

The Impact of Changes in Monroe County Felony Case Prosecution

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Purpose

The goal of this report is to continue to examine the impact of strategic changes in the prosecution of felony cases in Monroe County. In early 2004, the District Attorney made changes in policy regarding the prosecution of felony cases. Broadly speaking these policy changes included;

- a. restrictions on plea bargaining and,
- b. the near elimination of preliminary hearings.

As expected the 2004 data contained a temporal delay that commonly follows policy change, but the 2005 data showed more significant results. The goal of this updated analysis is to see whether and to what extent these changes were duplicated in 2006. Also, it is our intention to examine whether these changes continued to affect the processing of felony cases including 1) how cases are adjudicated, 2) the results of adjudication and 3) the time it takes to dispose of cases. This report is a follow-up to Working Paper #23 which examined the prosecution of cases in Monroe County and presented comparisons across the calendar years 2003-2005.

Methods

This report uses a standard pre-test-post test research design, which compares outcomes before and after the policy changes.¹ The post-test data are comprised of case processing information for felony cases closed in 2006. This is the most recent and most complete of the currently available data. These data are compared with cases closed in the three previous years. Information from 2003 reflects cases closed under the previous District Attorney. 2004 data are transitional data and reflects cases closed during the process of changing policies under the current District Attorney. 2005 data are the first complete data set post policy change that can be used for evaluation.²

Findings

1. Felony arrests have risen.

To consider the impact of policy changes we must first examine the pattern of felony arrests during the time periods under review.³

Table 1: MONROE COUNTY FELONY ARRESTS 2003-2006

	Arrest Year			
	2003	2004	2005	2006
TOTAL	4,655	4,708	4,555	4,723
VIOLENT	1,242	1,214	1,232	1,399
DRUG	905	851	778	865
OTHER	2,508	2,643	2,545	2,459
FIREARM	365	333	341	425

Source: DCJS, Computerized Criminal History System (as of 4/07)

Note: Firearms are shown as a separate category because they are included in both the violent and other offense groupings.

The table above shows that in 2006 felony arrests rose overall and in every category but one (other). From 2005 to 2006 total felony arrests rose 3.7%. 2006 violent and firearm felony arrests climbed to the highest raw counts during the comparison period, including increases from 2005 of 13.5% and 24.6% respectively.

2. As felony arrests have risen, the percentage prosecuted in the upper courts also rose then fell slightly in 2006.

Table 2 below shows the number of cases disposed of by court level and the percentage prosecuted in the upper courts (therefore as felonies).

Table 2: MONROE COUNTY FELONY ARRESTS DISPOSED BY COURT TYPE

2003-2006						
Felony Arrests	Dipso Year	Total	Court Type			% Prosecuted in Upper Courts
			Lower	Upper	Other*	
TOTAL	2003	4,854	1,957	1,979	918	40.8%
	2004	4,263	1,540	2,079	644	48.8%
	2005	4,389	1,414	2,465	510	56.2%
	2006	4,487	1,527	2,343	617	52.2%
VIOLENT	2003	1,170	240	682	248	58.3%
	2004	1,153	231	697	225	60.5%
	2005	1,200	212	789	199	65.8%
	2006	1,249	252	796	201	63.7%
DRUG	2003	1,049	350	466	233	44.4%
	2004	858	290	422	146	49.2%
	2005	781	261	403	117	51.6%
	2006	833	292	414	127	49.7%
OTHER	2003	2,635	1,367	831	437	31.5%
	2004	2,252	1,019	960	273	42.6%
	2005	2,408	941	1,273	194	52.9%
	2006	2,405	983	1,133	289	47.1%
FIREARM	2003	332	34	189	109	56.9%
	2004	300	33	184	83	61.3%
	2005	336	33	241	62	71.7%
	2006	362	34	253	75	69.9%

Source: DCJS, Computerized Criminal History System (as of 4/07)

* The 'other' category primarily includes cases where the grand jury failed to indict (no true bills).

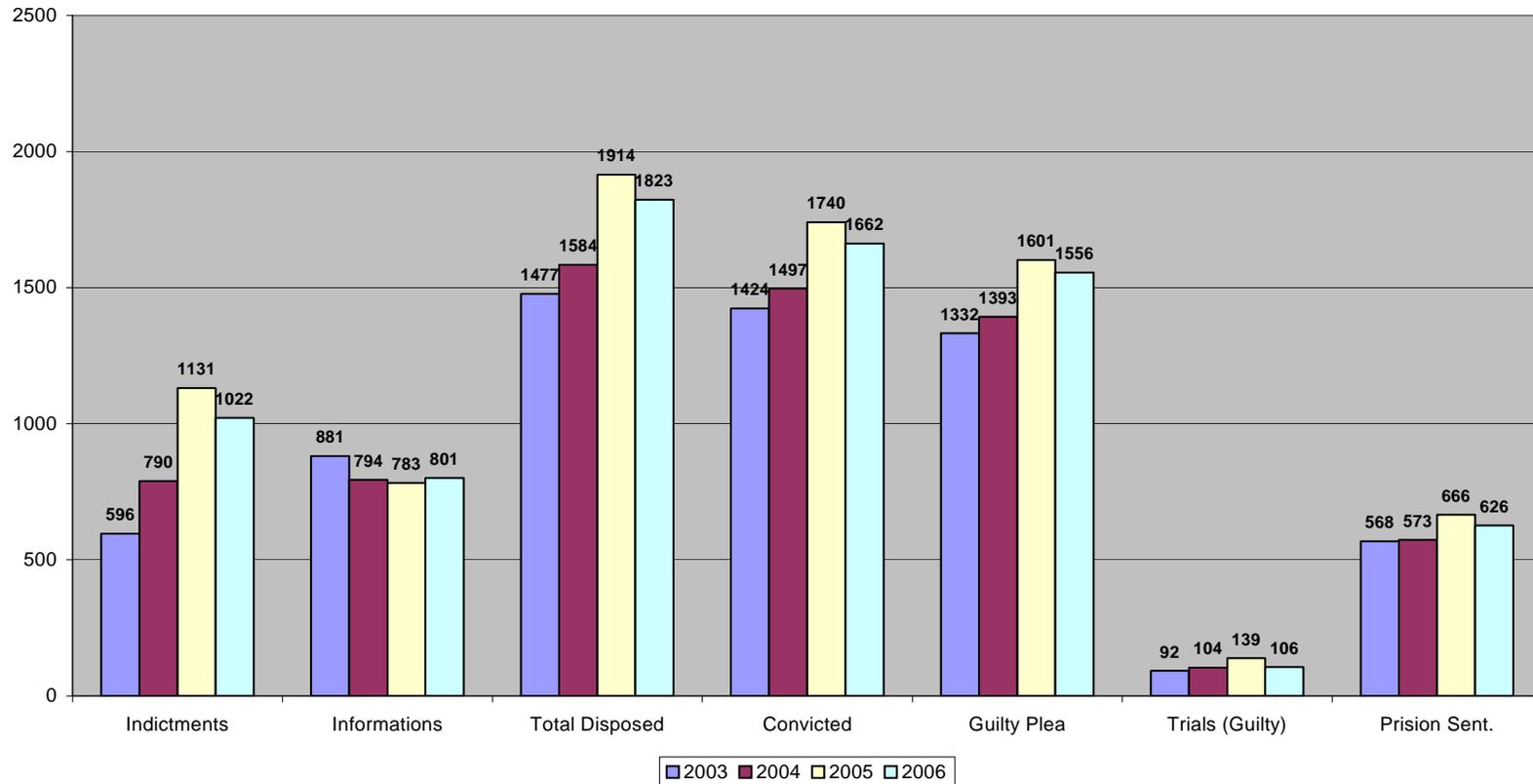
Note: Firearms are shown as a separate category because they are included in both the violent and other offense groupings.

Table 2 shows that the proportion of felony arrests disposed as felonies (i.e. upper court dispositions) regressed in 2006 after rising consecutively the three previous years. Despite the decreases in the overall numbers, each of the three key categories, violent drug, and firearm upper court dispositions rose from 2005. Even with the rise of the aggregate totals in each respective category the percentage of cases prosecuted in the upper courts fell slightly overall and across the target categories. Although the 2006 percentages represent a minimal decrease from 2005 it should be noted that all remain higher than the respective 2003 and 2004 levels. Most notably, nearly 70% of all firearm arrests in 2006 were disposed of in the upper courts compared to only 56.9% in 2003.

In addition, year-to-year felony dispositions increased 18.4% from 1,979 in 2003 to 2,343 in 2006. The largest year-to-year felony disposition increase in a single category occurred in the “other felonies” category, which rose 36.3%, from 831 in 2003 to 1,133 in 2006. Among the target categories, firearm felony dispositions increased the most, at 33.9%, from 189 in 2003 to 253 in 2006.

3. Significant changes in felony processing and outcomes have occurred over the comparison time periods.

Chart 1: MONROE COUNTY FELONY DISPOSITIONS 2003-2006



The chart above shows that changes have occurred throughout felony case processing. The total for felony cases disposed of fell 4.8% even though the number of felony arrests rose between 2005 and 2006. During the same period, indictment⁴ dispositions declined 9.6% and information dispositions rose 2.3%. Similar reductions between 2005 and 2006 exist in convictions, guilty pleas, trials, and prison sentences. Conversely the numbers across all categories remain considerably higher than those of 2003. Most significantly, felony indictments have increased 71.5% between 2003 and 2006. During the study period the number of convictions increased by 16.7%. Guilty pleas increased 16.8% and convictions through trials also increased; those by 15.2%, from 92 to 106. The chart also shows that sentences to state prison rose during this time period by 10.2%.

4. Prosecution outputs changes dramatically from 05 through 06. However, there were few differences in the 05/06 comparisons.

Chart 2: COMPARISON OF 2006/2003 OUTPUTS AND 2006/2005 OUTPUTS

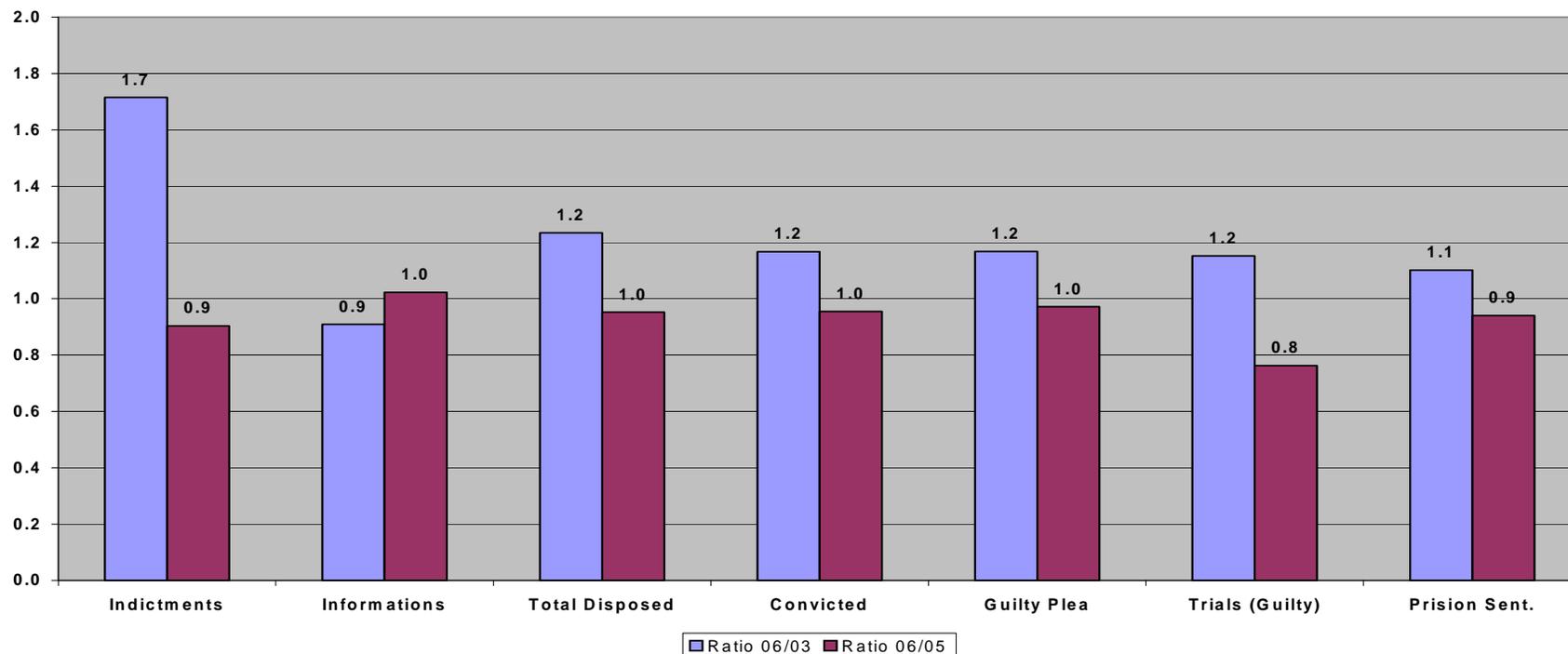


Chart 2 above shows that when comparing 2006 with 2003 all areas show increases except the level of informations. The total dispositions in 2006 are 1.2 times those of 2003. Indictments are 1.7 times the previous level. Sentences to prison are 1.1 times the number of 2003. Conversely, when comparing 2006 with 2005 no category showed an increase. All remained essentially level except for indictments, guilty trials, and prison sentences. The most significant decrease was guilty trials, which fell to .8 of 2005 data from 139 to 106.

5. The 2003-2005 pattern of small declines in Informations and increases in all other categories across all types of felony cases does not continue in 2006

The Table below shows that in 2006 the pattern noted above for the previous three years for all major categories of felonies is not observed.⁵ Overall, informations increased in all target categories except drug, where there were 163 in 2006 as compared to 168 in 2005. The largest increases in 2006 are in the firearm felony category. Total dispositions, convictions, guilty pleas and prison sentences are all up for the firearm category in 2006. It should be noted that when comparing 2003 to 2006 informations are down and increases are present in all other categories across all types of felony cases.

Table 3: MONROE COUNTY FELONY CASES DISPOSED OF BY CATEGORY AND YEAR

2003-2006:

FELONY CASES	Dispo Year	Indictments	Informations	Total Dispo	Convicted	Guilty Pleas	Trials (Guilty)	Prison Sent.
TOTAL	2003	596	881	1,477	1,424	1,132	92	568
	2004	790	794	1,584	1,497	1,393	104	573
	2005	1,131	783	1,914	1,740	1,601	139	666
	2006	1,022	801	1,823	1,662	1,556	106	626
VIOLENT	2003	276	153	429	400	343	57	256
	2004	349	135	484	433	366	67	278
	2005	466	125	591	504	416	88	306
	2006	431	135	576	484	412	68	295
DRUG	2003	98	232	330	317	299	18	140
	2004	111	191	302	287	276	11	103
	2005	142	168	310	297	284	13	156
	2006	165	163	328	313	305	8	168
FIREARM *	2003	N/A	N/A	152	144	134	10	75
	2004	N/A	N/A	185	165	155	10	103
	2005	N/A	N/A	258	214	188	26	129
	2006	N/A	N/A	281	231	206	25	143

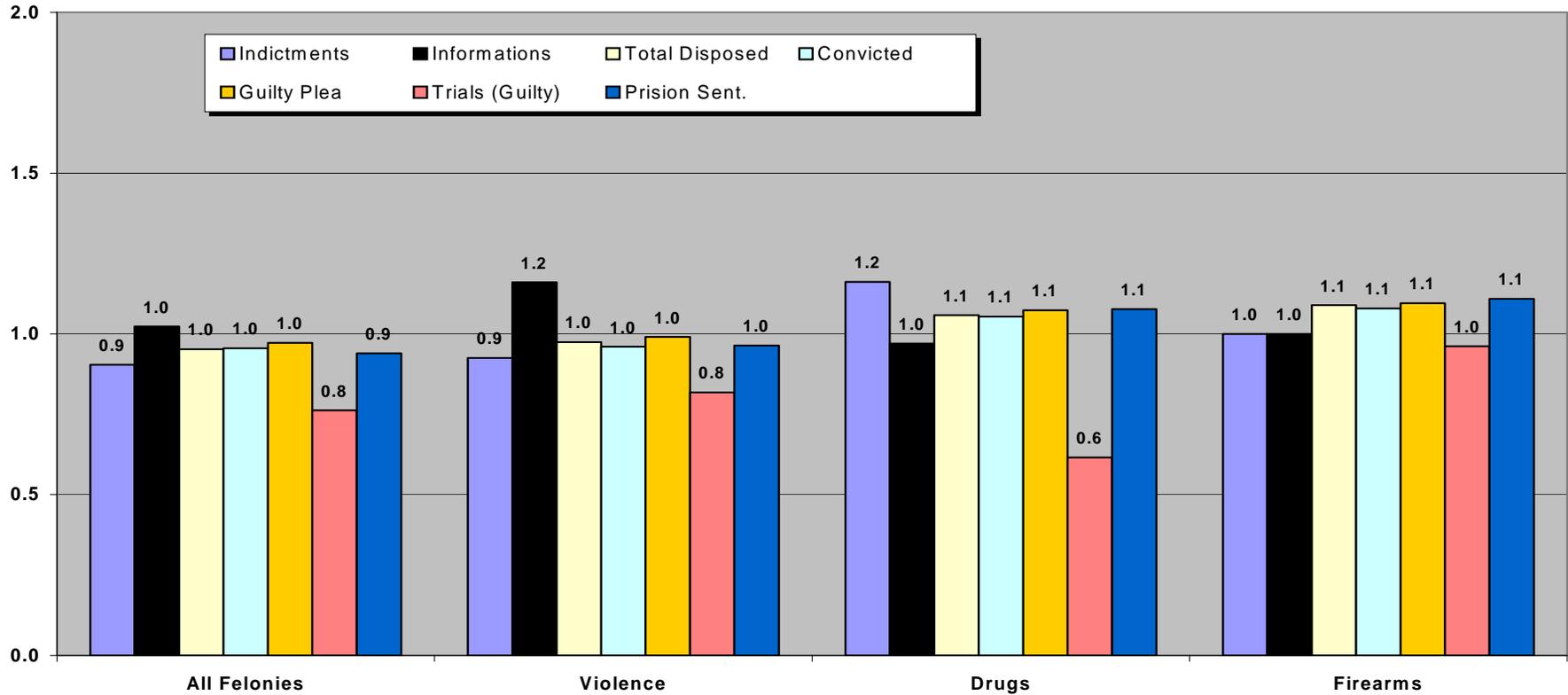
Source: Indictment Statistical System (4/07).

* Data for Firearm Indictments and Firearm Informations were not available for this time period.

Note: Firearms are shown as a separate category because they are included in both the violent and other offense groupings.

The chart below presents the information above as a ratio of 2006 activity to 2005 activity for the major categories of felony. It shows that like overall felonies, for violence, drugs and weapons felonies only trials fell significantly. While informations increased most significantly for violent offenses, drug felonies represented the most dramatic increase of dispositions. For both felony drug and firearm offenses there were 1.1 times as many prison sentence in 2006 than occurred in 2005.

Chart 3: RATIO OF 2006 TO 2005 FELONY CASE PROCESSING MEASURES BY TYPE OF FELONY



6. Since 2003 increases in the raw numbers of cases disposed of, the number of convictions, and the severity of sanctions have been accompanied by small reductions in overall conviction rate and small shifts in the ways convictions are achieved. In 2006 the declines in conviction rate leveled.

Chart 4: RATES OF PROSECUTORIAL OUTCOMES 2003-2006

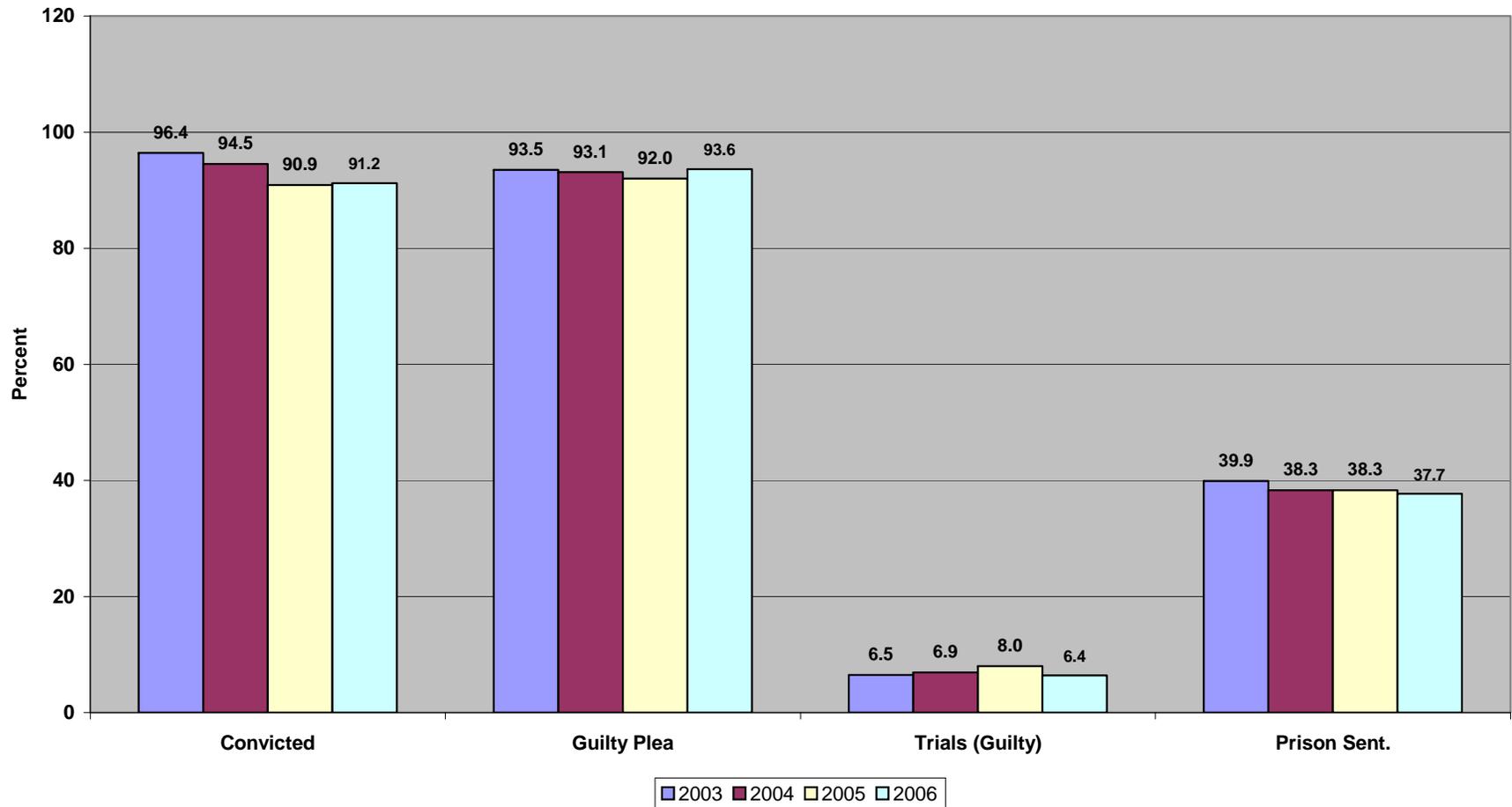


Chart 4 shows that the rate of convictions was 90.9% in 2005 and 91.2% in 2006. It also shows that, in 2006, 93.6% of convictions resulted from guilty pleas. That is up slightly from 2005. Conversely, the percentage of convictions resulting from trials has decreased slightly to 6.4%. The prison sentence figures show the decrease in the percentage of convictions resulting in prison sentences for the same time period.

Table 4 (below) shows the way in which the conviction rates presented above were achieved for all disposed cases and by type of case. Firearm and drug categories were the only to have increases in total dispositions. The felony firearm category had the greatest increase in number of convictions, from 214 in 2005 to 231 in 2006.

Table 4: MONROE COUNTY FELONY CASES DISPOSED OF BY OUTCOME AND YEAR

2003-2006:

FELONY CASES	Dispo Year	Total	Outcome				Jury	Non-Jury
			Conviction	Dismissed	Acquitted	Other Action		
TOTAL	2003	1,477	1,424	17	20	16	87	5
	2004	1,584	1,497	33	33	21	82	22
	2005	1,914	1,740	63	80	31	96	43
	2006	1,823	1,662	84	57	20	81	25
VIOLENT	2003	429	400	8	15	6	54	3
	2004	484	433	19	21	11	57	10
	2005	591	504	28	48	11	68	20
	2006	576	484	48	31	13	56	16
DRUG	2003	330	317	6	1	6	16	2
	2004	302	287	6	3	6	10	1
	2005	310	297	6	4	3	8	5
	2006	328	313	11	3	1	6	2
FIREARM *	2003	152	144	3	2	3	N/A	N/A
	2004	185	165	10	5	5	N/A	N/A
	2005	258	214	18	21	5	N/A	N/A
	2006	281	231	30	12	8	N/A	N/A

Source: Indictment Statistical System (4/07).

* Data on Firearm Trials were only available in aggregate levels for this time period: 2003 (12); 2004 (15); 2005 (47); 2006 (37).

Note: Firearms are shown as a separate category because they are included in both the violent and other offense groupings.

7. Summary measures show increases then some stabilization in the probability that felony arrests will be resolved as felonies, and that felony dispositions will yield outcomes of guilty, and that guilty outcomes will yield prison sentences.

Table 5: PROBABILITIES* OF OUTCOMES OF FELONY CASE PROCESSING: SUMMARY MEASURES

	Year	Felony Arrests**	Felony Dispositions	Probability that Felony Arrest will be Disposed of as a Felony	Prison*** Sentence	Probability that a Felony Arrest will result in Prison
TOTAL	2003	4655	1979	0.43	568	0.12
	2004	4708	2079	0.44	573	0.12
	2005	4555	2465	0.54	666	0.15
	2006	4723	2343	0.50	626	0.13
VIOLENT	2003	1242	682	0.55	256	0.21
	2004	1214	697	0.57	278	0.23
	2005	1232	789	0.64	306	0.25
	2006	1399	796	0.57	295	0.21
DRUG	2003	905	466	0.51	140	0.15
	2004	851	422	0.50	103	0.12
	2005	778	403	0.52	156	0.20
	2006	865	414	0.48	168	0.19
FIREARM	2003	365	189	0.52	75	0.21
	2004	333	184	0.55	103	0.31
	2005	341	241	0.71	129	0.38
	2006	425	253	0.60	143	0.34

* Since the entire process of arrest through sentencing may span more than 1 year, this table should not be interpreted as tracking individual cases but should be regarded instead as a general measure to be examined over time. These data should not be seen as reflecting prosecutorial decisions alone but instead reflect processes involving the police, prosecutors, and the courts.

** During this time period a small portion of felony arrests were referred for prosecution in Federal courts.

*** Prison refers only to state correctional institutions run by the New York State Department of Corrections. Sentences to Monroe County Jail or Federal Prison are not reflected in these counts.

The analysis thus far shows that there have been slight decreases in the overall raw numbers of felony dispositions, outcomes of guilty, and sentences to prison. These raw number decreases are also accompanied by a small increase in the conviction rate. This is an artifact of mathematical processes and should caution the reader from relying wholly on numbers or rates. To understand the impact of policy changes both figures must be considered together.

Table 5 (above) provides another means for approaching the differences noted above. The table illustrates the probabilities of outcomes and thus provides a means of simultaneously considering both the raw figures and rate changes. This table seeks to answer the general question “What is the net effect of the policy changes?”⁶

The table shows that although felony arrests have increased, for total felony dispositions and for dispositions in the drug, violence, and firearm categories the probability that a felony arrest will be disposed of as a felony declined slightly. In 2006 there was a 5% decrease in the number of cases disposed of as felonies and a 6.4% decrease in dispositions resulting in prison sentences. Violent felonies had the greatest decrease in the probability of a felony arrest resulting in a prison sentence, falling from .25 in 2005 to .21 in 2006. Even the rise in the aggregate totals of felony drug and firearm dispositions and prison sentences were not enough to offset the overall trend.

The table below (6) compares Monroe County with the averages across the thruway counties; Albany, Onondaga and Erie. It shows that a felony arrest is more likely to be disposed of as a felony in Monroe County when compared with the thruway counties averages and a felony arrest is more likely to lead to prison in Monroe County for all but Drug Arrests.

Table 6: Summary of 2006 Data: Monroe County Compared with Average of Other Thruway Counties

	Probability that felony arrest will be disposed of as a felony		Probability that felony arrest will result in prison	
	Monroe	Ave. Others	Monroe	Ave. Others
Total	0.5	0.33	0.13	0.12
Violent	0.57	0.41	0.21	0.18
Drug	0.48	0.45	0.15	0.19
Firearm	0.6	0.59	0.28	0.22

8. The policy changes in the district attorney's office are also associated with increases in the time it takes to dispose of cases.

The median time for disposal of cases was 1 day in 2003, 10 days in 2004, 57 days in 2005, and 46 days in 2006. This is the result of both a reduction and near elimination of early pleas that has accompanied the near elimination of the preliminary hearings. The Change from 05 to 06 is consistent with the other findings noted above.

Summary

The analyses above suggest that the changes in policy implemented by the District Attorney have had significant impacts on case processing and outcomes in his office. The 2006 results have regressed slightly when compared to 2005, but are still appreciably higher than 2003. Significant policy changes, like those implemented here by the District Attorney, generally experience large immediate effects which, over time, seem to regress toward the mean. In effective policy change the regression is frequently minimal and plateaus over time. The result when compared to the initial pre-test data is a newly established elevated mean level. Since 2006 is only the second full year of data after the restrictions on plea bargaining and near elimination of pre-trial hearings were implemented it can not be definitively determined that is the case here. However the results are encouraging.

Summary measures show that comparing 2003 to 2006 for total felony dispositions and for dispositions in the violent and firearm categories the probability has increased that a felony arrest will be disposed of as a felony. In short, from 2003 through 2006 there has been only a 1.5% increase in felony arrests and an 18.4% increase in felony dispositions. At the same time there has been an increase in the probability that a felony arrest will result in a prison sentence in the total felony, drug, and firearm categories. The increase is greatest in the category of firearm offenses. From 2003-2006 there has been a 62% increase in the probability that a felony gun arrest will lead to a prison sentence. The violent category remained consistent with 21% of arrests resulting in prison sentences.

The restrictions on plea bargaining and the near elimination of preliminary hearings have resulted in significant increases in the percentage of cases disposed of in upper courts (as felonies) and in the number of criminal trials. Furthermore, each of the target felony categories has seen an increase since 2003 in sentences to state prison, 15% in Violent, 10% in Drug, and 90% in Firearm respectively. The increases in the volume of work have been accompanied by minor reductions in the percentage of cases ending in conviction and in increases in the time it takes to close cases. When overall outcomes are considered the data show that, for 2006, increases have occurred in the probability that a felony arrest would be disposed of as a felony, furthermore those dispositions are more likely to be guilty and, finally, the felony arrests are more likely to yield prison sentences than in 2003. The overall trend in the data suggests rises in measures of punishment severity followed by the leveling off of measures at new, higher levels.

¹ We appreciate the assistance of Marge Cohen of the New York Division of Criminal Justice Services and thank her for helping with access to data and contributions to the analysis.

² Like all research there are limitations to this study that should encourage caution in interpreting results. In this case there may be factors that are not controlled for that may limit the usefulness of comparisons across time periods. Furthermore, disposal of cases in one time period does not indicate when that case was initiated. Finally, implementation of policy change is not likely to be sudden and complete and may not fully coincide with any specified time period.

³ Although arrests and disposition of cases during the same quarters do not deal with the same cases, we believe that is an important to examine arrest trends since they will establish the parameters for disposing of cases.

⁴ Informations reflect cases where prosecution, defense, and the court agree on a plea and sentence without going to grand jury. Indictments reflect felony prosecutions resulting from grand jury presentations.

⁵ Categories of offenses do not include all cases and therefore are not intended to add up to the total.

⁶ Interpretation of this table is based on the assumption that the cases from all years are drawn from the same population and therefore case processing policy rather than differences in the nature of the cases accounts for their different treatment over time.