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Office of  
Criminal Justice  
Plans and Analysis

District of Columbia  
Government

Marion Barry Jr., Mayor



# The Crime & Justice Monograph

July 1990

## *Drug Case Flow Analysis of Disposition Patterns for The District's Criminal Justice System*

### INTRODUCTION

The growth over the last several years of the illicit drug trade has profoundly impacted every segment of the criminal justice community. Since 1985, the District has seen an increasing proportion of its criminal justice resources allocated to arresting, prosecuting, and incarcerating drug offenders. The influx of drug cases into the criminal justice system has altered the composition of the criminal justice population and has generated additional service demands, especially in the drug treatment area, for a growing number of criminal justice clients.

The growth in the District's illicit drug trade triggered a major law enforcement response that resulted in a 70 percent increase in felony drug arrests and a 74 percent increase in adult felony drug prosecutions from 1985 to 1989. Additionally, laws promoting mandatory sentences for drug offenders were enacted,

penalties were increased, and parole guidelines were tightened. The cumulative effects of these actions were an increasing proportion of incarcerated charged with drug crimes and an overall increase in the District's incarcerated population.

The purpose of this study is to examine the socio-demographic characteristic and the disposition patterns for adults charged with felony drug offenses. Information derived from this analysis will help address questions about the demographic profiles and criminal backgrounds of persons charged with illicit drug possession and distribution, and disposition patterns as their cases are processed through the criminal justice system. Findings should also aid in assessing the impact of felony arrest volumes on the remainder of the criminal justice system.

### METHODOLOGY

In order to assess disposition patterns for felony drug cases, a cohort analysis was

conducted of 400 adults arrested on felony drug charges in the District of Columbia between April and June of 1988. In calendar year 1988, there were 7,150 adult felony drug arrests. Of the felony drug charges presented to the U.S. Attorney's Office, 6,437 or 90 percent were accepted for prosecution. From those accepted, 400 cases were randomly selected and their movement through the criminal justice system was examined.

This case flow analysis provides estimates derived from the sample data on the percentage of cases accepted for prosecution, those actually prosecuted, guilty dispositions and sentencing outcomes. For each of the 400 arrestees selected for the study, criminal history data, including prior convictions for drug and other misdemeanor and felony crimes, were ascertained. An array of socio-demographic data was also gathered and analyzed including current address and educational level for each of the arrestees in the study sample.

Table 1

**Time Lapse Between Prior and Current**

**Arrests of Adult Arrestees**

| Time Lapse          | Number     | Percent    |
|---------------------|------------|------------|
| Less than 6 months  | 5          | 2          |
| 6 to 12 months      | 3          | 1          |
| 13 to 18 months     | 14         | 6          |
| 19 to 24 months     | 13         | 6          |
| 25 to 36 months     | 26         | 12         |
| More than 36 months | 163        | 73         |
| <b>Total</b>        | <b>224</b> | <b>100</b> |

Table 2

**Prior Convictions of Adult Arrestees**

| Number of Prior Convictions | Arrestees with Prior Convictions |         | Arrestees with Prior Drug Convictions |         |
|-----------------------------|----------------------------------|---------|---------------------------------------|---------|
|                             | Number                           | Percent | Number                                | Percent |
| 0                           | 162                              | 42      | 236                                   | 60      |
| 1                           | 34                               | 9       | 84                                    | 21      |
| 2                           | 47                               | 12      | 41                                    | 10      |
| 3+                          | 146                              | 38      | 34                                    | 9       |
|                             | 400                              | 100     | 395*                                  | 100     |

\* Data unavailable for 5 cases.

**BACKGROUND OF ARRESTEES**

*Demographic Information*

The common information collected at the time of arrest from each person includes age, race, educational level and residence. Ninety-eight (98) percent of the arrestees were black. The ages in the sample ranged from 17 to 52 years. The majority (47 percent) were between the ages of 17 and 25.

The majority (51 percent) of arrestees had not completed high school and only 9 percent had continued past the secondary educational level.

About 84 percent of the arrestees in the sample resided in the District at the time of arrest. Thirteen (13) percent of the arrestees lived in Maryland and only 1 percent lived in Virginia.

*Criminal History*

There is a common perception that many persons charged with drug crimes are repeat offenders and that relatively little time elapses between arrests. Of those previously arrested, the most recent prior arrest of the majority (73 percent) was more than three years ago. Twelve (12) percent had been arrested between 13 and 24 months prior to the current offense, 1 percent had been arrested between 6 and 12 months prior and 2 percent had been arrested less than six months prior to the current offense (Table 1).

As many as 59 percent of the arrestees had at least one prior conviction. While 42 percent had no prior convictions, 38 percent had three or more prior convictions. Also, 40 percent had at least one prior drug conviction (Table 2).

Data concerning past criminal involvement of the arrestees indicate that heroin arrestees had significantly more prior convictions than other drug arrestees. Sixty-two (62) percent of the heroin arrestees had at least one prior felony conviction and 67 percent had at least one prior misdemeanor conviction. Of those arrested on cocaine charges, 29 percent had at least one prior felony conviction and 46 percent had at least one prior misdemeanor conviction. Twenty-eight (28) percent of the

PCP arrestees had at least one prior felony conviction and 36 percent had at least one prior misdemeanor conviction (Tables 3 and 4).

## DISPOSITIONS

### Arrests

Possession of drugs is usually a misdemeanor crime. However, when a person is in possession of a large amount of drugs, the charge becomes possession with intent to distribute (PWID), which is recorded as a felony.

-Nearly all (98 percent) of the cases were arrests for drug sales, while only 3 percent were arrests for drug possession.

-A breakdown by offense indicates that the largest number of arrests (56 percent) were for the sale of cocaine, followed by 22 percent for the sale of heroin, and 19 percent for the sale of PCP (Table 5).

### Pretrial Releases

Once the prosecutor decides to proceed with the prosecution of the case, persons arrested on a felony charge are presented before a hearing commissioner to determine release eligibility before trial. Among the most important factors influencing the decision to release a person arrested on a drug charge is the likelihood that he will return for court appearances.

-An overwhelming majority (99 percent) of the arrestees were granted release before trial either on immediate supervised release or pending payment of cash or surety bond.

-Only 1 percent were held without bond until their trial date.

- Of those granted release before trial, 57 percent were released on their personal recognizance (immediate supervised release) and 43 percent were released after bond payment (Table 6).

It should be noted that, although a significant proportion of arrestees are granted release before trial pending payment of cash or surety bond, a significant

number of these arrestees do not post payment and remain detained until their trial.

### Prosecutions

Following presentment, a preliminary hearing is held to determine if there is probable cause to continue the case. The prosecutor may decide at any time to discontinue the case and dismiss all charges.

-Four (4) percent of the cases were dismissed at this stage.

For those cases continued, the evidence is next presented before a grand jury for further determination that the charges filed warrant an indictment and a continuation to trial.

Table 3

### Percent of Adult Arrestees with Prior Misdemeanor Convictions by Type of Drug

| Type of Drug Offense | 0 Prior Convictions | 1 Prior Convictions | 2 Prior Convictions | 3+ Prior Convictions |
|----------------------|---------------------|---------------------|---------------------|----------------------|
| Cocaine              | 55%                 | 21%                 | 11%                 | 14%                  |
| Heroin               | 34%                 | 24%                 | 13%                 | 30%                  |
| PCP                  | 64%                 | 19%                 | 11%                 | 6%                   |
| Other                | 17%                 | 25%                 | 8%                  | 50%                  |

Table 4

### Percent of Adult Arrestees with Prior Felony Convictions by Type of Drug

| Type of Drug Offense | 0 Prior Convictions | 1 Prior Convictions | 2 Prior Convictions | 3+ Prior Convictions |
|----------------------|---------------------|---------------------|---------------------|----------------------|
| Cocaine              | 71%                 | 19%                 | 6%                  | 4%                   |
| Heroin               | 38%                 | 24%                 | 19%                 | 19%                  |
| PCP                  | 73%                 | 21%                 | 7%                  | 0%                   |
| Other                | 55%                 | 9%                  | 9%                  | 27%                  |

*Table 5*  
**Adult Drug Arrests by Type of Drug**

| Offense | Number | Percent |
|---------|--------|---------|
| Cocaine |        |         |
| Sales   | 221    | 55      |
| PWID*   | 1      | 0       |
| Heroin  |        |         |
| Sales   | 86     | 22      |
| PWID    | 2      | 1       |
| PCP     |        |         |
| Sales   | 74     | 19      |
| PWID    | 0      | 0       |
| Other   |        |         |
| Sales   | 12     | 3       |
| PWID    | 0      | 0       |
| Unknown | 4      | 1       |
| Total   | 400    | 100     |

\*PWID = Possession With Intent to Distribute.  
 Percent total may not equal 100 due to rounding.

-Approximately 11 percent of the cases were dismissed at this point.

Upon indictment, the defendant goes before a judge to be arraigned on the charges handed down by the grand jury. At this point, the defendant enters a plea of guilty or not guilty (Figure).

-Sixty-five (65) percent of the adults arrested pleaded guilty at this point.

-Eighty-seven (87) percent of those cases pleading guilty were able to plea bargain.

-Six (6) percent of the original 400 cases requested jury trials.

-Of the 24 defendants requesting jury trials, 83 percent (5 percent of total) were found guilty at

trial, while 17 percent (1 percent of total) were acquitted.

-At the time of the survey, 5 percent of the cases were pending and, therefore, had received no action from the courts (Table 7).

### *Sentencing*

At arraignment when a defendant must plead guilty or not guilty, many cases are able to plea bargain which affects their sentencing outcomes. Plea bargaining involves an active negotiation between the defendant and the prosecutor in which the defendant pleads guilty and waives his right to trial in exchange for some concessions or a reduced sentence recommendation. Plea bargaining is an effective prosecutorial tool that elicits guilty pleas from defendants,

thereby reducing the need for time consuming trials that drain judicial resources and cause case processing delays.

-Of the adult arrestees that were eventually sentenced, 38 percent received probation followed closely by those receiving sentences of one year or less (34 percent).

-Nineteen (19) percent received sentences of 1 to 3 years.

-Nine (9) percent received sentences that were 3 years or longer (Table 8).

-Of those receiving probation, 80 percent pleaded guilty to a misdemeanor offense.

-For sentences of 1 year or less, 89 percent pleaded guilty to a misdemeanor offense (Table 9).

### **DISCUSSION OF FINDINGS**

If a profile were to be made of the typical adult arrested for drug sales based on the sample, the typical arrestee would be young, undereducated, black and most likely live in the District. Ninety-eight (98) percent of the sample were black, 47 percent were between the ages of 17 and 25 and 51 percent had not completed high school. The majority (84 percent) of people arrested in the city for the sale of drugs are residents of the District.

Another commonly held view is that most drug arrestees

Table 6

**Pretrial Release Decisions of Adult Arrestees**

| Type of Release       | Number | Percent |
|-----------------------|--------|---------|
| Personal Recognizance | 227    | 57      |
| Surety Bond           | 151    | 38      |
| Cash or Surety Bond   | 14     | 4       |
| Cash Release          | 2      | 1       |

are repeat offenders and that relatively little time elapses between arrests. The data show that 56 percent of arrestees had at least one prior arrest. However, for 73 percent of the cases, more than three years had passed between the current and the prior arrest.

With regard to prior convictions, the data reveal an interesting disparity. While 41 percent of arrestees had no prior convictions, an almost equal amount, 38 percent, had three or more prior convictions.

Data for convictions for drug crimes in particular reveal that 40 percent of arrestees had at least one prior drug conviction. Persons arrested for heroin-related crimes had more prior convictions and more often had felony charges than other drug arrestees. Fifty-seven (57) percent of heroin arrestees had at least one prior drug conviction, while 37 percent of cocaine arrestees and 29 percent of PCP arrestees had at least one prior drug conviction. The longer criminal histories for heroin

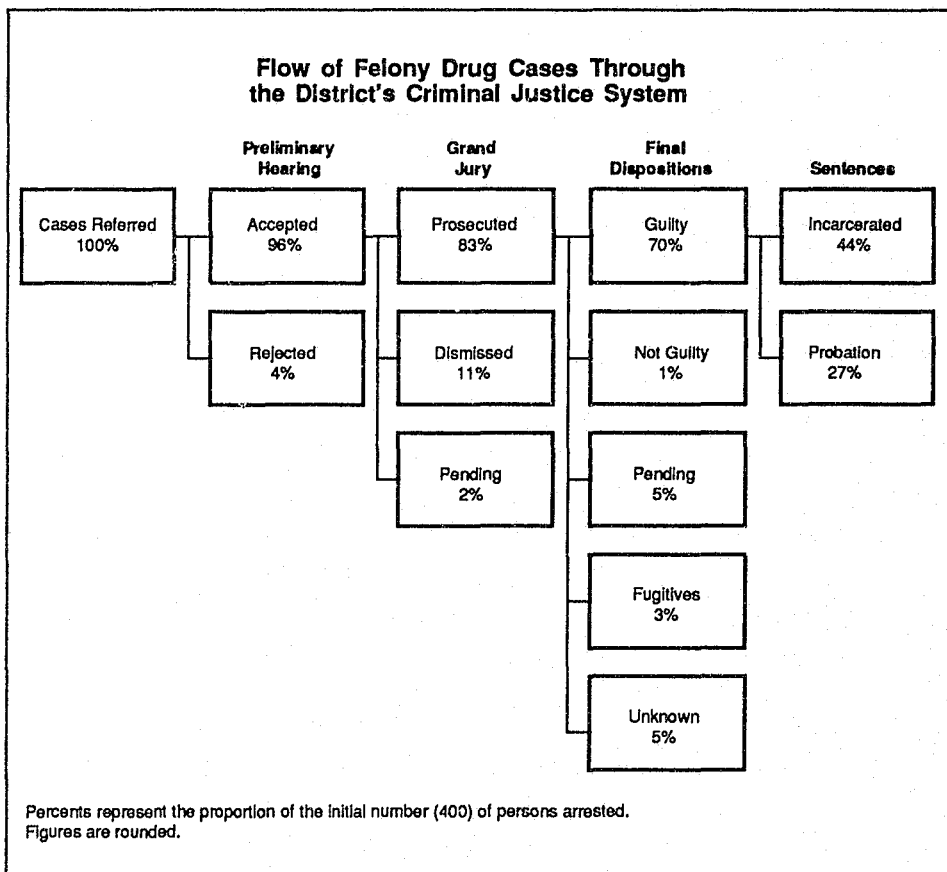
offenders are probably due in part to their relatively older age.

Though the increased number of defendants has put a strain on the criminal justice system, the court system has been able to effectively screen at the pretrial stage those inappropriate for either release or prosecution. Ninety-nine (99) percent of the

cases were released at presentment and of these, only 3 percent were placed in fugitive status after not returning for all court dates.

In selecting cases suitable for prosecution, 16 percent of cases were dismissed due to lack of probable cause. Plea bargaining plays a major role in diverting cases from trial and inducing guilty pleas. At arraignment, 65 percent of arrestees pleaded guilty and 6 percent requested jury trials. The majority (83 percent) of the jury trial cases were found guilty.

Approximately 44 percent of person arrested and initially charged for drug felony crimes



were given incarcerative sentences. Of those found guilty, about 62 percent were given incarcerative sentences and the remainder were placed on probation. The proportion of arrestees given probation corresponds to some extent to the

proportion of arrestees with little or no prior conviction histories.

While this study is able to shed light on the procession of drug law violators through the criminal

justice system, future studies addressing case processing questions should include an examination of case processing times, case processing costs, and factors that influence disposition decisions.

*Table 7*

**Disposition at Trial Stage of Adult Arrestees**

| <b>Disposition</b> | <b>Number</b> | <b>Percent</b> |
|--------------------|---------------|----------------|
| Pleaded Guilty     | 261           | 65             |
| Found Guilty       | 20            | 5              |
| Acquitted          | 4             | 1              |
| Fugitive           | 13            | 3              |
| Dismissed          | 62            | 16             |
| Pending            | 21            | 5              |
| Unknown            | 19            | 5              |
| Total              | 400           | 100            |

*Table 8*

**Sentences Imposed on Convicted\* Adults**

| <b>Sentence</b>               | <b>Number</b> | <b>Percent</b> |
|-------------------------------|---------------|----------------|
| Probation                     | 108           | 38             |
| 1 year or less                | 97            | 34             |
| More than 1/less than 3 years | 55            | 19             |
| 3 years or more               | 24            | 9              |
| Total                         | 282           | 100            |

\*Split sentences with probation were recorded as incarceration. The minimum sentence was evaluated when a range was imposed.

*Table 9*

**Sentences Received by Adult Arrestees Pleading Guilty to Reduced Charges**

| <b>Charge Reduced to</b> | <b>Probation<br/># / %</b> | <b>1 year or less<br/># / %</b> | <b>More than 1 less than 3 years<br/># / %</b> | <b>3 years or more<br/># / %</b> |
|--------------------------|----------------------------|---------------------------------|--|----------------------------------|
| Misdemeanor              | 86 / 80                    | 86 / 89                         | 33 / 60  | 12 / 50                          |
| Lesser Felony            | 22 / 20                    | 11 / 11                         | 22 / 40  | 12 / 50                          |
| Total                    | 108 / 100                  | 97 / 100                        | 57 / 100                                       | 24 / 100                         |