



Division of Criminal Justice Services

2009 Drug Law Reform Update

June 2011

April 2009

Sentencing Changes Took Effect

- Eliminated mandatory minimum prison sentences for 1st B drug convictions (can now go to jail or probation)
- Reduced minimum prison sentence for 2nd B drug convictions from 3½ years to 2 years
- Eliminated mandatory minimum prison sentences for 2nd C, D, and E drug convictions (jail or probation now an option)
- Expanded eligibility for Shock participation: age limit increased to 49; “aging in” authorized; B 2nd drug offenders now eligible
- Expanded eligibility to Willard Drug Treatment Campus for those convicted of 1st felony B drug offenses, 2nd felony C drug offenses, and Burglary 3rd
- Division of Parole authorized to discharge nonviolent drug offenders prior to their maximum expiration date

June 2009

- Conditional sealing provisions took effect

October 2009

- Judicial diversion statute took effect with B, C, D, and E drug offenders and specified property offenders eligible
- Resentencing authorized for indeterminately sentenced B felony drug offenders in State DOCS custody

November 2009

- New crimes in effect: B Felony Sale to a Child, A-I Operating as a Major Trafficker

Reports and information on the drug law changes can be found at: <http://criminaljustice.state.ny.us/drug-law-reform/index.html>

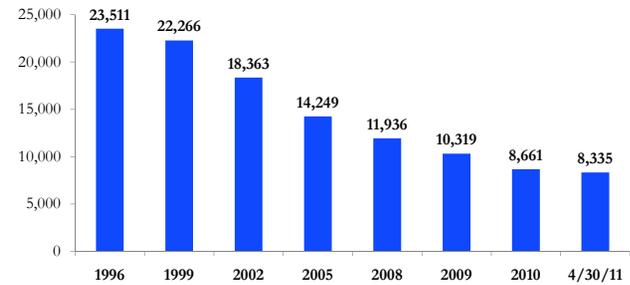
Thank You To Our Partners

This work would not be possible without the ongoing assistance of our colleagues:

- OCA** Joe Parisio, Kevin Lasko, Glenn Poore, Sky Davis
- OASAS** Dawn Lambert-Wacey, Gail Dorn, Bill Phillips
- TASC** Tania Chandler
- DCCS** Paul Korotkin, Diane Holford, Tim O'Brien, Mike Buckman
- NYC DOC** Eric Sorenson
- DCJS** Tom Slater, Heidi Bonner, Jing Liu

Drug Offenders in Prison Declined 64% Since Peak in 1996; Down 3,601 since 2008

Drug Offenders Under DOCS Custody (Year End)

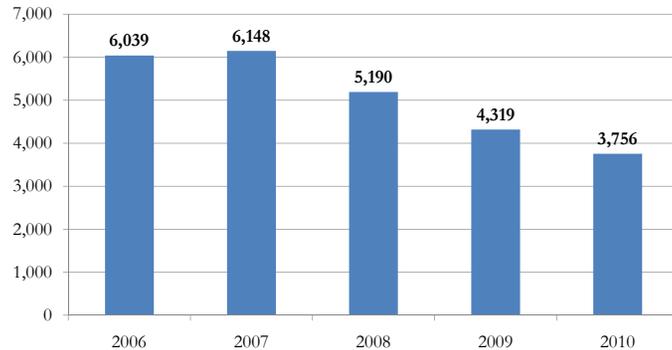


Source: DOCS

2

Felony Drug Commitments to DOCS down (-38%) since 2006

Annual Drug Commitments to DOCS, 2006-2010

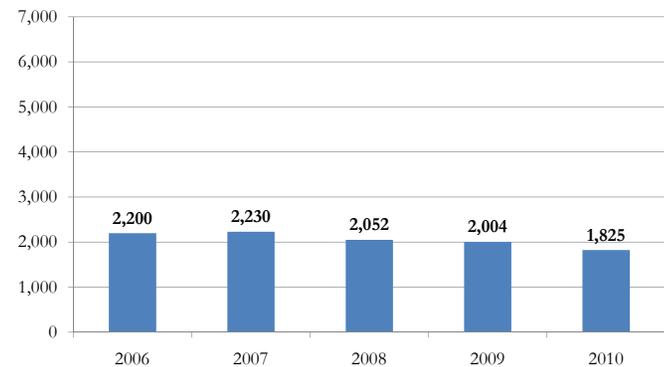


Source: DOCS

3

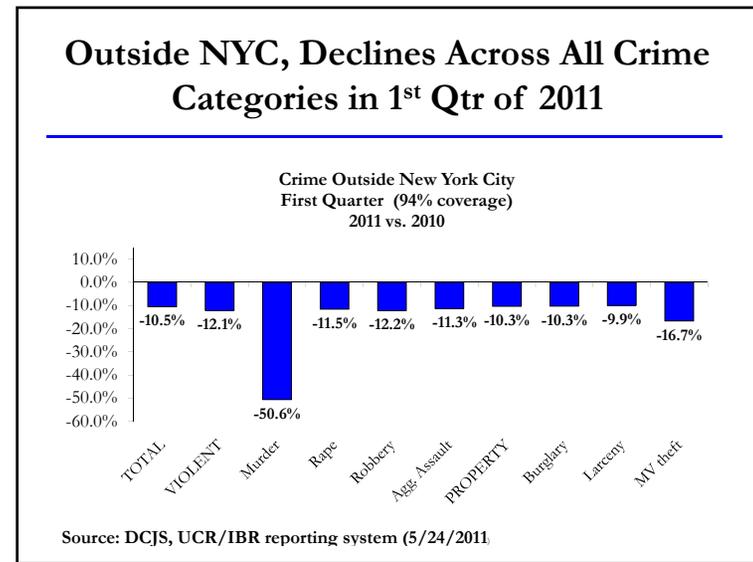
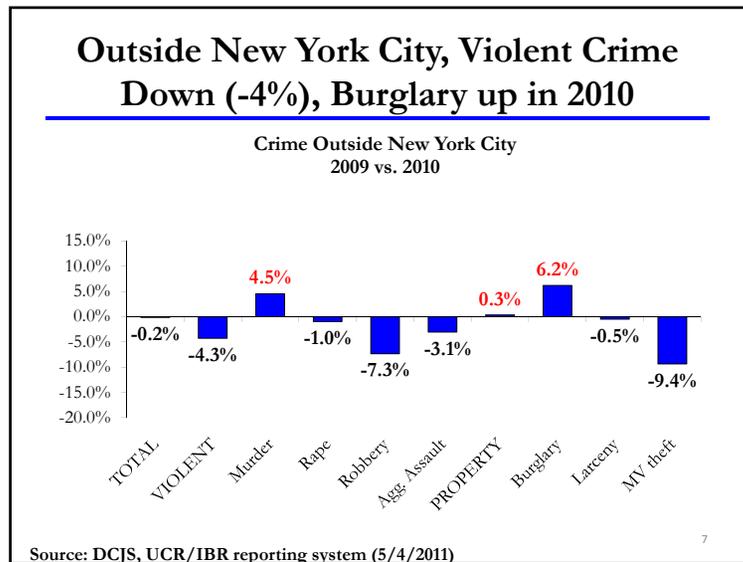
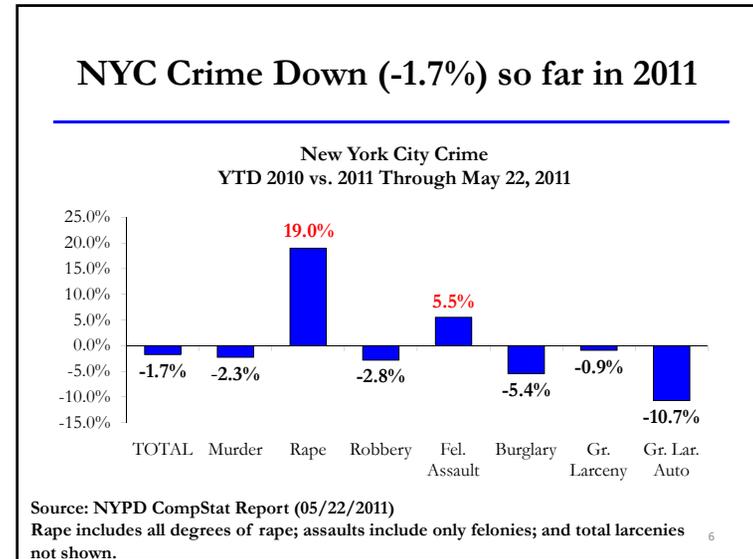
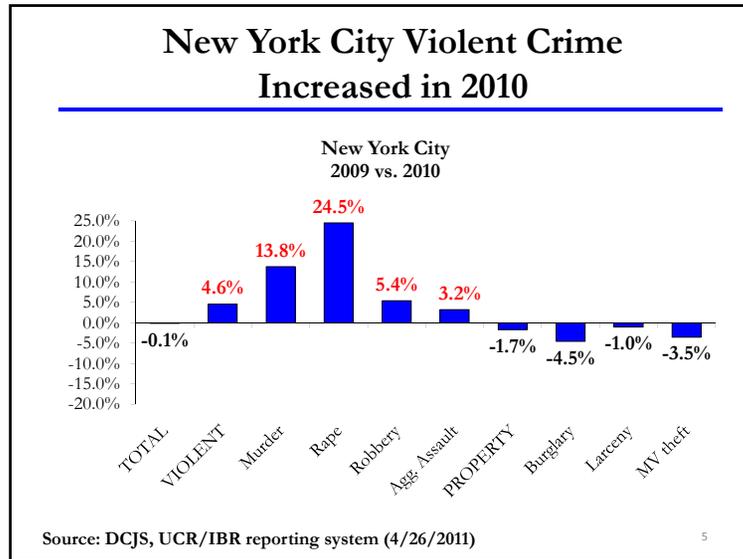
Article 216 Property Commitments to DOCS down (-17%) since 2006

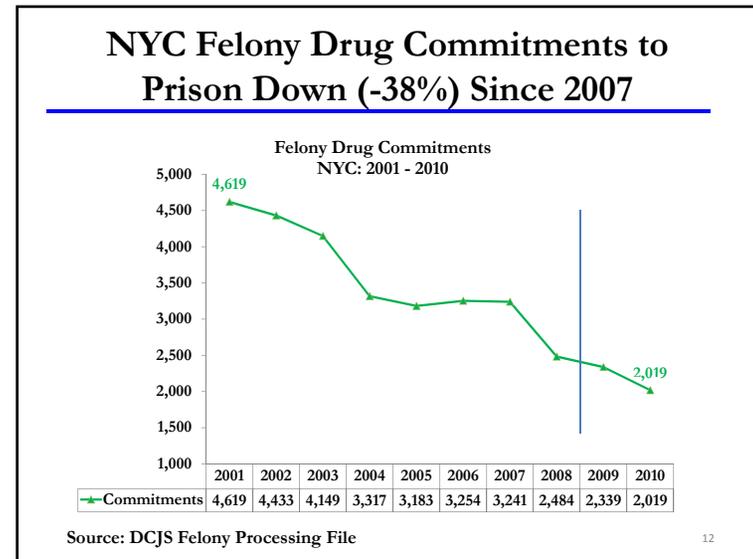
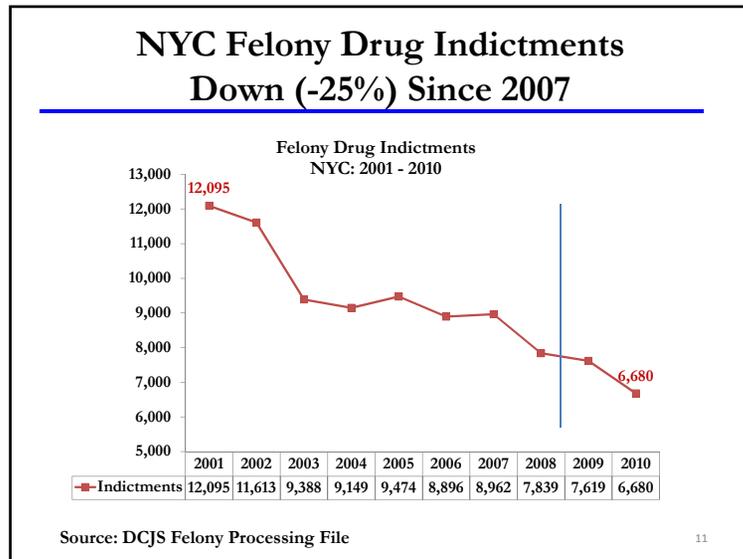
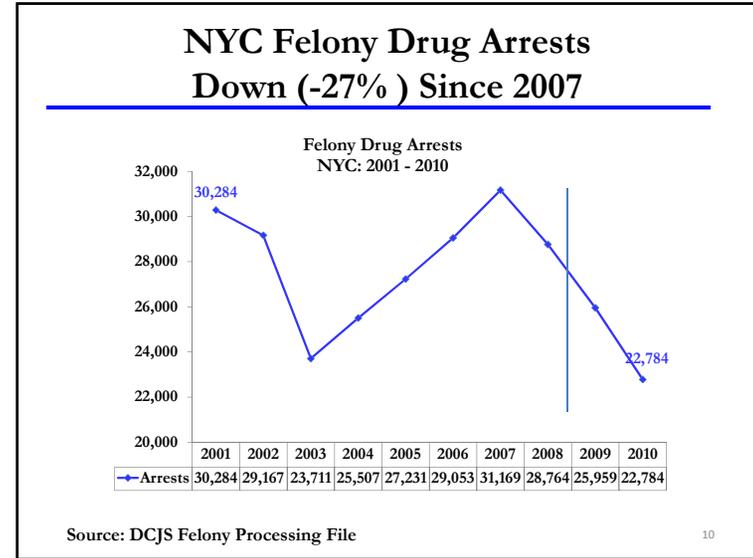
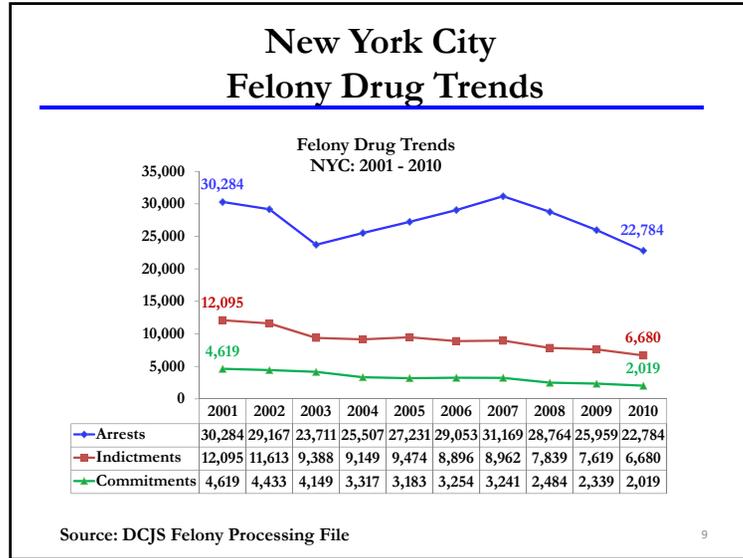
Annual Specified Property Commitments to DOCS, 2006-2010

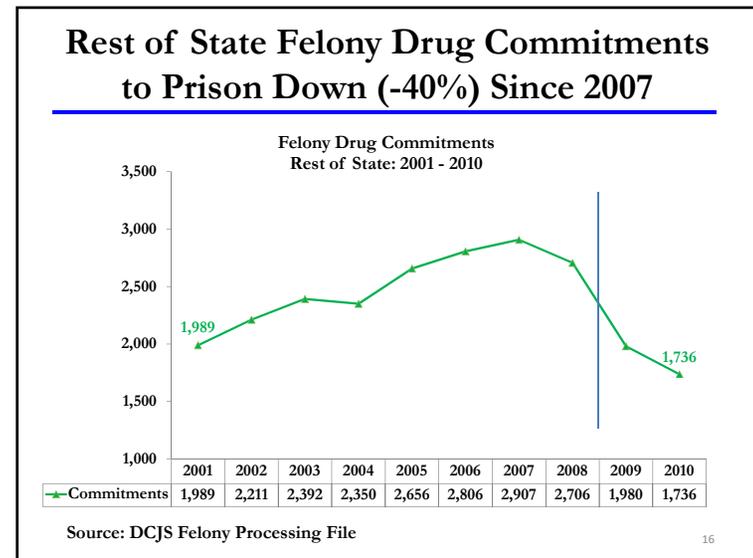
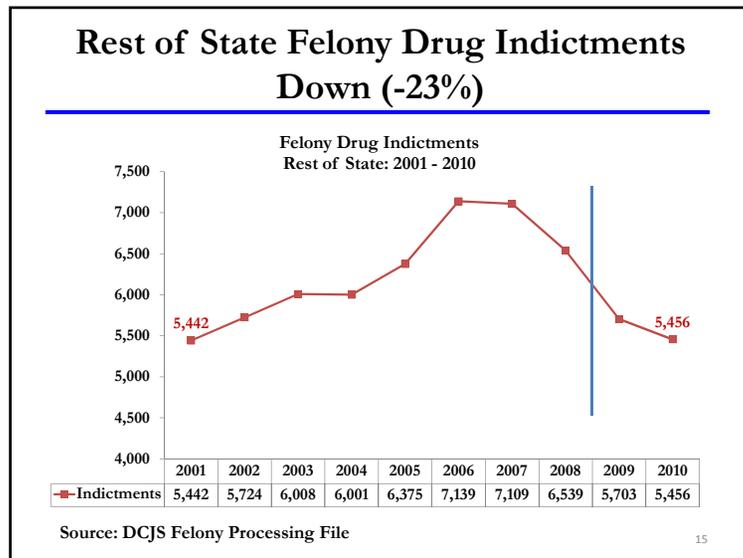
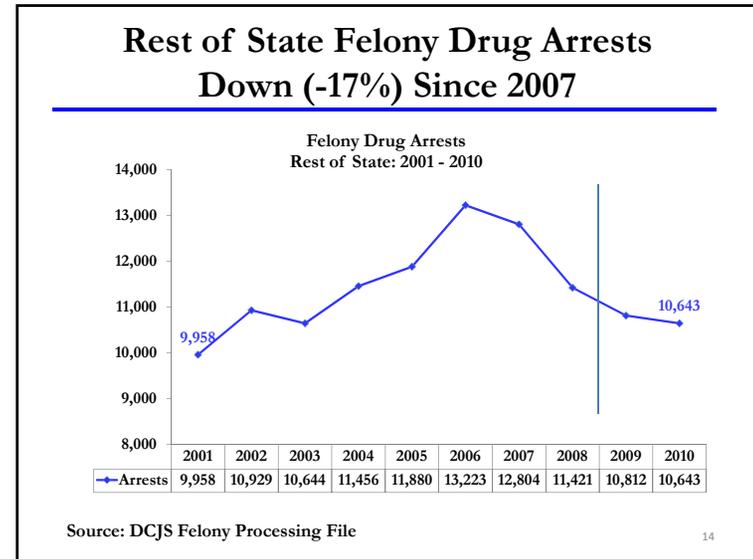
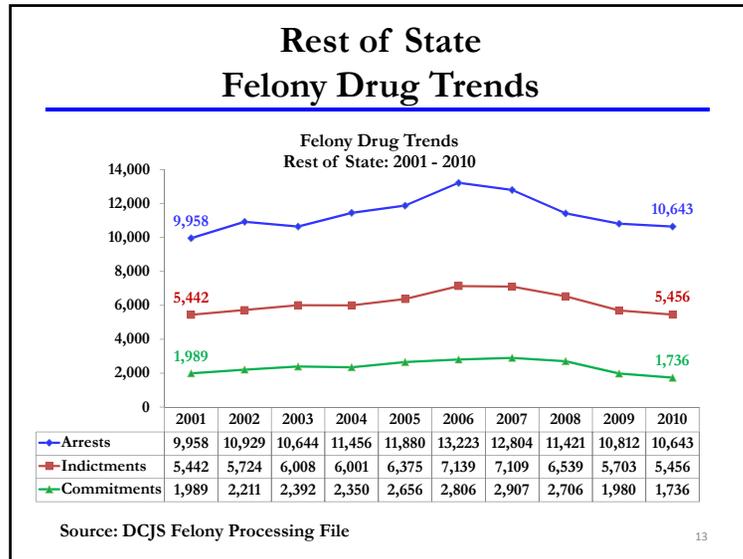


Source: DOCS

4







Arrest Trends Jan - Apr 2010 vs. 2011

County	Jan-Apr	Total	VFO	Felony Drug	Other Felony	Misd.
New York City	2010	116,862	8,633	8,653	13,628	85,371
	2011	117,864	8,665	7,729	13,079	87,860
	% chg	0.9%	0.4%	-10.7%	-4.0%	2.9%
Rest of State	2010	79,660	5,333	3,880	10,899	56,953
	2011	73,832	4,959	3,273	10,154	53,029
	% chg	-7.3%	-7.0%	-15.6%	-6.8%	-6.9%
New York State	2010	196,522	13,966	12,533	24,527	142,324
	2011	191,696	13,624	11,002	23,233	140,889
	% chg	-2.5%	-2.0%	-12.2%	-6.3%	-1.0%

Source: CCH
Data as of 5/30/2011

NYC Felony Drug Indictments Jan-April 2010 vs. 2011

County	NYC Felony Drug Indictments January - April		
	2010	2011	2010-2011 change
Bronx	665	621	-6.6%
Kings	499	422	-15.4%
Queens	213	190	-10.8%
New York	559	433	-22.5%
Richmond	41	64	56.1%
Special Narcotics	390	338	-13.3%
Total NYC	2,367	2,068	-12.6%

Source: DCJS

Majority of Felony Drug Arrests and Indictments In NYC are Class Bs

Felony Offense Class of Drug Arrests and Indictments, 2010				
Felony Offense Class	Arrests		Indictments	
	#	%	#	%
Class A-I	609	3%	244	4%
Class A-II	558	2%	196	3%
Class B	16,324	72%	4,795	72%
Class C	1,338	6%	433	6%
Class D	3,210	14%	911	14%
Class E	754	3%	101	2%
Total	22,793	100%	6,680	100%

Source: DCJS

Majority of Felony Drug Arrests and Indictments In Rest of State are Class Bs

Felony Offense Class of Drug Arrests and Indictments, 2010				
Felony Offense Class	Arrests		Indictments	
	#	%	#	%
Class A-I	158	1%	80	1%
Class A-II	309	3%	191	4%
Class B	6,440	60%	3,439	63%
Class C	1,015	10%	643	12%
Class D	2,301	22%	858	16%
Class E	445	4%	245	4%
Total	10,668	100%	5,456	100%

Source: DCJS

Judicial Diversion – How DCJS is Defining Article 216-Eligible Cases

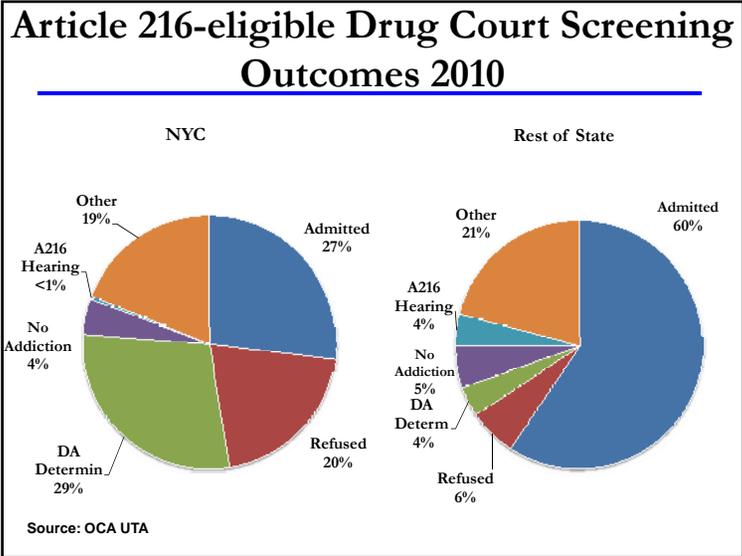
- DCJS working closely with OCA on data
- Cases from OCA's Universal Treatment Application (UTA) are matched to the DCJS Computerized Criminal History File (CCH) to determine indictment/SCI offense
- Extensive validation is done at DCJS to ensure accuracy
- Counting rules allow comparisons of similar cases before and after drug law changes

21

Judicial Diversion – How DCJS is Defining Article 216-Eligible Cases

- Counts include cases involving felony class B-E drug offenses and property offenses specified in Article 216 of the Criminal Procedure Law
- Eligible cases include many felony drug charges that do not require a prison sentence upon conviction
- Eligible cases also include property offenses that do not require a prison sentence upon conviction
- Cases must remain in felony court to be counted

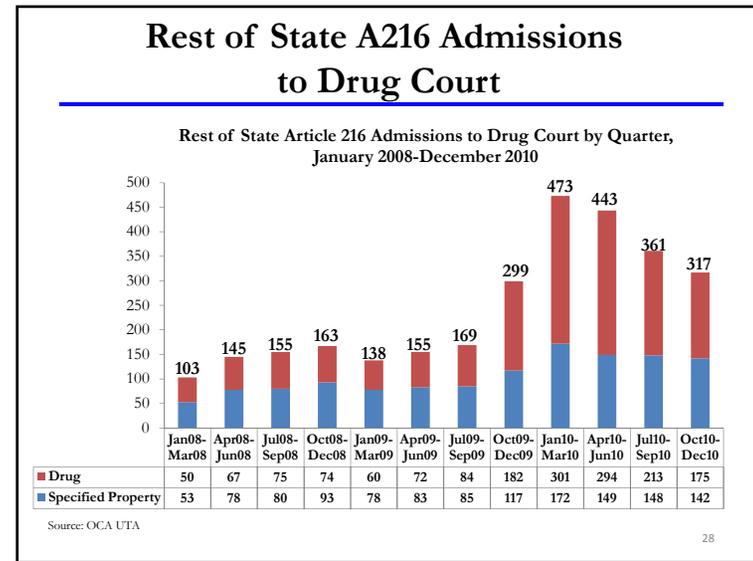
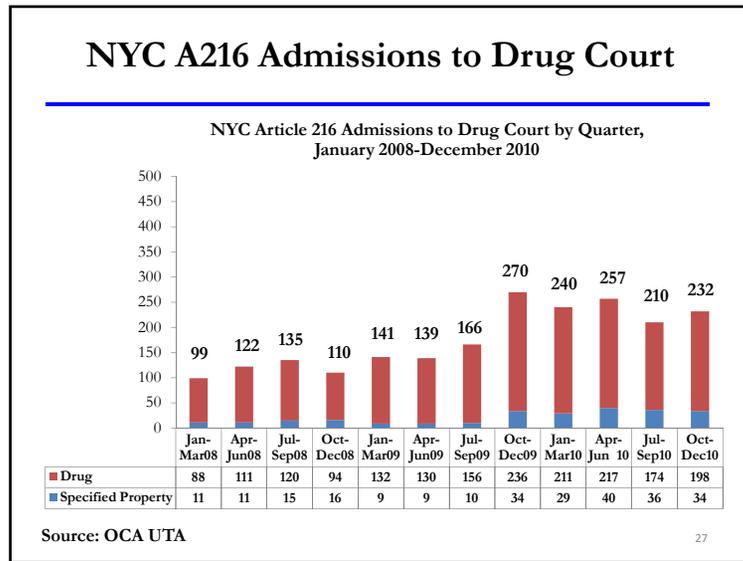
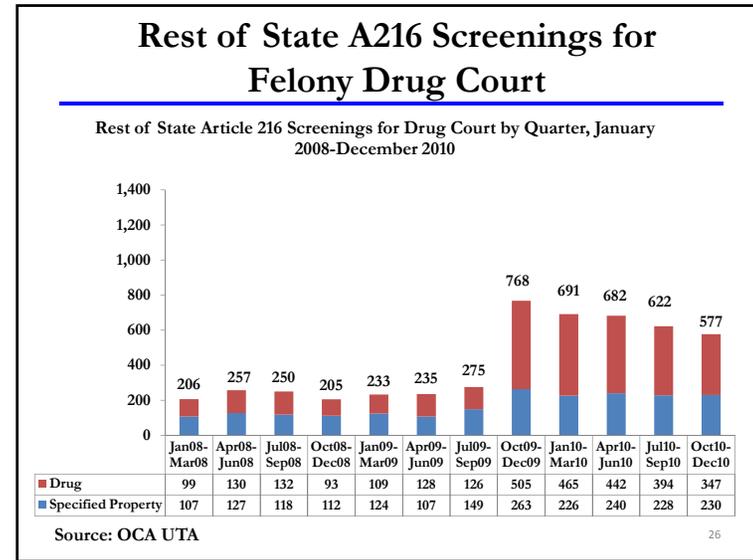
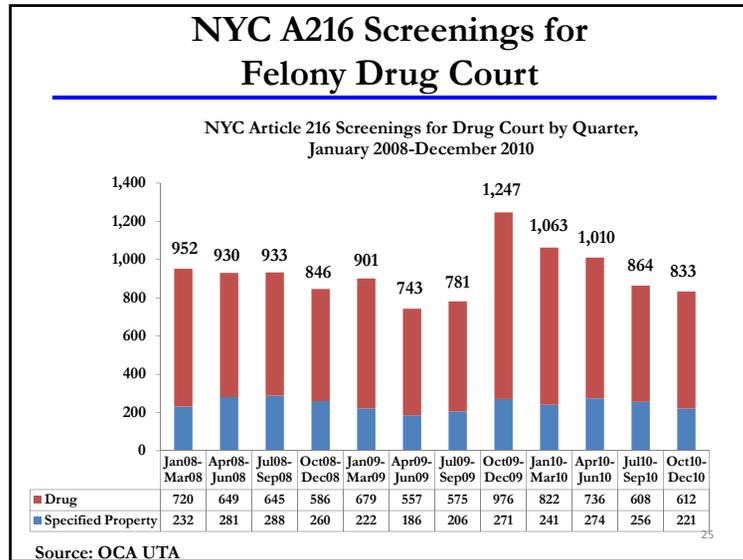
22



Drug Court Screening Outcomes

- Statewide, 40% of the Article 216-eligible offenders screened were admitted into drug court programs
- Admission rates differ between NYC and rest of state due to major differences in screening processes

24



Most Article 216 Eligible Cases Admitted to Drug Court are Not Facing a Mandatory Prison Sentence

Top Arraignment Charge for Article 216 Drug Court Admissions: 2010

Total Article 216 Admissions	NYC	Rest of State	TOTAL
	939	1,594	2,533

Facing Mandatory Prison

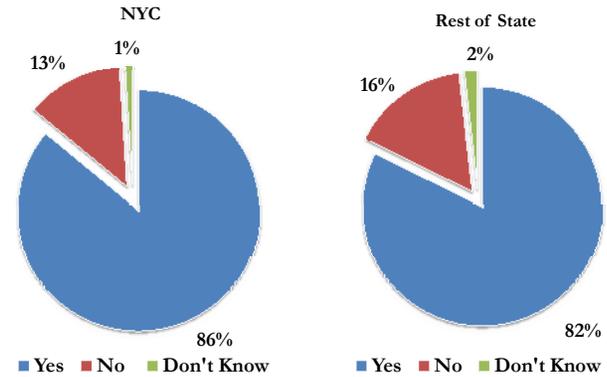
	NYC	Rest of State	Total
B 2nd Drug	248	189	437
Percent of All Admissions	26%	12%	17%

Not Facing Mandatory Prison

	NYC	Rest of State	Total
Other Drug	552	794	1,346
Specified Property	139	611	750
Total Non-Mandatory	691	1,405	2,096
Percent of All Admissions	74%	88%	83%

Source: OCA UTA and DCJS CCH

DA Consent For Drug Court Admissions As Reflected On OCA Database



Source: OCA UTA

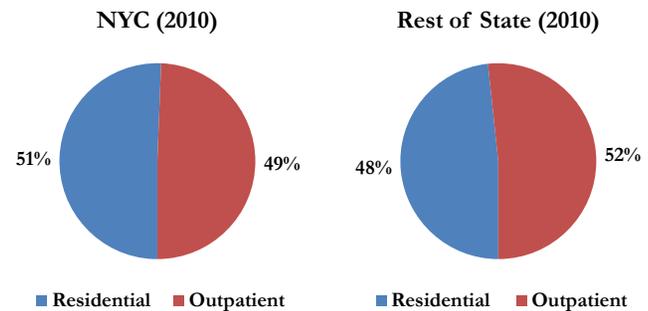
Article 216 Judicial Hearings As Reflected On OCA Database

- Hearing information is available from January 2010
- Hearings have been requested in 355 cases; 250 (70%) found eligible for drug court
- Nearly 60% of hearings reported occurred in five counties: Dutchess (53), Erie (22), Monroe (64), Onondaga (43), and Westchester (23)
- 13% of hearings occurred in NYC
- 224 offenders have been admitted to drug court after requesting an A216 Hearing (9% of admissions)

31

About Half of A216 Drug Court Treatment Records Show a Residential Placement

Highest Level of Treatment by Region (2010)



Source: OCA UTA

Duration of Drug Court Treatment Plan (2010)

Duration	NYC 2010	ROS 2010
up to 17 months	67%	37%
18 months or more	33%	63%

Source: OCA UTA

Primary Drug of Choice among Article 216-eligible Drug Court Participants

Drug of Choice	NYC 2010	ROS 2010
Alcohol	5%	7%
Crack/Cocaine	22%	22%
Heroin	20%	18%
Marijuana	44%	34%
Opiates	2%	12%
Other (consists mainly of prescription drugs)	7%	7%
Total	100%	100%

Source: OCA UTA

NYC DTAP Admissions 2008 vs. 2010

	2008				2010			
	A216 Drug	A216 Specified Property	Non-A216 Other	Total 2008	A216 Drug	A216 Specified Property	Non-A216 Other	Total 2010
Bronx	224	1	4	229	248	4	8	260
Kings	72	19	15	106	78	24	27	129
Queens	16	7	8	31	34	3	7	44
New York	8	0	0	8	Data not available			
Staten Island	9	0	1	10	2	1	1	4*
Special Narcotics	114	0	0	114	36	0	0	36
Total NYC	443	27	28	498	398	32	43	473

*January-June 2010

Source: TASC/EAC & DTAP Programs

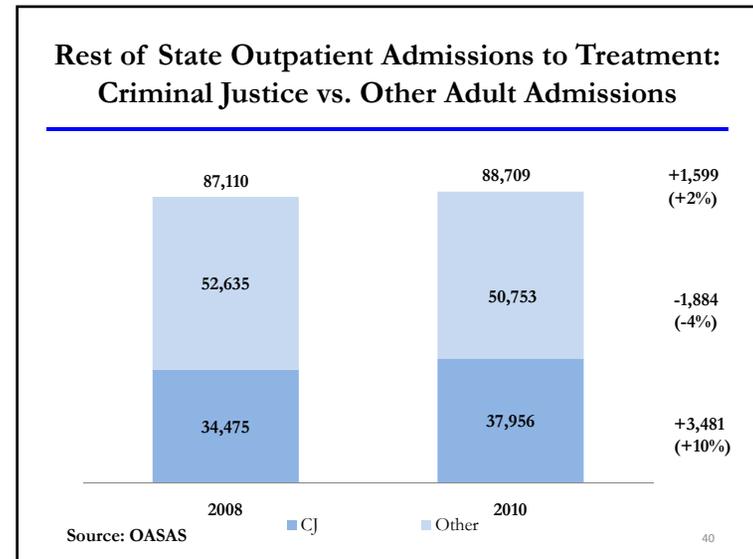
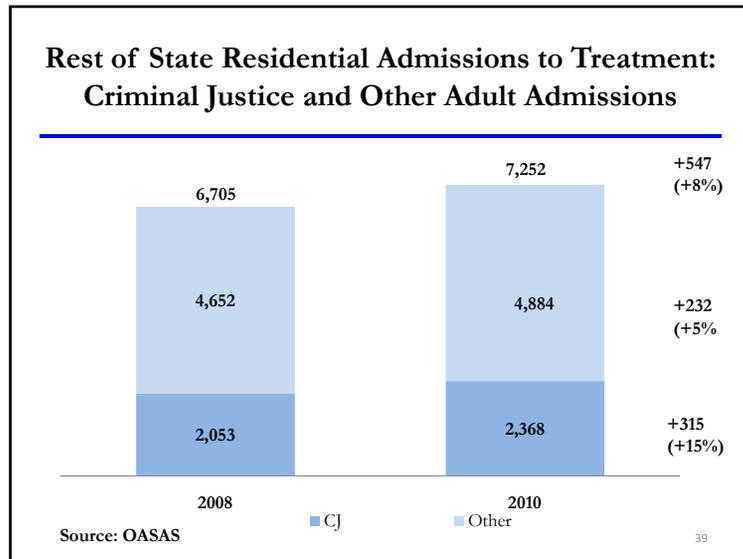
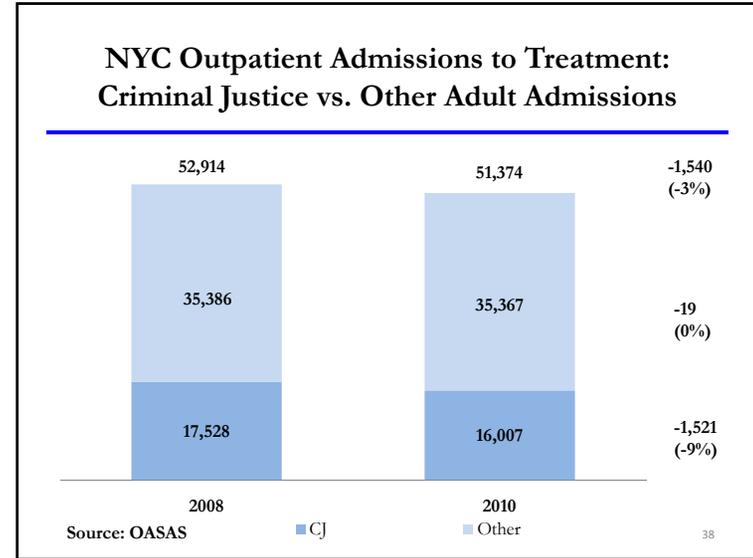
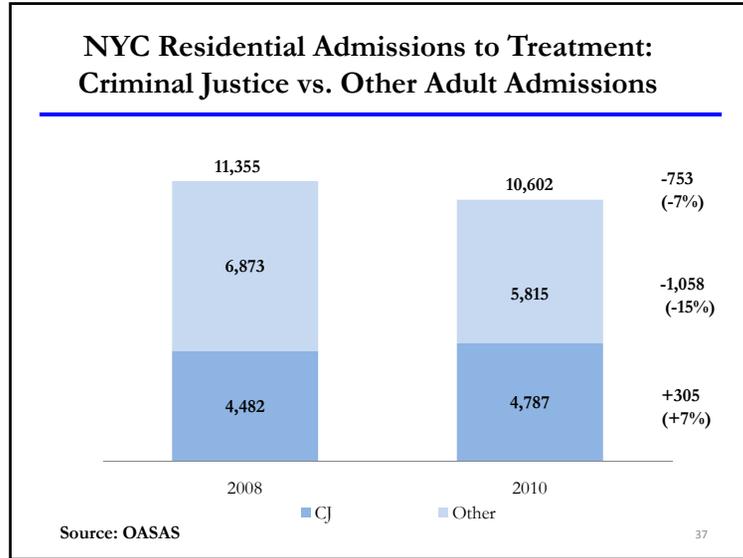
35

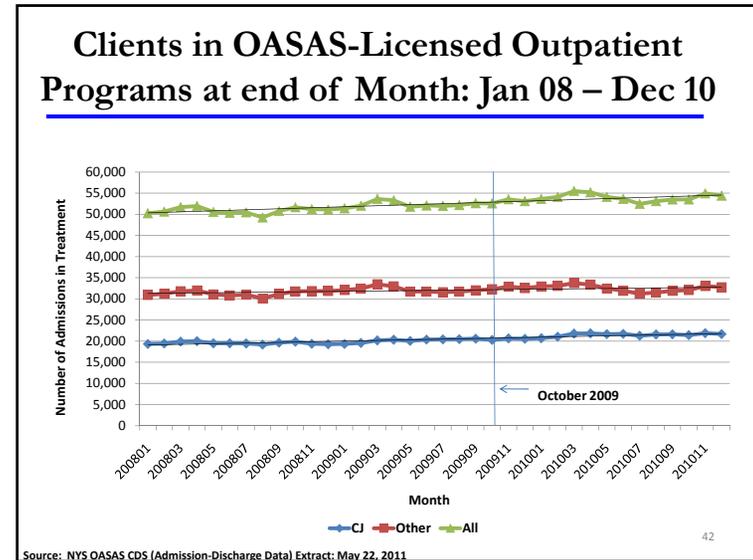
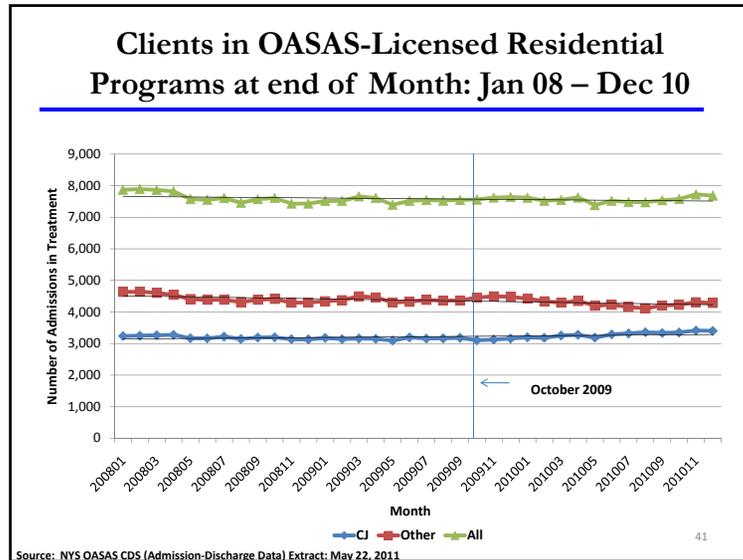
Criminal Justice Populations Down

	NYS Criminal Justice Populations				
	Dec 1999	Dec 2008	Dec 2010	% Change 2010 vs. 1999	% Change 2010 vs. 2008
New York City					
Jails	15,959	12,692	12,062	-24%	-5%
Probation	48,898	44,022	41,255	-16%	-6%
Prison	46,798	30,201	27,218	-42%	-10%
Parole	33,733	23,383	21,647	-36%	-7%
NYC Total	145,388	110,298	102,182	-30%	-7%
Rest of State					
Jails	15,787	16,385	16,534	5%	1%
Probation	87,631	78,142	79,762	-9%	2%
Prison	24,674	29,880	29,097	18%	-3%
Parole	17,373	18,372	17,008	-2%	-7%
Rest of State Total	145,465	142,779	142,401	-2%	<1%

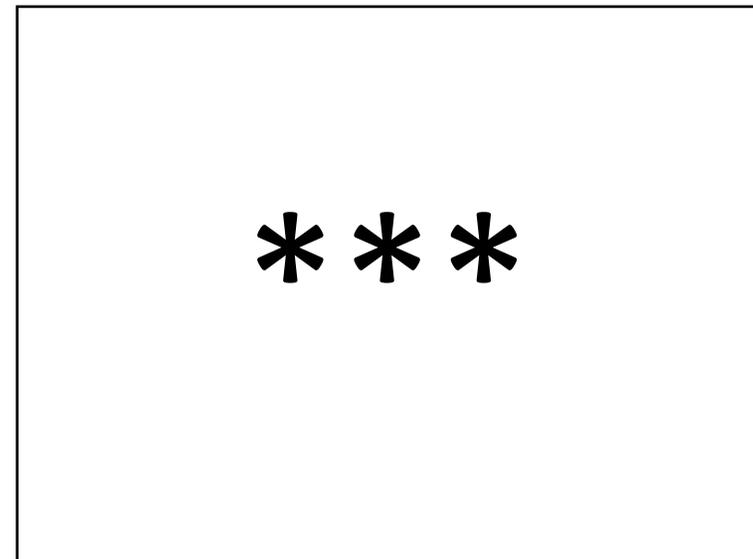
Source: DCJS

36





- ### Treatment Utilization
-
- Two factors involved in reviewing utilization/treatment demand
 - Admissions (includes admissions and re-admissions)
 - Retention (as measured by End of Month Census)
 - Criminal Justice clients generally have higher retention and fewer re-admissions.



Felony Drug Sentences to Probation have Declined Due to Fewer Cases in Pipeline and a Shift in Dispositions

Total Felony Drug Sentenced to Probation

	2008	2009	2010	Change 08-10	% Change
NYC	1,409	1,123	904	-505	-36%
Rest of State	1,733	1,633	1,281	-452	-26%

Source: DCJS CCH

Felony Drug Sentences to Jail Increased Due to Shift in Dispositions (From Prison & Probation)

Felony Drug Sentences to Jail

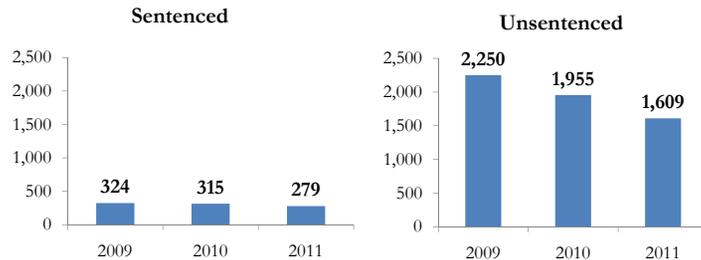
	2008	2009	2010	Change 08-10	% Change
NYC	893	1,088	1,021	128	14%
Rest of State	544	553	579	35	6%

* Jail Sentences include Time Served Sentences

Source: DCJS CCH

Despite Increase in Jail Sentences, NYC Felony Drug Offender Jail Census Down

**NYC Rikers Island
End of Month Census
Felony Drug Offenders**



As of March 31

47

Increase in NYC Jail Sentences for Felony Drug Offenders Has Negligible Impact

2010 Average (mean) Jail Sentence	298 days
Less Average Time Served	-152 days
Time Left to Serve at Sentencing	146 days
Good Time Reduction (assumed)	-98 days
Time Left to Serve	48 days

Projected Impact on System:

48 days x 128 Inmates / 365 Days = 16 Beds
of 13,400 Available

48

NYC Drug Commitments to Prison Down 466 (-19%)

Felony Class	Commitment Year		% Change
	2008	2010	
A-I 1st and 2nd	10	19	90%
A-II 1st and 2nd	137	155	13%
B 1st	562	450	-20%
B 2nd	354	595	68%
C 2nd	516	293	-43%
D 2nd	563	304	-46%
E 2nd	96	73	-24%
C 1st	129	66	-49%
D 1st	110	59	-46%
E 1st	7	4	-43%
Total	2,484	2,018	-19%

Source: DOCS Admission file

49

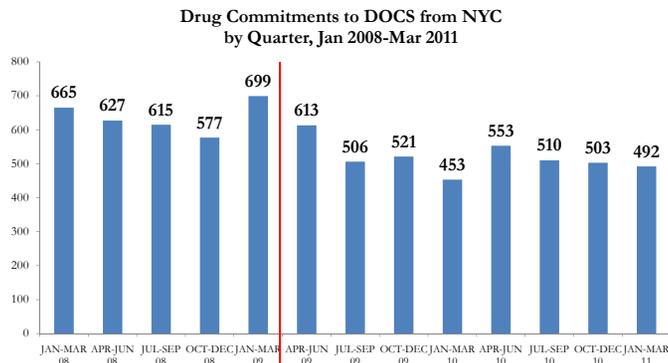
Rest of State Drug Commitments to Prison Down 968 (-36%)

Felony Class	Commitment Year		% Change
	2008	2010	
A-I 1st and 2nd	13	16	23%
A-II 1st and 2nd	116	87	-25%
B 1st	636	376	-41%
B 2nd	389	356	-8%
C 2nd	496	270	-46%
D 2nd	382	203	-47%
E 2nd	84	54	-36%
C 1st	292	172	-41%
D 1st	268	169	-37%
E 1st	30	35	17%
Total	2,706	1,738	-36%

Source: DOCS Admission file

50

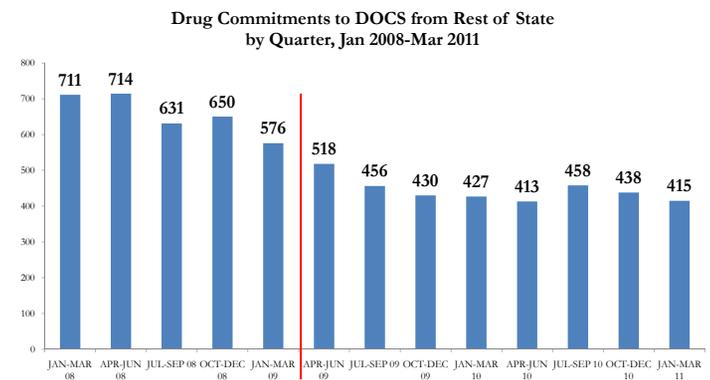
NYC Drug Commitments to Prison by Quarter



Source: DOCS Admission file

51

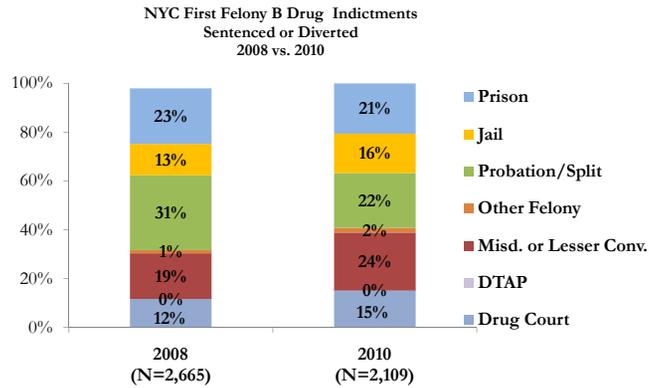
Rest of State Drug Commitments to Prison by Quarter



Source: DOCS Admission file

52

Initial Sentence/Treatment among NYC 1st Felony B Drug Indictments Before vs. After Law Changes



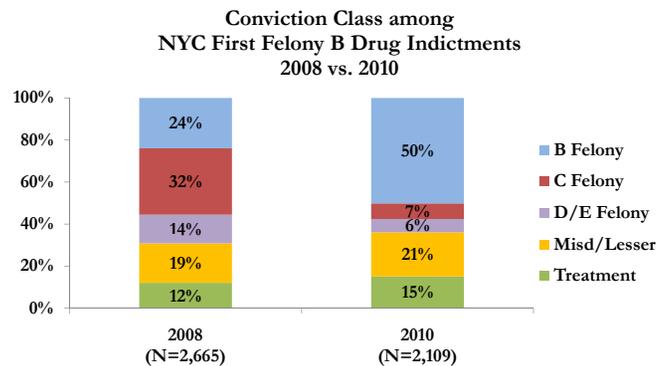
53

NYC: Initial Sentence or Treatment Admission: 1st Felony B Drug

- Data from DCJS felony processing, drug court and DTAP admissions files were combined to compare initial case decisions before and after the drug law changes
- Less than a quarter of 1st felony B drug indictments resulted in an initial prison sentence in NYC, both before and after drug law changes
- Percentage admitted into treatment increased, with drug court increasing from 12% to 15%

54

Conviction Class among NYC 1st Felony B Drug Indictments (No class for Treatment admissions)



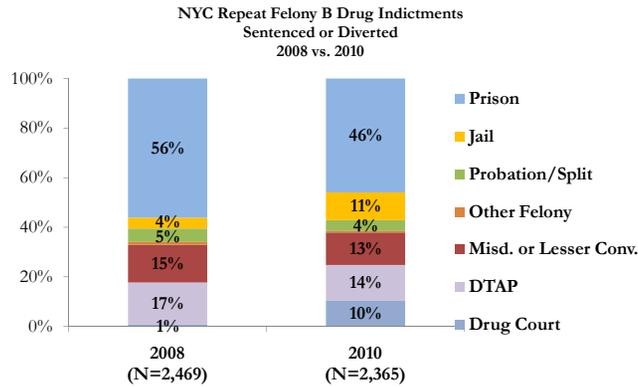
55

Conviction Class of 1st Felony B Drug Indictments

- Percentage of 1st felony B drug indictments remaining class B felonies at conviction increased from 24% to 50% after drug law changes
- Percentage reduced to Cs dropped from 32% to 7%
- Percentage reduced to misdemeanors/lesser offenses increased slightly from 19% to 21%

56

Initial Sentence/Treatment of NYC 2nd Felony B Drug Indictments Before vs. After Law Changes



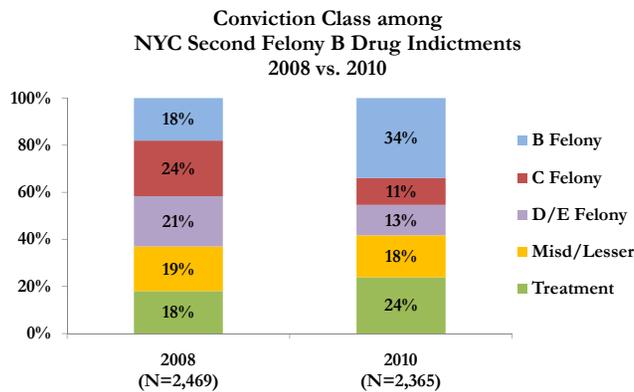
57

NYC: Initial Sentence or Treatment Admission: 2nd Felony B Drug

- The percentage of second felony B's sentenced to prison decreased from 56% to 46%
- The proportion sentenced to jail increased from 4% to 11%
- Treatment admissions increased from 18% to 24%
 - DTAP decreased from 17% to 14%
 - Drug Court increased from 1% to 10%

58

Conviction Class among NYC 2nd Felony B Drug Indictments (No class for Treatment admissions)



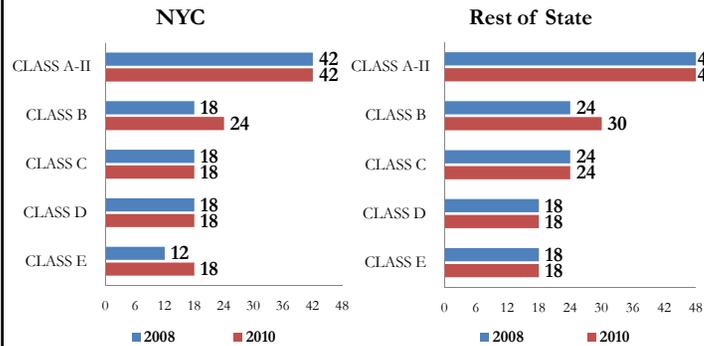
59

Conviction Class of 2nd Felony B Drug Indictments

- Percentage of 2nd felony B drug indictments remaining class B felonies at conviction increased from 18% to 34% after drug law changes
- Percentage reduced to C's decreased from 24% to 11%
- Percentage reduced to D's and E's decreased from 24% to 13%

60

Because of Fewer 1st B Drug Commitments with 1 Yr Sentences, Median Sentence has Increased



Source: DOCS Admission file

61

Number of 1st B's Receiving the Minimum (1 yr) Determinate Sentence Declined 57%

1st Felony B Drug Prison Sentences Number w/Minimum Sentence (1 yr)

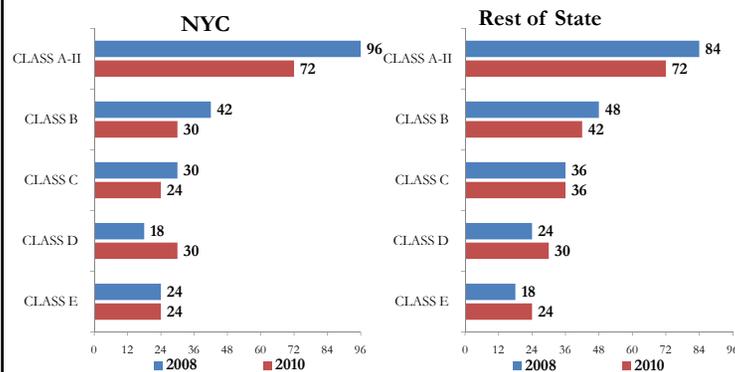
	2008	2010	Change 08-10	% Change
Minimum Sentence	419	179	-240	-57%
Above Minimum	682	604	-78	-11%
Total	1,101	783	-318	-29%

Note: Excludes "mixed" sentenced cases

Source: DOCS Admission file

62

Second Felony Drug Commitments Median Sentence in Months



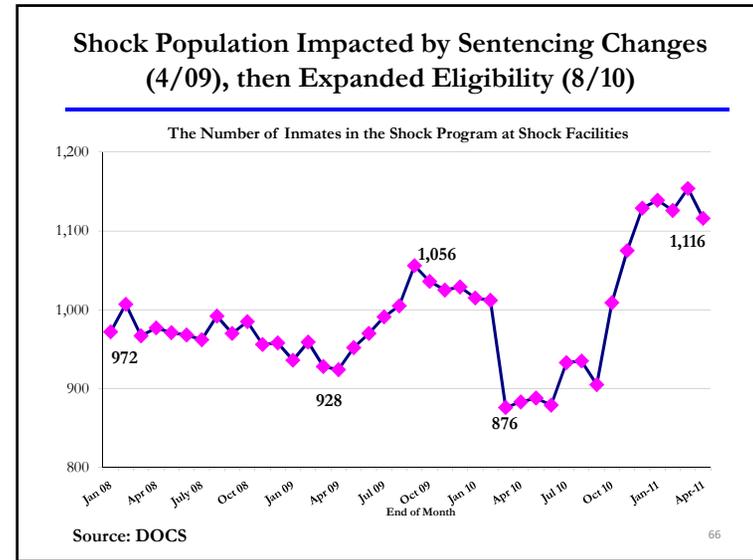
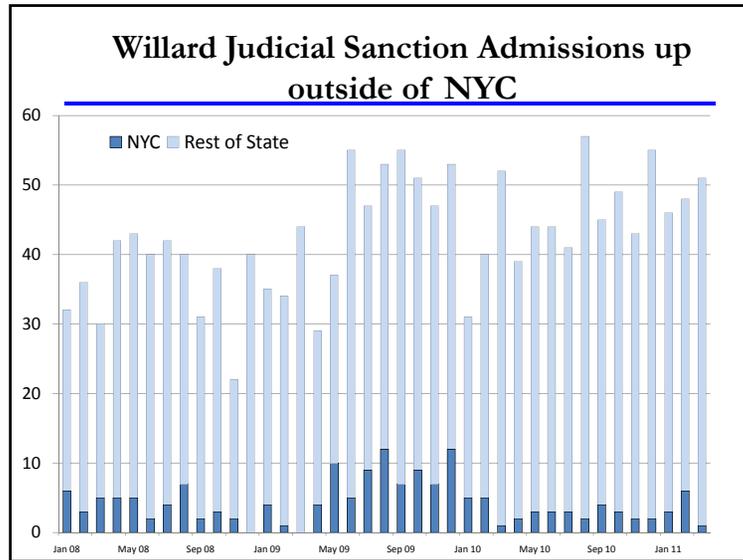
Source: DOCS Admission file

63

Prison Sentence Length Has Declined for 2nd Felony Drug Commitments

- In April 2009, the minimum prison sentence allowable for second felony Bs was reduced from 3½ to 2 years
- Median sentences for second felony Bs decreased 12 months in NYC and 6 months in the Rest of State

64



B Felony Drug Offenders Resentenced as of June 1, 2011 (470 To Date)

County	Number	County	Number	County	Number
Albany	24	Monroe	21	Rockland	9
Allegany	1	Montgomery	1	Saratoga	2
Bronx	78	Nassau	14	Schenectady	22
Broome	7	New York	89	Suffolk	9
Chemung	1	Oneida	7	Sullivan	2
Clinton	2	Onondaga	25	Tompkins	2
Columbia	9	Ontario	9	Ulster	3
Erie	5	Orange	16	Warren	6
Fulton	5	Oswego	2	Wayne	4
Greene	2	Queens	28	Westchester	6
Kings	48	Rensselaer	5	Wyoming	1
Livingston	1	Richmond	3		

- ### Resentencing Update As of 6-1-11
- Original eligibility estimates: 1,100 possible, 700 likely eligible
 - 470 individuals resentenced & 392 released
 - Those who have not yet been released still owe time on their newly imposed determinate sentence.
 - 23 of the 392 released so far were women

Conditional Sealing

- Effective June 7, 2009, upon successful completion of a judicial diversion program, the court may conditionally seal the instant offense and up to three prior misdemeanors. If the defendant is re-arrested, the records are unsealed
- 30 offenders have had 32 conditional seals processed by OCA and DCJS as of 5-24-11 (2 years after effective date).
- Saratoga (8), Nassau (5), Rensselaer (4), Schenectady (4), Warren (3), Albany (1), Jefferson (1), Kings (1), New York (1), Onondaga (1), Richmond (1), Steuben (1), Suffolk (1)

69

Summary of 1st Year Impact of Drug Law Changes

- In total, changes led to about 1,000 fewer admissions to prison in the first year (800 drug, 200 property)
- 470 B felony offenders were resentenced; 392 released from prison
- Article 216-eligible admissions to drug court increased in most counties
- Overall, most of the drug law impact has been in counties outside of New York City

70

Reports, Updates and Presentations Available on the DCJS Website

- Preliminary Impact of 2009 Drug Reform (10/09)
- Felony Drug Arrest, Indictment and Commitment Trends, 1973-2008
- Profile of Felony Drug Offenders Committed to New York State Prison 2008
- Powerpoints of updates presented to stakeholders in February and June 2010
- This presentation will be posted in mid-June

71

Next Steps

- Joint DCJS-OCA report on Drug Court Activity out this month
- Continue to report on trends and impacts, with county specific data provided
- Begin 1st phase of outcome evaluation. This is where the impact of varying sanctions and diversions can be assessed
- Will report on recidivism rates of offenders who are sentenced to prison, jail or probation vs. those diverted to treatment

72