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EARLY CASE ASSESSMENT:

A Preliminary Report Examining
Complaint Room and Arraignment Outcomes

Vera Institute

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INTRODUCTION

On May 12, 1975, the first of three Early Case Assessment Bureaus (ECABs) was established in the Manhattan District Attorney's Office. Funded by the Division of Criminal Justice Services (DCJS), the purpose of the ECABs is to "front load" the prosecution of felony cases by placing senior Assistant District Attorneys (ADAs) in the Complaint Room intake process. These ECAB ADAs are thought capable of identifying those felony cases which ought to be dismissed in the Complaint Room, prosecuted as misdemeanors in Criminal Court, or finally, sent without delay to the Grand Jury for felony prosecution. This report presents preliminary results of an evaluation of this assessment effort.

The report is divided into three sections. The first section (Chapter One) describes the organization of Early Case Assessment and describes the assessment decision making whereby ECAB is expected to make an impact. In the second section, the results of assessment are examined in relation to outcomes at arraignment in Criminal Court. This account is Chapter Two of this report, and in turn divides between a "before and after" consideration of impacts, and an examination of outcomes for each type of ECAB decision. A small final section, also in Chapter Two, is devoted to an analysis of presentations made to the Grand Jury and resulting indictments.

The Findings

Briefly, ECAB appears to be at least partly successful in its mission of "front loading" felony prosecution. More cases are disposed of at Criminal Court arraignment after the inception of ECAB than before. This impact is particularly apparent in Brooklyn, and was not found in the Bronx. The strength of the Brooklyn results may in part be explained by the integration of control over Complaint Room and Criminal Court prosecution activities in that borough. With control spanning both sectors, it is apparently easier for the ECAB tracking decision to have an impact.

Two findings expected from the evaluation were not observed. There appears to be no "improvement" in police charging as a result of the operations of ECAB. Both before and after the inception of early assessment, there was found to be very high agreement between charges made by Arresting Police Officers (APOs) and those contained in the affidavits prepared by ECAB. ECAB has also not greatly increased the percentages of all cases presented to the Grand Jury which are indicted. The rate of indictments is quite high both before and after ECAB. In both the instance of police charging and Grand Jury indictments, it is concluded that expectations for increases due to ECAB were unrealistic, since both measures were already close to a "ceiling".

CHAPTER I

EARLY CASE ASSESSMENT BUREAUS: ORGANIZATION AND PROCEDURES

ECAB Organization

The task of "assessing" the intake of police arrests is traditional to a prosecutor's office. The Complaint Room is the site for case intake and evaluation. There, prosecutors and support personnel work in cooperation with arresting police officers (APO's), civilian witnesses and victims to obtain information about the nature of a crime. The contribution of Early Case Assessment can therefore be thought of as coming from a change in the methods and perhaps in the quality of work previously performed in the Complaint Room by less experienced ADA's.

The physical arrangement, work flow, office procedures and formal organization of this Complaint Room activity also differs in each of the boroughs in which Early Case Assessment has been instituted. An evaluation could not be said to have covered all of the factors which affect the ability of a prosecutor to manage his case-load and to screen cases to be prosecuted as misdemeanors without, for instance, taking note of the physical hardships endured by the Complaint Room staff in The Bronx.

This preliminary report, however, deals only briefly with such factors. Each of the three ECAB boroughs is differentiated according to the relationship of its Early Case Assessment Bureau to other activities in the District Attorney's Office. The manner in which ECAB activities relate to Criminal Court prosecution and the work flow and office procedures in each of the three boroughs are of special interest.

(1) ECAB and Other Office Activities

The "coverage" of arrest intake varies from one borough to another. Though Early Case Assessment occurs at the beginning of the criminal court process, individual boroughs permit some felony arrests to be screened before reaching ECAB. In Manhattan and the Bronx, for example, cases are screened and selected by the Major Offense Bureau (MOB) before they reach ADAs working in ECAB. In Brooklyn, on the other hand, cases eligible for MOB are interviewed first by an ECAB attorney who then sends selected cases to that Bureau after arraignment. Homicide cases are often screened independently of ECAB in all three boroughs.

(2) ECAB and Other Criminal Court Prosecution

The degree of interdependence between the Early Case Assessment Bureau and subsequent criminal court processing depends on ECAB's organizational relationship to the Criminal Court Bureau. In Manhattan and the Bronx, ECAB is organized independently of other Criminal Court prosecution. In Brooklyn, "ECAB" encompasses all Criminal Court prosecution. The Assistant District Attorney in charge of ECAB in Brooklyn also supervises the Criminal Court "Bureau." He is assisted by a "Complaint Room Supervisor" who is responsible for day-to-day decisions affecting ECAB intake. The manner in which ECAB is related to other Criminal Court prosecution activities affects the ability of ECAB attorneys to ensure the implementation of their tracking decisions during subsequent Criminal Court prosecution. For example, since Arraignment ADA's are supervised by the "ECAB Chief" in Brooklyn, there would appear to be greater organizational support for their compliance with ECAB tracking decisions than might be expected in Manhattan or the Bronx. The tabulations of arraignment

outcome according to ECAB track presented below for each borough apparently support this supposition.

(3) Office Flow and Procedures

The ECAB's in each borough have also developed unique office work flow and management procedures. In Brooklyn, for example, the Victim/Witness Assistance Project (VWAP) operates in close physical proximity to ECAB. VWAP "expeditors" function as traffic managers for ECAB, in part determining the order and timing of ECAB interviews. Neither the Bronx nor Manhattan have comparable witness programs at the present time. Variations also exist in the extent to which support personnel and additional Assistant District Attorneys assist the ECAB operation. In Manhattan, junior ADA's assigned to ECAB handle case intake much in the same manner as regular ECAB attorneys.

They complete the ECAB form and all other paperwork, including case write-ups and the preparation of complaints. In the Bronx and Brooklyn, the interview is a two-step process. In the first steps the case is reviewed by an ECAB attorney. The ECAB assistant makes an over-all determination of the manner in which the case will be prosecuted in a "tracking decision" (see below). Then APOs and complainants are re-interviewed by a junior ADA who is charged with the responsibility of writing up the trial folder for the case and dictating the felony or misdemeanor complaints. These junior ADAs rotate in and out of the Complaint Room at short intervals.

ECAB Intake

Cases reach ECAB in relatively similar ways in each of the three boroughs in which the program operates. In all instances, an arrest is followed by booking (centralized or decentralized). The arresting police officer (APO) then takes an arrest report (the "pink sheet") to the Complaint Room. It is here that the formal procedures of Early Case Assessment can properly be said to begin. The ECAB ADA first interviews the APO. An ECAB form is completed on the basis of this interview. The ECAB form records particulars identifying the arresting officer, witnesses, suggested charges and other major details of case intake. This form also includes a "tracking decision"--the crucial output of Early Case Assessment. Tracking is the mechanism by which Early Case Assessment intends to influence prosecutorial and court processes.

The tracking decision is made and ECAB forms are completed by the ADA within a very short period of time. Based on observations in Brooklyn and the Bronx, it is estimated that the ECAB attorney devotes only a few minutes to each case. In Manhattan, however, where the ADA carries the case through to completion, a longer period is required in order to complete the trial folder and preparation of affidavits. (The single-step process in Manhattan probably reduces total time for case intake however, since duplication occurs when participants are re-interviewed in Brooklyn and the Bronx.) The ECAB intake process is handicapped by the frequent lack of several important pieces of information: the defendant's arrest history (NYSID Sheet) is often unavailable at the time of the ECAB interview; civilian witnesses are frequently absent; finally, the results of ballistics and drug tests, as well as other evidentiary materials, tend also to be unavailable at this point.

In Brooklyn and the Bronx, the interview with the ECAB ADA is followed by a second interview with a junior ADA, whose responsibility it is to prepare the affidavit and trial folder required before arraignment. The junior ADA is guided by the case tracking determination made by the ECAB ADA. However, after re-interviewing the APO and preparing the affidavit, the junior ADA may alter some charges identified by ECAB or may uncover new aspects of the case. Inevitably, a two-step prosecution interview creates duplication. It is not clear whether this cost in duplicated effort is outweighed by a more economical use of the trial assistant's time or by reducing the burden of monotonous and routine work otherwise required of a senior ADA.

Charge Changes in the Complaint Room

Although one of the impacts expected from the operation of Early Case Assessment was careful review and evaluation of the criminal charges made by APOs, it is difficult to fully assess this aspect of the program. In the cramped confines of the Complaint Room, and in the rapid-fire sequence of events characterizing intake into ECAB, it is scarcely possible for outside observers to capture details of the charge evaluation process, nor indeed to interrupt that process with questions of the participants.

The findings presented here are therefore tentative in that they are limited to information which was accessible to the researchers. Table I.1 tabulates felony cases for the pre-ECAB sample as they

arrived in the Complaint Rooms in all three ECAB boroughs. The rows of Table I.1 refer to the most serious charge made by the APO. The columns of Table I.1 group cases according to the most serious charge surviving Complaint Room assessment. Therefore, a charge on the diagonal of Table I.1 (where rows equal columns) shows those cases where no change in top charge severity was made. Cases above the diagonal were reduced, and those below were increased in top charge severity.

In Table I.1, 88 percent of all cases lie on the diagonal of the table (for example, all 13 A felony cases as charged by the APO remained A felony cases as charged by the Complaint Room ADA). In Table I.2, where charge changes are tabulated after the inception of Early Case Assessment, 90 percent of all top charges remain in the same felony class after Complaint Room processing as they occupied going into the Complaint Room.

One of the prime tasks of the evaluation, as defined by the Division of Criminal Justice Services (DCJS), was the tabulation of changes in police charges resulting from Early Case Assessment. This evaluation has failed to disclose such an impact in any of the boroughs in which ECAB operates. Clearly, the expectation of frequently erroneous police charging is not borne out by observations in the Complaint Room. It remains to be seen, however, whether changes in charges result in later court processing. Such observed changes in charges, if not related to plea and sentence negotiations, might indicate that neither arresting police officers nor ECAB ADA's

Table I

IMPACT OF ECAB ON COMPLAINT ROOM
CHARGING PROCESS:
APO AND ADA CHARGES COMPARED

(DATA FROM MANHATTAN, BROOKLYN AND THE BRONX COMBINED)

I.1 CHARGE CHANGES BEFORE ECAB

Felony Class of Most Serious ADA Charge:

	A	B	C	D	E	Misd.	n:	%:
Felony Class	<u>13</u>						13	4
of Most Serious	B	<u>28</u>	2			1	31	10
Arresting Police	C	1	<u>48</u>	8	1		56	19
Officer (APO)	D	1	2	<u>127</u>	5	5	140	48
Charge:	E			2	<u>39</u>	1	42	14
	A			3	2	<u>7</u>	12	4
	Misd.							
<hr/>								
n:	14	29	50	140	47	14	294	99%
%:	5	10	17	48	16	5	101	

- Data on charge changes have been aggregated because no significant differences among boroughs were found.

I.2 CHARGE CHANGES AFTER ECAB

Felony Class of Most Serious ADA Charge:

	A	B	C	D	E	Misd.	n:	%:
Felony Class	<u>11</u>	2					13	3
of Most Serious		<u>54</u>	3				57	11
Arresting Police		1	<u>71</u>	11		6	89	18
Officer (APO)			6	<u>188</u>	3	11	208	42
Charge:				1	<u>109</u>	1	111	22
				1	1	<u>18</u>	20	4
<hr/>								
n:	11	57	80	201	113	36	498	100%
%:	2	11	16	40	23	7	99	

I.3 PRE-ECAB AND POST-ECAB COMPARED

	<u>PRE-ECAB</u>	<u>POST-ECAB</u>
No Charge in Top Charge	88%	90
Top Charge Increases	4	2
Top Charge Decreases	8	7
<hr/>		
TOTAL	100%	99%
(n)	(294)	(498)

have the resources available for making correct decisions as to charges. But it is apparent that when Complaint Room ADA's review APO charges without access to additional information, they draw the same conclusions.

ECAB Tracking Decision

Case tracking was the method selected by ECAB to implement the assessment of felony cases. ECAB tracks serve several functions. They constitute instructions to ADAs in the Criminal Court to offer pleas to reduced charges (to misdemeanors) in selected cases. In addition, the tracks can be construed to convey implicit directives on such matters as the ADA's bail recommendation and the required preparation of witnesses. Finally, ECAB tracks can also be thought of as devices for managing the workload of the Criminal Court, Grand Jury and Supreme Court. As a "throttle" on the court's workload, it would be expected that the designation of cases into various ECAB tracks would be sensitive to conditions of backlog in the court. This discussion of the tracking decision is divided into preliminary observations concerning the criteria for tracking and subsequent discussion of the frequency with which each track is employed.

Criteria for ECAB Tracking Decisions

The meaning of a tracking decision varies from one ECAB track to another. Furthermore, each borough has given different emphases to the tracking system. Additional variation results

from the inclinations of individual ADAs. As yet, no in-depth study has been attempted of the tracking decision process. What can be presented now are tentative conclusions reached as a by-product of the evaluators' attempt to study easily observable aspects of the Complaint Room charging process.

The criteria which underlie decisions concerning ECAB tracking can be divided into at least three types:

- 1) The technical aspects of cases as presented by the APO and other witnesses require evaluation: matters of evidence, the propriety and constitutionality of arrest or search procedures, the likely availability and reliability of other evidence and testimony.
- 2) The established policies in the District Attorney's Office as to the importance to be assigned to specified categories of offenses must be taken into account. For example, the prosecution of gambling offenses, robberies involving transit police decoys, or cases involving the possession of a weapon may vary for policy reasons among ECAB programs.
- 3) An evaluation of the individual offender, which takes into account whatever details of the defendant's history are available at the time of intake, may affect tracking decisions. In assessing the defendant, the APO's informal remarks about the defendant's personal and criminal background may become important.

In many instances, when arrest histories are not available to the ECAB ADA, it has been observed that the ECAB attorney will specifically attempt to elicit such information from the APO.

The three types of tracking criteria appear to be inter-related. For example, a case with technical weaknesses may predispose an ADA to consider mitigating factors with more attention than if the evidence and witnesses required for successful prosecution are clearly available. Tracking decisions are frequently made more difficult because important pieces of information are missing, as noted above. Occasionally, when further information is obtained, the initial tracking decision is changed.

In Brooklyn and the Bronx, as noted above, the evaluation/case write-up function is split in the Complaint Room. Typically, the senior ECAB ADA completes the ECAB information sheet and writes a few instructions concerning later processing of the case. The case is then received by a junior ADA, who re-interviews witnesses and police officers. It is the junior ADA's function to dictate to a typist the charges which appear on the misdemeanor or felony complaints which are sent to arraignment. On occasion, the second interview by the junior ADA elicits new information, which was not discovered during the course of the senior ECAB ADA's interviews. The junior ADA would then attempt to confer with the senior ADA as to the appropriateness of the initial tracking decision. Evaluators

have noted that, generally speaking, interviews conducted by junior ADAs--at least in cases which involve less serious criminal charges--are often more detailed and more extensive than interviews conducted by senior ECAB ADAs. The junior ADA's increased attention to detail may be due to his role in writing up the case for the trial folder. In some instances, especially if the crime charge is serious, the senior ECAB ADA completes the details of the case for the trial folder.

ECAB Tracking Decision

The following section describes briefly the tracking system utilized in Early Case Assessment. All boroughs utilize a grading from "A" through "E" tracks, but Brooklyn and Manhattan have explicitly added several sub-categories to this basic system:

Track A

Cases selected for the "A" Track are those set for immediate presentment to the Grand Jury. A Grand Jury hearing date is obtained prior to the first Criminal Court adjourn date. If arraignment can be held early in the day, the police officer is instructed to obtain an indictment number from the Grand Jury clerk. When possible, the Grand Jury hearing is held on the same day or as soon as possible thereafter.

Track B

Cases assigned to the "B" Track also involve serious

charges which the ECAB ADA feels should be presented to the Grand Jury. Frequently, the "B" Track case goes to a felony hearing before presentation to the Grand Jury to obtain further information about the case and the dependability of important witnesses. Additionally, cases referred to other bureaus (Major Offense Bureau, Rackets Bureau, etc.) are assigned a "B" Track.

As Table 1.4 on the following page indicates, quite sharp differences exist among the ECAB boroughs in the percentages of cases falling into the "A" and "B" Tracks. Taking the total of the two tracks, Manhattan ECAB has selected about one in five of all cases for prosecution in the Supreme Court (in addition to those "C" Track cases which are eventually presented to the Grand Jury.) The proportion of "A" and "B" Track Cases of all felony intake in the other two programs is much closer to one in ten. It is also seen from Table I.4 that a much higher proportion of Bronx cases fall into the "A" Track. In that borough eight percent of ECAB intake is scheduled for immediate presentation to the Grand Jury, as compared to less than two percent of all cases in the other two boroughs. This relative emphasis on Grand Jury presentations in the Bronx ECAB is in accord with policy emphases reported from the Bronx.

Table I.4

TABLE TO BE SUPPLIED

Track C

Cases identified for the "C" Track are those for which information available in the Complaint Room is incomplete. In both Manhattan and Brooklyn, additional categories of "C" Track cases have been specified.

The "straight C case" in Brooklyn is one in which the ECAB ADA hesitates in making a decision about Supreme Court or Criminal Court processing because complainants, witnesses or police officers are not present at the time of the interview. Cases in which ballistic tests or chemical tests are not available are also often tracked as "C's" unless circumstantial evidence in the case is strong.

When it is possible for the ECAB ADA to make an educated guess about a case on the basis of available information, and when he feels that the case is likely to be solid, it may be assigned to an intermediate "C/Up" track in Brooklyn. For these defendants, the District Attorney will take a plea to an "A" misdemeanor. The classic "C/Up" case is one in which an arrest is made by a transit decoy officer who has been robbed.

A second derived category in Brooklyn is the "C/Down" case. The "C/Down" case is one in which the Criminal Court ADA is instructed to accept a plea to an "A" misdemeanor, but not at arraignment. "C/Down" is most frequently used in situations in which the defendant has a record of bail-jumping. The "C/Down" category is used to tell the arraignment ADA that an "A" misdemeanor plea would be acceptable at hearing or trial but that in the meantime bail should be set to ensure the defendant's appearance at later hearings.

A modification of tracking categories has also been made by ECAB in Manhattan. In that program, a "B1" Track has

been created to accomodate "serious" charges for which the District Attorney would nevertheless contemplate an "A" misdemeanor plea in Criminal Court. The Manhattan "B1" Track therefore resembles Brooklyn's "C/Up". In both instances, cases are tracked for presentation to the Grand Jury, but allowances are also made for possible early disposition in Criminal Court if the defense agrees to an "A" misdemeanor outcome.

Table I.4 again indicates considerable variation in the percentages of ECAB cases falling into the various forms of "C" Tracks. In Brooklyn and the Bronx, more than one in three cases are tracked as "C's" (including all forms of the "C" Track used in Brooklyn). In Manhattan, on the other hand, only about one in ten cases falls into this category, even after adding cases tracked as "B1". Finally, though the tabulation of Bronx cases does not reflect further refinement of the original categories, it is reported that in that borough as well elaboration of the ECAB tracks is underway.

Track D

Cases placed in the "D" Track register a decision by the prosecutor to accept a plea to a misdemeanor either at arraignment or at a hearing. Occasionally, especially in the Bronx, such a reduction will be made at arraignment on the motion of the ADA, without a plea by the defendant.

In many respects, the "D" Track case represents the most important decision made by ECAB. "D" Track cases represent ECAB's efforts to "front-load" the prosecution of felony cases through early dispositions of those cases not "worthy" of felony prosecution. Cases tracked as "D's", as later tabulations will show, are those for which a strong likelihood exists of a disposition at arraignment. Since such cases are frequently disposed of, the decision to place a case into the "D" Track is less reversible than are tracking decisions previously described. Table 1.4 also indicates that "D" Track cases are numerically most frequent. Nearly two out of three Manhattan cases are placed into the "D" Track and in the other two boroughs about one out of two cases are so tracked. 77

Track E

In this final tracking category, the ECAB ADA determines that the case should be dismissed in the Complaint Room without arraignment. Reasons for "E" Tracking include the legal insufficiency of the evidence and/or charges, or situations in which the complaining witness wishes to withdraw charges. As indicated in Table 1.4, relatively few cases are placed into this category.

Chapter II

Though it is in the Complaint Room that the work of Early Case Assessment originates, a true measure of the program's effectiveness comes only from an examination of outcomes in the Criminal and Supreme Courts. Work in the Complaint Room is preparatory to prosecution and case management during the court process. This chapter, therefore, compares outcomes at Criminal Court arraignment during the post-ECAB period with outcomes before the inception of the program. An examination of the program's impact on arraignment in this "before and after" manner is followed by a discussion of the association between specific ECAB tracking decisions and Criminal Court arraignment outcomes. A final section presents preliminary results from a tabulation of Grand Jury presentations and resulting indictments.

A Cautionary Note

A dramatic change in rates of case disposition at arraignment--found by comparing pre-ECAB with post-ECAB samples--would clearly suggest that the ECAB effort has a potential for introducing more systematic and effective management of the prosecution's caseload. The interpretation of a negative finding, however, is more difficult. The data used in this Preliminary Report were obtained from small observation samples whose initial aim was an evaluation of

Complaint Room charging and ECAB intake. These samples of cases have been updated by collecting Criminal Court arraignment outcomes (and other dispositions in Manhattan). But since the time of data collection spans only a short period in each borough, the samples are by no means representative of general arraignment outcomes or types of cases.. In the Brooklyn post-ECAB sample, for example, no "A Track" cases were collected because the Grand Jury was not in session during the collection of that sample. In the Bronx, the level of dispositions at arraignment may have been reduced through the operations of Pre-Arraignment, a procedure wherein the APO and civilian witnesses do not appear at Arraignment.* It is for such reasons that the findings as to ECAB's apparent impact on Criminal Court outcomes--as noted in this Preliminary Report--may be substantially modified when data from larger and more representative samples become available for analysis.

A second set of factors also makes it necessary to qualify the findings reported in this chapter. Though this chapter relates pre-and post-program differences to ECAB's effects, many other factors can be suggested to account for observed differences in the numbers of cases disposed: The types of police arrests,

*See Appendix A, Part III for a detailed description of this process.

changes in detention population, and changes in judicial personnel. The results presented in this chapter must therefore also be qualified by the caution that not all other relevant factors affecting Criminal Court outcomes have been taken into account by the evaluation.

ECAB and Arraignment Procedures.

The first point in the Criminal Court process at which an ECAB impact is expected is the arraignment of the defendant in Criminal Court. Usually, only a few minutes are allotted for the arraignment of a defendant. He is brought to arraignment from a detention cell, and appears before the presiding judge. A hurried conference may be held just before arraignment between the defense attorney and his client. Similarly, the Assistant District Attorney may speak briefly with the APO and any witnesses who are present in the courtroom. ECAB's impact begins when the arraigning judge asks about the possibility of a disposition. The ADA's plea offer is that determined--at least in principle--by the tracking decision made by ECAB. If no disposition is possible, the judge asks the ADA for his bail recommendation.

ECAB has had a minimal impact on bail recommendations. Rarely does an ECAB ADA make an explicit recommendation as to the amount of bail when he screens a case. To the extent that the arraignment ADA uses the information from an ECAB case write-up or uses the track designation in determining a bail recommenda-

tion, ECAB case evaluation can have an impact on bail. However, at the time that the ECAB ADA screens a case, he does not have the recommendation on release made by the Pretrial Services Agency (PTSA), and he usually does not have the defendant's criminal history ("rap sheet"). The PTSA recommendation and rap sheet become available some time before arraignment. Therefore, the ECAB assessment of a case may have little weight if other important factors are revealed during the period between ECAB screening and arraignment.

ECAB Impact at Arraignment

The tables which follow start by tabulating arraignment outcomes according to their being recorded before or after the start of ECAB. Table II.1 (on the following page) presents these "before and after" findings for Manhattan. Seventy-two percent of pre-ECAB felonies were continued, as compared to 67 percent of post-ECAB cases. This slight reduction in continuances may be related to the ability of the Arraignment ADA to dispose more readily of cases by offering misdemeanor pleas or the dismissal of charges on the basis of indications by Early Case Assessment that the evidence or constitutionality of the arrest or search does not justify further prosecution.

The other rows in Table II.1 show that the decrease in continuances has apparently been brought about through consistent

Table II.1

IMPACT OF ECAB ON ARRAIGNMENT OUTCOMES
PRE-ECAB AND POST-ECAB COMPARED

(Manhattan Observations)

ARRAIGNMENT OUTCOME:	Pre-ECAB	Post-ECAB	Level of Significance
Case Continued*	72%	67%	n.s.
Case Disposed	24	31	n.s.
Guilty Plea	15	18	n.s.
ACD	3	5	n.s.
Dismissal	6	8	n.s.
To the Grand Jury	3	1	n.s.
TOTAL	99%	99%	
(n)	(94)	(210)	

*Includes cases in which there were charge reductions without dispositions. These occurred in six percent of the cases pre-ECAB and one percent of the cases post-ECAB.

...but slight increases in guilty pleas, adjournments in contemplation of dismissal (ACD's) and dismissals. In each category, the post-ECAB tabulation registers a slight increase when compared to the pre-ECAB tabulation.

Any conclusions from Table II.1, however, must be drawn only after consideration of the small size of the samples utilized. Indeed, statistical testing for the differences between the two samples reveals that the observed results might easily have been brought about by chance. The results nevertheless move in a direction which would be suggested by the process of Early Case Assessment.

The table on the following page (Table II.2) presents data from similar observations made in Brooklyn Criminal Court. In this borough, much larger differences appear between pre-and post-ECAB samples. Brooklyn continuances have been reduced from 88 percent of all felony cases to 62 percent of all cases. Accounting for the reduction, disposed felony cases have increased in Brooklyn from five percent in the pre-ECAB sample to 38 percent in the post-ECAB sample. This dramatic increase in dispositions at arraignment is largely accounted for by an increase in guilty pleas from 4 to 25 percent.

A dramatic increase in dispositions at arraignment distinguishes the results examined for Brooklyn from those found in Manhattan. However, a comparison of Tables II.1 and II.2 shows that there is nevertheless a strong similarity between the post-ECAB observations for the two boroughs. The Brooklyn rate of dispositions (38 percent) is close to the Manhattan disposition rate (31 percent). Moreover, the patterns of specific dispositions are quite similar in the two boroughs.

Table II.2.
IMPACT OF ECAB ON ARRAIGNMENT OUTCOMES
PRE-ECAB AND POST-ECAB COMPARED

(Brooklyn Observations)

ARRAIGNMENT OUTCOME:	Pre-ECAB	Post-ECAB	Level of Significance
Case Continued*	88%	62%	$p < .001$
Case Disposed	5	38	$p < .001$
Guilty Plea	4	25	
ACD	1	5	
Dismissal	0	8	
To the Grand Jury	5	0	n.s.
TOTAL	98%	100%	
(n)	(82)	(167)	

*Includes cases in which there were charge reductions without dispositions. These occurred in four percent of the cases pre-ECAB and in none of the cases post-ECAB.

If examination of the foregoing tables showed similarity between Manhattan and Brooklyn results--especially when post-ECAB outcomes were compared--the results for the Bronx present a striking contrast. Table II.3 on the following page shows a very high proportion of felony continuances at arraignment for both pre- and post-ECAB observations. Fully 86 percent of all Bronx pre-ECAB cases are continued. This percentage is even increased slightly (to 91 percent) in the post-ECAB sample. No apparent impact by ECAB on arraignment outcomes is evident. In addition, it would appear that other factors are at work during both the pre- and post-ECAB periods, adding difficulties to the obtaining of dispositions at arraignment. Policies of arraignment judges, as well as the apparent reluctance of defense attorneys to engage in plea negotiations in dealing with cases which are pre-arraigned are some of the factors that should be mentioned.

When the relatively few cases which are disposed of at arraignment are examined, Table II.3 discloses a pattern of dispositions which is also at variance with that observed in the other two boroughs. In the Bronx, arraignment dispositions are nearly evenly divided among each of the three tabulated categories, so that guilty pleas are no more numerous than other dispositions.

Impact of ECAB Tracking on Arraignment Outcomes

The data thus far suggest that in two of the three ECAB

Table II.3

IMPACT OF ECAB ON ARRAIGNMENT OUTCOMES
PRE-ECAB AND POST-ECAB COMPARED

(Bronx Observations)

ARRAIGNMENT OUTCOME:	Pre-ECAB	Post-ECAB	Level of Significance
Case Continued*	86%	91%	n.s.
Case Disposed	13	8	n.s.
Guilty Plea	3	2	
ACD	2	4	
Dismissal	7	3	
To the Grand Jury	1	1	n.s.
TOTAL	100%	100%	
(n)	(119)	(192)	

*Includes cases in which there were charge reductions without dispositions. These occurred in one percent of the cases pre-ECAB and 15% of the cases post-ECAB.

boroughs an increase in dispositions may be attributed to the operations of Early Case Assessment.* A further measure of program effectiveness can be arrived at by relating arraignment outcomes to specific tracking decisions implemented in ECAB. This analysis is carried out in Tables II.4 through II.6.

The Manhattan data are presented in Table II.4. The first column of Table II.4 shows the percentage of cases continued to trial parts among "A" or "B" Track cases. No cases were disposed of in the three categories.

The second column of Table II.4 tabulates dispositions for "B1" cases. Cases falling into this track are those for which the prosecutor indicates a willingness to entertain an "A" misdemeanor plea (see Chapter I). In the absence of this plea, however, the prosecutor does intend to send the case to the Grand Jury after a preliminary hearing. Of the five "B1" cases, three are continued and two are disposed of by a guilty plea at arraignment. These outcomes are in accord with the intention of the "B1" track. A high proportion of "C" Track cases (80 percent) are also continued to a trial part, according to Table II.4. Since "C" Track cases are precisely those where the prosecutor has some doubt as

*There is, of course, without experimentation, no certainty in attributing a causal impact to ECAB. However, the agreement between program expectations and the direction of the "before and after" differences is suggestive of such a causal impact.

Table II.4

ASSOCIATION BETWEEN ECAB TRACK DECISIONS
AND ARRAIGNMENT OUTCOMES

(Manhattan Observations#)

ECAB Track Decisions:

ARRAIGNMENT OUTCOME:	A&B	B1	C	D	E	All Tracks
Case Continued:	94%	(3)**	80	59	(2)**	69%
Case Disposed:		(2)	20	41	(4)	31
Guilty Plea		(2)	13	26		19
ACD				6		4
Dismissal			7	9	(4)	8
To Grand Jury	6					1
TOTAL	100%	--	100	100	--	101%
(n)	(46)	(5)	(15)	(135)	(6)	(207)

* Does not include eight cases which were reduced from felonies to misdemeanors in the Complaint Room but were not tracked.

** n's are presented rather than percentages because of the small number of cases.

to appropriate disposition, the observed high rate of continuance seems justified.

The Brooklyn data in Table 11.5 supports the conclusion that there is an impact of ECAB tracking on arraignment in that borough. For example, the first column of the table shows that of "B" cases, which should be continued, 90 percent were indeed continued to trial parts.

Although "C/Up" cases might be expected to be disposed of at a higher rate at arraignment, it should be noted that the second column deals with only a relatively small number of cases. The high rate of pleas of guilty at arraignment for "C/Down" cases, in which the defendant may have a history of bail jumping, and for "D" cases, further illustrates the apparent tie between ECAB instructions and the procedures followed by ADAs at arraignment.

Finally, Table 11.6 relates ECAB tracking decision to arraignment outcomes in the Bronx. In this borough, when few cases are disposed of at arraignment, no clear pattern emerges.

Presentations and Indictments

ECAB--as an operator "front-loading" the activities of the prosecution--has as an important goal the reduction in cases presented to the Grand Jury. ECAB's early identification of felony arrests not worthy of further prosecution, as well as the impetus which it provides for the acceptance of misdemeanor pleas in selected cases, should reduce cases presented to the Grand Jury.

Table II.5

ASSOCIATION BETWEEN ECAB TRACK DECISIONS
AND ARRAIGNMENT OUTCOMES

(Brooklyn Observations)

ECAB Track Decisions:

ARRAIGNMENT OUTCOME:	B	C↑	C	C↓	D	E	All Tracks
Case Continued:	90%	80	81	54	50		62%
Case Disposed:	10	20	19	46	50	(5)#	38
Guilty Plea	10	20	6	39	32		24
ACD			6	4	8		5
Dismissal			6	4	10	(5)	8
To Grand Jury:							
TOTAL	100%	100	100	100	100	--	100%
(n)	(31)	(15)	(16)	(28)	(72)	(5)	(167)

*n's are presented rather than percentages because of the small number of cases.

Table II.6

ASSOCIATION BETWEEN ECAB TRACK DECISIONS
AND ARRAIGNMENT OUTCOMES

(Bronx Observations)

ECAB Track Decisions:

ARRAIGNMENT OUTCOME:	A&B	C	D	E	All Tracks
Case Continued:*	84%	100	82	(1)**	89%
Case Disposed:	5		18		10
Guilty Plea			3		1
ACD	5		10		6
Dismissal			5		3
To Grand Jury:	10				10
TOTAL	99%	100	100	1	100%
(n)	(19)	(73)	(99)	(1)	(192)

*Includes cases in which there were charge reductions without dispositions. This occurred in 28 percent of the D-track cases and one percent of the C-track cases.

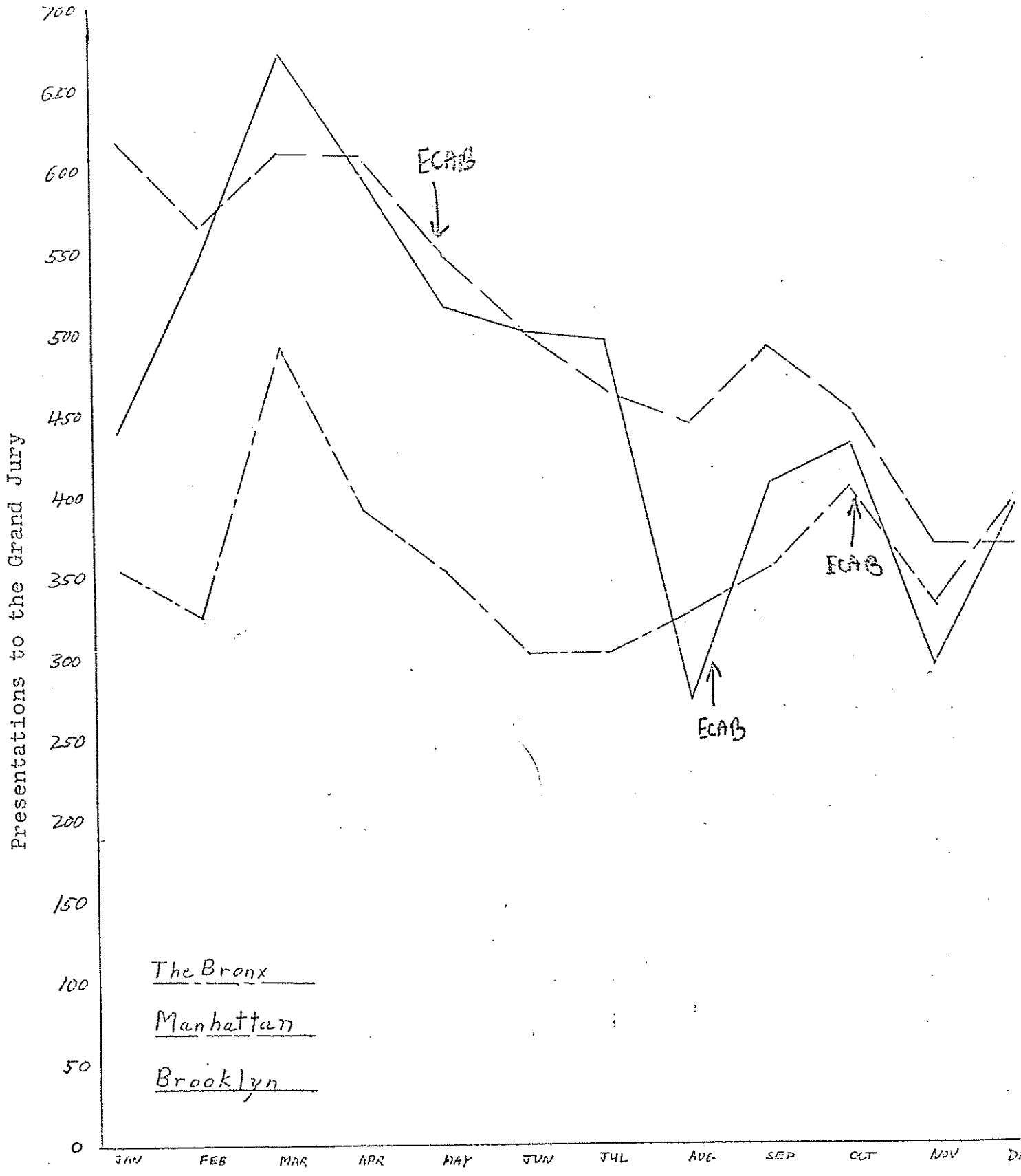
**n's are presented rather than percentages because of the small number of cases.

Since the inception of ECAB, the average number of presentations per month has decreased in Manhattan and Brooklyn, but increased slightly in the Bronx. Monthly trends are presented in Graph II.1.

While a decrease in the number of presentations has an impact on the caseload of the Grand Jury, the concept of Early Case Assessment implies a desire for accuracy in the evaluation of cases. Relative to the Grand Jury, the accuracy of these evaluations can best be seen in the proportion of presentations resulting in indictments. Thus, the impact of ECAB is best determined through an examination of the indictment percentages show- in Graph II.2: the proportion of cases indicted has increased slightly in Manhattan and the Bronx but decreased slightly in Brooklyn. These trends are also summarized in Table II.7.

* The data used was collected only for the year 1975. This presents some problems because it limits the amount of data available for the pre- and post-ECAB periods. ECAB started in May, 1975 in Manhattan; August, 1975 in Brooklyn; and in October, 1975 in the Bronx, as indicated on the graphs.

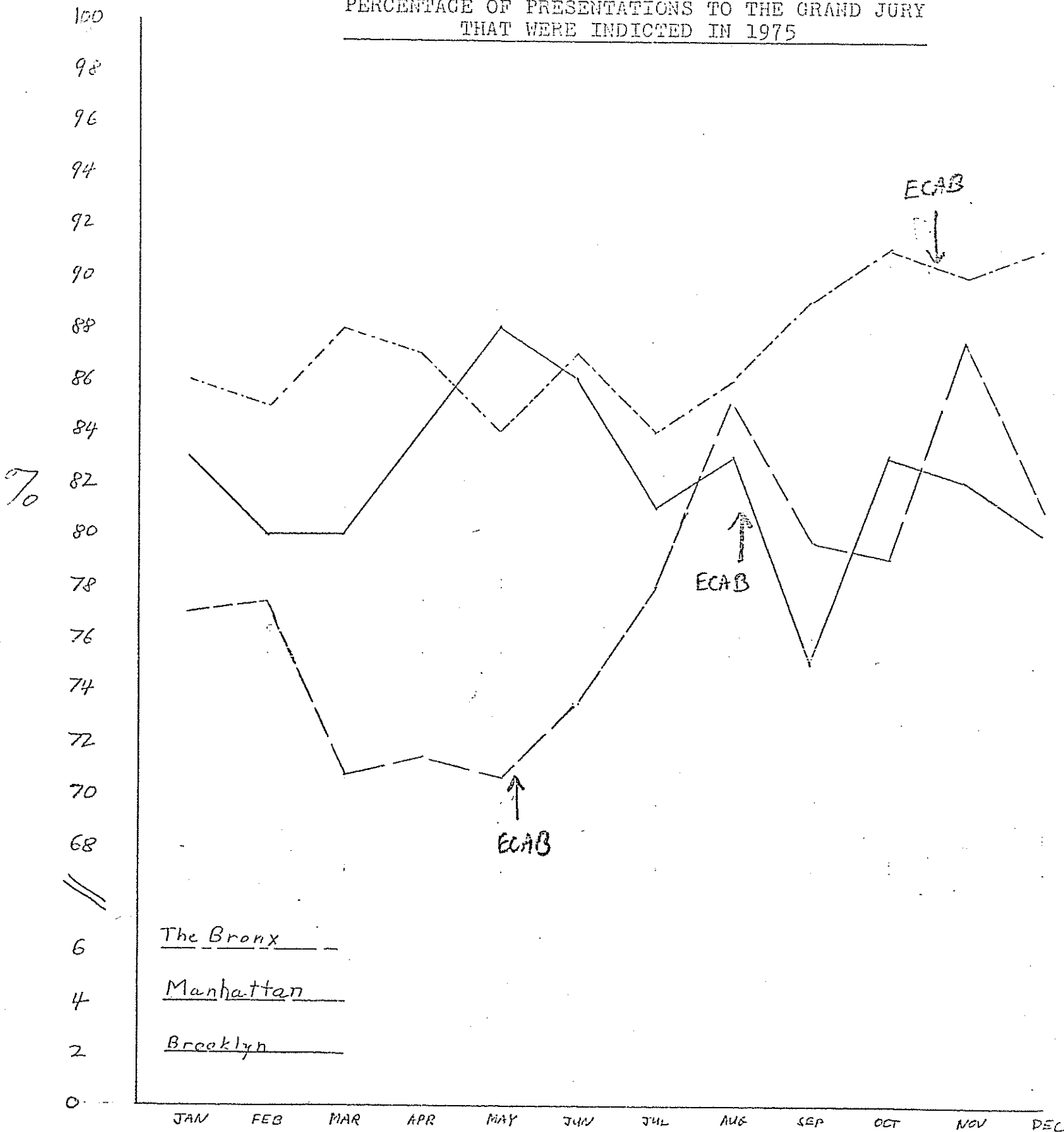
PRESENTATIONS TO THE GRAND JURY IN 1975



The Bronx
Manhattan
Brooklyn

1975

PERCENTAGE OF PRESENTATIONS TO THE GRAND JURY THAT WERE INDICTED IN 1975



1975

TABLE II.7
GRAND JURY INDICTMENT TRENDS
(Pre- and Post-ECAB Compared)

% Indicted:	<u>Manhattan</u>	<u>Brooklyn</u>	<u>Bronx</u>	<u>(n)</u>
Pre-ECAB	74.2	82.8	86.4	
Post-ECAB	78.7	80.5	90.9	
1975 Total	77.1	82.0	87.5	
(n)#	(6075)	(5620)	(4330)	

*Total number of presentations during the year, 1975.

Because ECAB has been in operation for less than one year in all three boroughs, it is impossible to draw conclusions at this time concerning later outcomes in the Supreme Court. It can be noted, however, that the extremely high rate of cases indicted among those presented to the Grand Jury--even before the advent of ECAB--probably should have led observers to anticipate relatively little further impact on the "quality" of presentments. /

Indeed, when it is considered that many cases are presented to the Grand Jury when no indictment is expected by the District Attorney, it is likely that the "ceiling" on the quality measurement (indictments as a percent of presentations) had been reached before the start of ECAB.*

*Among the cases in which the District Attorney would not expect an indictment are arrests of police officers where he believes the case to be weak but wishes the Grand Jury to dismiss, rape cases where the victim is not believed, and certain gun possession cases.