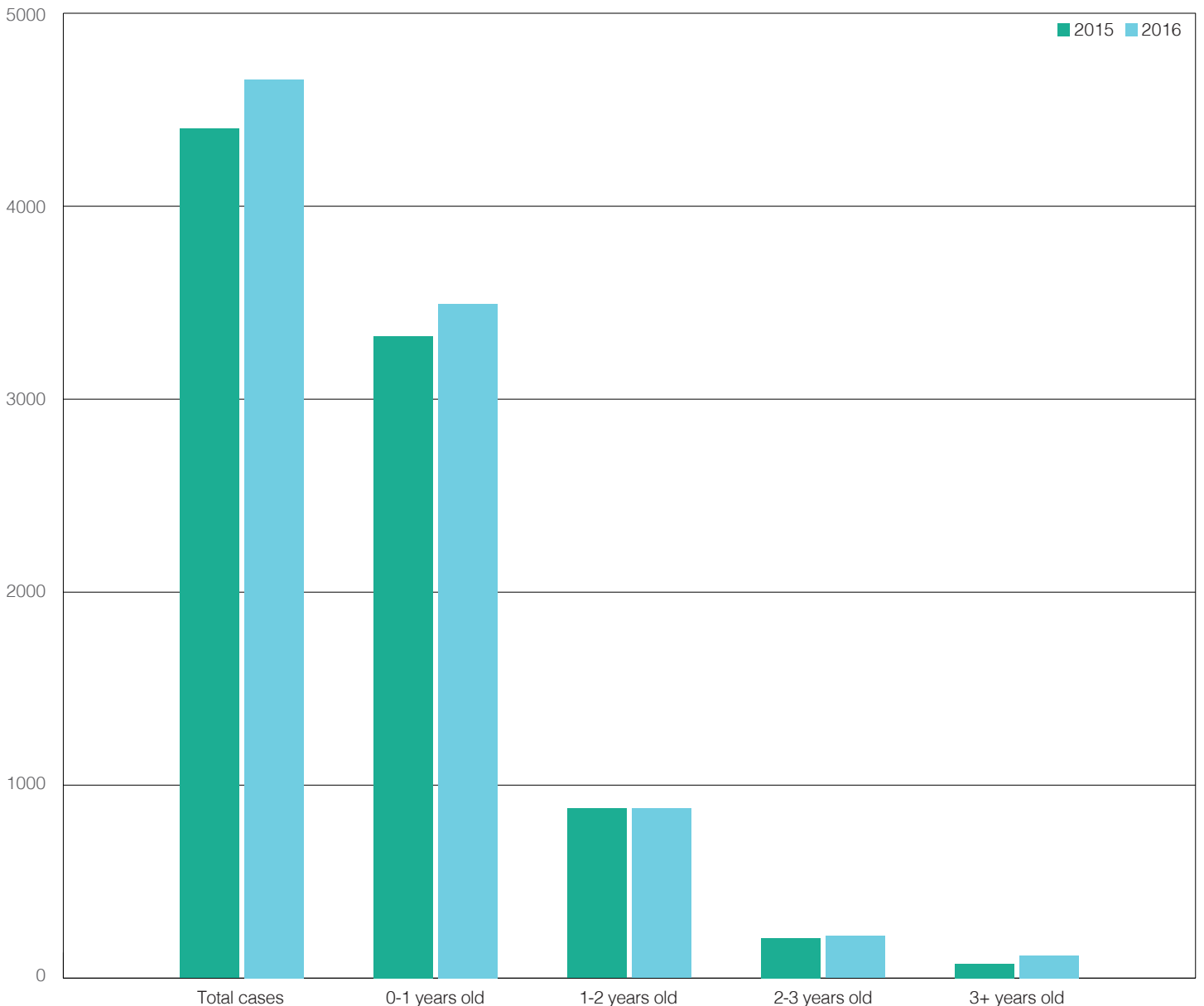
SUMMARY OF INTERVENTIONS CURRENTLY IN PROGRESS

For the last two years, Mayoral agencies, the courts, prosecutors, and defenders have been working together to address case delay through a project called Justice Reboot. To date, this project has cleared 93% of the 1,427 cases that were more than a year old when Justice Reboot was announced, reduced the average length of Supreme Court cases by 18 days—the first reduction in decades, and cut the number of severely delayed cases (older than three years) in half. Reducing case delay further will require shortening time between court appearances and ensuring that each court appearance meaningfully advances the case.

This work to address further the systemic causes of case delay is underway and could reduce the average daily population.

NUMBER OF PEOPLE JAILED ON CASES OVER 3 YEARS OLD IS DOWN 41% SINCE LAST YEAR

JAILED DEFENDANTS WITH PENDING SUPREME COURT CASES



ADDITIONAL OPPORTUNITIES

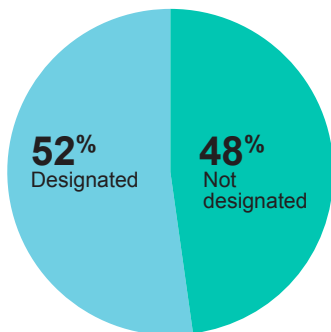
As we implement the strategies we have outlined above, we are also developing new approaches to shrink the number of people coming into jail, with a particular focus on groups that are discrete because of their small numbers and/or unique needs. Below are the demographics of three of these populations—adolescents, mental health service users, and women—along with an analysis of some options to reduce their numbers in jail.

ADOLESCENTS

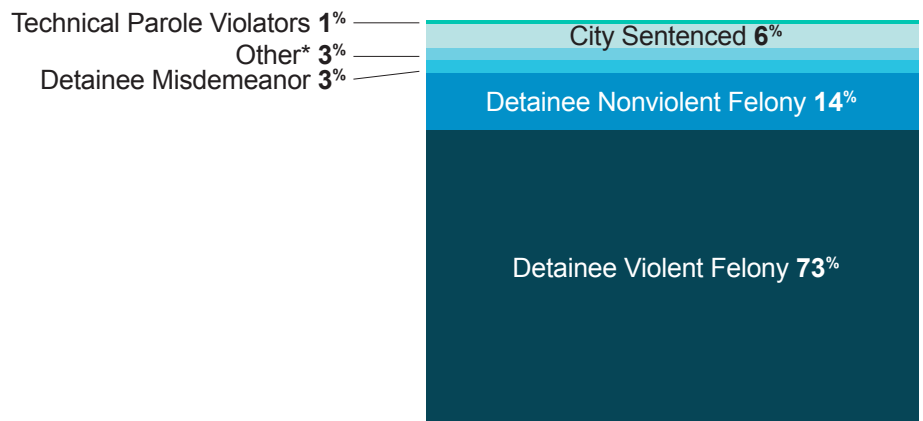
POPULATION FACTS: There are approximately 190 adolescents (ages 16-17) in custody on an average day. Approximately 75% are detained on violent felonies, and 3% are detained on misdemeanors. Almost half (48%) have bail set at over \$10,000. Similar to the overall jail population, 50% of adolescents who enter custody leave within one week.

POTENTIAL INTERVENTIONS: The majority of adolescents detained in custody on an average day are charged with violent felonies, making it difficult to divert them through existing diversion programs. However, for the 50% of adolescents who stay longer than one week, shortening the length of stay can help reduce the size of this population. Currently, the City has in place a program that pairs every young adult in city jails with a “case expediter” who ensures that cases move efficiently through the court system and advocates to place young people who are doing well in jail programming into alternative to jail programs. This program began in late 2016 and is expected to produce some modest reductions in the number of adolescents in city custody. Additionally, interrupting a cycle of offending in young people is a longer-term strategy to reduce the number of young people in city jails. The City is currently working to move 16-and 17-year-olds into a dedicated, developmentally appropriate facility in the Bronx and provide modern educational facilities as well as expanded programming and educational space. Research shows this approach is effective in reducing recidivism, however, these reductions in recidivism are unlikely to appear for a number of years.⁸

MENTAL HEALTH DESIGNATION



AVERAGE DAILY POPULATION



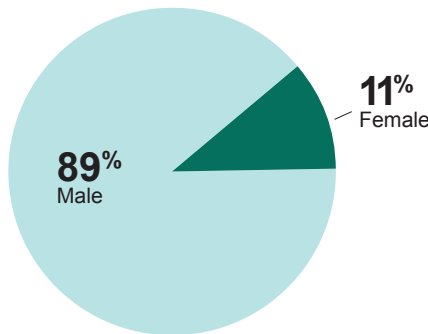
ADDITIONAL OPPORTUNITIES

MENTAL HEALTH SERVICE USERS

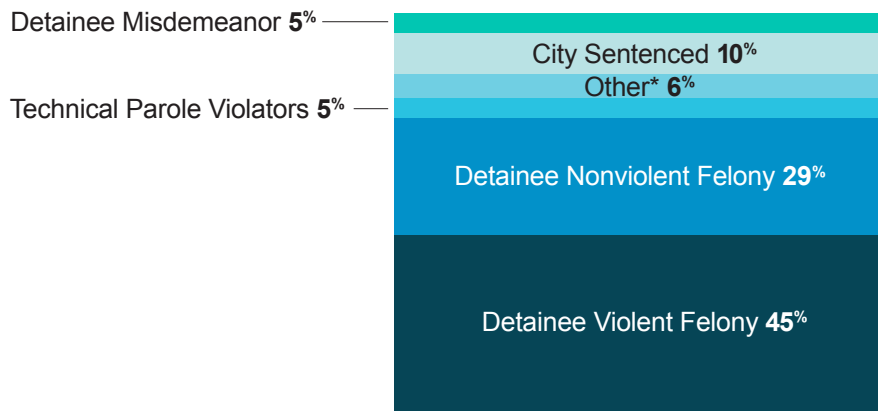
POPULATION FACTS: There are approximately 4,300 people using mental health services in custody on an average day. Women are more likely to be mental health service users than men. Mental health service users are more likely to be detained on a violent felony, compared to the total population. Almost half (46%) are in on a warrant, have been remanded until their case is resolved, or are serving a city sentence. This population tends to include frequent users of hospitals and homeless shelters when not in jail.

POTENTIAL INTERVENTIONS: Given the characteristics of this population, opportunities to significantly reduce this population are constrained, either because of the cost of interventions or the lack of interventions supported by evidence. For those who frequently cycle between jail and shelter, permanent supportive housing is an effective intervention, and has been shown to reduce hospital, jail, and shelter use. However, locating supportive housing units in the City is an ongoing challenge. It is also one of the most expensive interventions, costing approximately \$25,000 per year per participant. To adequately meet the need, we must both identify the housing and the resources to support the program. Beyond supportive housing, there are few proven interventions that address cycles of offending, homelessness, and hospital use and assist individuals in achieving stability in their lives. This issue is one that we, together with cities across the country, face and are continuing to seek solutions.⁹

SEX



AVERAGE DAILY POPULATION



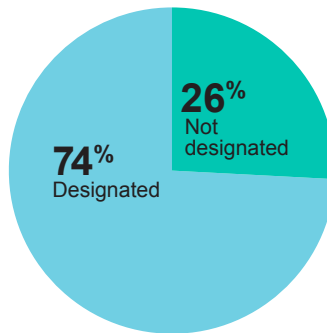
ADDITIONAL OPPORTUNITIES

WOMEN

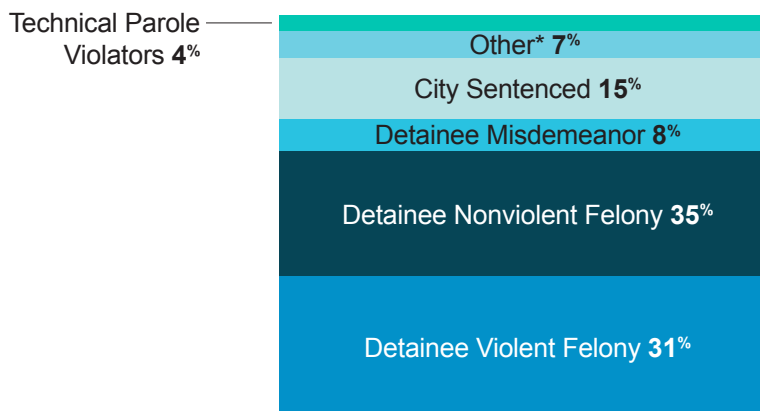
POPULATION FACTS: There are approximately 630 women in custody on an average day. Similar to the overall jail population, 50% of women who enter custody leave within one week. Approximately 75% of women in jail use mental health services while in custody, compared to 42% for the jailed population as a whole. The most common diagnoses are depression, anxiety, adjustment disorder, and personality disorders. A limited survey of women in New York City jail found a high need for housing and employment upon release. Women in jail are often caregivers and many have experienced domestic violence.¹⁰

POTENTIAL INTERVENTIONS: Dramatically reducing the number of women in jail will be difficult. The high incidence of both housing need and mental health issues among women in jail signal that supportive housing would be a viable intervention that could reduce future incarceration. However, locating available supportive housing is a challenge in New York City and requires an investment of approximately \$25,000 per year per participant. Another opportunity to reduce the number of women in jail would be to ensure that existing alternatives to detention and incarceration are effectively serving women, who are sometimes passed over because they do not have a stable place to live. Offering temporary supportive housing could potentially bridge that gap and provide an entry point into a community-based alternative to jail program.

MENTAL HEALTH DESIGNATION



AVERAGE DAILY POPULATION



CONCLUSION

The strategies outlined here, if robustly supported by every part of the criminal justice system and every New Yorker, could continue to shrink the jail population in the coming years.

As the size of the jail population shrinks, further reductions will become harder because the jail population will be increasingly comprised of a greater percentage of individuals charged with serious violent crimes or who pose a risk of flight. Releasing these individuals pre-trial may require a seismic shift in culture and expectations by New Yorkers and the justice system. While research has demonstrated that individuals charged with more serious offenses often have the lowest re-offending rates and typically return for their court appearances,¹¹ will judges and prosecutors be confident enough to release these individuals while they await trial? And while there is broad agreement that jail is not the right response for chronic low-level offending, we do not yet have, but are dedicated to developing, interventions that work and that judges can rely on as alternatives to jail.

Over the coming years, New York City is committed to continuing to work with partners across the criminal justice system to implement the reduction strategies outlined in this Justice Brief and to identify new opportunities to shrink the size of the jail population still further.

FOOTNOTES:

1. The following are unlikely to result in jail admission: summonses, summons warrants, and stop and frisk encounters.

2. The seven major crimes, called "Index Crimes," include: murder, rape, robbery, felony assault, burglary, grand larceny and grand larceny automotive.

3. Under the current state statute, judges can remand only defendants charged with felonies, with limited exceptions allowing remand of misdemeanor defendants (e.g. for a mental health examination or when a defendant charged with a domestic violence offense violates an order of protection). CPL § 530.40; CPL § 530.12(11)(a)).

4. In 1987, the U.S. Supreme Court upheld the constitutionality of detaining defendants pre-trial based on their estimated risk to public safety. *United States v. Salerno*, 481 U.S. 739 (1987). New York City's pre-trial detention population, 75% of the overall jail population, is higher than the national average of 63%. New York City's robust alternative to incarceration programming results in fewer sentenced individuals spending time in jail, which shifts the overall jail population breakdown. Ram Subramanian et al., *Incarceration's Front Door: The Misuse of Jail in America*. (New York, NY: Vera Institute of Justice, 2015).

5. There are two large categories of risk: risk to public safety and risk of not returning to court (also known as risk of flight or failure to appear). New York is one of only four states that prohibit judges from considering public safety when making decisions about release, with a few narrow exceptions. NY CPL § 510.30. The City supports a change in state law to allow judges to consider public safety risk as well as a person's risk of flight.

6. New York State law mandates an upper limit of \$2000 on the amount of bail charitable bail funds can post. NY Ins L § 6805 (2012).

7. Andrews and Bonta, 2006; <http://www.pbpp.pa.gov/Information/Documents/Research/EBP7.pdf>.

8. In the summer of 2016, we began the work to move 16- and 17-year-olds off Rikers Island and into a newly designed and updated facility in the Bronx. New York State is an anomaly: we are one of only two states that treat 16-year-olds as adults in the criminal justice system. Every other state has recognized that this population is still developing, and should be treated like other young people. In the absence of a change in state law—a change that the Mayor strongly supports—New York City's plans to move 16- and 17-year-olds into a dedicated, developmentally appropriate facility in the Bronx to ensure that adolescents are treated like adolescents, not adults, regardless of whether the state takes action. Current research shows this approach is effective in interrupting a cycle of offending in young people. The new facility in the Bronx will provide modern educational facilities as well as expanded programming and educational space. If the state legislature does pass legislation to raise the age, the new facility is being designed so that it can be converted into a juvenile justice facility; "Research shows that prosecuting youth as adults increases recidivism by as much as 34%." See, United States Department of Health and Human Services, "Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services", U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report (MMWR)*, MMWR 2007; 56 [No. RR-9]: 1-11 (Nov. 30, 2007), <http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>.

9. In 2015, the White House launched the Data-Driven Justice Initiative—a coalition of 67 city, county, and state governments, of which New York City was a part, that have committed to using data-driven strategies to divert low-level offenders with mental illness out of the criminal justice system and change approaches to pre-trial incarceration. <http://www.naco.org/resources/programs-and-services/data-driven-justice>.

10. Internal surveys conducted by the Department of Corrections and the Mayor's Office of Criminal Justice, 2016.

11. Matthew R. Durose, et al. "Recidivism of Prisoners Released in 30 States in 2005: Patterns From 2005 to 2010-Update" (Washington D.C.: Bureau of Justice Statistics, April 22, 2014); available at: <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=4986>

