

Juvenile Detention Reform in New York City

Measuring Risk through Research

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Executive Summary

The January 2006 closure of New York City's only alternative to juvenile detention brought the city close to a crisis: family court lost its only alternative pretrial supervision option and the population in local detention facilities was at its highest in three years. This situation also presented an opportunity for the city's juvenile justice system to take stock of how and when it was using detention—equivalent to jail in the adult context—for youth facing delinquency charges. The Office of the Criminal Justice Coordinator in conjunction with a variety of agencies and entities involved with the juvenile justice system seized this occasion to explore new methods for responding to young people awaiting sentencing that would be more effective at producing positive outcomes for youth and enhancing public safety.

They embarked upon a two-phase reform process, with assistance from the Vera Institute of Justice. First, they conducted a research study and designed an empirically based risk-assessment instrument (RAI) measuring the likelihood that a youth would fail to appear in court or be rearrested during the pendency of his/her case. The tool would be used to help inform family court judges' decisions about pretrial detention for juveniles. Second, the group planned a variety of community-based alternatives to detention (ATDs) for young people who did not require secure confinement and could be supervised and better served in their own communities.

This report examines the development of both the RAI and the alternatives to detention and presents preliminary outcomes of the reforms.

In examining city data, researchers found that certain pretrial factors, such as an open warrant for a previous delinquency case or a previous arrest, significantly correlated with failure to appear in court or rearrest. However, other notable factors, such as charge type and charge severity, were found to not correlate with failure to appear in court and rearrest. Both types of findings informed the RAI's composition.

Information from the Juvenile Justice Research Database—the database used to monitor and assess the RAI and ATD programs, once implemented—suggests that the reform effort is contributing to positive outcomes for youth and communities by a variety of measures.

- > Family court judges frequently refer youth who score mid-risk on the RAI to ATD programs, reserving pretrial detention for youth who present the highest risk of failure to appear in court and/or rearrest.
- > Detention use at arraignment (first court appearance) has dropped from 32 percent to 24 percent since citywide adoption of the RAI and ATDs—a 25 percent decrease. Far fewer low-risk youth (from 24 percent of a 2006 study sample to 9 percent in a post-implementation 2008 sample) are going into detention.
- > Overall, there has been a 30 percent reduction in the rate of rearrest for youth during the time their cases are pending, from 26 percent to 18 percent, between 2006 and 2008.

While outcomes of the RAI and ATD reforms bear a comprehensive evaluation, early outcomes indicate that New York City's reform effort could help to inform other jurisdictions seeking to improve outcomes for youth while preserving public safety.

FROM THE CENTER DIRECTOR

Vera's Center on Youth Justice promotes the well-being and safety of youth, families, and communities by working with government to make juvenile justice policy and practice more equitable and humane. Our collaboration with New York City officials to study and improve how their juvenile justice system uses detention exemplifies that mission.

This report highlights two critical pieces of that effort: developing an empirically designed tool to determine a young person's risk of rearrest or failure to appear in court pending his or her sentence, and establishing an array of community-based programs for mid-level risk youth in lieu of detention. But the story does not end there. Officials are now monitoring the results of these efforts with the intention of safely expanding them to still other youth.

Reform of this scope is impossible without support from many key figures—both inside and outside New York. It has been a privilege to work closely with committed local leaders, including, but not limited to, representatives of the Criminal Justice Coordinator's Office, the Department of Probation, the Administration for Children's Services, the former Department of Juvenile Justice, the Law Department, the Legal Aid Society, and the judiciary. We were also fortunate to be able to draw upon nearly 20 years of lessons from the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative, a pioneer in changing the national discourse around juvenile detention policy and setting new standards for best practices.

There are many reasons to be excited about the work described in this report. Among the most important: through these efforts, New York City has decreased its use of detention at arraignment by 25 percent while simultaneously reducing the rate of rearrest for youth pending a court sentence by 30 percent. These results illustrate how limiting the use of detention not only benefits youth and their families but also can, in fact, greatly improve public safety.



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Introduction

In 2006, New York City’s juvenile justice system was nearing a crisis. The city had closed its only alternative to detention.¹ The average daily populations in detention facilities—equivalent to jail in the adult context—were at their highest numbers in three years. The average daily cost of housing a youth in detention had risen from \$439 in the previous fiscal year to \$468.²

Faced with these challenges, New York City officials concluded that they had to rethink the city’s juvenile detention policies and practices. The Office of the Criminal Justice Coordinator (CJC) in collaboration with a group of diverse stakeholders from the Department of Probation, the Department of Juvenile Justice, and the Administration for Children’s Services, among others, sought to identify reforms that would use expensive resources more efficiently and improve outcomes for arrested youth, without compromising public safety.

With research and technical assistance from the Vera Institute of Justice, the city stakeholder group undertook a two-part reform process.³ First, it designed an empirically based risk-assessment instrument (RAI), which provides information about an arrested youth at his or her first court appearance to help judges decide whether the young person in question may require secure detention or be better suited for release to the community, with or without supervision. Second, the group developed a variety of community-based, non-residential programs that provide an alternative to detention for eligible youth. This report describes both aspects of the reform, focusing specifically on how New York City used research to guide its detention reform efforts.

The report begins with background on, and context for, the reforms. The second section describes the RAI and the process by which it was developed. Next, the report briefly discusses the continuum of community-based alternatives to detention (ATDs) that was created. Finally, it presents preliminary outcomes showing that the reform efforts have been successful in a number of areas, including reducing recidivism rates during the period between arrest and sentencing and decreasing the city’s use of detention—at the initial court appearance—for low-risk youth.

Background

On January 3, 2006, the New York City Department of Probation shut down the city’s only alternative to juvenile detention in response to concerns that the program was not reaching the right youth and that youth were being removed from their home schools and held in the program for much longer than needed.⁴ The unexpected closure created a clamor among many groups involved in the juvenile justice system. Judges expressed concern that they had lost an important pretrial supervision option. The Department of Juvenile Justice

(DJJ)—the agency then responsible for the city’s detention facilities—feared an influx of new admissions into its already crowded detention facilities.⁵ The advocacy community complained that New York City—home to one of the nation’s largest juvenile justice systems—now had no alternative to detention for youth charged with delinquent offenses.

The vacuum that the closure of the probation department’s program created also presented a unique opportunity to improve the city’s practices and policies regarding juvenile detention and its alternatives. The CJC quickly convened a group of juvenile justice stakeholders that included representatives from the probation department; DJJ; the city’s Law Department, which prosecutes juvenile offenses; the judiciary; the Administration for Children’s Services (Children’s Services); the Police Department; and the Department of Education. The group’s central task was to identify reforms that would improve outcomes for arrested youth, use resources wisely and efficiently, and protect communities. In particular, following state statute, the city sought to limit the use of costly detention beds to arrested youth who posed the most significant risk of either committing a new crime or failing to appear in court while their case was pending (prior to sentencing).⁶ The city hoped to achieve this through better decision making at arraignment about which youth were most in need of detention. But there was little data available about the family court’s juvenile detention decision-making process and, therefore, no empirically based way to predict which youth would do well in the community and which youth posed enough risk to require detention.

The city recognized this dilemma as an opportunity to develop an empirically based risk-assessment tool that could offer more information to practitioners in family court, helping them to make better decisions about whether arrested youth should be detained. Although the concept of a risk-assessment instrument was certainly not new, the empirically based approach to designing an instrument, similar to that used in some places, including New York City’s adult criminal justice system, had not yet been applied to juvenile detention.⁷

In recent years, the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative (JDAI) has helped jurisdictions across the country develop and implement normative risk-assessment instruments. These instruments are typically designed based on the values and experiences of juvenile justice stakeholders in each locality. Together, stakeholders determine the factors that are most critical to include based on their experience, knowledge of the local population, and a review of other instruments in the field. Once the instruments are in place, the jurisdictions then collect and analyze data to test whether the assessment tools are, in fact, classifying youth into risk categories that appropriately match their actual rates of rearrest and failure to appear in court, and changes are made as needed.⁸ These instruments often gain critical support from stakeholders and, when used in tandem with community-based detention alternatives, can be very effective in reducing the use of detention without increasing re-offense or failure-to-appear rates.⁹

Empirically developed risk-assessment instruments are slightly different, as

they comprise—from the earliest design phase—only those factors that have been statistically shown to correlate significantly with or predict future risk of failure to appear in court or rearrest. Although empirical instruments can be comparatively expensive and time-consuming to design, they may—in the case of some jurisdictions—help to garner additional support because of their basis in scientific research. Deciding on the empirical approach, New York City stakeholders developed an RAI that includes only those risk factors that are statistically correlated with failure to appear in court and rearrest during the period between arrest and sentencing.

To complement their tool, the New York stakeholder group also developed a new set of community-based supervision programs. Drawing on models designed and sustained under JDAI (in places such as Cook County, Illinois, and Santa Cruz County, California), New York City created a continuum of ATDs at three supervision levels. The two lower-supervision options, community monitoring and after-school supervision, are run by nonprofit organizations. The third, intensive community monitoring, is run by the probation department.

Vera researchers are currently working with the CJC to measure the effectiveness of the RAI and ATD programs. Bennett Midland, LLC, a New York City-based management-consulting firm, is assisting researchers in building the Juvenile Justice Research Database encompassing information from multiple state and local sources. The database will allow the city, for the first time, to carefully monitor and track a citywide juvenile justice reform effort in real time. Vera is already helping the city use the database for quarterly data analysis and tracking.

Developing an Empirically Based Risk-Assessment Instrument

New York City's juvenile justice stakeholders had a number of hypotheses about the factors that were most apt to predict youths' likelihood of rearrest and failure to appear in court, but those hypotheses had to be tested to verify their predictive reliability. To do this, stakeholders and Vera staff collected intake data for a sample of arrested youth, tracked rearrest and court appearance records for the sample through sentencing, and then conducted a statistical analysis to determine the strength of correlation between specific data factors and the risk of either rearrest or failure to appear. Each of these procedures is discussed in more detail below.

RESEARCH PROCESS

The stakeholder group members began by examining risk-assessment models used in other jurisdictions and by sharing their experiences working with

youth in New York City’s juvenile justice system. Based on this information, the group generated an extensive list of potential factors that they believed might predict failure to appear in court and rearrest. These factors included, but were not limited to, current charge type; charge severity; prior offense history; school attendance; current or prior warrants; parental involvement; and prior or current involvement with Children’s Services.

Next, the stakeholders created a four-page data-collection form to gather information on youth who were arrested in the city’s five boroughs and sent to probation for intake and screening. Vera researchers worked with the probation department, training probation officers how to complete the form during the intake appointment.¹⁰ Between May 1, 2006, and August 15, 2006, the probation department used the form on all 1,782 cases across the city that the probation department referred to the law department for screening and possible prosecution.¹¹ Of these, the law department prosecuted 1,053 cases through the filing of a court petition. These petitioned cases became the basis of all analyses going forward. It should be noted that in New York State, the age of juvenile jurisdiction is capped at 15. Youth arrested at age 16 and over are automatically screened and handled in the adult criminal justice system, in addition to some youth—termed juvenile offenders—who are arrested under the age of 16 for acts that are deemed serious enough to be prosecuted in the adult criminal court; juvenile offenders and youth arrested for acts committed at age 16 or above were not included in this study.¹²

RESEARCH FINDINGS: IDENTIFYING FACTORS THAT CORRELATE SIGNIFICANTLY WITH FAILURE TO APPEAR AND REARREST

Figure 1 presents the characteristics of the 1,053 petitioned cases. Among other things, it shows that the majority were male (82 percent) and youth of color (black or Hispanic, 90 percent combined). Fewer than 10 percent were arrested for the most severe charges (A or B felonies), and 51 percent were arrested for robbery or assault. Notably, the sample largely comprised first-time offenders: 64 percent had no prior unsealed arrests.¹³

By tracking the sample through sentencing, or for about one year (whichever came first), using data from the New York State Office of Court Administration, DJJ, and the Criminal Justice Agency, Vera staff identified factors that were most closely related to failure to appear and rearrest.¹⁴

Four factors were found to correlate significantly with a youth’s failure to appear in family court while a case is pending:

- > An open warrant for a previous juvenile delinquency case;
- > No parent or responsible adult present at probation intake;
- > School attendance of less than 30 percent in the last full semester of school; and

Figure 1: Characteristics of Petitioned Youth, N=1,053

Characteristic	N	%
Gender		
Male	866	82
Female	177	17
Missing	10	1
Race/Ethnicity		
White	70	7
Black	640	61
Hispanic	305	29
Other	25	2
Missing	13	1
Top Charge Severity		
Felony a/b	89	8
Other felony	550	52
Misdemeanor	387	37
Missing	27	3
Top Charge		
Robbery	290	28
Assault	240	23
Criminal mischief	90	9
Theft/larceny	160	15
Drugs	83	8
Weapon	59	6
Burglary	45	4
Sex offense	26	2
Other	33	3
Missing	27	3
Prior History		
No prior arrests	676	64
One or more prior arrests	377	36
Total	1053	100%

- > A prior warrant for a juvenile delinquency or Persons in Need of Supervision (PINS) case.¹⁵

Six factors correlated significantly with rearrest while a case is pending:

- > Prior arrest(s) at the time of probation intake;
- > Prior arrest(s) for a felony offense at the time of probation intake;
- > Prior juvenile delinquency adjudication(s);¹⁶
- > Previous adjudication(s) for a designated felony offense; and¹⁷
- > Being on probation for a previous adjudication at the time of probation intake.

One factor was found to be inversely correlated with rearrest, which means the presence of this factor decreased the likelihood of rearrest:

- > Eighty percent or greater attendance in the last full semester of the school year.

Figure 2: Correlations between Risk Factors for Failure to Appear and Rearrest

	Failure to Appear	Rearrest
	R	R
Open warrant	0.09*	
Prior warrant	0.16***	
No adult at probation	0.08*	
Attendance <30%	0.08*	
Prior arrest		0.08*
Prior felony arrest		0.10**
Prior adjudication		0.07*
Prior designated felony		0.06*
Current probation		0.09**
Attendance ≥80%		-0.15***

*p<.05; **p<.01, ***p<.001¹⁹

Figure 2 shows the size and significance of the statistical correlation for the most influential factors predicting risk of failure to appear and rearrest.¹⁸

Notably, the research also revealed factors that do not correlate with failure to appear and rearrest during the pretrial period. These include

- > current charge type;
- > current charge severity;²⁰
- > prior juvenile delinquency placement;²¹
- > intake source (detention facility drop-off or appearance ticket);²²
- > parent not willing to supervise;²³
- > no adult arrived at the precinct in the period immediately following the arrest;
- > victim of the charged offense lives in the juvenile’s home;
- > pending juvenile delinquency petitions (open family court delinquency cases) at the time of intake;

- > having previously been sentenced to probation supervision as a juvenile delinquent, as a result of a previous adjudication;
- > past adjudication as a juvenile offender; and²⁴
- > being in foster care under the supervision of the Administration for Children’s Services.

These findings challenged some of the New York City stakeholders’ long-standing assumptions about the risk of failure to appear and rearrest between arrest and sentencing. Neither charge type nor charge severity, for example, were found to be associated with failure to appear or rearrest, even though these factors are often included in normatively based detention risk assessments.²⁵

APPLYING THE FACTORS TO DETERMINE RISK SCORE

Once the factors that signal a risk of failure to appear or rearrest were identified, the stakeholders developed a way to determine an overall risk score for each youth.

Today, at intake, probation officers enter information for each case into a database. They assign one point for each factor identified with risk of failure to appear, one point for each factor associated with risk of rearrest, and subtract a rearrest point for high school attendance rate of 80 percent or higher (the factor shown in the previous section to correlate inversely with rearrest). They create two summary scores—one for risk of failure to appear and another for risk of rearrest.

The database then processes this information according to the matrix in Figure 3. The vertical axis shows the number of rearrest points for a given youth. The horizontal axis measures failure-to-appear points. The intersection of these two axes represents the youth’s overall risk score, which a judge can consider in deciding whether a youth should be released without court-ordered supervision, released to a detention alternative, or detained while his or her case is pending.²⁶

Figure 3: The Risk Score Matrix

		Risk of Failure to Appear			
		0	1	2	3+
Risk of Rearrest	-1	Low	Low	Mid	Mid
	0	Low	Mid	Mid	High
	1	Mid	Mid	Mid	High
	2	Mid	Mid	High	High
	3	High	High	High	High
	4+	High	High	High	High

Of the sample of youth Vera followed, those with the lowest rates of failure to appear and rearrest were designated as low risk; those who had the highest rates were designated as high risk; and those with rates falling between low and high were designated as medium risk. Approximately 55 percent of the youth were low risk, 32 percent were medium risk, and 13 percent were high risk.

Every three months for a year during the baseline study period, Vera researchers conducted statistical analyses to confirm that the low-risk group continued to have the lowest rates of failure to appear and rearrest and that the high-risk group continued to have the highest rates. At each assessment, cut-off points for the three risk levels were adjusted to increase the matrix's capacity to accurately identify youth's level of risk—that is, to identify as high risk those youth who reoffended and/or failed to appear at the highest rate, as compared to youth in the other two risk categories.

Youth who score low on this matrix are deemed most suited for release with no formal supervision; youth who score high are deemed most suited for detention; and youth with a medium risk score are eligible for supervision by the city's newly designed ATD programs.²⁷ The next section briefly discusses these programs.

Alternative-to-Detention Programs: A New Continuum

As noted earlier, for medium-risk youth the stakeholder group developed a continuum of community-based alternative-to-detention programs. These programs operate between arrest and sentencing to ensure that youth appear in court and do not re-offend while their cases are pending. Participation in any one ATD on the continuum is limited to 60 days.

New York City officials designed their continuum after consulting national practitioners and visiting Chicago (Cook County), one of the nation's model detention reform jurisdictions under JDAI.

The continuum has three tiers. The first and least restrictive level is community monitoring. At this level, youth receive regular curfew checks and phone check-ins. The second level, after-school supervision, requires youth to attend a site-based program between 3:00 and 7:00 p.m. and to participate in activities that develop social skills, such as tutoring, community service, and recreation. The first two levels of the continuum are offered by private, nonprofit organizations in each of New York City's five boroughs. BronxConnect is the provider in the Bronx; the Center for Alternative Sentencing and Employment Services is the provider in Manhattan; the Center for Community Alternatives is the provider in Brooklyn; and the Center for Court Innovation is the provider in Queens and Staten Island.

The probation department runs the third and most restrictive level, intensive community monitoring. At this level, probation officers monitor the youth, conducting frequent curfew checks, phone check-ins, and home visits and enforcing a contractual agreement with the parent or guardian.

To ensure the successful, sustained use of the RAI and the ATD continuum, city officials had to engage all the relevant juvenile justice system constituencies. To that end, with help from Vera, city agencies conducted outreach on four levels.

First, CJC continued to hold regular meetings with the original stakeholder group. These meetings served as a vehicle to continue interagency information sharing and to draft a consensus-based, written protocol to guide and standardize citywide implementation.

Second, the city established a local implementation team in each borough, consisting of judges; line workers and managers from the probation department; members of the defense bar, the law department, and DJJ; and the ATD providers. The teams met at least four times to prepare for implementing the RAI and ATDs. They continued to meet on a quarterly basis, providing a venue for stakeholders to review data, take stock of their progress, identify any implementation challenges, and collaboratively solve those problems.

Third, Vera researchers developed and provided training sessions and reform updates for broader audiences of court practitioners. These forums offered an important opportunity to field concerns and questions from the defense lawyers, prosecutors, and judges who would be using the ATDs and RAI.

Finally, the city convened a working group of new ATD providers. The CJC and Vera staff met (and continue to meet) with this group each month to foster communication, clarify goals, share national best practices, and promote uniformity in program provision citywide. Many of the new ATD nonprofit providers had never before worked with youth between the point of arrest and disposition. To ensure that they understood the difference between a pretrial alternative to detention—short-term supervision where compliance is not tied to an in-depth treatment model—and a post-sentencing alternative to placement—longer-term treatment and rehabilitation—Vera organized two “best practice” retreats. The goal of these retreats was to clarify the role of an ATD provider and, using national lessons as a guide, underscore the critical components of a successful ATD program.

Preliminary Outcomes

Information from the Juvenile Justice Research Database—the database used to monitor and assess the RAI and ATD programs—suggests that the city’s reform effort is being adopted successfully by staff and is generating positive outcomes for youth on a variety of measures.

- > As of June 2010, more than 33,000 cases had been screened using the RAI at probation intake. More than 10,000 of these cases were subsequently petitioned in court and have had an arraignment hearing where a decision to detain or release the youth was made.²⁸
- > Of the 10,485 cases that were screened and petitioned, the majority (55 percent) were low risk. Thirty-two percent were mid risk and 13 percent were high risk.
- > The family courts frequently refer youth who score medium risk on the RAI to ATD programs. According to intake numbers maintained by the city, ATD programs have reported a total of 2,850 admissions since implementation.
- > Detention use at arraignment for all risk levels has shifted. Detention at arraignment is presented in Figure 4, comparing rates for the 2006 study sample (prior to RAI and ATD implementation) to rates for a 2008 sample (post-implementation). Overall, the use of detention at arraignment has dropped from 32 percent to 24 percent—a 25 percent decrease.
- > Most notably, detention at arraignment for the largest proportion of cases—youth who score as low risk on the RAI—is down from 24 percent to 9 percent (a 62 percent decrease). Detention of the smallest population—high-risk youth—increased from 49 percent to 72 percent, indicating that the family courts are more frequently reserving detention for youth most at risk for rearrest or failure to appear in court.
- > As Figure 5 shows, instances of rearrest while a case is pending have decreased for all risk groups since the RAI and ATD programs were implemented.²⁹

Figure 4. Detention at Arraignment Rates for Sample and Comparison

	2006 Sample			2008 Comparison		
	Total	Detained	%	Total	Detained	%
Low	581	142	24%	2,400	227	9%
Mid	334	129	39%	1,228	417	34%
High	138	68	49%	492	353	72%
Total	1,053	339	32%	4,120	997	24%

Figure 5: Rearrest Rates for Sample and Comparison

	2006 Sample			2008 Comparison		
	Total	Rearrested	%	Total	Rearrested	%
Low	581	122	21%	1,801	296	16%
Mid	334	103	31%	1,029	211	21%
High	138	54	39%	424	63	15%
Total	1,053	279	26%	3,254	570	18%

Before New York City implemented the RAI and ATD programs, youth in 26 percent of cases were rearrested for a new offense prior to sentencing for the prior offense. In the 2008 comparison sample, only 18 percent were rearrested in the same period. Overall, there has been a 30 percent reduction in the rate of rearrest for youth during the time their cases are pending. While the reduction is noticeable in all groups, it is most pronounced in the high-risk group, whose rate decreased by more than half (from 39 percent to 15 percent). These preliminary outcomes suggest that the reforms are working in favor of public safety by having an appreciable impact on recidivism during the pendency of delinquency cases—a difficult result to obtain and one that is critical to the initiative’s longevity and success.

These outcomes are encouraging, but still preliminary. Vera researchers plan to continue to quantify the impact of the RAI and ATDs on juvenile justice system outcomes, controlling for factors such as time at risk and type of offense, focusing on primary outcomes of interest: rearrest during the pendency of the case and failure to appear. In addition, Vera will measure the effect of the reforms on other important points in the system, including admissions to and lengths of stay in detention and disposition decisions. Also, through ongoing analyses of the Juvenile Justice Research Database, researchers plan to monitor crucial system indicators—such as volume and risk distribution of probation, ATD, and detention intakes; ATD program outcomes; and rearrest and failure to appear—over time.

Conclusion

The development and implementation of the RAI and ATD programs represent an important shift in New York City’s juvenile detention policy. The RAI provides reliable guidance on risks of failure to appear or rearrest. The ATDs provide effective program alternatives to detention for medium-risk youth. Judges are therefore able to make better decisions at arraignment: detained youth are more likely to be those at high risk for failure to appear and rearrest, and youth released to their communities are doing well on their own or with supervision under the new ATDs. Using the new Juvenile Justice Research Database, Vera staff are collecting information for a comprehensive evaluation of the RAI and ATD programs. Given early outcomes, it appears that New York City’s reform effort could serve as a model for other jurisdictions seeking to improve outcomes for youth while preserving public safety.

ENDNOTES

- 1 “Detention” in this context refers to secure confinement of youth during the pendency of a delinquency case, similar to jail in the adult context.
- 2 City of New York. Mayor’s Management Report: Fiscal Year 2006 (2006), available at http://www.nyc.gov/html/ops/downloads/pdf/2006_mmr/0906_mmr.pdf.
- 3 Vera’s assistance was funded by the CJC and New York State’s Office of Children and Family Services.
- 4 The program, run by the City’s Department of Probation, provided school, counseling, and supervision to youth who remained at home but were court-ordered to report to “ATD Centers” daily, from 8:00 a.m. to 4:00 p.m., as an alternative to detention. In 2006, then-Probation Commissioner Martin Horn shut down the centers, because the educational experience, in his words, did not “meet the test of excellence.” See New York City Independent Budget Office Fiscal Brief: The Rising Cost of the City’s Juvenile Justice System (revised, January 2008).
- 5 In 2006, DJJ was the sole agency responsible for overseeing juvenile detention operations in New York City. In 2010, DJJ was merged into the city’s Administration for Children’s Services.
- 6 The New York State Family Court Act allows detention of youth only in cases where there is a risk of failure to appear in court or where there is a substantial probability that a youth will commit a crime during the pretrial period. See New York State Family Court Act, section 320.5.3.a-b.
- 7 New York City’s Criminal Justice Agency has been administering a research-based risk screening instrument for the past 40 years in almost every adult criminal case, based on measurements of a defendant’s risk of flight (or failure to appear). The instrument assesses the likelihood of a defendant appearing for future scheduled court appearances and is completed during an interview with a probation officer. It collects information on two basic factors: the strength of a defendant’s ties to the community and criminal history. The instrument computes a risk score that judges use to make a determination of bail or release during the pretrial period. An evaluation of the most recent version of this instrument suggests that classification based on community ties and criminal history allows more defendants to be released on their own recognizance without a negative impact on failure-to-appear rates.
- 8 This approach was taken in Multnomah County, Oregon, where independent researchers conducted a multivariate analysis on nearly two years of data collected using their normative RAI (3,945 events, or times when an RAI was conducted and a detention decision was made). Their analysis showed that although the original instrument was, in fact, predictive of both failure to appear and recidivism, they could streamline the instrument from 21 to six variables and it would have the same predictive power. This data reduction produced an instrument that is more targeted and efficient, with less room for human error. They also found that charge severity was negatively related to likelihood of failing to appear or re-offending and that the original instrument recommended detaining youth who were less likely to re-offend or fail to appear. See Kelly Dedel and Garth Davies, *Validating Multnomah County’s Juvenile Detention Risk Assessment Instrument*, (Portland, Oregon: One in 37 Research, Inc., 2007), available at http://www.co.multnomah.or.us/dcj/jsd_rai_validation092107.pdf.
- 9 By designing and implementing a risk-assessment instrument and a continuum of detention alternatives, Cook County (Chicago), Illinois, cut its juvenile detention population by about 35 percent in roughly the same period that its juvenile arrest rate decreased by over 50 percent. Similar trends were seen in other JDAI sites, such as Multnomah County, Oregon; Bernalillo County, New Mexico; and Santa Cruz, California. See “Results for the Juvenile Detention Alternatives Initiative,” available at <http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative/JDAIResults.aspx>.
- 10 New York State’s Family Court Act requires youth who are arrested to appear at the Probation Department for an intake appointment.
- 11 Following probation intake, arrested youth can appear in family court in a variety of ways, depending on the probation officer’s assessment of whether his case can be successfully diverted—or adjusted—without formal court processing. An officer can refer the case immediately, on the same day as intake, to the Law Department or can open the case for diversion services, with the possibility of later referring the case to prosecution if diversion services are deemed unsuccessful. The sample comprised only cases that were referred to the Law Department immediately. This was an intentional decision based on a desire to identify cases that were most likely to go to court. By using this design, we excluded a portion of the total caseload referred to the Law Department—including cases referred to prosecution and potentially petitioned to court following an attempt at diversion.
- 12 A juvenile offender is defined by the New York Penal Law Sec. 10(18) as a 13-year-old found responsible for either second-degree murder or felony sexual assault; or a 14- or 15-year-old found responsible for those acts in addition to first-degree kidnapping, arson, assault, manslaughter, rape, criminal sexual act, robbery, or burglary, or second-degree arson, burglary, or robbery, or found with a firearm on school property.
- 13 Under Family Court Act Sec. 375.1(1), when a delinquency proceeding is terminated in favor of the respondent, the records of that proceeding are to be automatically sealed, unless the court directs otherwise. If, however, the respondent is found delinquent, the records of the proceeding are only sealed if the respondent makes a motion to seal and the court grants that motion. The adjudicated youth may not bring such a motion until he or she turns 16. See Family Court Act Sec. 375.2.
- 14 The analysis was conducted using the Burgess method. This method uses an equal weighting system that assigns one point to independent variables that are found to be significantly correlated with the dependent (outcome) variables of interest. Some important advantages of the Burgess method are ease of use in both scoring and interpretation. This method has several known disadvantages when compared to multivariate modeling techniques. For example, it does not account for correlations between variables, which can lead to redundancy. This method also does not allow researchers to model and control for extraneous explanatory variables such as race, gender, and time at risk. However, multivariate analyses conducted during a follow-up period have found that demographics are not predictive once the impact of other factors is accounted for. In addition, the stakeholder group chose this method because it lends face validity and is credible and usable to practitioners. Follow-up validations have shown that the factors chosen through the Burgess method are highly predictive of both failure to appear and rearrest. See also, see Ernest W. Burgess, “Factors Determin-

ENDNOTES CONTINUED

- ing Success or Failure on Parole,” in *The Workings of the Indeterminate-Sentence Law and the Parole System in Illinois*, Andrew A. Bruce, et al. (Springfield, IL: 1928).
- 15 Persons in Need of Supervision (PINS) in New York State are children under the age of 18 who are truant, run away from home, disobey their parents, or are otherwise incorrigible. They are known nationally as status offenders because they commit offenses that are considered offenses only because of their status as minors.
 - 16 Adjudication is a finding of delinquency in the juvenile court, comparable to a conviction in adult criminal court.
 - 17 Designated felony is the category for the most serious offenses prosecuted in family court; it can result in the longest periods of confinement.
 - 18 The R value, or Pearson Correlation Coefficient, is a measure of the linear dependence between one variable and another and is commonly interpreted as the strength of the relationship. The value can range from -1.0, an indication that as one variable increases, the other decreases in equal proportion, to +1.0, an indication that as one variable increases, so does the other, in equal proportions.
 - 19 The p value represents the likelihood that the correlation observed is the result of error or chance and not any real relationship between the factor and the outcome. Smaller p values signify greater confidence that the relationship being observed is, in fact, true.
 - 20 According to New York State penal law, charge severity is measured in two tiers—first felony or misdemeanor—then in grades notated by a letter. The most serious charges are A felonies; the least serious are B misdemeanors.
 - 21 Placement is defined as an out-of-home disposition—or sentence—for an adjudicated juvenile delinquency offense. These placements are typically in state-run facilities in upstate New York and are separate from detention.
 - 22 Arrested youth arrive at probation intake in one of two ways. Police drop them off at the detention center immediately following the arrest and DJJ takes them to intake, or the police or DJJ send them home after issuing a Desk Appearance Ticket that instructs them to show up at probation intake at a specific date and time.
 - 23 This is defined as a parent or guardian making a definitive statement that they are unwilling to supervise the child.
 - 24 A juvenile offender is a youth who commits an offense that is automatically waived to adult criminal court based on the severity of the offense.
 - 25 Multnomah County, Oregon, recently conducted a validation exercise of its normatively designed detention risk assessment instrument and reached a similar conclusion: charge type and charge severity were not predictive of failure to appear or rearrest while a case was pending. See Kelly Dedel and Garth Davies, *Validating Multnomah County’s Juvenile Detention Risk Assessment Instrument*, (Portland, Oregon: One in 37 Research, Inc., 2007).
 - 26 The scoring scheme takes the differences between the factors predicting failure to appear and those predicting rearrest into account.
 - 27 The final decision to detain or release a youth rests with the judge; however, the instrument offers an informed recommendation for judicial review.
 - 28 The analyses are presented for cases, rather than youth, because some youth may account for multiple cases.
 - 29 The comparison group comprises a sample of youth who were arrested in 2008, assessed using the RAI, referred for petition on the same day, subsequently petitioned, and whose cases have since reached completion.

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