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June, 2021

THE SECOND YEAR OF RAISE THE AGE

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SUMMARY

This report describes the processing of 16- and 17-year-old arrestees during the second year of New York State's Raise the Age (RTA) Law. The law, which went into effect for 16-year-olds on October 1, 2018, and for 17-year-olds on October 1, 2019, raised the age of criminal responsibility in the State and changed how these Adolescent Offenders (AOs) are processed. Arrests from October 2019 through September 2020 are compared with arrests from October 2018 through September 2019, the first year of the implementation of RTA for 16-year-olds and the year prior to implementation for 17-year-olds. Data is presented separately for the first and second halves of the years because of the impact of Covid-19 on the second half of the second year of RTA.

RTA Arrests

- There were 1,855 arrests of 16-year-olds and 2,225 arrests of 17-year-olds in the second year of RTA. However, in the second half of the year, during the pandemic, there were about half as many arrests of 16-year-olds (659 down from 1,196, a decrease of 45%) and about a third fewer arrests of 17-year-olds (883 down from 1,342, a decrease of 34%).
- The volume of arrests of 17-year-olds decreased markedly when they became eligible for RTA. Comparison of arrests of 17-year-olds in the first half of the second year of RTA and the same period of the previous year shows a 31% decrease, down from 1,954 to 1,342. The decrease was greatest for misdemeanor arrests (49%, from 1,090 down to 551). This is consistent with findings regarding the impact of the implementation of RTA for 16-year-olds in October 2018.

Prosecution

- The percent of felony arrests prosecuted as felonies was about the same for 17-year-olds in both halves of year 2 of RTA and for 16-year-olds in the first half (71% to 74%). However, in the second half of the year, during the pandemic, only 57% of arrests of 16-year-olds for non-violent felony offenses were prosecuted compared to 67% among 17-year-olds charged with non-violent felonies in that period and 70% among their 16-year-old counterparts in the first half of the year.
- There were far fewer AO cases prosecuted in the second half of the year during the pandemic than in the first half. The number of felony arrests of 17-year-olds prosecuted as felonies decreased from 560 to 401 (28%) while those of 16-year-olds decreased from 556 to 303 (46%).
- More than a third of AO cases (36% and 37% of cases for 16- and 17-year-olds, respectively) were removed to Family Court at arraignment in the first half of the second year of RTA, including a quarter (24% and 25%) of violent felony cases and six of every ten (62% and 59%) non-violent felony cases. The rate of removal at arraignment was higher for both age groups in the second half of year 2, during the pandemic, when more than half of the cases in both age groups (58% and 54%) were removed to Family Court. This includes more than four of every ten (45% and 41%) charged with a violent felony offense and nearly eight of every ten (79% and 77%) charged with a non-violent felony.

- The release status set at the initial hearing was much more favorable for 17-year-olds under RTA than in the year prior to their eligibility. More than eight of every ten (84%) 17-year-olds arraigned in the first six months of their eligibility for RTA were released on recognizance, supervision or non-monetary release at arraignment compared to barely six of every ten (59%) the previous year. Release rates were lower in the second half of the year.

INTRODUCTION

New York State's Raise the Age (RTA) legislation went into effect on October 1, 2018, raising the age of criminal responsibility in the State and bringing change to the processing of 16-year-old¹ arrestees. RTA was extended to 17-year-old arrestees on October 1, 2019. If the arrest charge is a Penal Law misdemeanor, youths aged 16 and 17 are now brought directly to Family Court by the New York Police Department (NYPD) for intake by the Department of Probation. If the charge is a felony², the youth is now brought to the Youth Part in the adult court for arraignment. The case is removed to Family Court if the District Attorney (DA) consents or does not oppose removal. If the DA moves within 30 days to keep the case in the adult court, it will stay in adult court. The DA's motion to retain the case within the adult court must meet certain evidentiary standards in support of retention, depending on whether the felony is non-violent or violent.

Felony cases for adolescent offenders (AOs) are heard in the Youth Part of the adult court in each borough during business hours. If the Youth Part is closed, felony cases are first heard by an "Accessible Magistrate," a judge in a different court part who has been granted jurisdiction³ to remove the case immediately to Family Court in the event that all parties agree to remove it or to determine the release status for the AO until the case is heard in the Youth Part of the adult court, which usually occurs on the following day.

This report describes the processing of 16- and 17-year-old arrestees during the second year of RTA, and includes data on charge severity, disposition, release status, the adult court outcome, as well as selected demographic factors for the AOs in adult court. Arrests in October 2019 through September 2020 are compared with arrests in October 2018 through September 2019, the first year of RTA for 16-year-olds and the year prior to implementation for 17-year-olds. Data is presented separately for the first and second halves of the years because of the impact of Covid-19 on the second half of the second year of RTA.

¹ Raise the Age pertains to arrests for offenses that took place on or after October 1, 2018, for youths who were age 16 on the date of the incident that led to the arrest and to arrests for offenses that took place on or after October 1, 2019, for youths who were age 17 on the date of the incident that led to the arrest.

² Arrests for violations, infractions, and offenses within the Vehicle and Traffic Law remain under the jurisdiction of the adult court.

³ Accessible Magistrates were mandated solely to determine the release status for the AO prior to their appearance in the Youth Part from implementation of Raise the Age to August 2019. The authority to remove cases to Family Court was added in September 2019.

I. ARREST

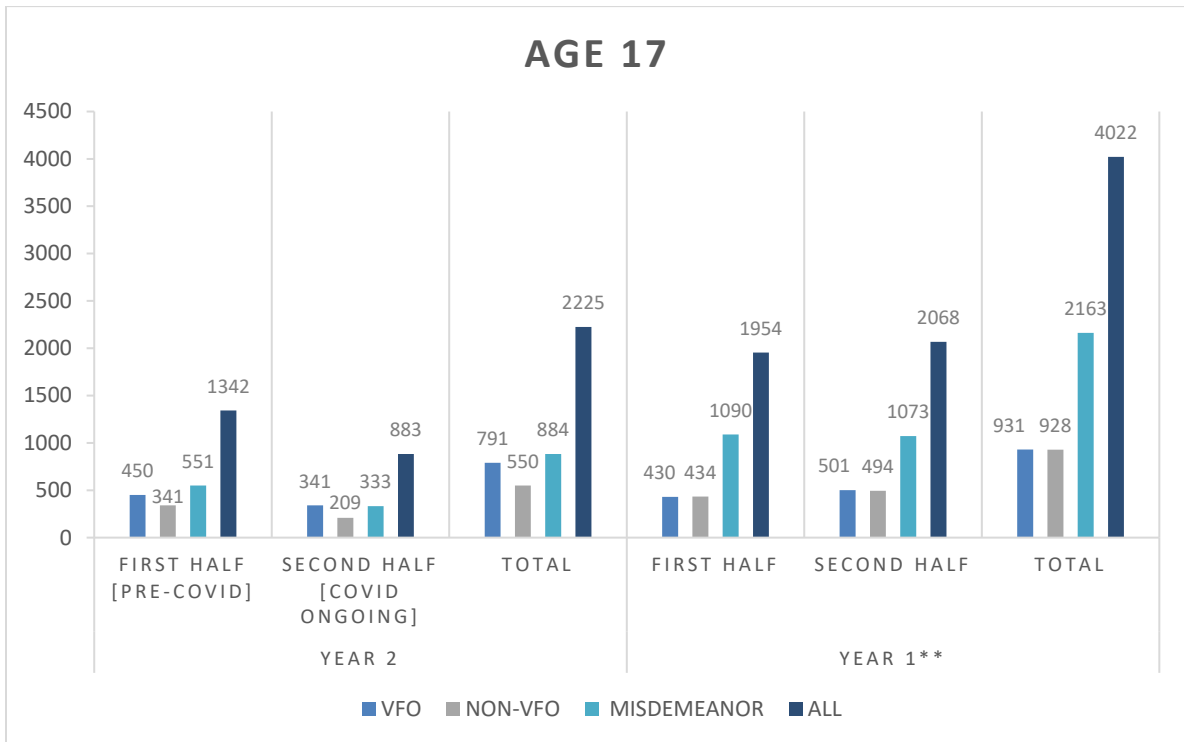
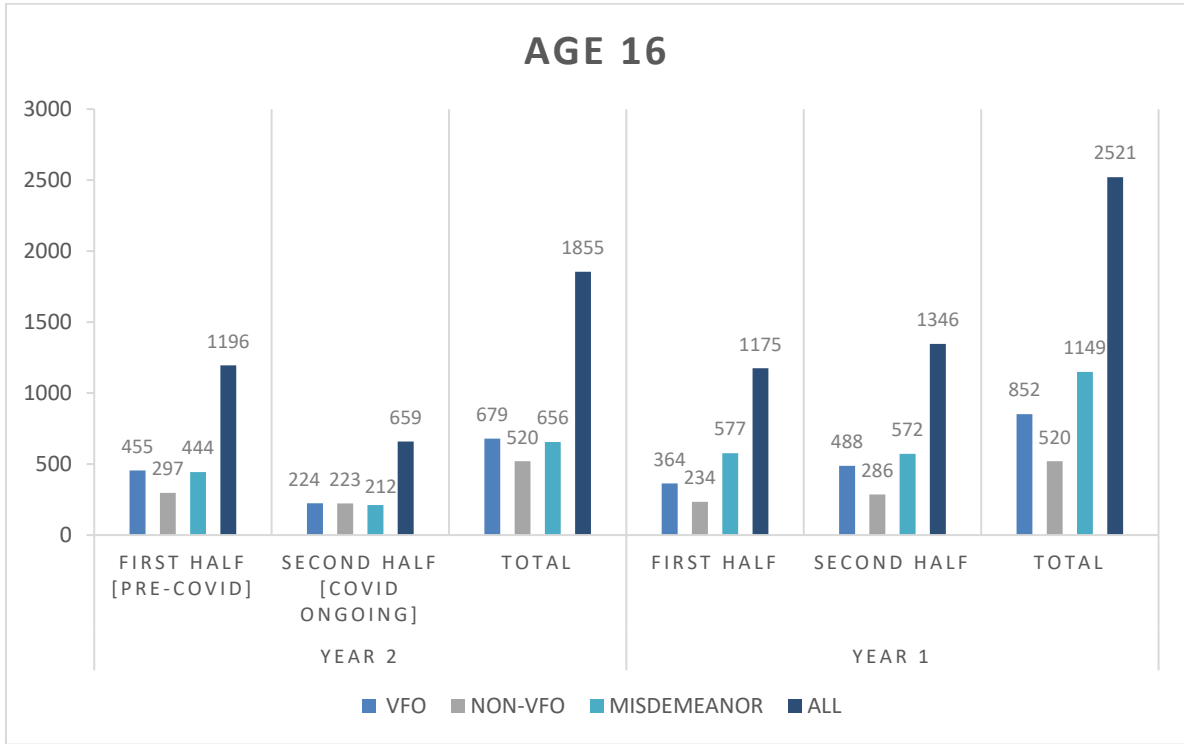
During the second year of RTA (the current report period) there were 1,855 arrests of 16-year-olds and 2,225 arrests of 17-year-olds (Exhibit IA).⁴ However, the data for the second half of the second year of RTA reflect the impact of the Covid-19 pandemic when there were about half as many arrests of 16-year-olds than in the first half of the second year (659, down 45% from 1,196) and about a third fewer arrests of 17-year-olds (883, down 34% from 1,342). Among 16-year-olds, the decrease was greater for violent felony arrests and misdemeanor arrests than for non-violent felonies. Among 17-year-olds, the decrease was greatest for arrests for misdemeanor-level offenses.

The second year of RTA is the first year of eligibility for 17-year-olds. Exhibit IA also shows the marked decrease in the volume of arrests of 17-year-olds when they became eligible for RTA. There were 4,022 arrests of 17-year-olds in the year prior to their eligibility compared to 2,225 in October 2019 to September 2020, a decrease of 45%. However, data for the second half of the second year of RTA reflect the decrease in arrests that occurred because of the Covid-19 pandemic. Comparison of the volume of arrests of 17-year-olds in the first half of the second year of RTA and the same period of the previous year shows a 31% decrease, from 1,954 down to 1,342. The decrease was greatest for misdemeanor arrests (49%, from 1,090 to 551). This is consistent with findings regarding the impact of the implementation of RTA for 16-year-olds in October 2018.⁵

⁴ Each arrest that is assigned an arrest number by the NYPD is tallied. If multiple arrest numbers are assigned to a youth, each arrest is counted. There were 204 arrests for 16-year-olds and 202 arrests for 17-year-olds in the first half of the second year of Raise the Age that were additional arrests on the same day and 127 and 132, respectively, in the second half of the second year. In the first half of the first year of Raise the Age there were 168 additional arrests for 16-year-olds and 189 additional arrests for 17-year-olds and 218 and 225, respectively, in the second half of the first year. Youths may face additional arrests on the same day if there are multiple offenses, victims or incident dates.

⁵Gewirtz, Marian J. 2019. *The First Six Months Of Raise The Age, And A Comparison To Similar Cases In October 2017 Through March 2018*. New York: New York City Criminal Justice Agency, Inc

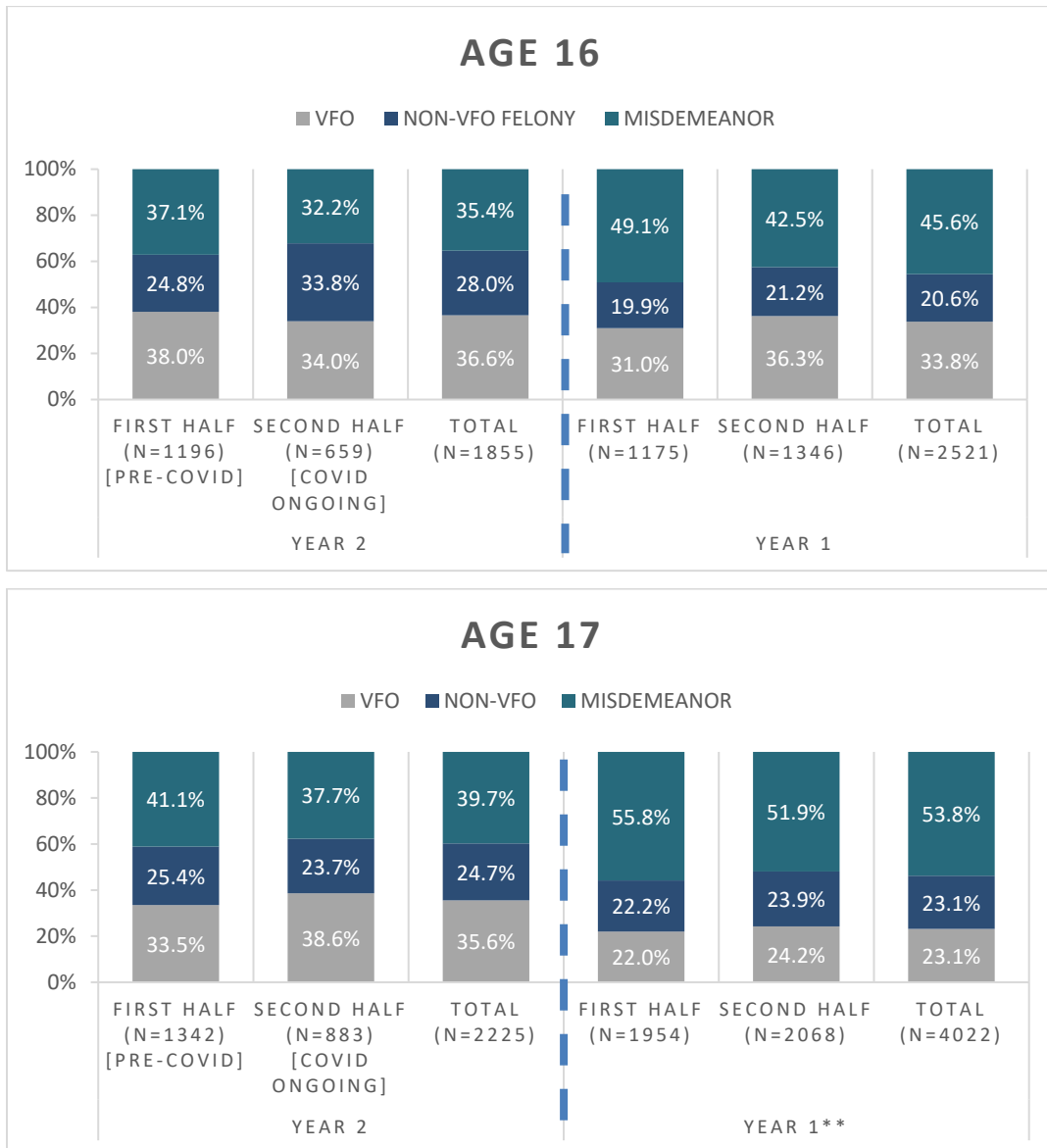
Exhibit IA. Arrest Volume by Severity of Arrest Charge



**RTA Ineligible

Misdemeanor arrests accounted for a larger portion of arrests of 17-year-olds than 16-year-olds in each time period and a larger portion of arrests in the first year of RTA than in the second year (Exhibit IB). Violent felony arrests accounted for a larger portion of arrests of 16-year-olds than of 17-year-olds in the first year of RTA (34% of 16-year-olds compared to 23% of arrests of 17-year-olds) but there was little difference in the second year of RTA when the law was in effect for both age groups.

Exhibit IB. Distribution of Severity of Arrest Charge by Age*

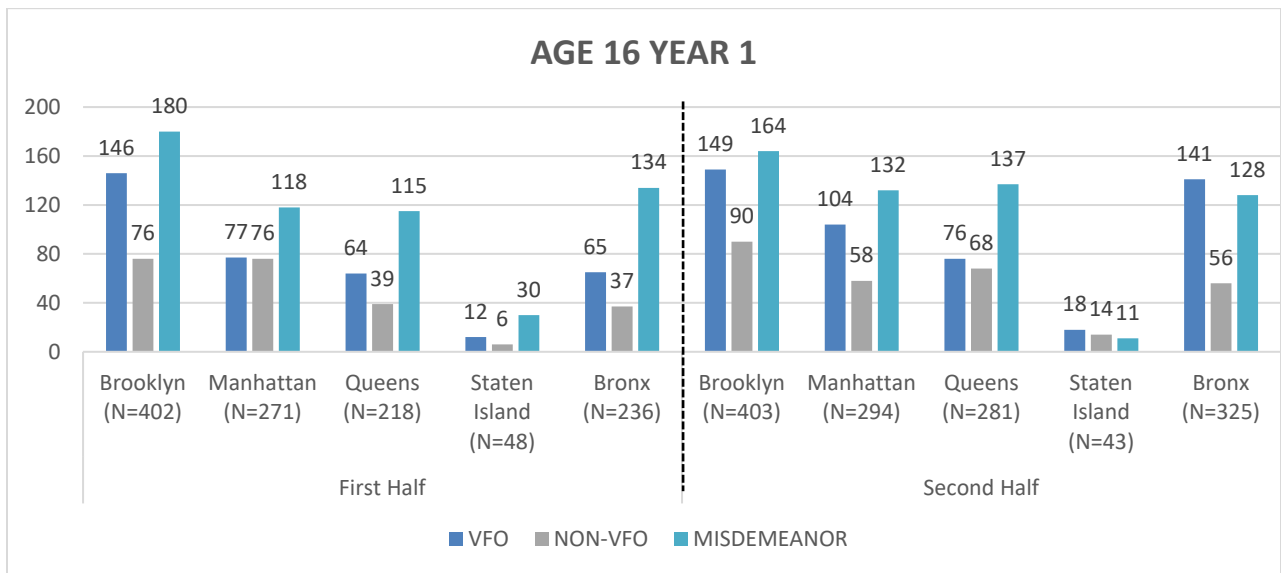
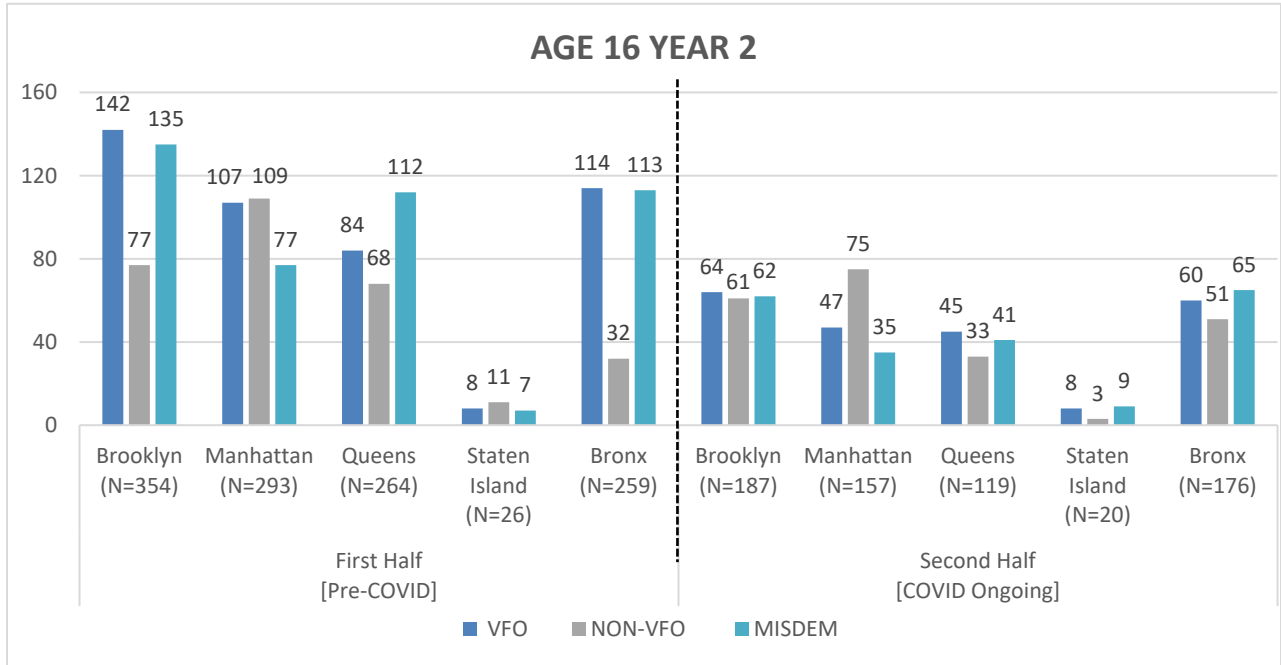


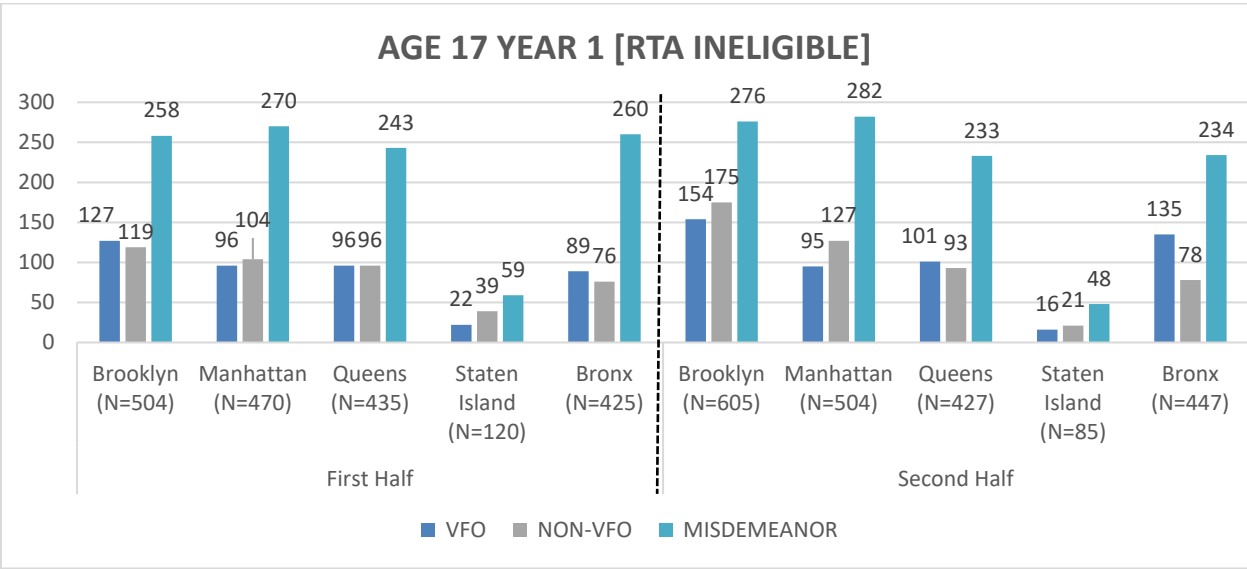
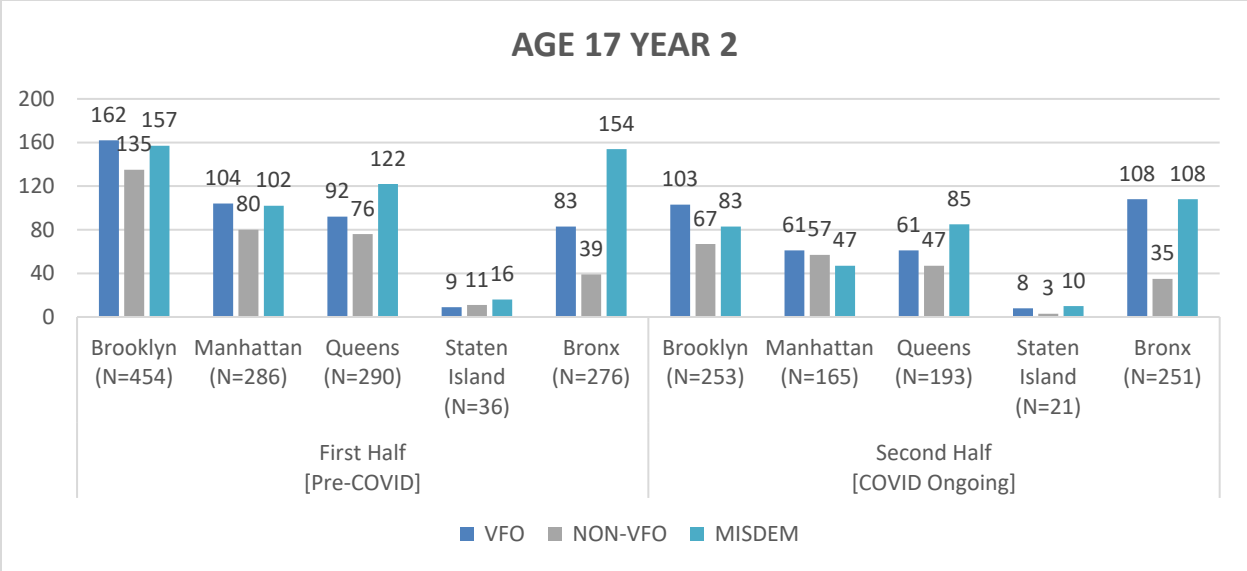
*May not sum to 100% due to rounding

**RTA Ineligible

There were fewer arrests in each borough during the second half of the second year than in the first half, reflecting the impact of the pandemic on arrests (Exhibit IC).

Exhibit IC. Arrest Volume by Borough, Charge Severity and Age*

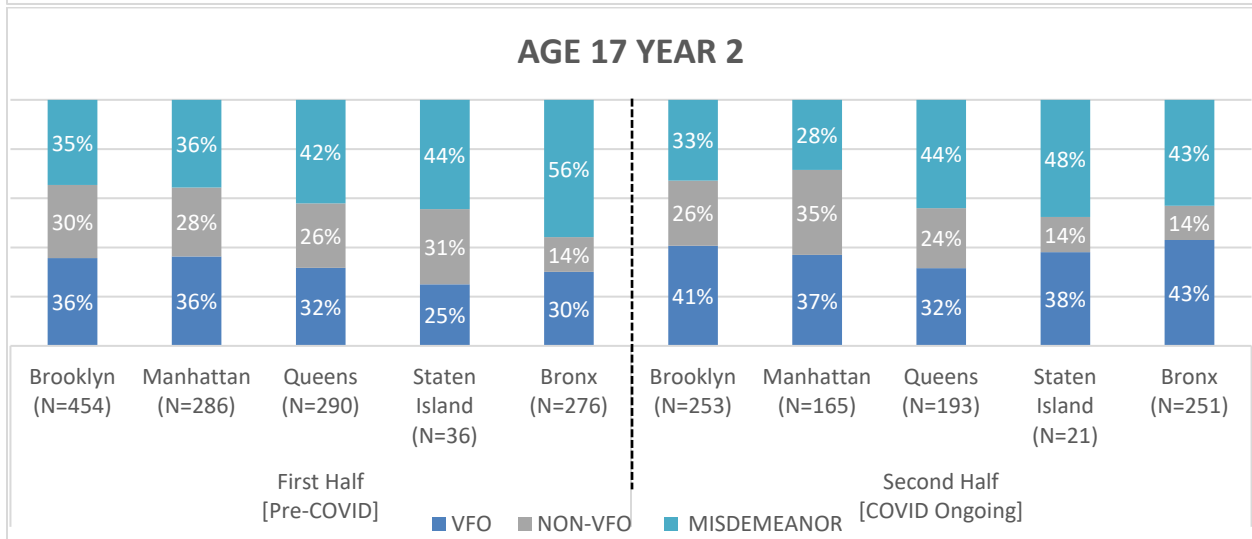
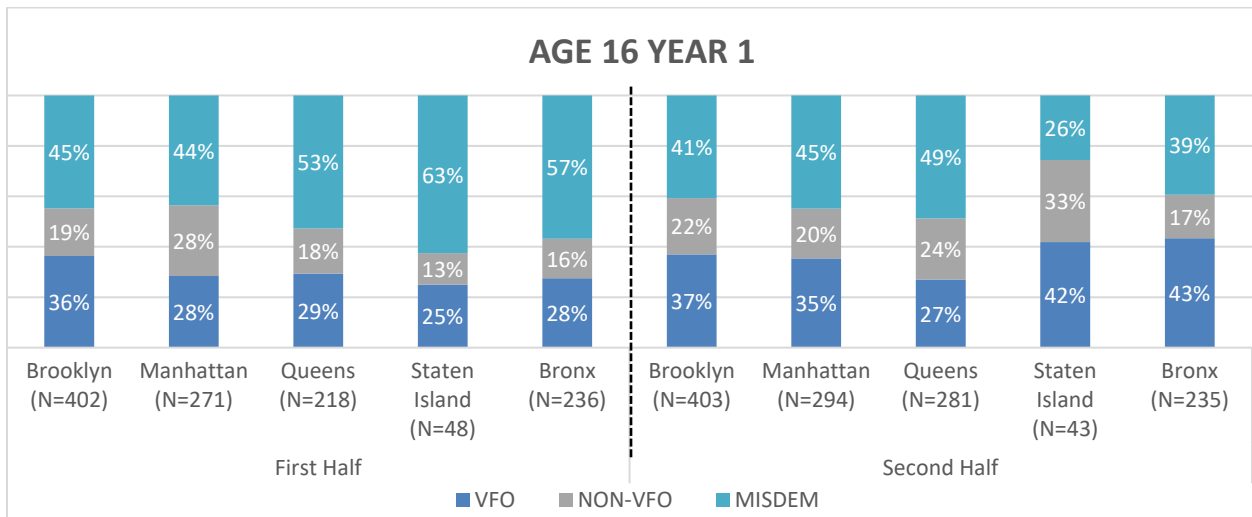
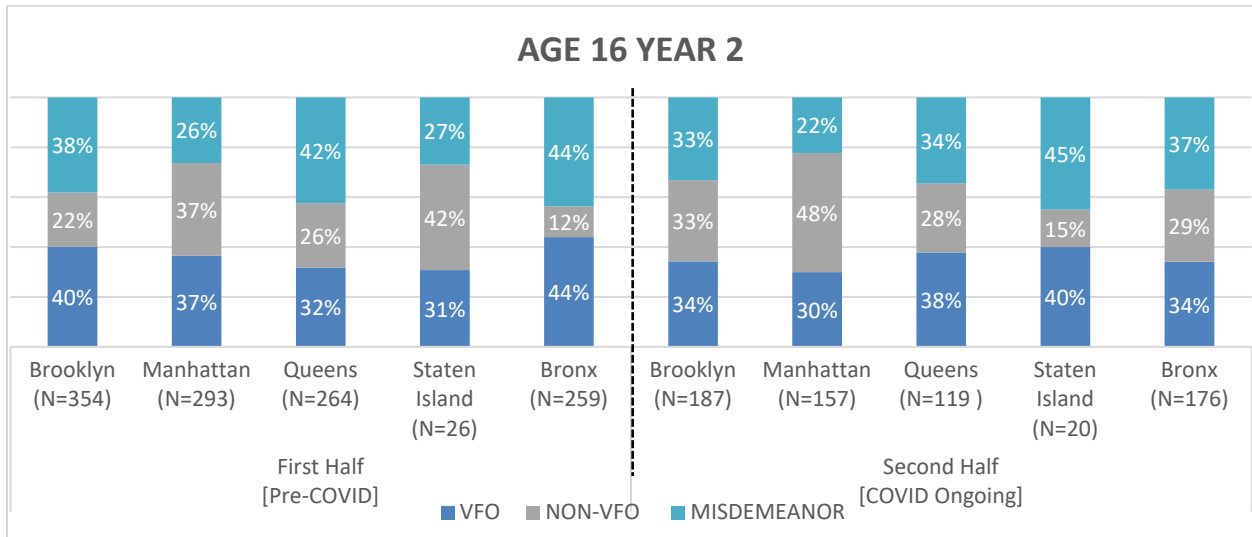




*May not sum to 100% due to rounding

Misdemeanor arrests accounted for a smaller percent of arrests of 16-year-olds in the second half of the second year, during Covid-19, than in the first half. However, among arrests of 17-year-olds, misdemeanor arrests accounted for a smaller portion of arrests only in Manhattan and the Bronx (Exhibit ID). Violent felony arrests accounted for a smaller portion of arrests of 16-year-olds during the pandemic in Brooklyn, Manhattan and the Bronx but not in the other boroughs. Among arrests for 17-year-olds, however, violent felony arrests accounted for about the same portion before and during Covid-19 in Manhattan and Queens but accounted for a much larger portion in the remaining boroughs.

Exhibit ID. Distribution of Severity of Arrest Charge by Borough and Age*



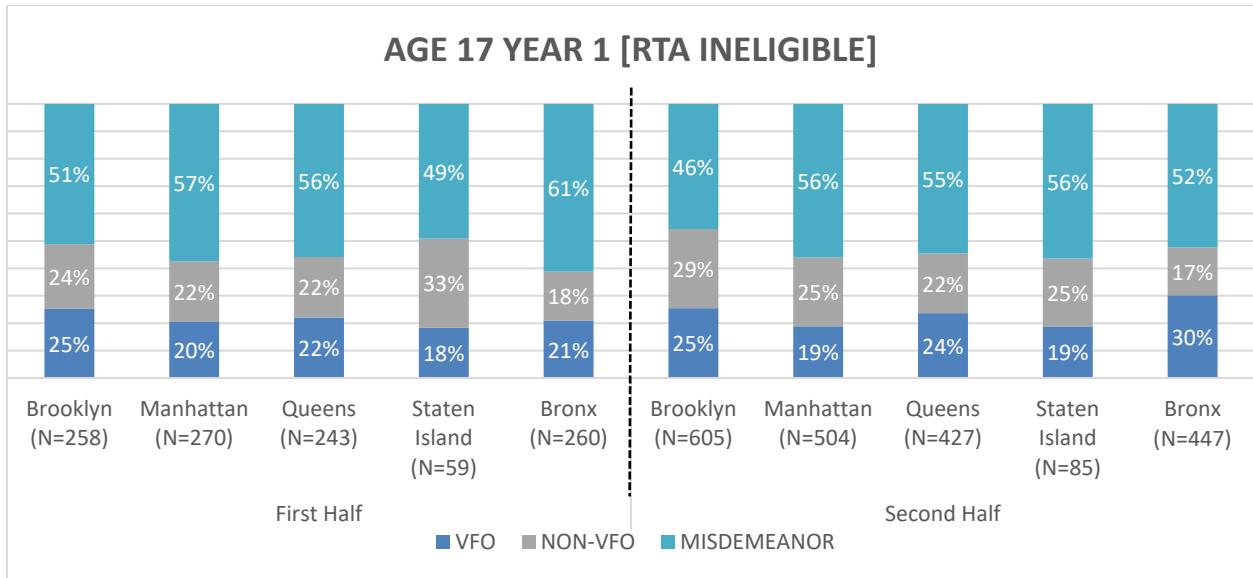
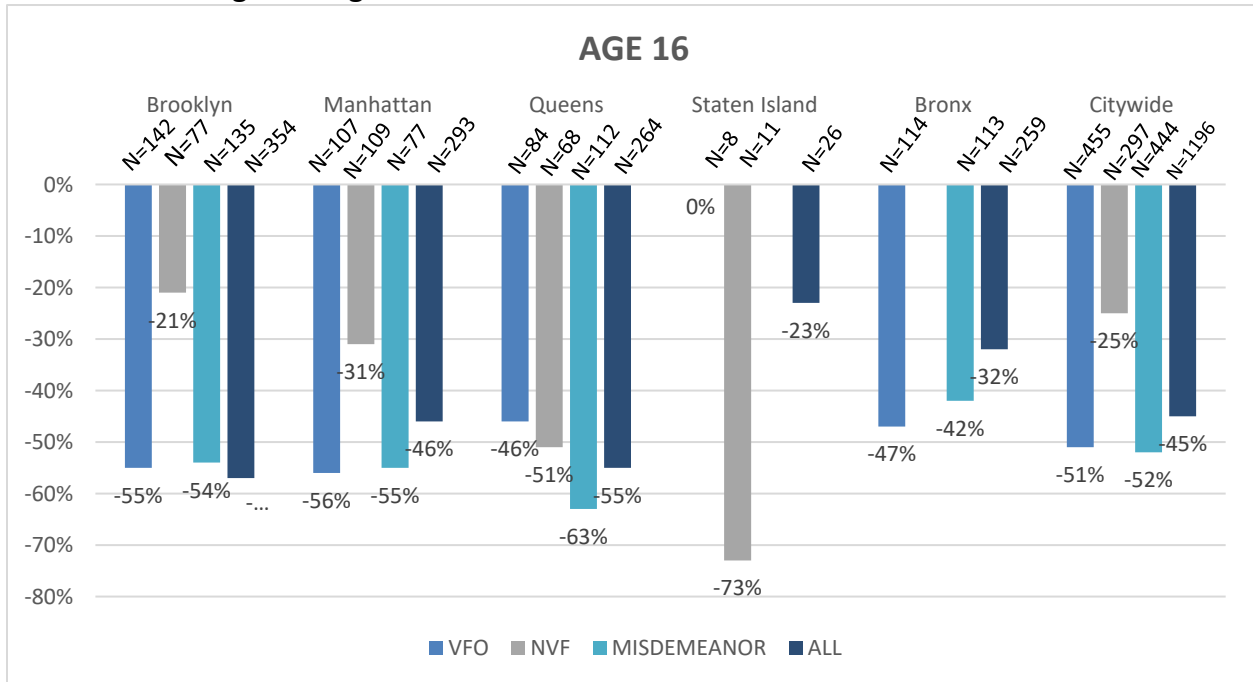
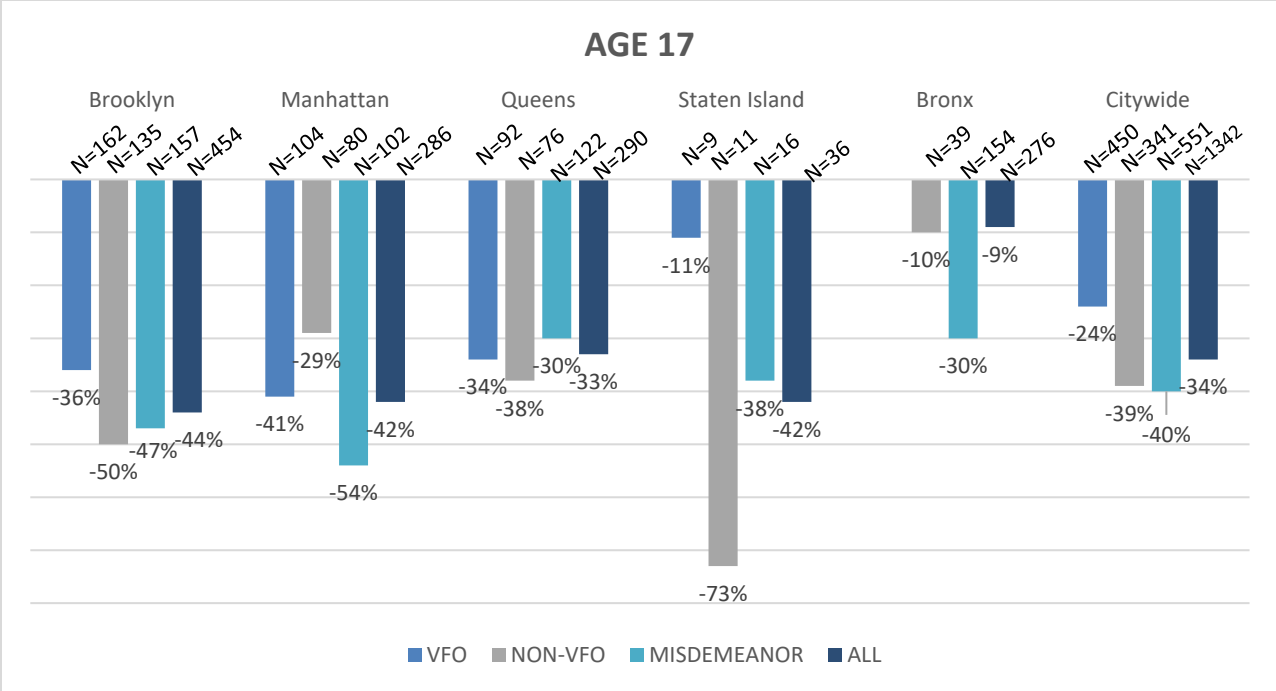


Exhibit IE shows the percent decrease in each borough and citywide for both age groups by the severity of the arrest charge.

Exhibit IE. Percent Decrease from Year 1 to Year 2 by Severity of Arrest Charge, Borough and Age





Note: There was an increase in arrests of 16-year-olds for non-violent felony offenses in Staten Island and of 17-year-olds for violent felony offenses in the Bronx

II. PROSECUTION

A. Felony Arrests Prosecuted as Felonies

So far this report has highlighted the decline in the volume of arrests of 17-year-olds, especially in arrests with misdemeanor charges, when they became eligible for RTA, and the decline in arrests of 16- and 17-year-olds in the second half of the second year as a consequence of the Covid-19 pandemic. Exhibit IIA, below, shows the number and percent of felony arrests of 16- and 17-year-olds that were prosecuted with felony charges in adult court⁶ during the first and second halves of the first and second years of RTA. A lower percent of 16-year-olds arrested on felony charges were prosecuted as AOs in adult court in the first half of the second year (74%) than in the first half of the first year (82%) and an even lower percent were prosecuted as AOs in the second half of the second year (68%). Among 17-year-olds arrested on felony charges, more than seven of every ten were prosecuted in adult court with felony charges in their first year of eligibility for RTA (71% in the first half and 73% in the second half) compared to only half of those arrested in the previous year (50% and 49%, respectively, in the first and second halves of the year prior to their eligibility). Of course, in the prior year 17-year-olds with felony arrest charges were often prosecuted in adult court for misdemeanor-level offenses. If felony arrests prosecuted for misdemeanors are included, then about eight of every ten felony-level arrests of 17-year-olds were prosecuted during the year prior to their eligibility for RTA.

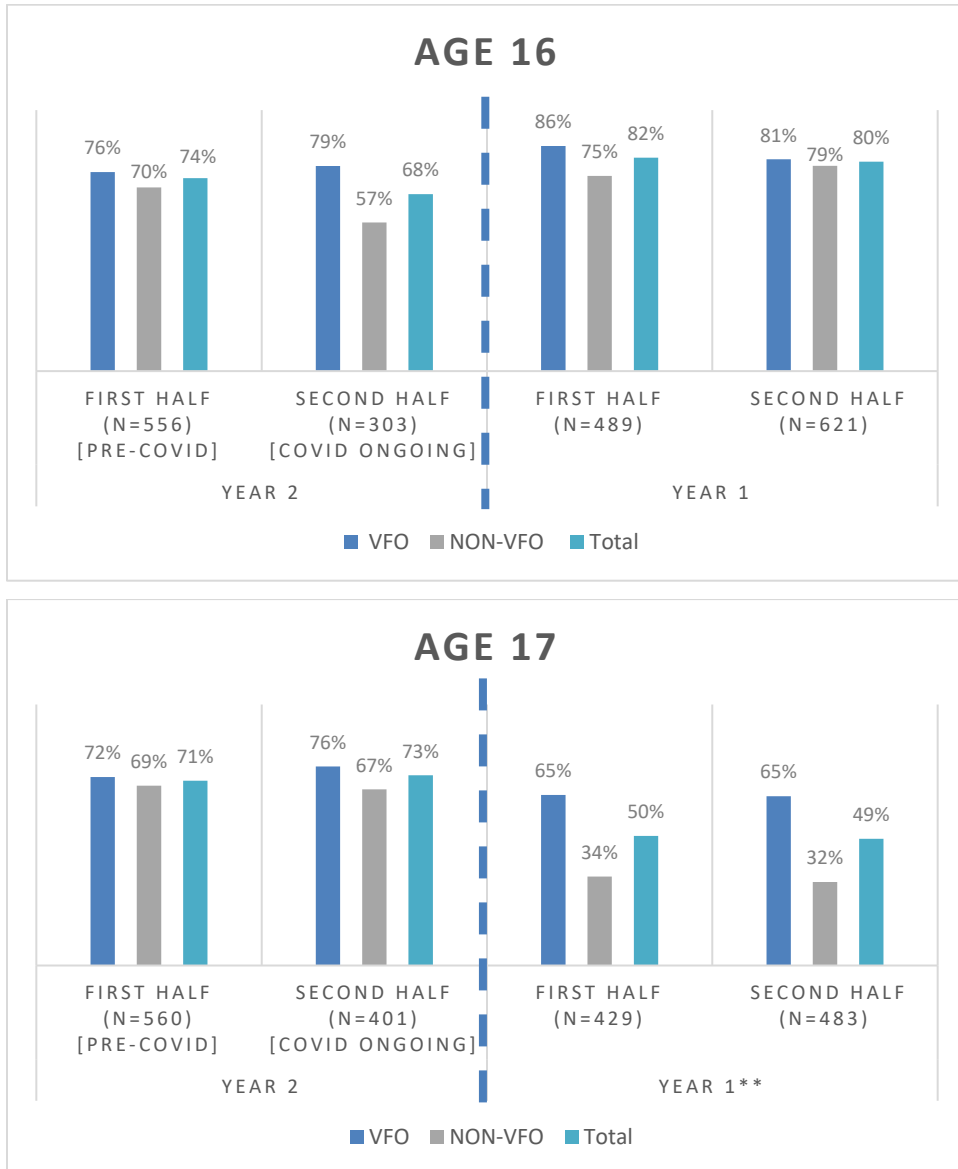
The rate of felony prosecution was similar for 17-year-olds in the first and second half of the second year but, because the volume of arrests declined so sharply, so did the number of felony arrests prosecuted as felonies (from 560 to 401, a decrease of 28%). For 16-year-olds, the rate of felony prosecution was about the same for both halves of the second year for arrests with violent felony charges but declined sharply among arrests with non-violent felony charges. The result was a dramatic decrease in the number of felony arrests of 16-year-olds prosecuted in adult court (from 556 to 303, a decrease of 46%). Arrests for violent felony offenses were more likely to be prosecuted as felonies than arrests for non-violent felony

⁶ Under Raise the Age, misdemeanor-charged 16- and 17-year-olds are not processed through adult court.

offenses in both age groups and both years, although the differences were sometimes quite small.

In accordance with the RTA legislation, no 16- or 17-year-old arrested for a felony was arraigned in adult court on misdemeanor charges. If felony charges are reduced to non-felonies, the case is processed in the Family Court.

Exhibit IIA. Felony Arrests Prosecuted as Felonies



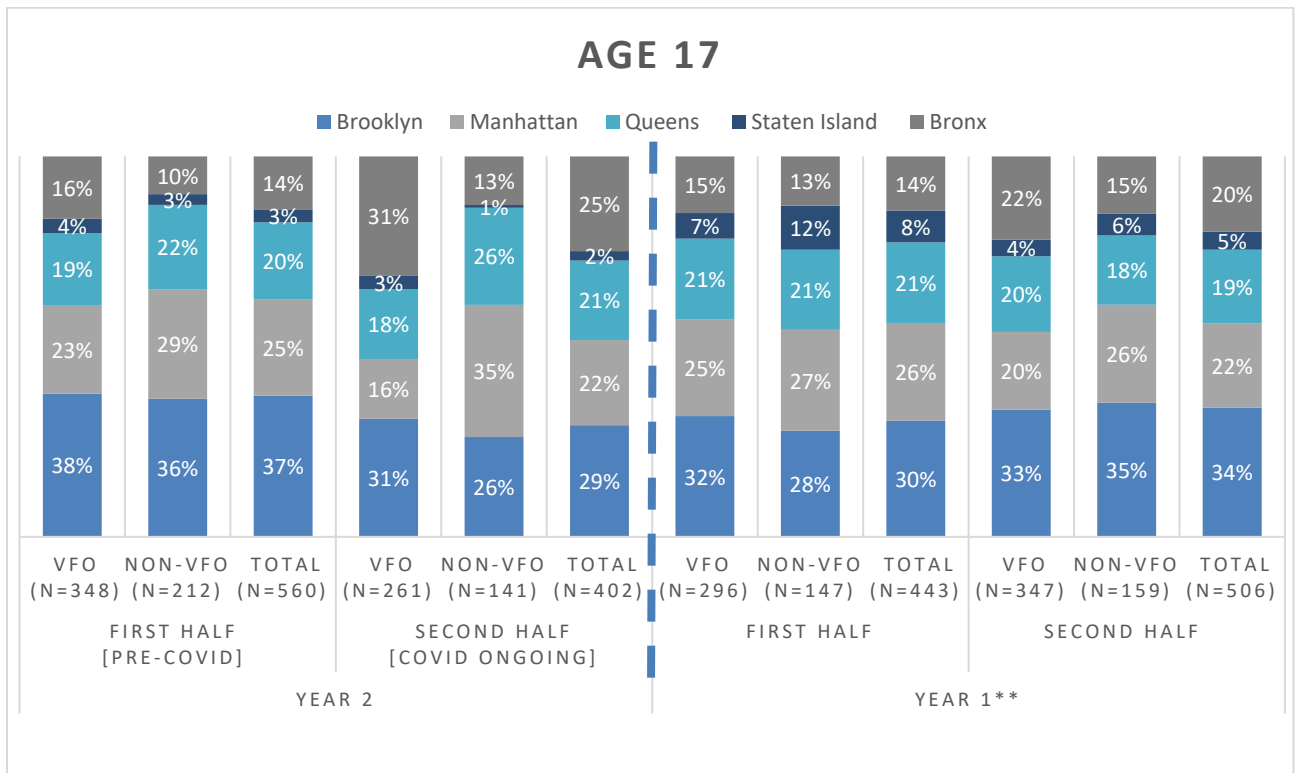
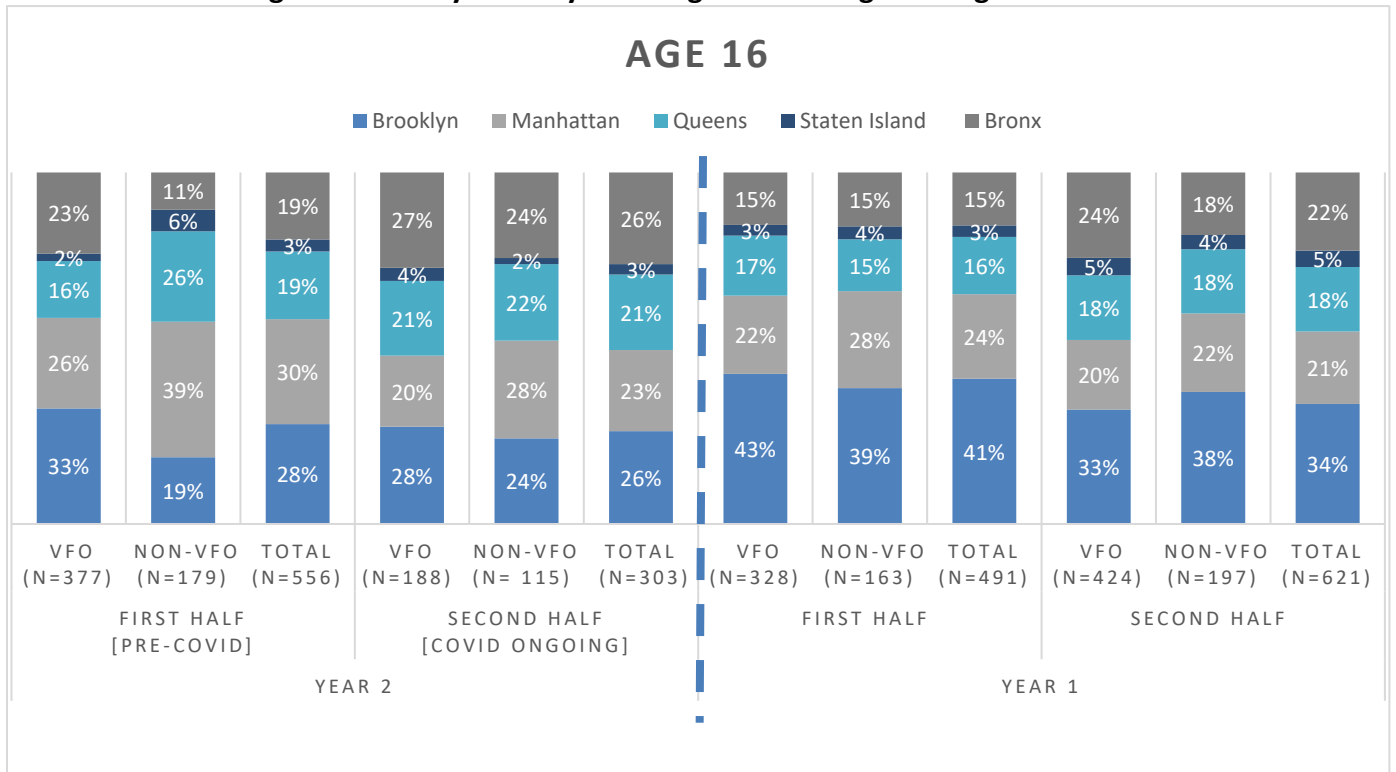
**RTA Ineligible

B. Borough, Race and Sex by Severity of Arraignment Charge

Arraignment charges may differ from arrest charges because some youths charged with violent felony offenses at arrest may be prosecuted for non-violent felony offenses and vice versa, and some arrests for misdemeanor offenses may be prosecuted on felony-level charges. This section of the report examines the borough, race and sex distributions for all cases prosecuted for felony offenses.

As shown in Exhibit IIB.1, the borough distribution for 17-year-old AOs varies somewhat across the four time periods. The largest difference is that the Bronx accounts for a larger portion of prosecuted AO cases in the second half of the second year than the first half, for each charge severity level but especially for violent felony cases (31% up from 16%). The increase in the Bronx portion of cases for 17-year-olds did not occur for 16-year-olds. Instead, the largest difference in the borough distribution for the younger AOs is the decrease in the portion accounted for by Brooklyn. About four of every ten 16-year-olds (41%) arraigned on felony charges in the first half of the first year were Brooklyn cases, compared to about a third (34%) in the second half of that year and less than three of every ten in the second year (28% and 26% in the first and second halves of year 2, respectively). Although there was a decrease in the Brooklyn portion of both violent and non-violent felony cases, the difference was largest for non-violent felony arraignments which decreased from 39% in the first half of the first year to only 19% in the first half of the second year.

Exhibit IIB.1. Borough of Arrest by Severity of Arraignment Charge and Age*

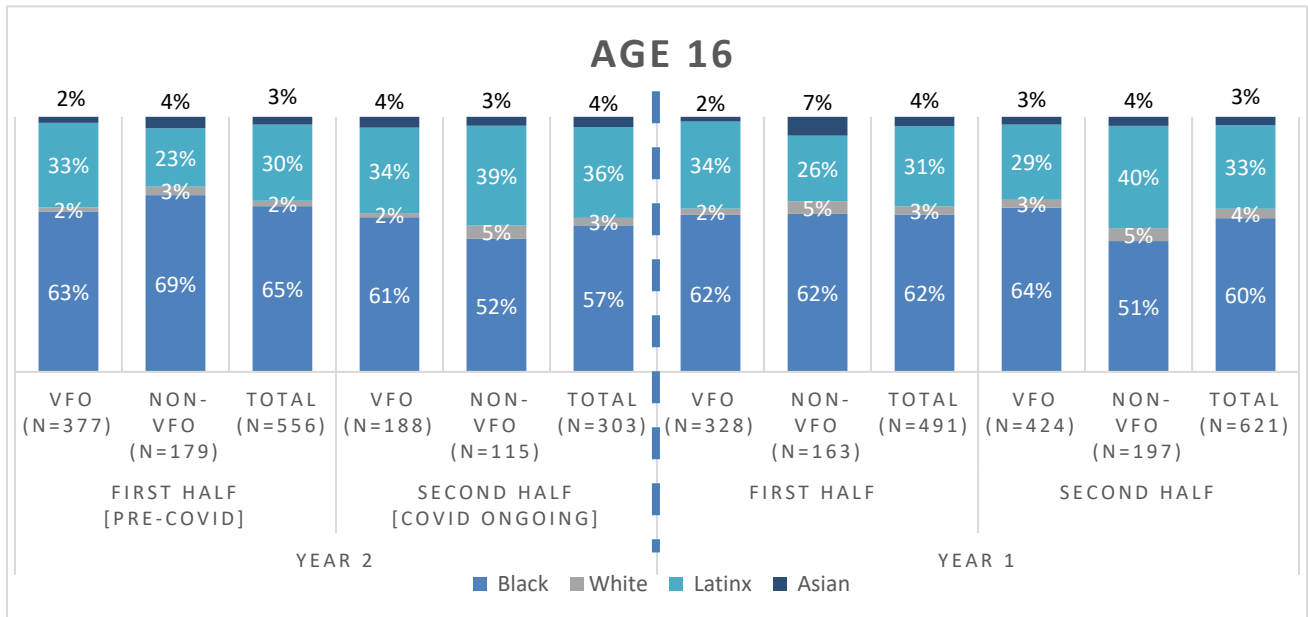


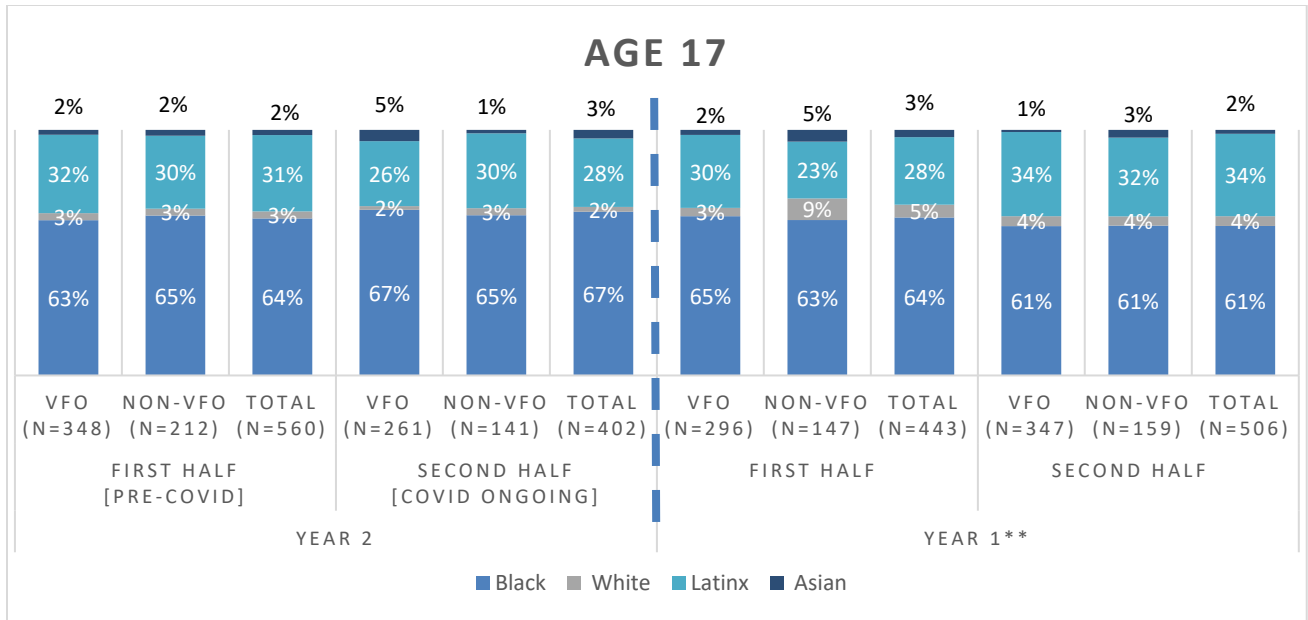
*May not sum to 100% due to rounding

**RTA Ineligible

Black and Latinx youth account for most cases for both 16-and 17-year-olds across both years. Black youths comprised a lower portion of non-violent felony arraignments for 16-year-olds in the second half of years one and two than the first halves while Latinx youths comprised a higher portion of those arraignments (Exhibit IIB.2.). The difference is largest when comparing arraignments for 16-year-olds for non-violent felonies in the second half of year 2 to the first half of year 2. Black youths accounted for 69% of arraignments for 16-year-olds for non-violent felony charges in the first half of the second year of RTA, but only 52% in the second half while Latinx youth accounted for only 23% in the first half of year 2 and 39% in the second half. Yet, the racial breakdown for the second halves of year 1 and year 2 are very similar among arraignments of 16-year-olds. Among arraignments for 17-year-olds, the largest change is the particularly low Latinx portion of violent felony arraignments in the second half of year 2 when they accounted for only 26% of arraignments compared to 32% in the first half of that year and 34% in the second half of the prior year. Few arraignments were for white or Asian youths.

Exhibit IIB.2. Race by Severity of Arraignment Charge and Age*



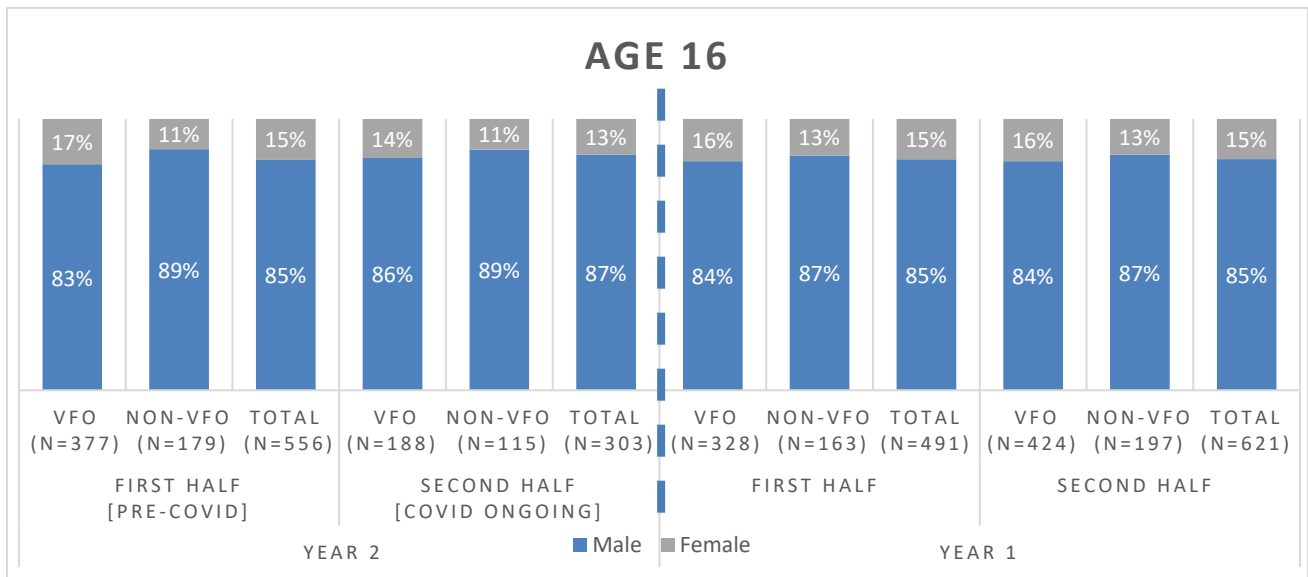


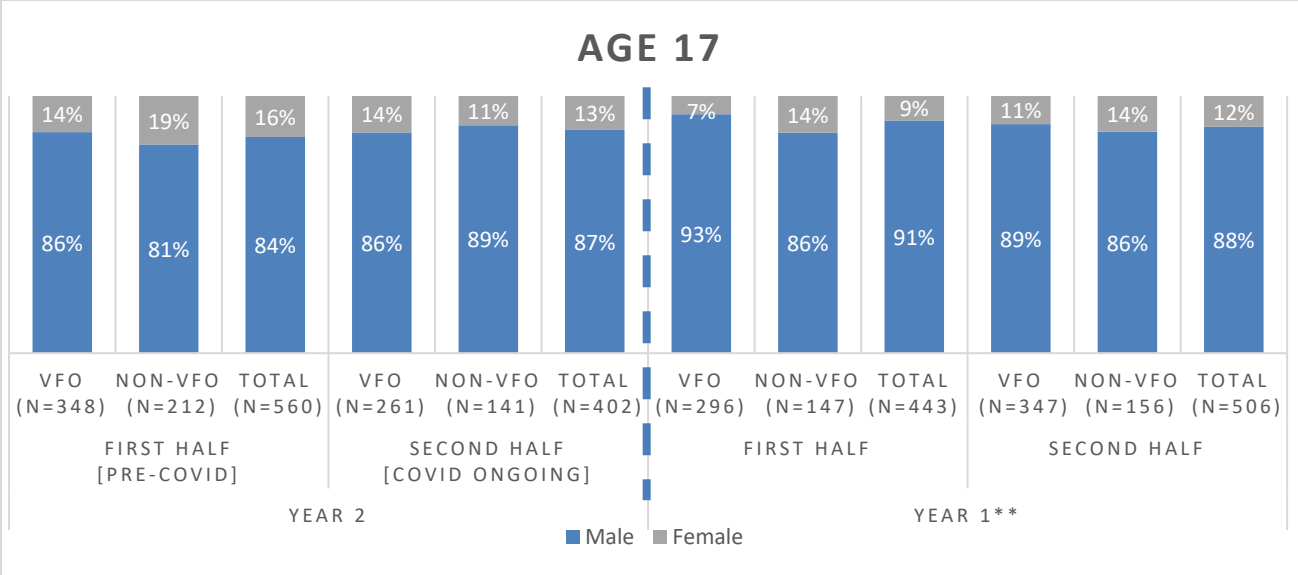
*May not sum to 100% due to rounding

**RTA Ineligible

As shown in Exhibit IIB.3, males accounted for most of the arraignments for youths in both age groups, each time period, and both charge-severity categories. Specifically, females accounted for 12 to 16% of arraignments of 16- and 17-year-olds, with the exception of those for 17-year-olds in the first half of the first year before they became eligible for RTA when only 9% of arraignments were for female defendants.

Exhibit IIB.3. Sex by Severity of Arraignment Charge and Age*





*May not sum to 100% due to rounding

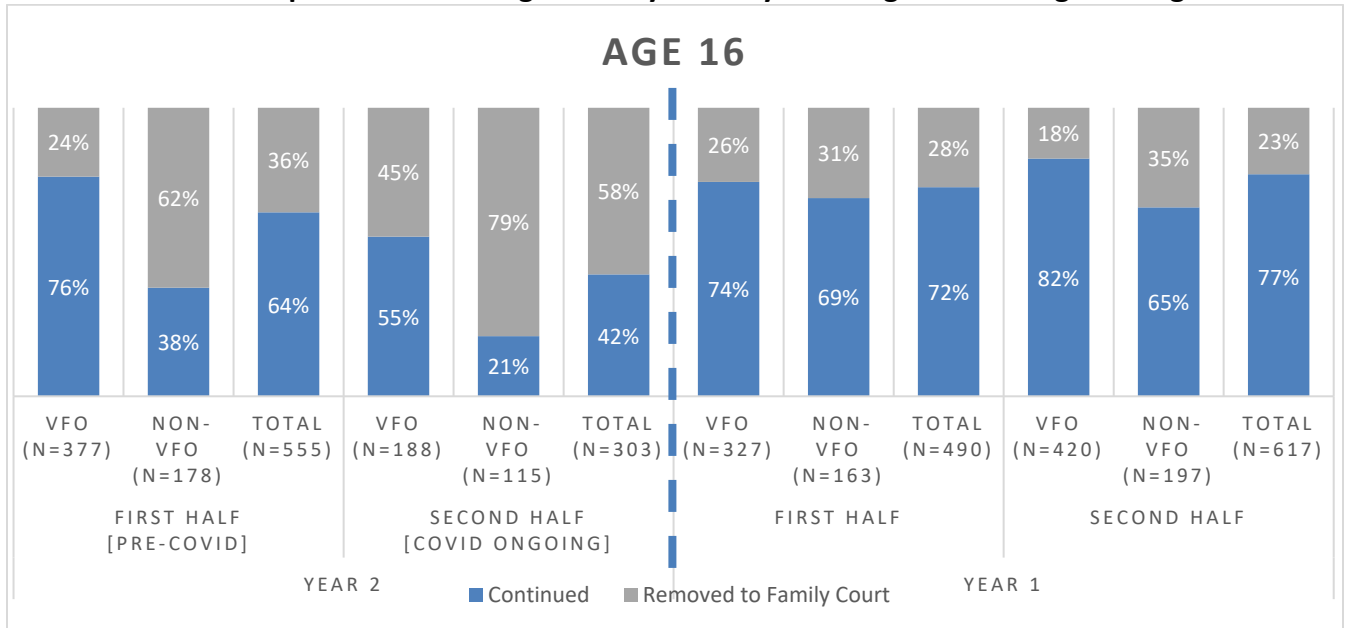
**RTA Ineligible

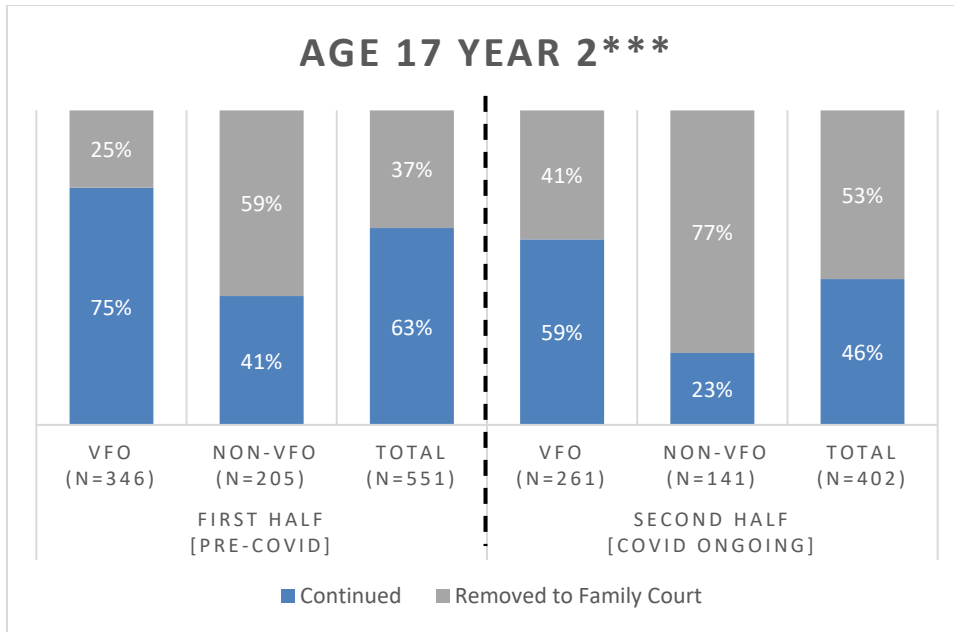
C. Arraignment Disposition and Release Status

1. Disposition at Arraignment

More than a third of total AO cases in the first half of the second year of RTA were removed to Family Court at arraignment (Exhibit IIC.1, 36% of arraignments for 16-year-olds and 37% of arraignments for 17-year-olds). This includes 62% and 59% of cases for 16- and 17-year-olds, respectively, charged with non-violent felonies and 24% and 25% of violent felony cases for 16- and 17-year-olds, respectively, removed at that early stage of processing. The rate of removal at arraignment was higher for both age groups in the second half of the second year, during the pandemic, when 58% of cases for 16-year-olds and 54% of cases for 17-year-olds were removed to Family Court at arraignment. In the second half of the second year the rate of removal at arraignment was 45% and 41%, of cases for 16- and 17-year-olds, respectively, with violent felony charges, and 79% and 77%, for those with violent felony charges.

Exhibit IIC.1. RTA Disposition* at Arraignment by Severity of Arraignment Charge and Age**





*Excludes 15 cases consolidated with or covered by other cases and one dismissal

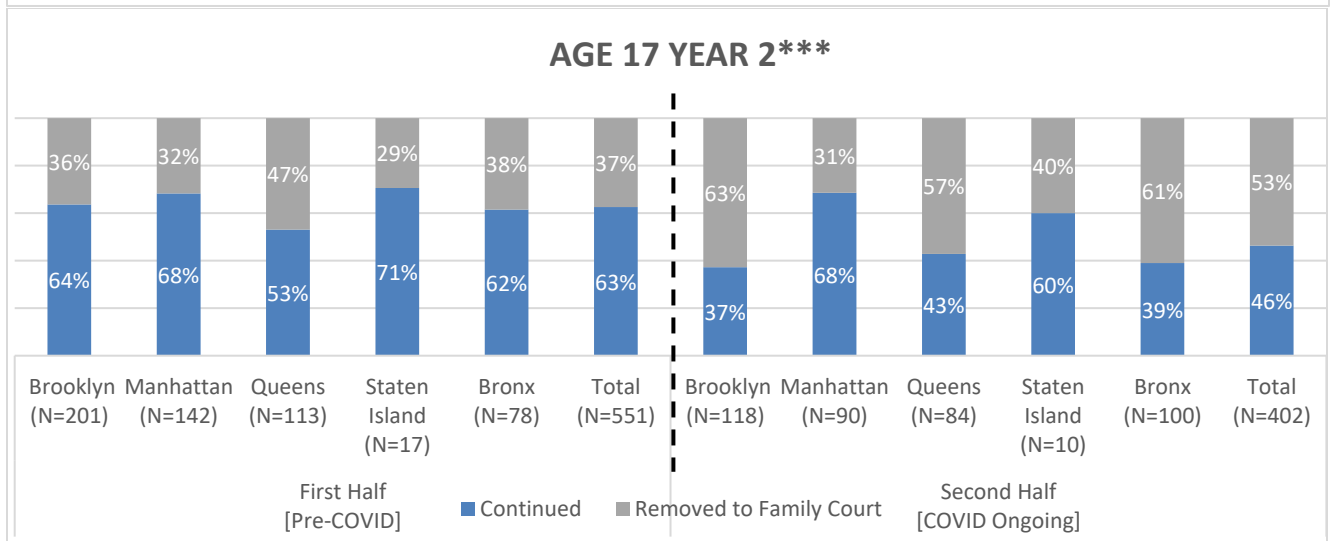
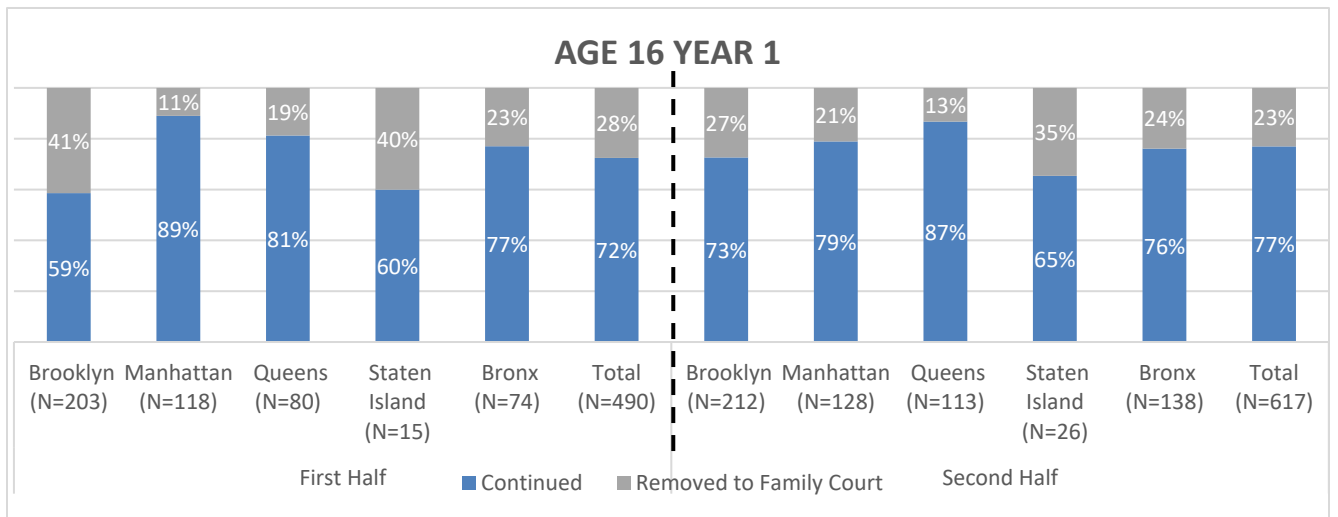
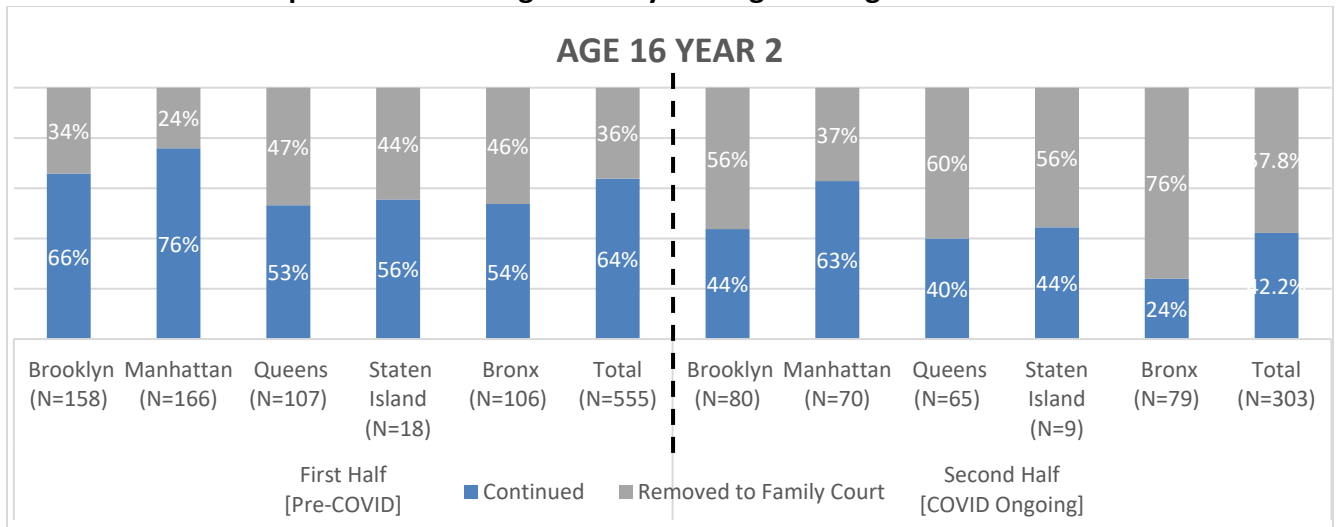
**May not sum to 100% due to rounding

***Age 17 was ineligible for RTA in Year 1

Dispositions at arraignment varied by borough for both ages in the first six months of the second year of RTA (Exhibit IIC.2) and there was some difference by age in some boroughs. Nearly half (47%) of cases for both age groups in Queens were removed to Family Court at arraignment and the portion of Bronx cases removed to Family Court at arraignment was nearly as high (46% for 16-year-olds and 38% for 17-year-olds), followed by cases in Brooklyn (34% and 36%, respectively). Only a quarter of cases for 16-year-olds and a third of cases for 17-year-olds were removed to Family Court at arraignment in Manhattan.

In the second half of the second year of RTA, during the pandemic, a far greater percent of AO cases were removed to Family Court at arraignment. Citywide, more than half of cases were removed at that early stage of case processing. Rates of removal at arraignment were higher during that time period for both age groups and all boroughs, except there was very little difference in the removal rate for 17-year-olds in Manhattan between the first and second halves of their first year of eligibility.

Exhibit IIC.2. RTA Disposition* at Arraignment by Borough and Age**



*Excludes 15 cases consolidated with or covered by other cases and one dismissal

**May not sum to 100% due to rounding

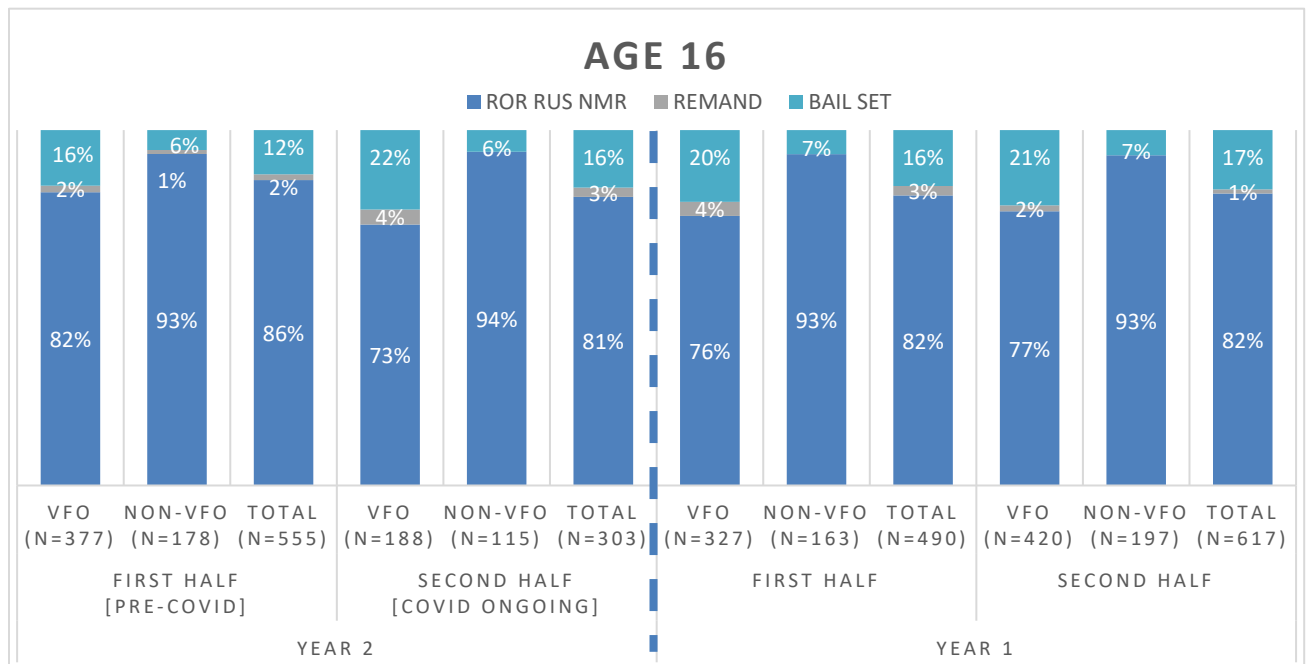
***Age 17 was ineligible for RTA in Year 1

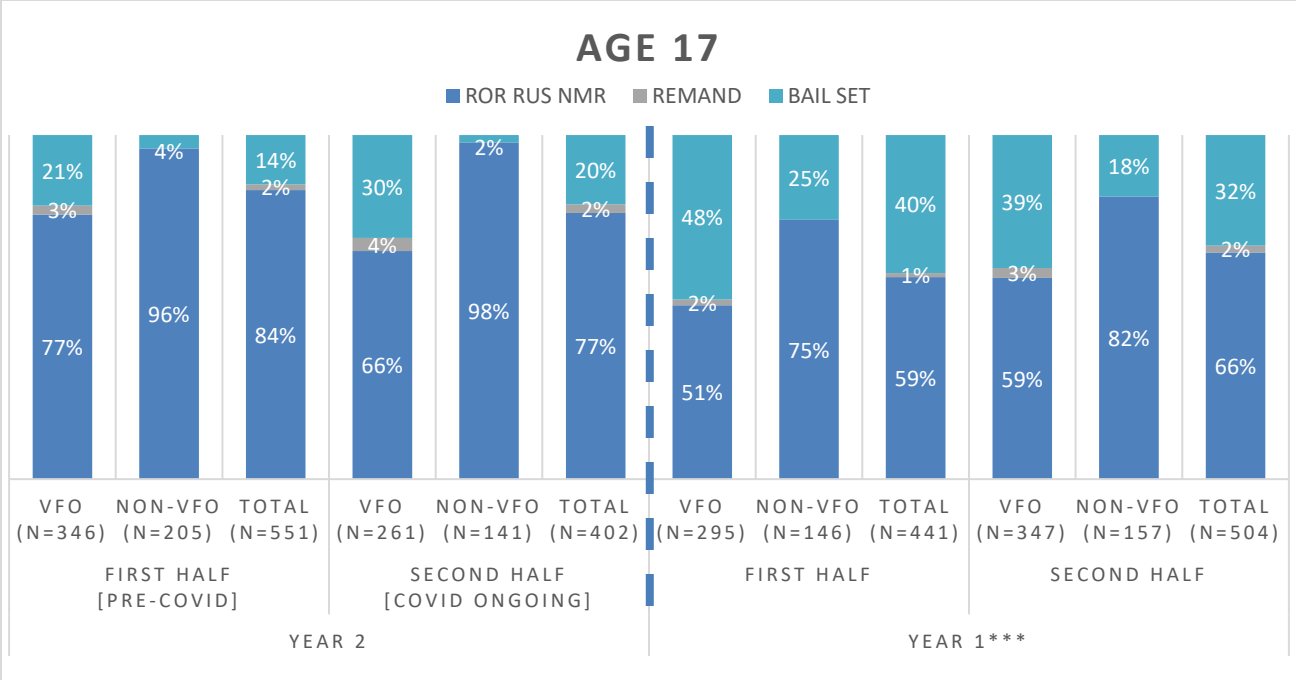
2. Release Status at Arraignment for Pending Cases

The release status set at the initial hearing was much more favorable for 17-year-olds under RTA than in the year prior to their eligibility (Exhibit IIC.3). More than eight of every ten (84%) of 17-year-olds arraigned in the first six months of their eligibility for RTA were released on their own recognizance, under supervision or on non-monetary release compared to only 59% in the first six months of the prior year. Nearly all 17-year-olds in non-violent felony cases were released in the first six months that they were eligible for RTA compared to only 75% in the same period of the year prior to their eligibility. In contrast, there was little difference in the release rate for 16-year-olds between the first half of year 2 and year 1, regardless of the severity of the charge.

Release rates at arraignment were lower for both for 16-year-olds and 17-year-olds in the second half of the second year, during the pandemic, and all of the decrease was among violent felony cases. Release decreased to 73% of violent felony cases for 16-year-olds and to 66% of cases of 17-year-olds charged with those most serious offenses. Still, more than eight of every ten (81%) cases for 16-year-olds and more than three quarters (77%) of those for 17-year-olds the AOs were released at that early stage of prosecution.

Exhibit IIC.3. Release Status* at Arraignment by Severity of Arraignment Charge**





*Release status for cases continued at arraignment. Release on recognizance includes release on supervision and - on non-monetary release.

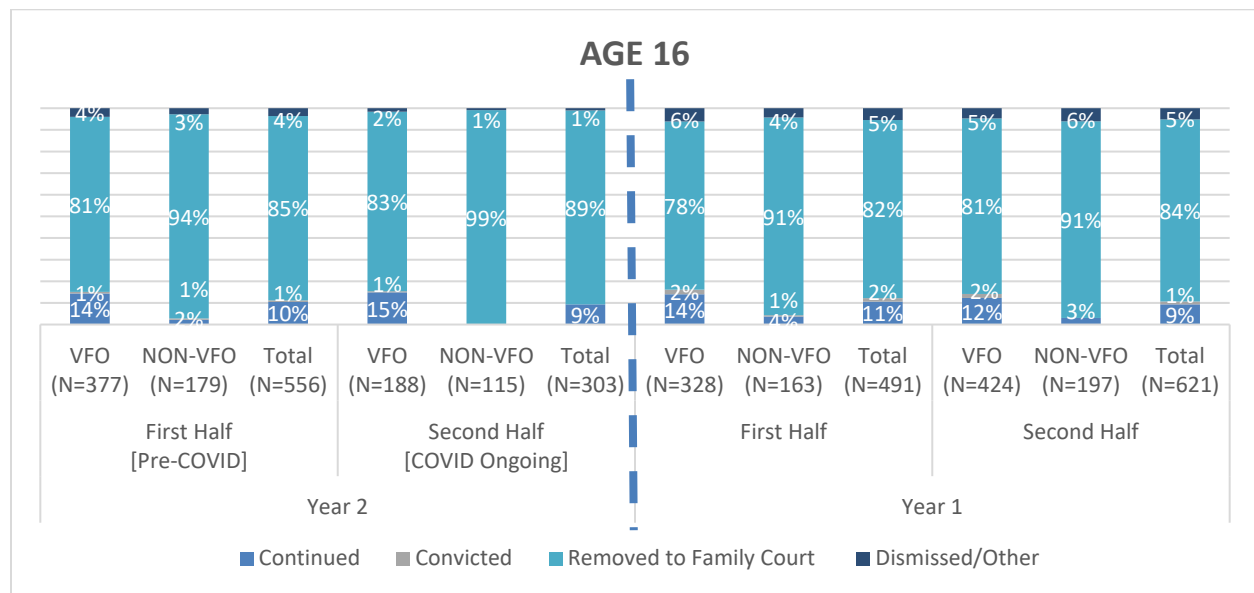
** May not sum to 100% due to rounding.

***Age 17 was ineligible for RTA in Year 1

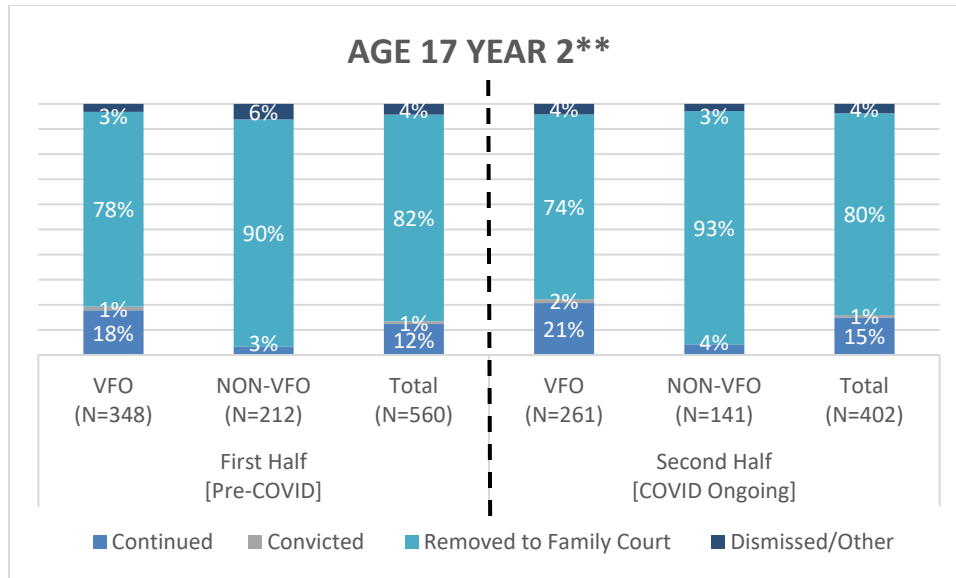
III. ADULT COURT OUTCOMES FOR RAISE THE AGE CASES

Adult court outcomes were tracked through June 30 for the cases in first halves of the RTA years (October to March) and through December 31 for those in the second halves (April to September), so cases in all periods were tracked for three to nine months. Cases for 16-year-olds were somewhat more likely to be removed to Family Court than were those for 17-year-olds in both halves of the second year of RTA for both charge levels (Exhibit IIIA). The difference was widest in the second half of the second year of RTA when 83% of violent felony cases for 16-year-olds were removed to Family Court compared to only 74% of those for their 17-year-old counterparts. The rate of removal for 16-year-olds was especially high during the second half of the second year, during the pandemic, when 99% of cases with non-violent charges were transferred to Family Court, compared to 94% of non-violent cases for 16-year-olds in the first half of the year and 90% and 93% of non-violent cases for 17-year-olds in the first and second halves of the year they first became eligible for RTA.

Exhibit IIIA. Adult Court Outcomes⁷ by Severity of Arraignment Charge and Age*



⁷ These numbers differ slightly from those in The Mayor's Office of Criminal Justice (MOCJ) report, although OCA provided both the CJA and MOCJ data.

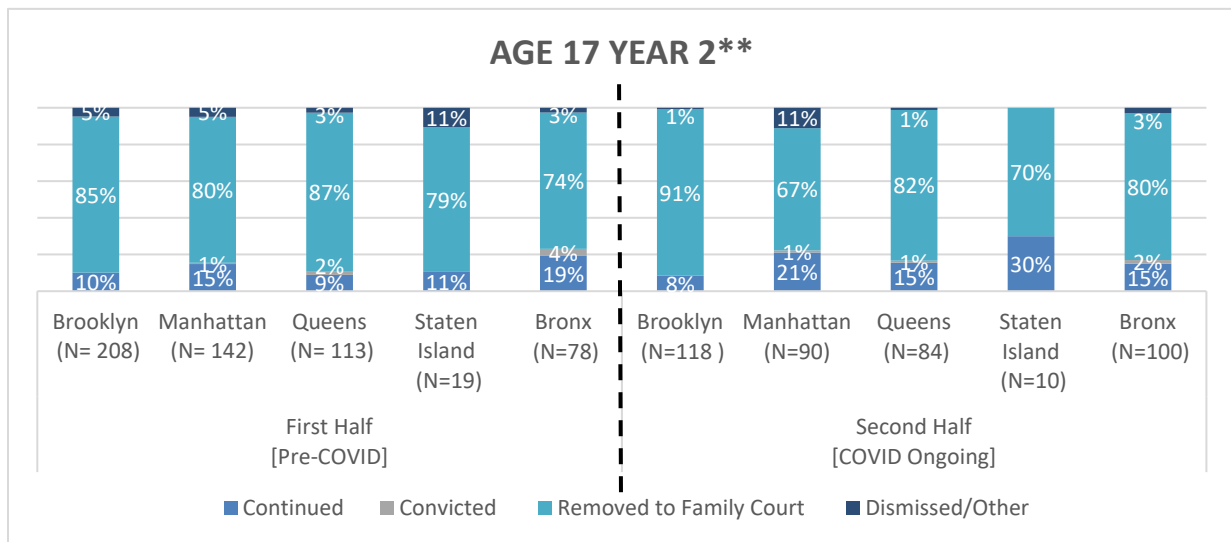
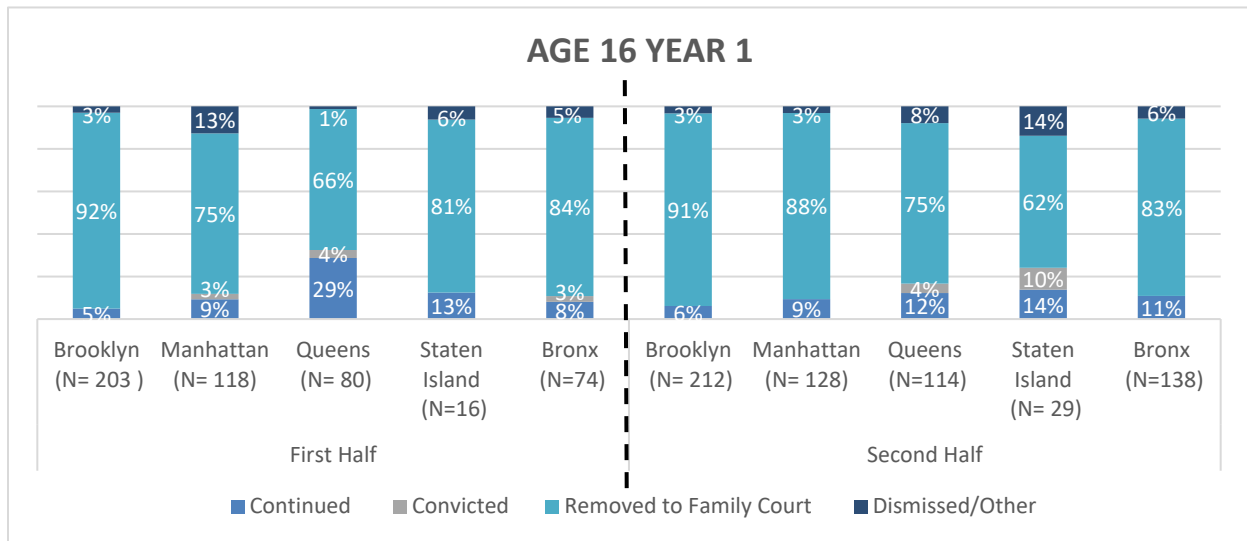
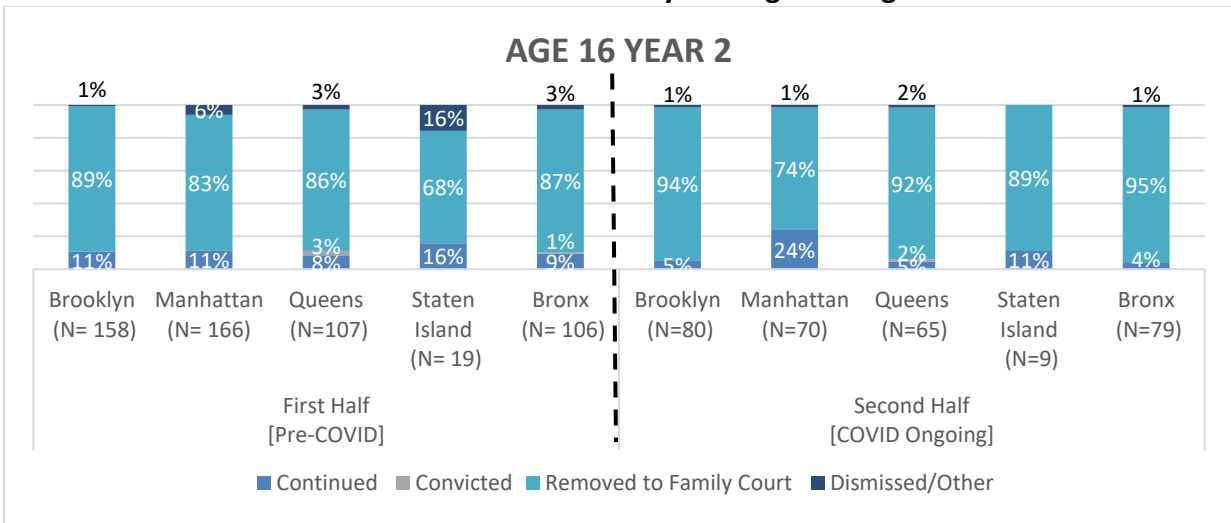


*Excludes two cases abated by death. May not sum to 100% due to rounding.

**Age 17 was ineligible for RTA in Year 1 Ineligible for RTA in Year 1

Borough differences in court outcomes for RTA cases differ by the age of the AO (Exhibit IIIB). In the first half of the second year of RTA, the rates of removal to Family Court were highest in Brooklyn and Queens for both 16-year-olds and their 17-year-old counterparts, between 85% and 89%. In the Bronx, the rate was as high for cases for 16-year-olds but barely three quarters of cases for 17-year-olds were removed. Eight of every ten Manhattan AO cases were removed. In contrast, in the second half of the year, during the pandemic, the rates of removal were higher (92% to 95%) for 16-year-olds in Brooklyn, Queens and the Bronx and for 17-year-olds in Brooklyn (91%), but lower for 17-year-olds in Queens and the Bronx (about 80%) and much lower for Manhattan AO cases (74% for 16-year-olds and only 67% for 17-year-olds). Dismissals were infrequent in each of the four largest boroughs and convictions were rare citywide. Of course, pending cases may ultimately result in convictions, dismissals or removals.

Exhibit IIIB. Adult Court Outcomes for RTA Cases by Borough and Age*



*May not sum to 100% due to rounding

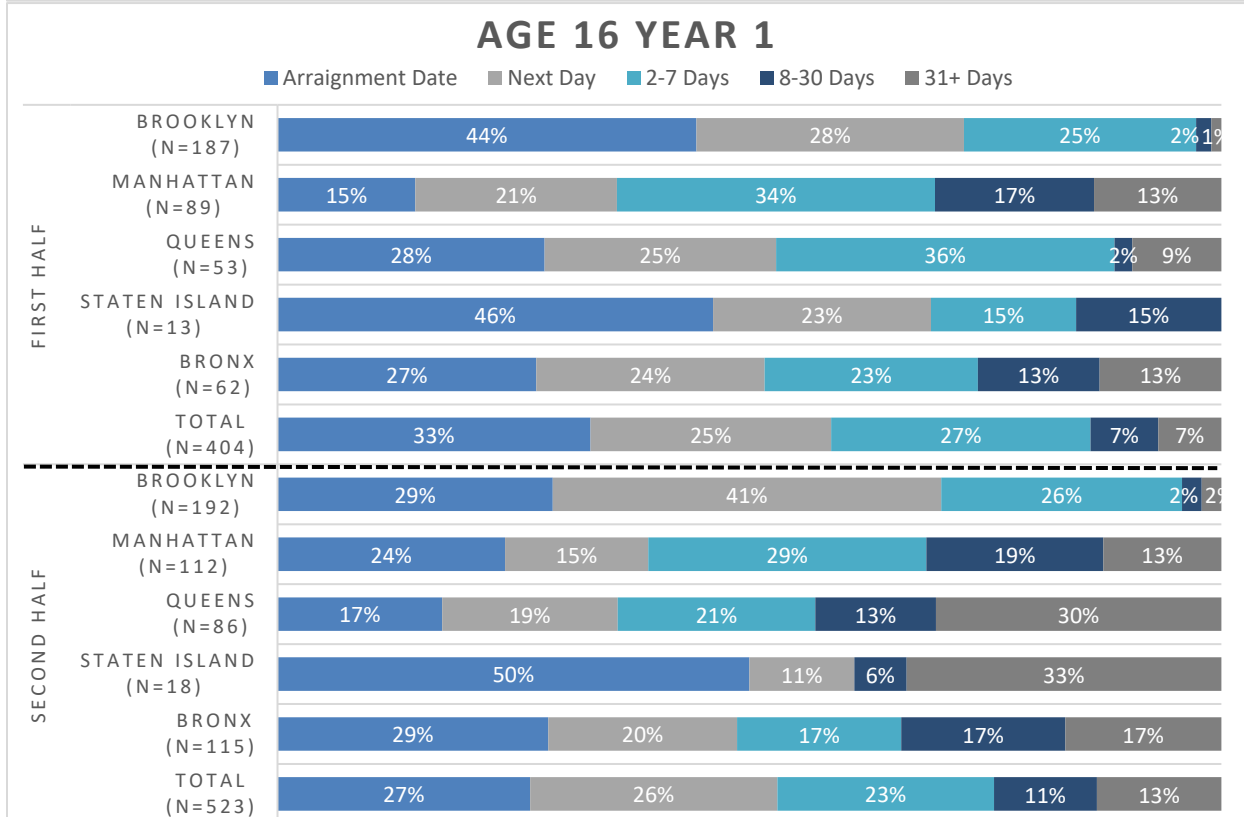
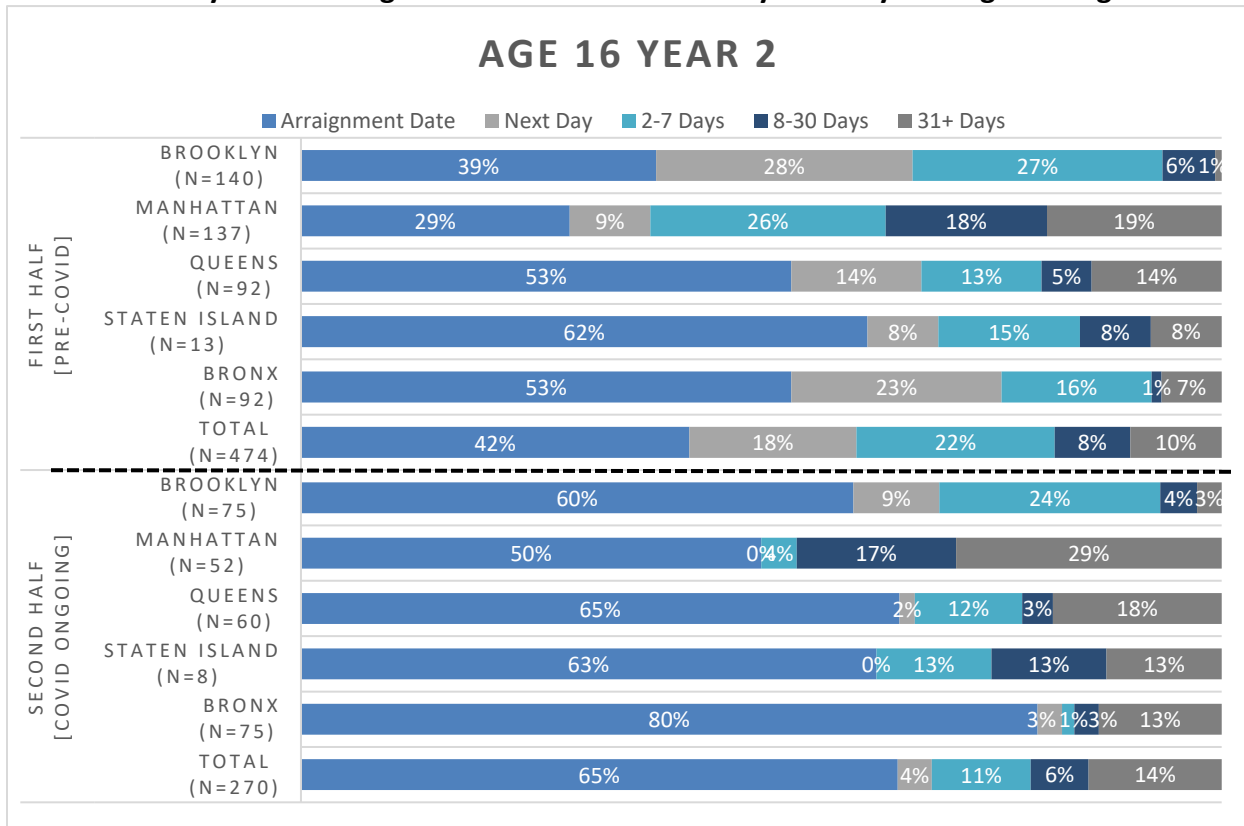
***Age 17 was ineligible for RTA in Year 1

Exhibit IIIC, below, shows the number of days from arraignment to removal to Family Court by borough. Day zero denotes removal at arraignment, including arraignments in the Youth Parts and by Accessible Magistrates. Citywide, in the first half of the second year of RTA, more than four of every ten AO cases that were removed to Family Court were removed at arraignment and nearly two thirds were removed within a day. There was very little difference by the age of the AO. In the second half of the second year, during the pandemic, two thirds of AO cases were removed to Family Court at the initial hearing and very few were not removed until the following day.

Citywide, cases for 16-year-olds were removed to Family Court more quickly in the second year of RTA than in the first year. The slower pace of removal to Family Court in the first year reflects, at least in part, that Accessible Magistrates did not have the authority to remove cases to Family Court until September 2019, close to the end of the first year. Only a third of removed cases were removed at the first hearing during the first half of the first year and only 27% in the second half of that year. However, the proportion of removals as of the day following arraignment were also lower for 16-year-olds arraigned in the first year of RTA. Only 58% of removals occurred within a day of arraignment in the first half of year one and only 53% occurred that swiftly in the second half of year one.

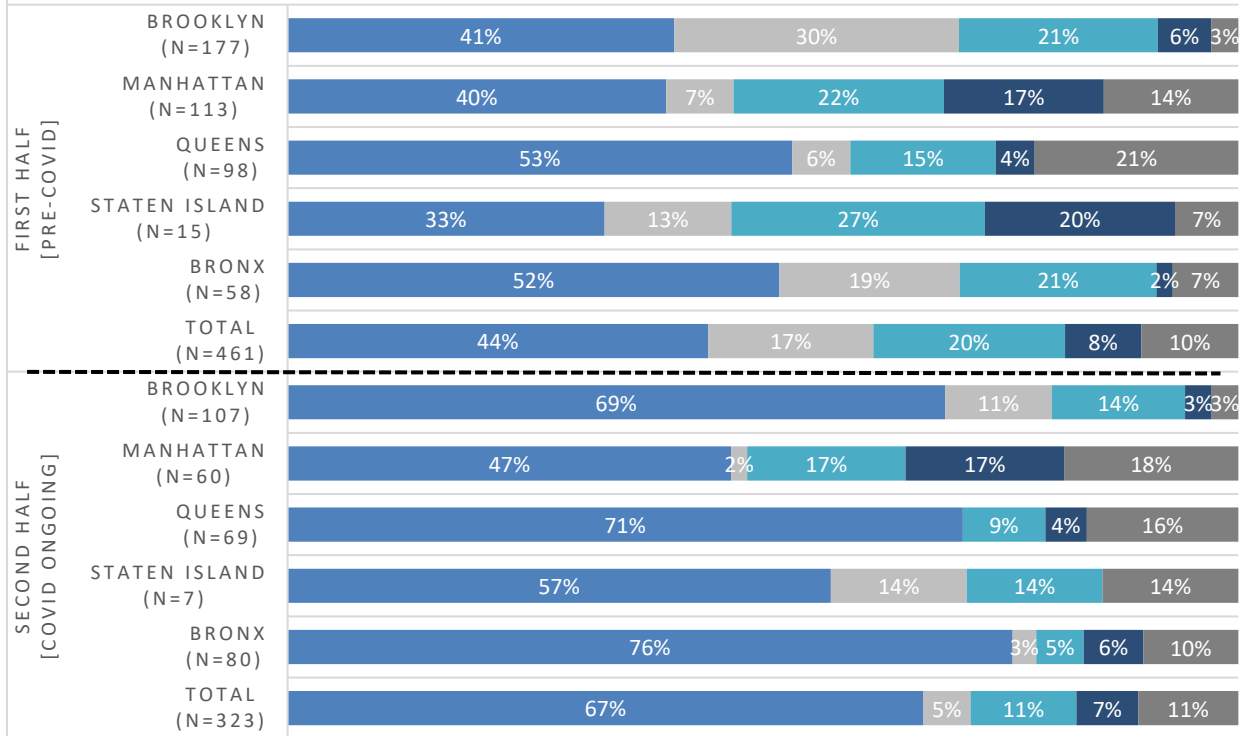
Borough differences in the number of days between the initial hearing and removal persist. For example, in the first half of year two, 76% (53% at arraignment and 23% the next day) of AO cases for 16-year-olds removed to Family Court in the Bronx were removed within a day of arraignment compared to 38% (29% at arraignment and 9% the next day) in Manhattan. The portion of removals that occurred more than a month after arraignment ranged from only 1% for cases for 16-year-olds in Brooklyn to 19% for those in Manhattan. For 17-year-olds, the portion of removals that occurred more than a month after arraignment ranged from only 3% in Brooklyn to 21% in Queens. In the second half of the second year, during the pandemic, only 3% of removed cases for both 16- and 17-year-olds in Brooklyn took longer than a month compared to 29% and 18% of those for 16-year-olds in Manhattan and Queens, respectively, and 14% and 21% of those for 17-year-olds in Manhattan and Queens.

Exhibit IIIC. Days from Arraignment to Removal to Family Court by Borough and Age*



AGE 17 YEAR 2**

■ Arraignment Date
 ■ Next Day
 ■ 2-7 Days
 ■ 8-30 Days
 ■ 31+ Days



**Age 17 was ineligible for RTA in Year 1