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May 16, 2017

Honorable Rory Lancman
New York City Council
250 Broadway, Suite 1773
New York, NY 10007

Dear Council Member Lancman:

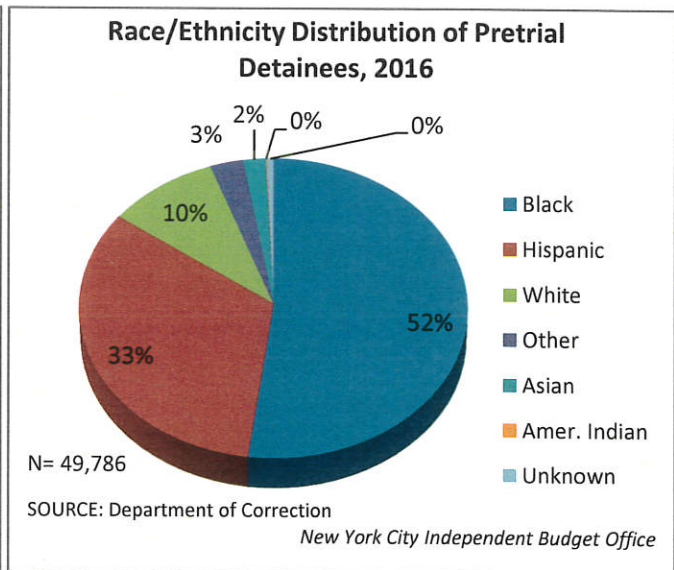
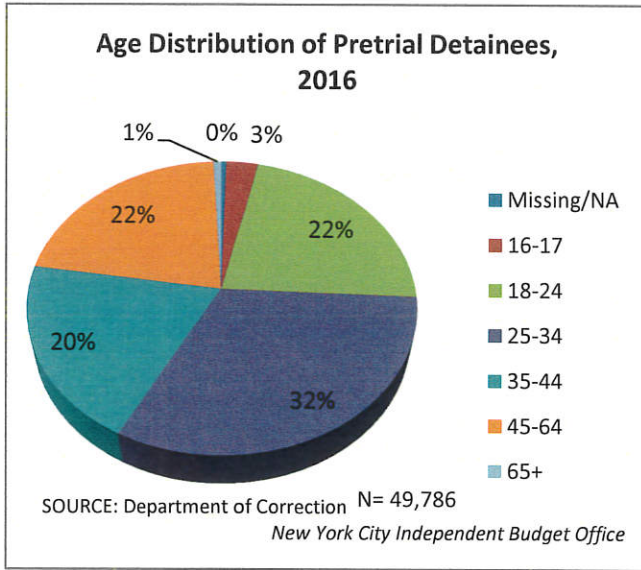
Your office had asked the Independent Budget Office (IBO) to determine how many individuals were held in Department of Correction (DOC) custody after arraignment, either because they had bail set and were unable to post bail immediately at arraignment or because they were remanded to jail without bail. IBO also estimated the budgetary costs of holding these individuals. Our analysis is based on 2016 data obtained from the Department of Correction, and is an update to our September 2011 [letter](#) that was addressed to Council Speaker Melissa Mark-Viverito.

The Department of Correction jail population consists of pretrial detainees, city-sentenced inmates, and state-sentenced inmates. Pretrial detainees are individuals who are being held either because they were unable to pay the bail set at arraignment, they were remanded without bail by the magistrate at arraignment, or they have other holds or warrants that would cause them to be incarcerated regardless of whether they paid the bail on their current charges. City-sentenced inmates are sentenced to up to one year and remain at Rikers Island for the duration of their sentence. State-sentenced inmates have been sentenced to over a year and include parole violators as well as newly sentenced state inmates awaiting transfer to state prison.

When describing the jail population, we will use total admissions for the year as well as average daily population. In 2016, the average daily population for the city's jails was 9,790, of which 7,633, or 78 percent, were pretrial detainees. Total admissions for 2016 were 63,758, of which 49,786 were pretrial detainees.

Characteristics of Pretrial Detainees. Based on the information we received from DOC, we can provide a profile of the pretrial detainees admitted in fiscal year 2016 by age, race, gender, foreign birth, previous convictions, current charge, and bail status.

The age range of those admitted spanned from 16 to over 65. Adolescents (ages 16 and 17) made up 3 percent of all admissions, while only 1 percent were age 65 and older. The majority were age 18 to 34 years old, making up 54 percent of the population. About 52 percent of pretrial detainees were black, 33 percent were Hispanic, and 10 percent were white. Males accounted for

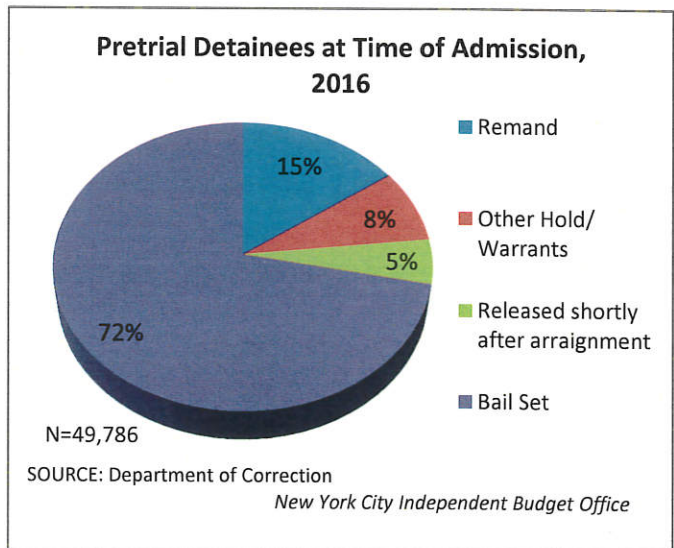


90 percent of the pretrial detainee population. About 17 percent self-identified as foreign born. The majority of pretrial detainees, 70 percent, had previous convictions.

Pretrial detainees faced a wide variety of charges. The DOC reports charges grouped by types; the most common type of charge, accounting for nearly 14 percent of the pretrial detainee population, was “Other Misdemeanors.” The category “Other Misdemeanors” encompasses various misdemeanor charges such as resisting arrest, criminal trespassing, criminal mischief, and possession of stolen property. Drug-related offenses (drug felony sale, drug misdemeanor, or drug felony possession) as a group made up 18 percent of the primary charges faced by pretrial detainees, which is a 9 percentage point decrease from 2010. Another 16 percent were charged with some type of assault (assault or misdemeanor assault). There was little difference between the most common charges faced by all pretrial detainees and those unable to post bail at arraignment.

Finally, the pretrial detainee population can also be divided into four categories based on bail status: individuals remanded without bail, those unable to post bail immediately at arraignment, those who had been turned over to DOC custody but were released without spending time in a DOC facility, and those with other holds or warrants.

Approximately 15 percent of the admitted pretrial detainees were remanded without bail, while 8 percent had other holds and warrants



Charges Faced by Pretrial Detainees Admitted to City Jails in Fiscal Year 2016				
Charge Type	All Pretrial Detainees		Pretrial Detainees Unable to Post Bail at Arraignment	
	Frequency	Percent	Frequency	Percent
Other Misdemeanors	6,864	13.8%	5,089	14.2%
Other Felonies	4,888	9.8	3,791	10.6
Misdemeanor Assault	4,397	8.8	3,455	9.7
Drug Felony Possession	4,113	8.3	3,280	9.2
Robbery	4,101	8.2	3,199	9.0
Assault	3,660	7.4	3,013	8.4
Warrants/Holds	2,845	5.7	1,938	5.4
Drug Felony Sale	2,681	5.4	1,926	5.4
Burglary	2,448	4.9	1,875	5.2
Weapons	2,354	4.7	1,646	4.6
Misdemeanor Larceny	2,341	4.7	1,583	4.4
Drug Misdemeanor	2,143	4.3	1,393	3.9
Grand Larceny	2,042	4.1	1,208	3.4
Vehicular	1,865	3.7	519	1.5
Murder/Attempted Murder/Manslaughter	806	1.6	433	1.2
Other Sexual Offenses	539	1.1	435	1.2
Misdemeanor Weapons	528	1.1	373	1.0
Rape/Attempted Rape	403	0.8	339	0.9
Missing	247	0.5	93	0.3
Other	233	0.5	100	0.3
Violations	161	0.3	41	0.1
Loiter/Prostitution	127	0.3	11	0.0
Total	49,786	100.0%	35,740	100.0%

SOURCE: Department of Correction

New York City Independent Budget Office

that would have caused them to be incarcerated even if their bail for the current charges were paid. Another 5 percent of individuals officially admitted as DOC inmates never actually spent time in a DOC facility. This group consists of individuals who were released within one day directly from court or the hospital and did not spend any time in a DOC facility because they either were able to pay bail before being transferred to the facility or they were transferred out of New York City's custody and into another authority or jurisdiction within the same day.

The remaining 72 percent were incarcerated because they were unable to post bail at arraignment. Based on data provided by the Department of Correction, the mean bail set for those unable to post bail immediately was \$39,163 and the median bail was \$5,000, indicating that for half of these individuals bail was \$5,000 or less. The mean bail set for those unable to post bail immediately at arraignment but were able to pay at a later date was \$28,050 with an average length of stay of 10.8 days. As a result, on an average day 3,931, or 52 percent, of all pretrial detainees were being held because they had been unable to post bail, although at least some would likely be able to do so shortly.

Cost of Incarcerating Pretrial Detainees. As you requested, IBO reviewed our 2011 estimate of the cost to the city of incarcerating pretrial detainees who are in jail only because they are unable to post bail immediately at arraignment. Total spending at the Department of Correction in fiscal year 2015, excluding debt service and fringe benefits, was \$1.162 billion. Based on the average daily population of 9,790, the overall cost per inmate was \$118,693 per year, or \$325 per day. These figures include fixed costs such as staff salaries and facilities maintenance.¹

In order to estimate the cost of detaining pretrial detainees who were unable to post bail or who were remanded, we asked DOC for marginal cost figures. According to DOC, a reduction of one inmate would result in a savings of \$4,737 per year, or \$12.98 per day in 2016. A reduction of one inmate would only result in savings for items other than personal services such as food and medication. However, if the average daily population is reduced by 100, there could be savings in staff and housing because DOC could potentially close a housing area. Previously, DOC had reported that in 2010 the marginal savings per inmate would be \$26,101 per year, or \$71.51 per day, if the average daily population was reduced by an increment of 100. DOC declined to update this figure for 2016. Therefore, we adjusted their 2010 figure for inflation, resulting in an estimated savings of \$29,563 per year or \$80.99 per day for 2016.²

Using this estimate of the daily marginal savings resulting from substantial reductions in inmate populations, IBO estimates that the annual cost of incarcerating pretrial detainees who are unable to pay their bail is approximately \$116 million. Similarly, we can estimate the cost of incarcerating those who were remanded without bail. On an average day 2,627, or 34 percent, of the pretrial detainees were being held because they were remanded. The annual cost of detaining this population is approximately \$78 million.

If you have any further questions regarding this request, please do not hesitate to contact me at 212-442-0225 or Shannon Hakh, IBO budget and policy analyst, at 212-341-6094.

Sincerely,



Ronnie Lowenstein
Director

¹ If debt service as well as pension and health and other benefits for correction department staff are included, total spending rises to \$2.175 billion and the annual cost for each inmate exceeds \$222,000 a year, or more than \$600 a day.

² The adjustment is based on a general measure of inflation in the cost of goods and services purchased by local governments in New York City developed by IBO. This might not fully account for the recent collective bargaining increases for city employees, and could, therefore, understate the marginal savings per inmate in 2016. DOC did not provide us with a breakdown of the savings from reducing personal services costs and other than personal services costs.