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JUVENILE OFFENDERS AND WEAPONS

By Marian J. Gewirtz

The research discussed in this report explores the role weapons play in juvenile offender cases in the adult courts in New York City.

In accordance with New York State's Juvenile Offender (JO) Law, cases for 14- and 15-year old youths charged with selected serious felony offenses, and 13-year olds charged with second degree murder, are brought directly to the adult rather than the juvenile court for prosecution.

Previous CJA research on juveniles with cases disposed in the Supreme Court, the most serious of the JO cases, has documented a high likelihood of recidivism for these youth (see *Research Brief #15*). This study, which was based on the same sample of JOs, compares juveniles with gun charges to those with other weapon charges and to those without weapon charges.

The research examined the frequency of weapon offenses by selected case and demographic characteristics and assessed whether JO cases associated with weapon offenses received different treatment by the courts.

In addition, the research addressed how these charges

Juvenile offenders are often involved with guns and other weapons. Do JOs with weapon charges differ from other juveniles in case and demographic characteristics? Do their re-arrest patterns differ?

affect rates of re-arrest and length of time to first re-arrest and to the first violent re-arrest. The research was designed to explore several questions:

- What types of JO cases are associated with weapon offenses?
- How do JO cases with different weapon offenses compare?
- How do different weapon charges affect the processing of JO cases?
- Do re-arrest rates vary by the type of weapon charge associated with a JO case?

This *Research Brief* is adapted from
Juvenile Offenders With Weapon Charges (2008)
by Marian Gewirtz, Senior Research Analyst

The full report is available on CJA's web site:

www.nycja.org/research/research.htm

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The Study Sample

The study includes all JO cases processed in the Supreme Courts in New York City from 1997 to 2000. Cases that reach the Supreme Court are a subset of the thousands of juvenile arrests with JO-eligible charges that are filtered out of the adult system at preceding stages of prosecution.

Data were collected for re-arrests for new offenses that occurred between the date of the initial arrest and January 31, 2005. We excluded re-arrests that occurred while the juveniles were in pretrial custody pending the disposition of the initial charges because our focus was primarily on the impact of case processing on public safety.

The “At-Risk” Sample

Our measure of recidivism includes re-arrests while the juvenile was at large (“at risk”) in the community. Juveniles who had no time at risk, because they were continually in custody, were excluded from the “at-risk” sample.

Defining Weapon Charges

In this study, a case is defined as having a weapon charge if any of the first four arrest charges or any of the first four charges entering the Supreme Court is a Penal Law Article 265 (Firearms and Other Dangerous Weapons) charge. Juveniles who are processed as adults for other offenses may be charged with weapon-related offenses in addition to the JO charge. The weapon charge is rarely the top charge, but there are two PL 265 charges that are included among those for which a juvenile may be brought to the adult court for prosecution as the top charge: 265.02 and 265.03, criminal possession of a weapon in the third degree and second degree, respectively, and only when the weapon is possessed on school grounds.

Weapon Charge Categories

The study cases were categorized by the most severe weapon charge as follows:

GUN CHARGES:

- Use:** • Criminal use of a firearm, 1st or 2nd degree
- Possession:** • Criminal possession of a weapon, 2nd or 3rd degree
- Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances

The following additional gun charges were not found on any study sample arrest, but were found among prior arrests and re-arrests:

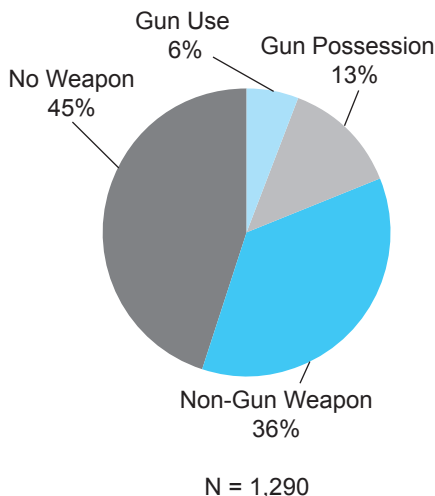
- Criminal sale of a firearm, 1st, 2nd, or 3rd degree
- Criminal possession of a dangerous weapon, 1st degree
- Criminal sale of a firearm with the aid of a minor
- Criminal sale of a firearm to a minor

NON-GUN WEAPON CHARGES:

- Criminal possession of a weapon, 4th degree
- Criminal possession of a dangerous weapon, 1st degree
- Unlawful possession of a weapon upon school grounds

• What types of JO cases are associated with weapon offenses?

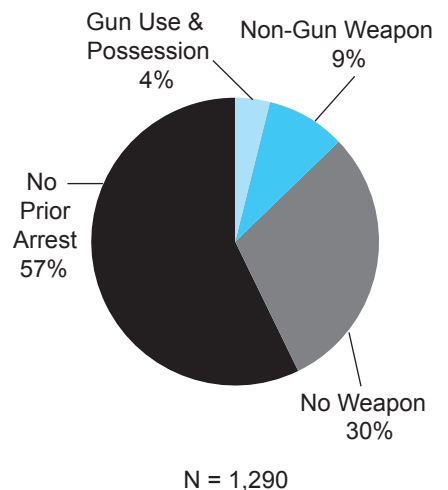
Figure 1
Type Of Weapon-Related Offenses In JO Study Cases



More than half of the juveniles in the study were charged with a weapon-related offense. As shown in Figure 1, more than a third were charged with a non-gun weapon offense (36%) and one in every five was charged with a gun offense. The juveniles who faced gun-related charges are further divided to distinguish gun possession from gun use. Gun possession (13%) was far more common than gun use (6%).

More than one in every eight juveniles (13%) had a weapon charge on a prior arrest, including 4% with a gun charge on a prior arrest (Figure 2).

Figure 2
Type Of Weapon-Related Offenses In Prior Arrests For JO Study Cases



JO Charge Comparisons

As one might expect, juveniles whose most severe JO charge was murder or attempted murder were significantly more likely than were juveniles with other JO charges to:

- also have a weapon charge (84%) and have that weapon charge be gun related (58%) (corresponding column percentages equal 83% and 57% because of rounding, Figure 3);
- be charged with gun possession (35%) or gun use (22%).

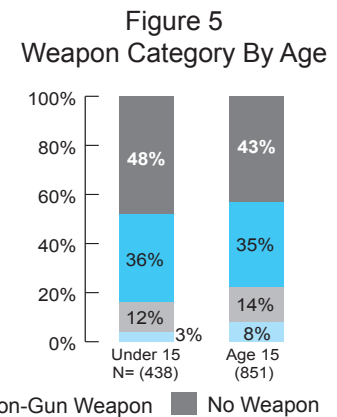
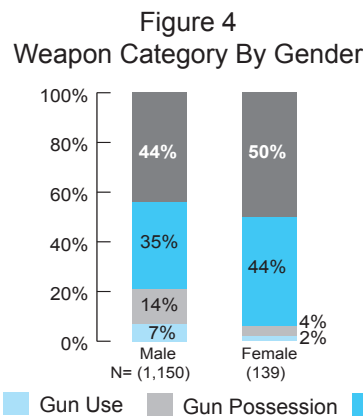
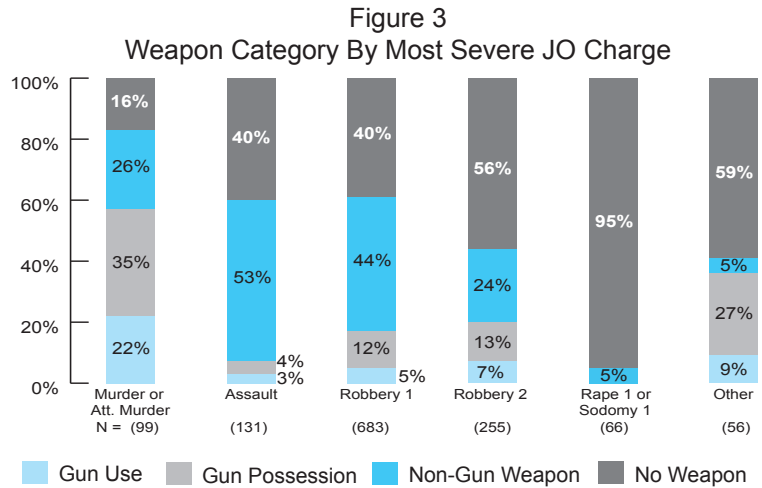
Conversely, juveniles charged with first-degree rape or first-degree sodomy were least likely to be charged with a weapon offense: none had a gun charge and only three had a non-gun weapon charge.

Gender Comparisons

Male and female juveniles differed significantly in the kinds of weapon charges they faced (Figure 4). Males were far more likely to be charged with a gun offense (21%, compared to only 6% of females), including both gun possession (14%, compared to 4%) and gun use (7%, compared to 2%). The female juveniles were significantly more likely to be charged with a non-gun weapon charge (44%, compared to 35% for males).

Age Comparisons

Comparisons of 15-year-old juveniles with their younger counterparts show no significant differences in the proportions with a weapon charge or with a non-gun weapon charge (Figure 5). However, 15-year olds were significantly more likely to face gun



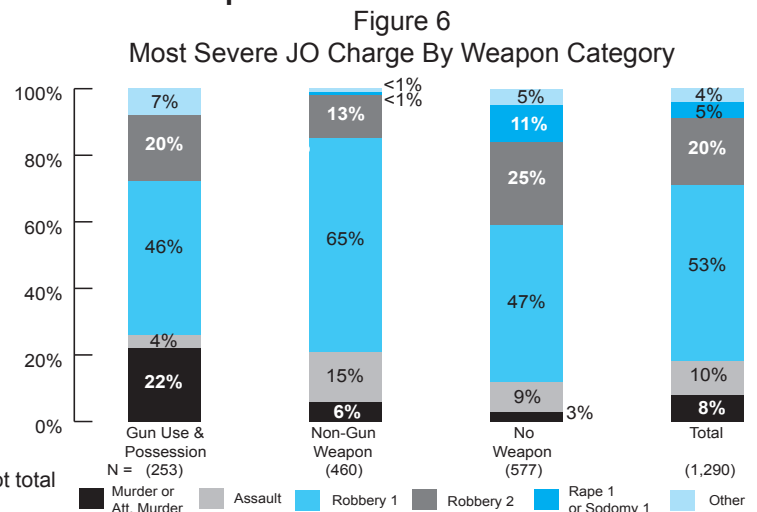
charges (22%, compared to 15% among younger juveniles) and were significantly more likely to be charged with gun use (8%, compared to 3%).

Juveniles who were 15 years old at arrest were also significantly more likely to have at least one prior arrest with a weapon charge (15%, compared to 11% among younger juveniles, not shown).

• How do JO cases with different weapon offenses compare?

Most Severe JO Charge

Figure 6 displays the JO charge distribution for each weapon category. The juveniles whose charges on the study case included a gun offense (gun use & possession) were far more likely to be charged with murder (22%) than were juveniles whose most severe weapon charge was a non-gun weapon offense (6%) or those with no weapon charges (3%). Among the juveniles charged with gun use, 27% were charged with murder (not shown).

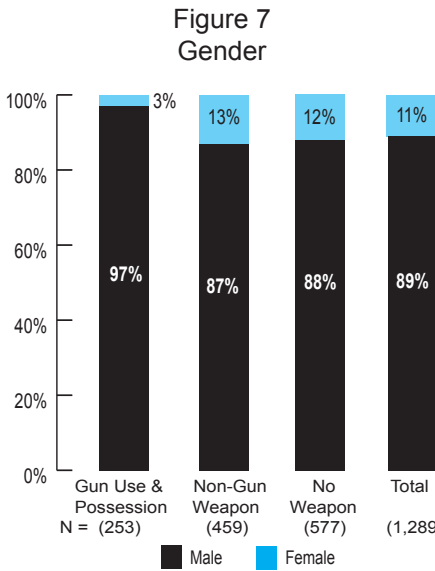


Column percentages may not total 100% because of rounding.

How do JO cases with different weapon offenses compare? (continued)

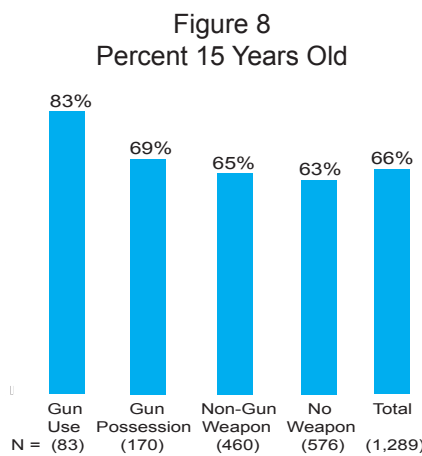
Gender

The proportion of males among juveniles with gun use or gun possession charges was significantly higher than among those charged with non-gun weapon offenses or with no weapon charges (97% compared to 87% and 88%). (Figure 7)



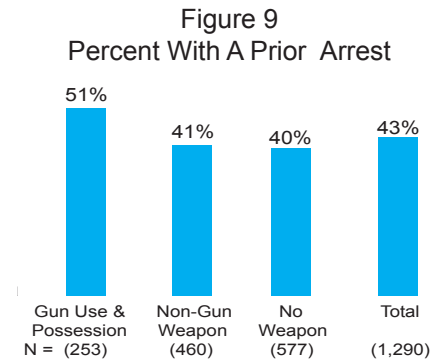
Age

Juveniles charged with gun use were significantly older than juveniles in other weapon categories: 83% of those charged with use of a gun were 15 rather than 13 or 14 years of age at the time of their arrest, compared to only 69% of those charged with gun possession, 65% charged with non-gun weapon offenses, and 63% of those with no weapon charge. (Figure 8)



Prior Arrests

Juveniles with a gun-related offense on the study case were significantly more likely to have at least one prior arrest (51%) than were juveniles with a non-gun weapon charge (41%) or with no weapon charge (40%). (Figure 9)



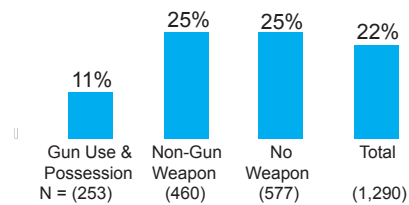
Juveniles with a gun charge on the study case were also significantly more likely than others to have a prior arrest with a weapon-related charge (21%, compared to 11%; data not shown).

● **How do different weapon charges affect the processing of JO cases?**

Release at Criminal Court Arraignment

Most of the youth processed as juvenile offenders were detained on bail or remanded with no bail set at Criminal Court arraignment, the first appearance in the lower court. Juveniles who were charged with a gun-related offense were significantly less likely to be released at that early stage of processing than were juveniles who did not face a gun-related charge (11%, compared to 25% for both the non-gun and the no weapon categories). (Figure 10)

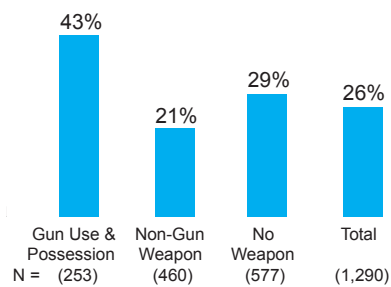
Figure 10 Percent Released At Criminal Court Arraignment



Detention to Disposition

The type of weapon charge associated with the JO study case was strongly related to the likelihood of detention to disposition. In cases of juveniles with any gun charge, 43% were detained to disposition, compared to only 21% of those in cases with a non-gun weapon. Differences between juveniles with gun-related charges and those with non-gun weapon charges were statistically significant, supporting the premise that juveniles in cases with guns are treated more harshly than juveniles in non-gun weapon cases. (Figure 11)

Figure 11 Percent Detained To Disposition



Disposition and Sentence

Conviction rates were very high (92%) for the youth processed as juvenile offenders in the Supreme Court. The rate of conviction did not vary significantly by weapon category (data not shown).

Half of the juveniles who were convicted in JO cases were sentenced to imprisonment (Figure 12). However, juveniles with any gun charges were significantly more likely to receive incarcerative sentences (65%) than were juveniles with non-gun (45%) or no weapon charges (47%).

Length of Case

JO cases that included charges of gun use took significantly longer to reach disposition in Supreme Court (mean of 7 months, median of 5 months) than did other JO cases (mean of 5 months, median of 4 months). (Figure 13, left)

In contrast, once the JO was convicted, the cases with gun charges (use or possession) moved more quickly to sentencing (mean of 4 months, median of 2 months) than did those with non-gun weapon charges (mean of 6 months, median of 3 months). (Figure 13, right)

Figure 12
Percent Of Convicted Juveniles Sentenced To Imprisonment

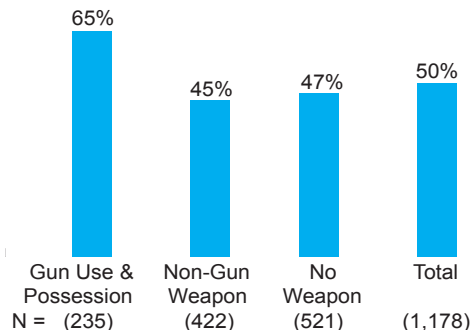
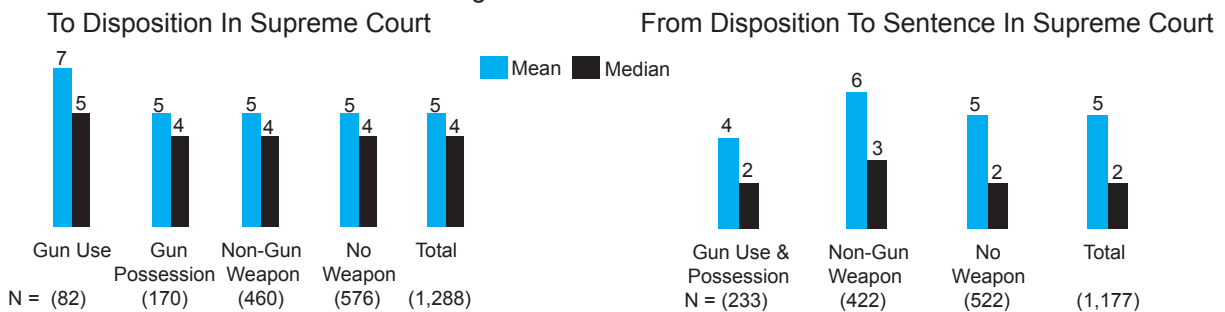


Figure 13
Length Of Case In Months



● **Do re-arrest rates vary by the type of weapon charge associated with a JO case?**

Most of the juvenile offenders in this research were re-arrested. Among the juveniles who were at risk for re-arrest for at least 4 years, 78% were re-arrested (Figure 14). The 4-year re-arrest rate ranged from 76% of the juveniles with no weapon charge to 82% among juveniles with gun charges, but none of these differences was statistically significant.

Half of the juveniles who were at risk for 4 years or more were re-arrested for a violent felony offense (VFO) within that time (Figure 15). VFO re-arrest rates after at least 3 and 4 years at risk were higher for juveniles with a gun use charge, but only one difference was statistically significant: With at least 3 years at risk, juveniles with a gun use charge were significantly more likely to be re-arrested for a VFO (54%) than were juveniles whose most severe weapon charge involved possession of a gun (38%). (Fewer were at risk for a VFO for a given number of years than were at risk for any re-arrest because time spent in detention following a non-VFO re-arrest was excluded from time at risk for a VFO.)

Figure 14
Percent Re-Arrested (4 Or More Years At Risk)

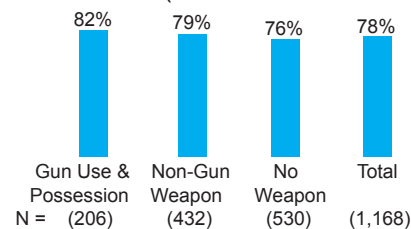
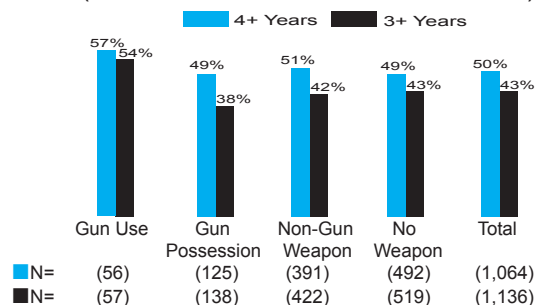


Figure 15
Percent Re-Arrested For A VFO (4 Or More & 3 Or More Years At Risk)



Do re-arrest rates vary by the type of weapon charge associated with a JO case? (continued)

Time to Re-Arrests

In spite of having a higher rate of re-arrest for a VFO (Figure 15, previous page), juveniles with gun use charges who were re-arrested were not re-arrested as quickly for a VFO as were juveniles in other weapon categories. Juveniles with gun use charges who were re-arrested for a VFO within four years were significantly less likely than juveniles in the other weapon categories combined to have been re-arrested for a VFO within three months at risk (6%, compared to 20%; not shown).

Most Severe Weapon Charge At Any Re-Arrest Within 4 Years at Risk

Juveniles who were re-arrested were significantly more likely to face a gun charge on one of their re-arrests if they faced a gun charge on the study case (Figure 16). Among juveniles with a gun-related charge on the study case, 29% had a gun charge on one of their re-arrests, compared to only 21% of juveniles with a non-gun weapon charge. Similarly, juveniles whose most severe weapon charge on the study case involved a non-gun weapon were significantly more likely to face non-gun weapon charges but no gun charges on their re-arrests (21%, compared to only 13% of juveniles with a gun charge on the study case and 14% for all juveniles with charges other than non-gun weapon offenses).

Given the other factors that are related to re-arrest among JOs, does the weapon category affect re-arrest?

Only one of the many variables that reflect the juvenile’s history of weapon charges contributed significantly to the statistical model predicting the likelihood of survival with no re-arrest over time.

Surprisingly, juveniles with a *prior* arrest that included a gun charge survived longer until their first re-arrest than did juveniles who did not have a prior gun charge. Although one might have anticipated that a previous gun-related arrest would be associated with a heightened likelihood of re-arrest, it appears that, after taking into account gender, number of prior arrests, robbery charge on the study case, and type of attorney, the presence of a prior gun arrest reduced the hazard of re-arrest.

The effect of a prior gun charge on the likelihood of re-arrest is illustrated in Figure 17. The curved lines plot the probability of survival over time without re-arrest, comparing juveniles with a prior gun charge to those with no prior gun charge, given the other predictive factors. At time zero, 100% of each group had no re-arrests. As time at risk elapsed, the probability of survival decreased for both groups, but remained significantly higher for juveniles with a prior gun charge.

Figure 16
Most Severe Weapon Charge At Any Re-Arrest (Cases With A Re-Arrest; 4 Or More Years At Risk)

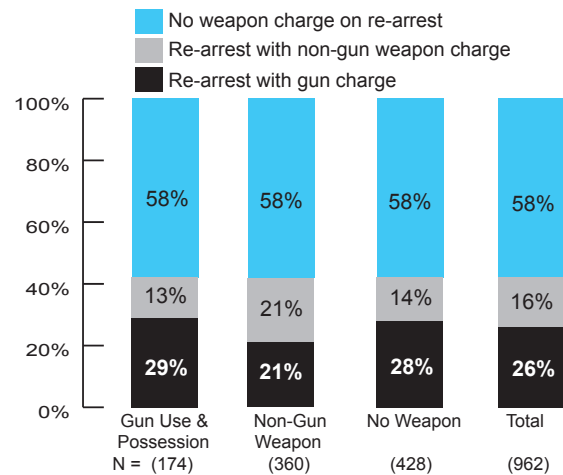
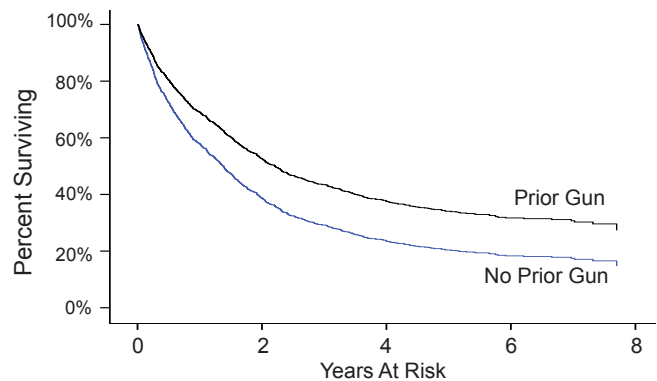


Figure 17
Probability Of Survival Over Time Without Re-Arrest By Prior Gun Charge



The estimated proportion of juveniles with a prior gun charge without a re-arrest after 6 years was about 31%, compared to about 19% for those without a prior gun charge (after accounting for the other factors with a significant effect on re-arrest).

None of the measures of the juvenile’s involvement with weapons was a significant factor in a separate analysis predicting re-arrest for a violent felony offense.

Summary and Discussion

This research documents the strong presence of weapon offenses in the juvenile offender cases in the Supreme Courts across the five boroughs of New York City. More than half of the juveniles were charged with a weapon-related offense. A fifth of the juveniles were charged with a gun offense, including 13% charged with gun possession but not use and 6% charged with gun use. Thirteen percent of the juveniles had a weapon charge on a prior arrest, including 4% with a gun charge on a prior arrest.

Weapon charges and gun charges were most frequent among juveniles charged with murder or attempted murder and were least frequent among those charged with first-degree rape or sodomy. Male juveniles were far more likely to be charged with a gun offense than were female juveniles (21%, compared to 6%). Gun charges were also more frequent among 15-year-old juveniles than among their younger counterparts (22%, compared to 15%). Juveniles with a gun charge on the study case were more likely to have at least one prior arrest and to have a prior arrest with a gun charge.

There was a strong relationship between the type of weapon-related charge on the study case and detention during prosecution of the JO case. Juveniles who were charged with a gun offense were significantly more likely to be detained at arraignment and to be detained without release prior to disposition, compared to those without a gun charge.

In addition, juveniles who were charged with a gun offense were significantly more likely to receive incarcerative sentences.

Re-arrest rates were high. More than three quarters of the juveniles were re-arrested within four years and half were re-arrested for a VFO in that time. Re-arrest rates were higher for juveniles charged with gun use and lower for juveniles with no weapon charges at each

yearly breakdown of time at risk examined, but none of the differences was statistically significant. Rates of re-arrest for a VFO were also higher for juveniles with a gun use charge on the study case for each yearly category of time at risk, and the difference was significant at three years or more time at risk for a VFO.

This study examined the effects of weapon-related charges on re-arrest among the juveniles involved in the most serious JO cases in New York City. The working hypothesis was that juveniles who used or possessed guns or possessed other non-gun weapons, as reflected by their charges on the study case, would show a greater risk of re-arrest. It seemed likely that juveniles who were so strongly enmeshed in criminal activity that they possessed guns or other weapons would also be those at particularly high risk of continuing their criminal activity after their JO study case arrest. The data do not support that premise. Instead, after the effects of gender, prior criminal history, robbery charges and private counsel, none of the weapon-related variables had a significant effect in the hypothesized direction.

The finding that a gun charge at a prior arrest decreased the hazard of re-arrest seems counterintuitive and is provocative. Prior arrests with gun charges were probably among the most severe prior arrests, since the most severe charge on these cases was likely to be murder, attempted murder, or first-degree robbery. Perhaps juveniles with such severe prior charges, whether in the adult or Family Court, who were then arrested for a JO offense, might refrain from subsequent re-offending to avoid exacerbating their punishment. This suggests that juveniles might anticipate more severe penalties on the current or any new case as a consequence of the prior gun charge, but without additional evidence we cannot conclude that the finding reflects a deterrent effect.

CONCLUSION

Like the typical JO, the typical juvenile with a gun charge on the study case is male, 15 years old, and charged with first- or second-degree robbery. The typical JO with a gun charge is more likely than are other juveniles to be charged with murder or attempted murder and to have at least one prior arrest. Juveniles with gun charges are more likely to be detained at their arraignment in Criminal Court and are more likely to be detained throughout case processing. Once these JOs are convicted, their cases move significantly more quickly to sentencing than do the cases for juveniles with non-gun weapon charges or no weapon charges, and they are significantly more likely to be sentenced to imprisonment. In these ways, the cases with gun charges are among the most severe JO cases in New York City.



Research Brief from

**No. 21 (September 2009)
Juvenile Offenders and Weapons**

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