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CJA is a not-for-profit corporation that provides a variety of criminal justice services under a contract with the City of New York. CJA staff interview defendants arrested in New York City, make recommendations for pretrial release, and notify released defendants of upcoming court dates. Within the Agency, the Research Department conducts studies covering a broad array of criminal justice policy concerns. The Research Brief series summarizes the results of some of these studies.

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QUEENS SUPERVISED RELEASE: A BRIEF PROGRAM DESCRIPTION

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The Queens Supervised Release program began as a pilot project funded by the City through the Office of the Criminal Justice Coordinator (OCJC). Objectives are to reduce reliance on money bail and lower pretrial detention for a population that does not pose a substantial risk to public safety. The project helps to minimize the costs of incarceration, both institutional (e.g., the amount the City spends on jail) and individual (e.g., loss of income, ability to attend school and care for one's family). The program also seeks to offer clients opportunities for voluntary treatment where appropriate as early as possible.

The program was designed to provide judges with an alternative to setting money bail, but there is concern that supervision might, in some instances, replace release on recognizance (ROR). Such "net-widening" has been the experience in many federal and state

CJA has been operating a supervised release program for persons charged with nonviolent felony offenses in Queens since August 2009. This Brief describes the first 40 months of the program's operation.

jurisdictions. Therefore, the initial question was how to develop a program that would lead to supervised release only for those who would otherwise be held on bail.

As a result of those concerns, the program does not actively pursue persons who are recommended by CJA for ROR and who do not appear to have been arrested before. Additionally, certain charges with a low probability of bail being set are excluded. The program also utilizes the defense attorney as the "gatekeeper" regarding the likelihood of detention on bail, and will not proceed with a case if the defense refuses.

This report is available on CJA's web site:
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Program Exclusions

To address public safety concerns, the program excludes from consideration those charged with a Violent Felony Offense (VFO) as defined in the Penal Law and those at highest risk for re-arrest or failure to appear (FTA).

Risk of pretrial recidivism is addressed by excluding those persons having more than six misdemeanor convictions and/or more than one felony conviction and/or any adult VFO conviction within the last 10 years.

Risk of failure to appear (FTA) is addressed using CJA's pretrial risk assessment as a guideline. (CJA interviews virtually all defendants between arrest and arraignment, and issues a recommendation based on objective, validated factors.) If a person is otherwise eligible, but assessed as High Risk (Not Recommended) by CJA, program staff will examine the warrant history for mitigating circumstances. Such mitigating factors could include the warrant being old, resulting from failure to pay a fine, or the person returning voluntarily to vacate the warrant within 30 days of issuance.

Program Participation

The program uses validated intake-assessment instruments that help identify substance abuse and mental health needs. Participation further requires frequent face-to-face and telephone contacts with program staff, and cooperation with program verification efforts concerning applicable activities and responsibilities, such as employment or school. Referrals to outside agencies for additional services, which are voluntary, are made where appropriate. Case managers, who are social workers, evaluate the client's service needs and his/her supervision requirements as determined during the intake-assessment process and through their continued work with clients throughout the pendency of the case. Non-compliance may increase the level of supervision. Compliance with outside treatment, employment, schooling, and other pro-social activities and responsibilities are considered in lowering the supervision levels.

Written progress reports are submitted at all scheduled court appearances. If there are any problems with compliance, program staff appear in person with the report. Reports contain information regarding the client's cooperation with the intake-assessment process; indication of need for, and

referral to, outside services; specification of the level of appropriate supervision; details about the client's compliance with all face-to-face appointments with the case manager and telephone contact requirements; and information about any docketed re-arrests. Unscheduled reports are provided in advance of the court date if there is a serious failure in compliance with the conditions of release (for example, loss of contact or a serious docketed re-arrest), or as required by the Court.

Successful and Unsuccessful Termination

Successful completion of supervision occurs typically when the client enters a plea to a misdemeanor and receives a non-incarcerative sentence. A client's participation also ends successfully upon entering a guilty plea to a felony or when supervision is transferred to Mental Health Court (MHC), Queens Treatment Court (QTC), Treatment Alternatives for Safer Communities (TASC), an Alternative to Incarceration (ATI) program, or a program operated by the Queens District Attorney (DA).

Unsuccessful terminations occur when the Court revokes supervision by setting bail on the case or changing the detention status. These unsuccessful terminations are associated with being re-arrested and detained on a new felony case, not reporting to the program, failing to appear for a court date, or other client misconduct.

Some terminations fall into a more neutral category, and may include a client's being held for immigration or being detained on a violation of probation or parole on a previous case.

Number of Clients

By November 30, 2012, 1,001 clients had been accepted into the program, and 864 (86%) had completed it (Figure 1). At the cutoff date, the program had 137 active participants.

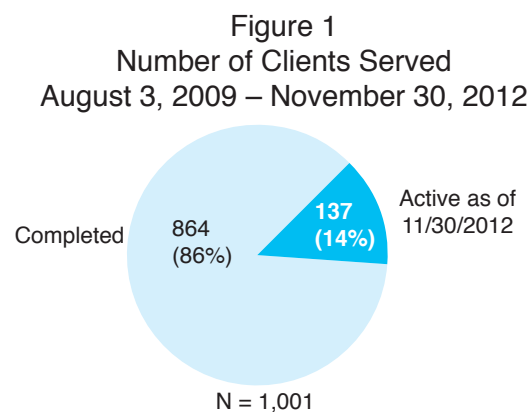


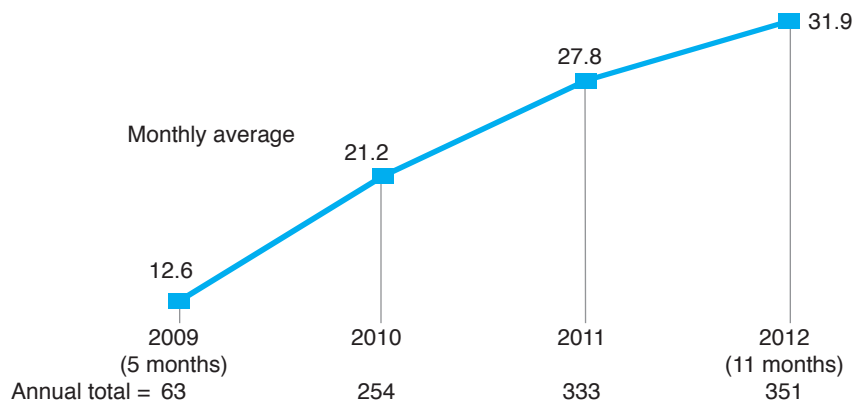
Figure 2 illustrates the program’s growth during its first 40 months of operation.

In the first year (2009), 63 clients were released to the program during the five months that it was in operation. The monthly average was 12.6 for 2009.

Participation increased during each subsequent year: 254 in 2010 (averaging 21.2 per month); 333 in 2011 (averaging 27.8 per month), and 351 for the first eleven months of 2012 (averaging 31.9 per month).

Monthly fluctuations in 2012 ranged from 53 in January to 19 in November (not shown).

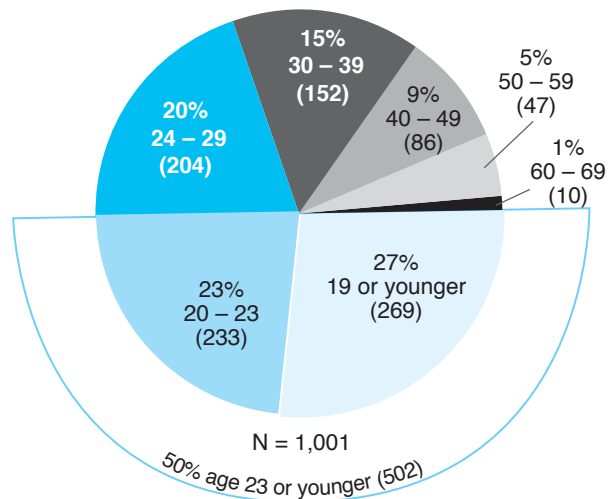
Figure 2
Average Number of Clients Released to the Program
Per Month During Each Year of Operation
August 3, 2009 – November 30, 2012



Age

Of the 1,001 clients accepted into the program through November 2012, half were 23 years of age or younger, as shown in Figure 3. More than a quarter were 19 or younger (27%), and nearly as many were 20 to 23 years of age (23%). Over two thirds were under the age of 30.

Figure 3
Age of Program Clients



Gender

About 82% of program clients were men, and 18% were women (not shown).

CJA Recommendation

Figure 4
CJA Recommendation Category
Assigned to Program Clients

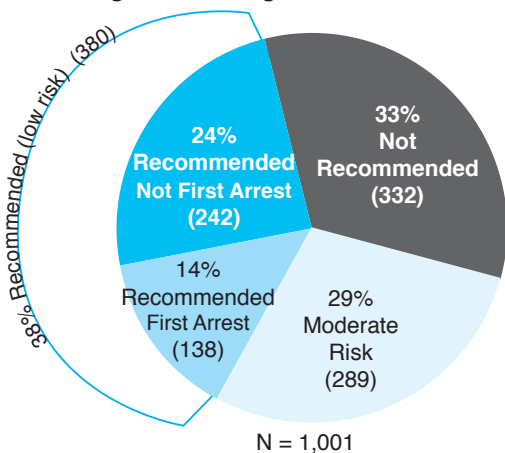


Figure 4 illustrates the distribution of CJA recommendation categories assigned to program clients: 29% were assigned to the Moderate FTA Risk category, 38% to the Recommended (Low FTA Risk) category, and 33% to a Not Recommended category.

Among those who had been recommended for release, the majority had a prior arrest: 24% of the total were recommended with a prior arrest, compared to 14% who were recommended with no prior arrest on a criminal charge. (The latter are accepted by the program only on referral from the Court.)

Charge

Program eligibility requirements restrict the complaint charge to nonviolent felony offenses. (A small number of exceptions were initially made during the reporting period as a result of judicial referrals, a practice that has been discontinued.) In addition, defendants charged only with fraud, forgery, and similar crimes, or a felony under the Vehicle and Traffic Law are excluded because of the low statistical likelihood of bail being set.

Figure 5 shows that about half of program clients were charged with a drug offense as the top complaint charge (51%). The next largest category consisted of larceny and stolen property offenses (25%). The remaining clients were charged with burglary (6%), robbery (9%), and various other offenses (9%).

Among the robbery charges, robbery in the second degree predominated (5%), with third degree (non-VFO) robbery comprising another 3% of the total. Robbery in the first degree comprised less than 1% of the total. None of the robbery charges involved a gun.

Needs Assessment

Figures 6 and 7 present data on the program's assessment of clients' needs and their willingness to utilize services offered to them.

Half of all clients were assessed to be in need of either substance abuse treatment, mental health services, or both. Figure 6 shows that the three groups were evenly divided, with 17% in each single-needs group, and another 17% needing both types of services.

Most clients with substance abuse or mental health needs were not linked to any services prior to acceptance in the program. Figure 7 shows that only 22% of clients with both needs were already linked to services, and the proportion was even smaller — 13% — among clients assessed to be in need of one type of service or the other.

On the other hand, the majority of clients with both needs were willing to enroll in outside services (58%). Among the single-need groups, a larger proportion of those in need of substance abuse treatment were willing to enroll in outside services (49%), compared to those with mental health needs (35%).

Figure 5
Crime Category of the Top Complaint Charge For Program Clients

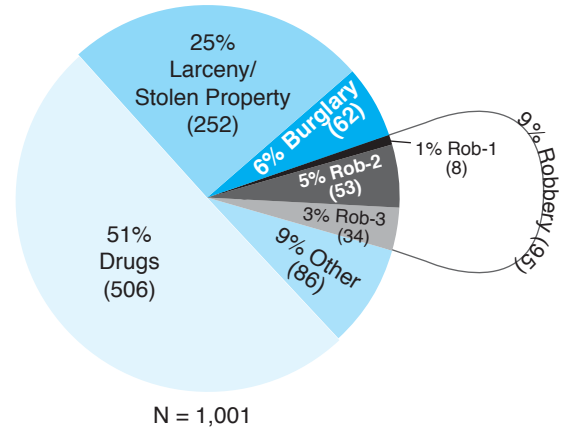
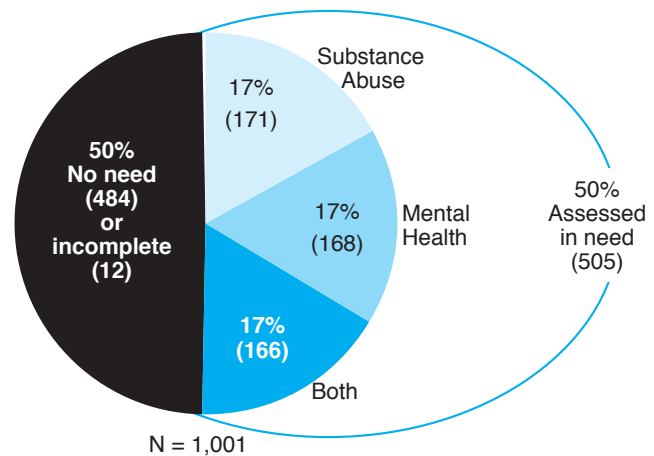
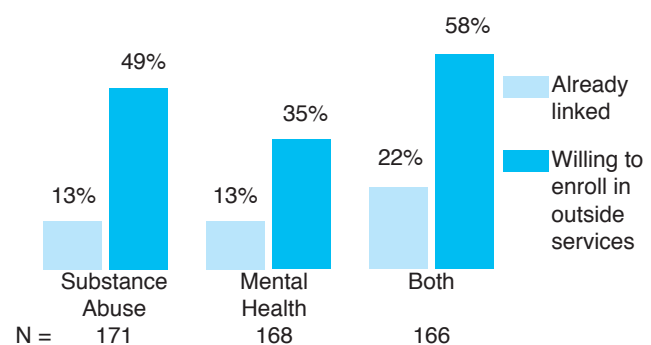


Figure 6
Needs Assessment



Percentages may not total 100% because of rounding.

Figure 7
Linkage to Services for Clients in Need



Program Status

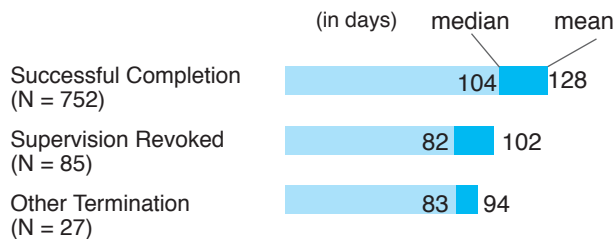
Among the 864 clients who had completed the program by November 30, 2012, the vast majority completed it successfully (87%), as shown in Figure 8. Successful completion usually occurred when the case was adjudicated (68%), but could also occur pre-adjudication (1%) or at the transfer of the client to Mental Health Court, Queens Treatment Court, or TASC (14%), to another Alternative-To-Incarceration (ATI) program (3%), to Family Court (less than 1%), or in other ways (1%).

Supervision was revoked for 10% of clients, usually because of a failure to appear (FTA) resulting in program failure exit (4%) or because of a new arrest resulting in detention (6%). Supervision was revoked solely for other reasons for three clients. Twenty-seven clients (3%) were terminated for reasons other than client misconduct.

Successful completers spent an average (mean) of 128 days in the program (median 104) — longer than those who had their supervision revoked or were otherwise terminated (Figure 9).

Figure 9

Length of Time to Exit by Completed Status Type



Failure To Appear

Failure to appear (FTA) rates for program participants were quite low: 32 (3%) of the 1,001 program clients exited the program because of a failure to appear for a scheduled court appearance (Figure 10). Eighteen additional clients had a warrant ordered because of a missed court appearance, but they returned to court within 30 days (usually with an explanation, such as being sick, being in an in-patient treatment program, lacking the carfare, being confused about the court date, and so on). In seven cases the client was prevented from attending court because of detention by other legal authorities. Combining these categories results in a total warrant rate of 6%, but nearly half did not result in a program failure exit.

Figure 8
Completed Status Type

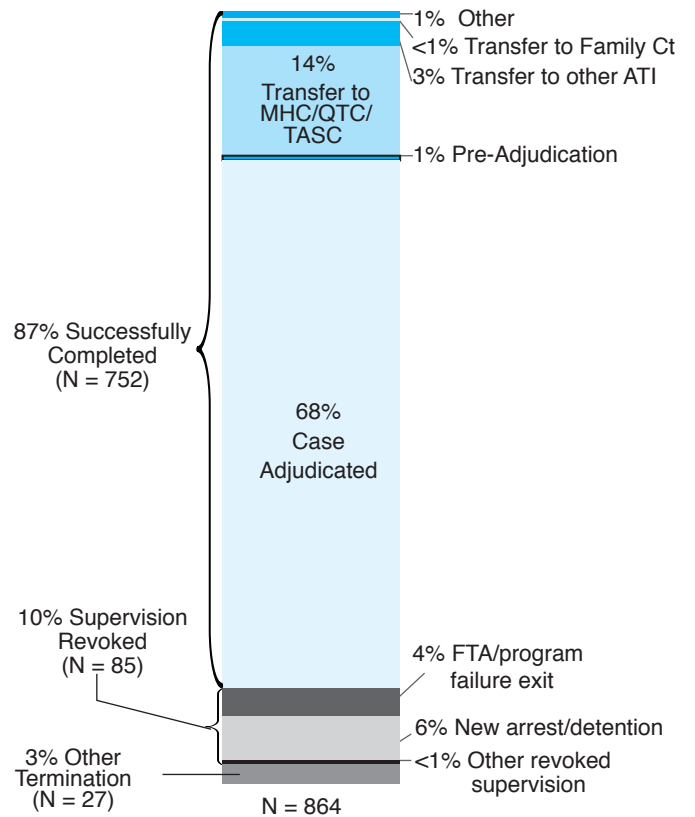
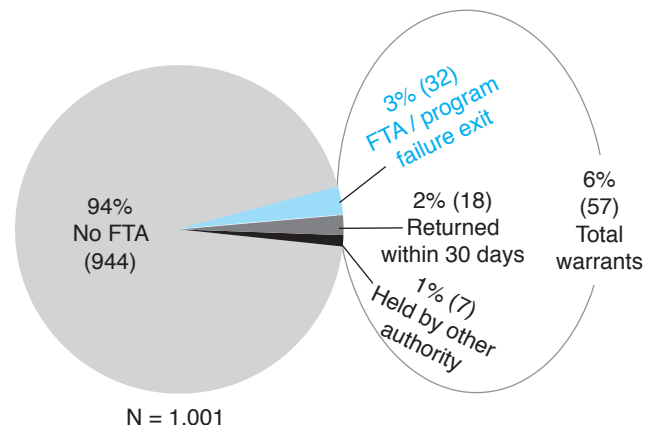


Figure 10

In-Program Failure to Appear



Re-Arrest

Of the total 1,001 clients, 225 (22.5%) were re-arrested while in the program (Figure 11). Re-arrests that were not prosecuted are excluded from these figures.

Re-arrests among program clients tended to be for a different, and often less severe, charge than their original arrest. Although all clients were charged with a felony on the program arrest, only a small proportion were re-arrested and arraigned on a felony charge (66, or 6.6% of the total). Most re-arrests were for misdemeanor charges: 150, or 15% of all clients, were re-arrested and arraigned on a misdemeanor charge. A handful of clients (9, constituting 0.9% of the total) were re-arrested and arraigned on a non-criminal violation or infraction.

Whereas a drug offense was the top complaint charge for about half of the program clients (Figure 5), little more than a quarter of re-arrests were for drugs (28%, Figure 12). Many re-arrests were for minor offenses such as turnstile jumping (14%) or some other offense not included in robbery, burglary, larceny, or drugs (26%).

The average time from program entry to re-arrest was 68 days, with a median of 52 days (not shown).

Correlates of In-Program Re-Arrests

Among program clients, in-program re-arrest was associated with being young, male, and arrested for robbery.

Figure 13 shows that 34% of clients aged 16 to 19 were re-arrested while in the program, compared to much lower rates for older clients. At 30 years of age and older, re-arrest rates were 12% or lower in every age group. (The few clients younger than 16 and older than 59 are not included in the figure; there were no re-arrests among either group.)

Males were more likely to be re-arrested than females: 24% of males compared to 13% of females were re-arrested while in the program (not shown).

Figure 14 shows that defendants whose program arrest was on a drug charge (half of clients) were among the least likely to be re-arrested. Their in-program re-arrest rate was 17%, compared to 29% for those originally arrested on a larceny/stolen property charge and higher rates for burglary and robbery.

Figure 11
In-Program Re-Arrest (Docketed Only)

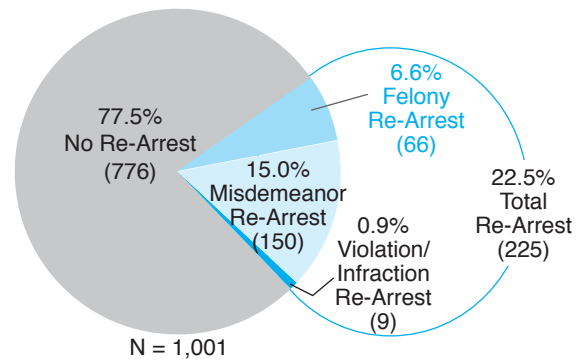
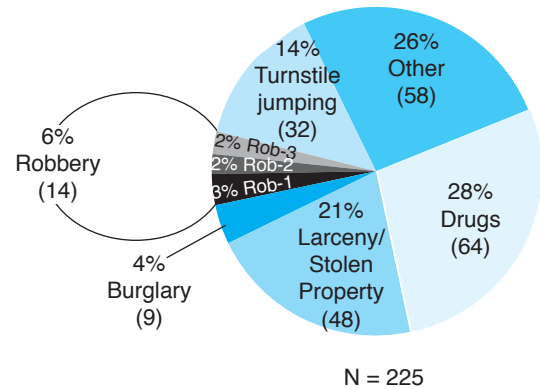


Figure 12
Charge Type of In-Program Re-Arrest



Percentages may not total 100% because of rounding.

Figure 13
Re-Arrest by Age

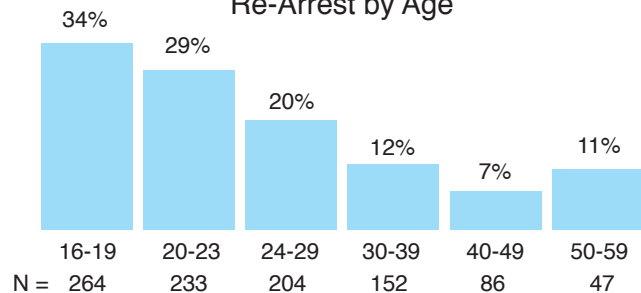
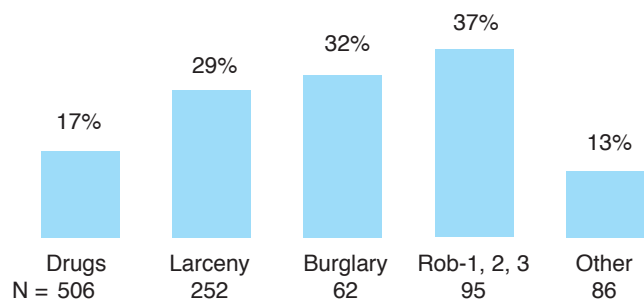


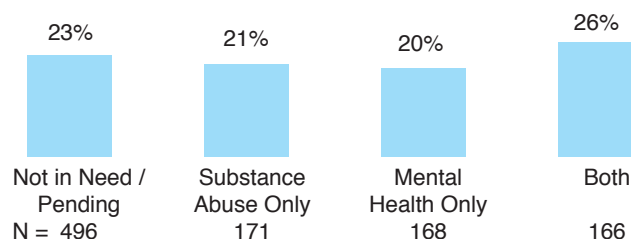
Figure 14
Re-Arrest by Crime Category of Program Arrest



Correlates of Re-Arrest (continued)

Having a substance abuse or mental health problem was not associated with a higher risk of re-arrest, as shown in Figure 15. There was little difference in the re-arrest rate between those not in need of either type of service (23%) and those in need of both types of service (26%). The re-arrest rates among clients in need of only one type of service were marginally lower.

Figure 15
Re-Arrest By Needs Assessment



Summary & Conclusions

What have we learned from the Supervised Release Program in Queens? The most important lesson is that it can serve as an effective alternative to money bail even for cases entering the court system on felony charges. Almost 90% of the participants completed the program successfully. When re-arrests did occur among these felony-charged defendants, they were overwhelmingly for non-felony charges.

The program has also demonstrated that half of the participants have substance abuse or mental health needs, or both, and that a majority of those defendants can be voluntarily linked to community-based services. Thus, the program not only saves detention-based bed space for a population that would otherwise have bail set, but facilitates services for the defendants during the pendency of their cases.

When the program began, it was estimated that as many as 250 defendants could be placed during a full year of operation. This estimate proved a bit optimistic when only 13 defendants on average per month were placed in the program during the first five months. However, the estimate was on target for the first full calendar year when 254 defendants were placed in the program. The number rose to 333 for the second full year, and had already reached 351 by November of the third year. The trend reflects the court's

growing confidence in the reliability and effectiveness of the program, which, in turn, reflects the staff's emphasis on providing the judge with timely and accurate reports on the defendant's status in the program.

Over its three and one-half years of operation, the program has also shown that case managers who are trained social workers can use their professional skills not only to monitor compliance with the conditions of release, but to construct relationships that encourage participants to obtain services that help them manage their problems. For example, some participants with substance abuse problems who initially refuse the referral may request it after working with the case manager.

The success of the program in Queens has encouraged the City to support its extension to Manhattan. A Manhattan Supervised Release Program began operating in April 2013. The composition of the nonviolent felony population in Manhattan and some of the case processing procedures there differ somewhat from those in Queens. The expansion will provide an opportunity to determine which, if any, changes in the program will be required as it moves from one county to another. Those insights will be critical as we strive to comply with Chief Judge Lippman's recent encouragement to "counties around the state to consider such supervised release programs."



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The New York City Criminal Justice Agency, Inc.
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TO:



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