

Overview

Nationally, youth entering the juvenile justice system after being arrested for a delinquency offense have several options while their cases are pending. They may be placed in a juvenile detention facility (equivalent to jail in the adult context) or released into the community, with or without court-ordered supervision, and expected to stay out of trouble and show up for their court dates. When New York City began reforming its juvenile detention system in 2006, not all of these options were sufficiently available—youth were either sent to detention or released into the community with no formal supervision.

The reform effort had the complementary goals of ensuring that costly juvenile detention beds would be reserved primarily for young people who present measurably high levels of risk, and that others would be released or properly supervised at home and in their communities while their cases were pending. To do this, juvenile justice stakeholders developed a validated detention risk assessment, planned and implemented a continuum of community supervision programs (alternatives to detention) available to youth arrested in each of the five boroughs, and created weekend and evening processing of arrested youth to expedite release for those who could be sent home. The New York City Center for Economic Opportunity (CEO) contracted with the Vera Institute of Justice to document the efforts and outputs of the detention reform initiative. This report begins by describing the impetus and context for the innovations and reforms and then provides detailed information on the structure, strengths, challenges, and necessary next steps. Key outcomes that can be attributed to these reforms are:

- A 26 percent decrease in detention admissions from 2006 to 2012 and a 28 percent decrease in the average daily population in detention, with no negative impact on public safety;
- Widespread use of community-based supervision options;
- Fewer youth brought to detention by the police, and greater options for processing and sending home those who are brought in after court hours or on weekends and holidays; and
- The 2011 closure of Bridges Juvenile Center (formerly Spofford), the oldest and most notorious of the city's three secure detention facilities for juveniles.

The reforms undertaken have been impressive, but as with any initiative, there is still work to be done. New practices that keep the least serious and first-time offenders from becoming deeply involved with the juvenile justice system mean that the population coming before the Family Court—particularly those housed in detention facilities—is often a risky one with high levels of social service needs. Furthermore, some youth charged as adults for the most serious felonies (known as juvenile offenders) remain in detention for inordinately long periods of time. Looking ahead, New York City needs to address conditions of confinement for both of these high-risk groups, revalidate how it identifies which young people need to be in detention, and evaluate the services it provides to them and to youth released to the community. In addition, the city

should continue to be reflective and examine and improve upon policies reducing disproportionate minority contact in the juvenile justice system.

Methods

This policy brief offers an overview of the city’s detention efforts based on the perspectives of key local stakeholders, a review of documents and available data, and Vera’s historical knowledge about, and participation in, some of the efforts on the ground.

Interviews: Vera staff interviewed 24 stakeholders, including representation from the judiciary; Department of Probation; Administration for Children’s Services; Legal Aid (defense counsel); Law Department (prosecuting agency); Mayor’s Office; State Office of Children and Family Services; provider programs; and advocates.

Document Reviews: To inform the questions asked of interviewees, as well as provide a general backdrop for the policy changes, Vera reviewed documentation, including procedural and web content, media coverage, operational manuals, vision statements, and planning materials.

Data Analysis: Where appropriate and approved by the source agencies, Vera reviewed and incorporated available data into the brief.

Context

In January of 2006, the New York City Department of Probation (DOP) abruptly closed the city’s only alternative to juvenile detention—a classroom-based model that required youth to report from 8 a.m. to 4 p.m.—in response to concerns that the program wasn’t working. The DOP commissioner at that time made this decision amid concerns that, in addition to health and safety issues at the program sites, the program pulled young people from their home schools only to deliver a subpar educational experience.¹ While many agree that it was the right thing to do, the loss of the city’s only alternative to detention for youth charged as delinquents who were awaiting resolution of their cases was felt throughout the juvenile justice system.² Judges lamented the loss of an important pretrial supervision option and 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. (DJJ has since merged with the Administration for Children’s Services and is now called the Division of Youth and Family Justice [DYFJ].) Juvenile justice advocates were frustrated about the fact that New York City—home to the one of the largest juvenile justice systems in the country—now had no alternative to detention for youth charged with delinquency offenses.

In 2006, the average daily population in detention facilities was at its highest in three years and would surely skyrocket without any community-based supervision options. With roughly 12,000 delinquency arrests per year and the average daily costs of housing a youth in detention on the rise, the city soon acknowledged that the lack of community-based supervision options could pose serious consequences for arrested youth entering a system in which detention was the only form of formal supervision available, as well as costly for taxpayers. Officials began to rethink the city’s juvenile detention policies and practices to identify ways to

operate the system more cost-effectively while improving outcomes for arrested youth without compromising public safety. Realizing that interagency collaboration was a key to successful detention reform, the Mayor's Office, led by the Deputy Mayor for Health and Human Services and the Criminal Justice Coordinator (CJC), quickly convened a group of juvenile justice stakeholders that included representatives from DOP; DJJ; the city's Law Department, which prosecutes juvenile offenses; the judiciary; the Administration for Children's Services (ACS); the New York Police Department; and the Department of Education.

Policy Response

The city stakeholder group, with research and technical assistance from Vera, undertook a two-part reform process, informed in part by the work of the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI). First, the group designed a research-based, validated risk-assessment instrument (RAI) that provides objective information on public safety risk and protective factors about an arrested youth at his or her first court appearance to help judges decide whether the young person may require detention or be better suited for release to the community, with or without supervision. Second, it developed a new continuum of community-based, non-residential programs that provide alternatives to detention for eligible youth. Following the initial set of reforms, the city then implemented a set of additional system enhancements designed to reduce detention by expanding the hours when agencies assess, process, and, when appropriate, release young people brought to a detention center. This brief describes all aspects of the reforms and ends with an assessment of the strengths, challenges, and next steps related to their implementation.

Planning the Reform. The stakeholder group set out to develop a reform agenda that would, according to state statute, 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). To accomplish this, decision making at arraignment about which youth were most in need of detention had to improve. At the time, however, there was no standardized and objective way to quantify the level of risk posed by youth who were awaiting their trials, much less any research-based assessment tools. In 2006, the empirically based approach to measuring risk that was increasingly becoming standard practice throughout the nation, including in New York City's adult criminal justice system, had not yet been applied to juvenile detention. The stakeholder group then set out to develop the nation's first empirically based, scientifically valid risk-assessment instrument for juvenile-detention decision making.

Measuring Risk. With guidance from the stakeholder group, Vera researchers conducted a study designed to examine which characteristics of youth entering the system were most likely to predict whether someone would be rearrested or fail to appear in court. In collaboration with DOP, the researchers collected data on a sample of arrested youth and, with help from DJJ, the NYC Criminal Justice Agency, and the state Office of Court Administration, tracked rearrest and court appearance records for the sample through sentencing. They 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. A sample of young people entering the system for delinquency arrests in the summer of 2006 (n=1,782) composed the intake cohort. This cohort was followed up through the resolution of their court cases to ascertain whether they had been detained, rearrested, and/or failed to appear in court at least once. Of the 1,782 in the original cohort, 1,053 were ultimately petitioned (presented for prosecution) in the Family Court, and these youth were tracked through the disposition (sentencing) of their cases.³

The researchers found 10 factors most closely related to failure to appear and rearrest. Four factors correlate significantly with a youth's failure to appear in Family Court while a case was 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 a prior warrant for a juvenile delinquency or Persons in Need of Supervision (PINS) case. Six factors correlated significantly with rearrest while a case was 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); previous adjudication(s) for a designated felony offense; and 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): 80 percent or greater attendance in the last full semester of the school year. These factors became the basis of the RAI.

Developing the Instrument. Once the factors that signal a risk of failure to appear or rearrest were identified, the stakeholders worked as a group to develop a way to determine an overall risk score for each youth, and ultimately decided to use a matrix that plots the young person's risk of rearrest on one axis, the risk of failing to appear on the other axis, and assigns a risk category based on where those two scores meet. Youth can be assessed as low, moderate, or high risk. This process is automated and completed by intake staff at DOP and presented in court at the youth's arraignment hearing. The RAI score, along with other information, helps the judge decide whether the youth should be released without court-ordered supervision (low RAI score), released to a community-based alternative to detention (ATD) program (medium score), or detained while the case is pending (high score).

Creating a Continuum of Alternatives. ATD programs operate between arrest and adjudication to ensure that medium-risk youth appear in court and do not re-offend while their cases are pending. Participation in any one ATD tier on the continuum was intended to be time-limited, for a maximum of 60 days, to minimize widening the net of social control over youth.

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. These programs were designed to be contracted out by the city, and to operate within the parameters described above. Due to their short-term nature and their focus on supervision, the programs were not intended to be service-heavy. Although programs may include some service components, the program goals were straightforward: to provide community-based supervision to youth with pending delinquency cases who might have otherwise been sent to detention, and to ensure that these youth do not break the law and/or fail to appear in court during the discrete period in time when their case is being processed by the Family Court.

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 and 7 p.m. and 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, contracted through a competitive bidding process with the Criminal Justice Coordinator's Office. DOP runs the third and most-restrictive level, Intensive Community Monitoring (ICM). At this level, probation officers monitor the youth, conducting frequent curfew checks, phone check-ins, and home visits, and enforce a contractual agreement with the parent or guardian.

Implementation of the RAI and ATD continuum was staggered by borough over a roughly two-year period, beginning with Queens in early 2007 and ending with Staten Island in the spring of 2009.

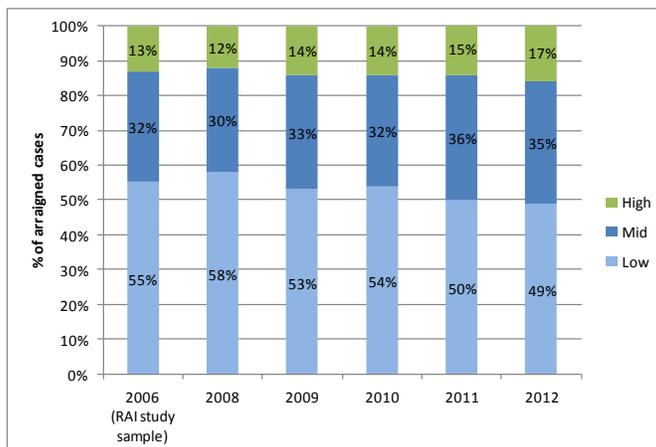
Expanding Availability: Working Toward a 24/7 System. Even with the RAI and a new continuum of alternative options available to judges at arraignment, the city still had few options for processing the sizable number of young people who were arrested outside of court hours and brought to detention by police officers, and thus detained prior to any assessment of their risk. The Family Courts are typically open Monday through Friday from 9 a.m. to 5 p.m., but even youth brought to detention late in the afternoon were often not considered for an arraignment hearing until the following day. At the time, these youth—who might ultimately be assessed as low- or moderate-risk and released—could end up spending up to four full days in detention if they were admitted on a Friday afternoon prior to a long holiday weekend. While weekend processing had long been standard procedure in the adult criminal court, there existed no off-hour process by which to release youth who did not appear to be high-risk in the family court. In response to this, shortly after the implementation of the RAI and ATDs, city agencies enacted several new initiatives designed to avoid detention admissions that occurred for no other reason than that the court was closed.

In 2008, the city began weekend and holiday processing, which allowed for juveniles arrested over the weekend or on holidays and taken to detention facilities by the police to be processed, and possibly released, by judges in the Manhattan criminal court. More recently, DOP has expanded upon these after-hours efforts by placing intake officers within the city’s two secure detention facilities to conduct RAIs on youth dropped off by the police after hours during the week. As the process stands, youth are first screened by DOP staff to determine eligibility for diversion (commonly referred to in New York City as “adjustment”), as well as for release. Youth deemed eligible for diversion and/or released by DOP are driven home by ACS staff.

Results

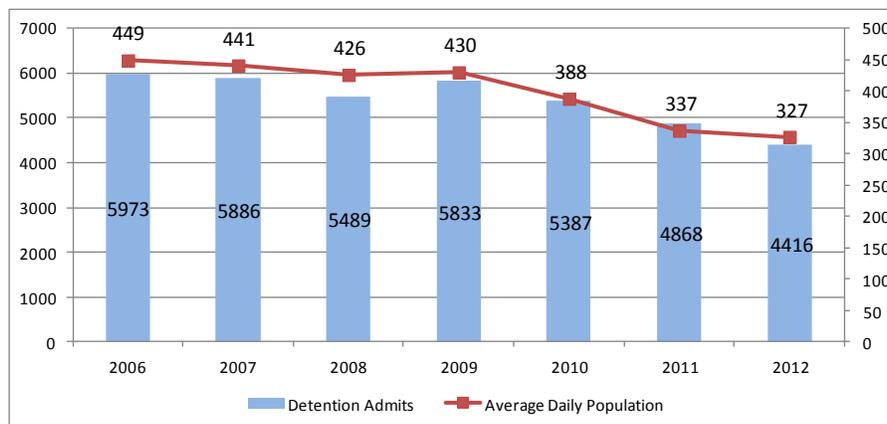
Although New York City’s detention reforms have yet to be subject to a rigorous outcome evaluation, city agencies have been tracking and sharing descriptive data since 2006, and trends in these data are largely encouraging.

Figure 1
RAI risk breakdown of youth arraigned for juvenile delinquency cases, 2006-2012
Source: Vera Institute of Justice



The risk breakdown of youth assessed on the RAI has been relatively consistent and in line with the goals developed by the group when they created the instrument. Most are low- and moderate-risk, and the smallest proportion is high-risk (see Figure 1). The RAI consistently identifies a small proportion of the population that appears to present a level of risk most appropriate for detention, and a large population that can most likely be released safely with no supervision by the justice system at all. Of note, the number of young people who even reach that point in the system has decreased over time, due to a shrinking number of arrests coupled with aggressive diversion practices at early points in the system, specifically by DOP and the Law Department. When practitioners divert youth with less-serious cases from the system earlier, it stands to reason that the population of youth even considered for detention begins to have a slightly more severe risk profile.

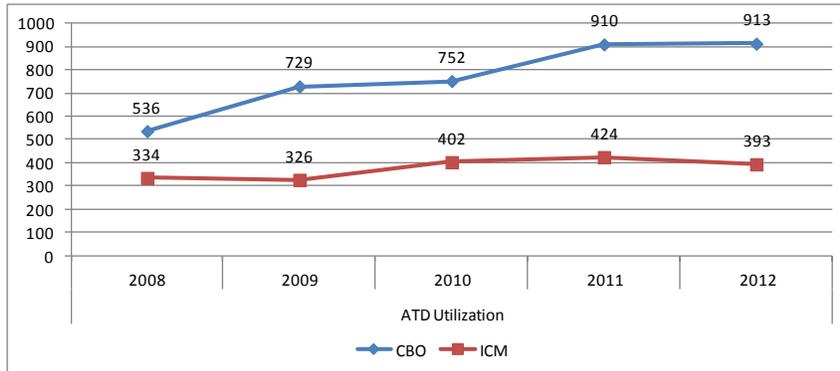
Figure 2
 Detention admissions and the average population, 2006-2012



Source: ACS, Juvenile Justice Database (JJDB)

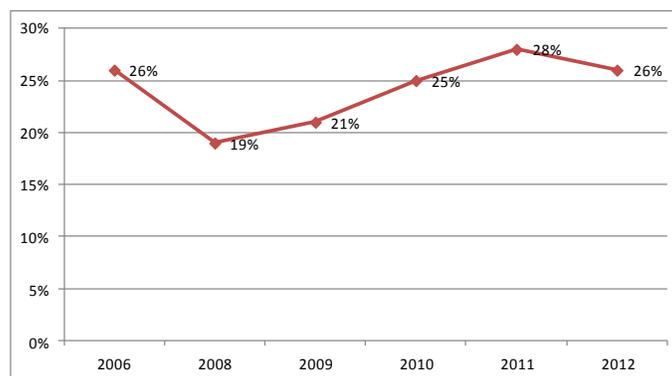
Given that the risk profile of youth considered for detention has remained more or less stable, an examination of the overall use of detention is the first step in understanding the potential impact of the reforms. Detention usage can be assessed in two ways—first, by looking at the total number of admissions to detention in any given year, and second, by looking at the average number of youth in detention facilities on any given day in that year (the average daily population). Figure 2 shows the total number of detention admissions and the annual average daily detention population from 2006 to 2012. During this period, the annual number of detention admissions has dropped by more than a quarter (26 percent), from 5,973 to 4,416. (Note that individual youth can be counted more than once if they had more than one detention admission.) The average daily population has decreased accordingly, by 28 percent, in the same period, allowing for the closure of Bridges Juvenile Center.

Figure 3
Use of ATD programs, 2006-2012
Source: CJC



To understand the success of the initiative, it's important to measure the extent to which the judges consider the ATD programs a useful option. The number of admissions to these programs annually is one indicator of this. Figure 3 shows annual admissions for both the community-based ATD programs and the DOP's Probation's ICM program, and indicates that they are consistently well-used options for diverting youth from detention while their cases are pending. The use of community-based ATDs has been robust and steadily rising, with more than 900 court-ordered admissions per year in both 2011 and 2012. The fact that use of ATDs is growing as the detention population declines indicates that they are serving a true replacement function for detention, rather than widening the net of social control.

Figure 4
Rate of Rearrest during case pendency, 2006*-2012
Source: JJDB



**2006 rearrest rate is calculated on the sample of youth arrested and referred for prosecution on the same day between May and August 2006. A similar comparison group was used for this analysis.*

The rate at which youth are rearrested while their cases are pending in Family Court is one indicator of the potential impact on public safety of this initiative. Some feared that the release of greater numbers of youth with pending cases would contribute to higher levels of recidivism, and it's important to measure whether

there's evidence of that kind of unintended consequence. Figure 4 shows the percentage of young people who were rearrested at least once between their original arrest date and the date of the court disposition (sentence) by year of arrest, from 2006 to 2012 (including arrests that may have happened in the adult criminal justice system for incidents that happened after the 16th birthday). Rearrest rates declined noticeably in the two years after implementation of the RAI and ATDs, and have since increased slightly to a level comparable to the pre-implementation rate. Note that although the rearrest rates are similar now and in 2006, this can be considered an accomplishment, given that the use of detention has decreased by 28 percent with no impact on public safety and at less cost to taxpayers. Again, because of more recent targeted, front-end diversion practices, the pool of youth that reaches disposition has become a smaller and in many ways riskier group, so youth in more recent years were probably more likely to reoffend than those who went through the system just after the detention reforms were implemented.

Amid all of these initiatives, the number of youth brought to detention by the police has dropped dramatically, by just over 40 percent between 2008 and 2012. In 2012, 70 percent of youth brought to detention by police during a weekend or holiday were released: 36 percent by the Law Department, 24 percent by the Department of Probation, 9 percent by ACS, and 1 percent by the court after a hearing.^{4 5}

Finally, as the key stakeholders examined their pre-adjudication practices, it became apparent that there was room to adjust more youth from formal case processing, which could both directly and indirectly reduce the number of young people who were detained pre-adjudication. DOP, working collaboratively with the Law Department, greatly expanded adjustments of young people by 33 percent between 2009 and 2012. Probation was able to use newly available funds from the New York State Department of Criminal Justice Services (DCJS) Supervision and Treatment Services for Juveniles Program (STSJP) to provide short-term adjustment programming to expand the use of adjustment to youth who have moderate-level risk or offense severity. Fully 88 percent of youth who completed adjustment supervision by DOP in 2012 had their cases closed successfully.⁶

Although the detention reform initiatives undertaken in New York City have yet to be formally evaluated, it's the opinion of many system stakeholders that the initiatives were successful in many ways, even if, as would be expected, there remains some work to be done. Many stakeholders attribute declines in the use of detention to the introduction of the RAI into the decision-making process, calling it "an important tool" that's been "well embraced" and "smoothly" implemented. Stakeholders say that the instrument produced by the group met several important goals, most notably introducing a degree of rationality and science into the judicial decision-making process while respecting the importance of judicial discretion and expertise. One stakeholder described the development of the tool as a "fascinating" process, and spoke of how valuable it was to "move the...consortium toward an empirical analysis about where kids were at when they were arraigned." The RAI has improved people's understanding about what factors are correlated with detention risk and what services are best suited for youth.

Across the board, stakeholders also said that the ATDs have benefited youth enormously. Because of these programs, young people are able to remain in the community, have access to services, and remain in their home schools. The positive impact on schooling was especially important for a few respondents, who saw ATDs having an important role in brokering and navigating relationships with schools on behalf of their clients and their families. As one stakeholder summed it up, "The changes in the philosophy and true programming in alternatives to detention has been a pleasant change and had a positive impact. The fact that [young people] are in regular school settings is critical."

Stakeholders interviewed reported that the current set of programs is well respected. One reason for this is the reporting requirement, which adds a built-in level of accountability for the providers. As one person explained, the ATDs are expected to provide the court with objective, verifiable information about clients. This level of accountability to the court has bolstered people's opinions about the credibility and usefulness of these programs. And though the ATD model is primarily about community-based supervision, many said that the ATDs provide an impressive array of services to young people beyond supervision, including life skills, anger management, substance abuse counseling, music and art, and trauma counseling. Note that while many practitioners lauded the availability of services, others recognize that the programs have, in recent years, begun to operate outside the scope of the original continuum of planned services.

Many attributed the initiative's success to communication. The early work of the stakeholder group was built upon a foundation of interagency communication, and this didn't end once the RAI and ATD programs were implemented. The Deputy Mayor and CJC continued to hold regular meetings of the stakeholder group and of the ATD providers, who used a peer learning model to work through implementation challenges. CJC and Vera met regularly with judges and lawyers to make sure that people who work in the courtroom understood the research on which the RAI was based. More recently, ATD providers reported that communication among them was good and that sites shared information about resources and services in a way that was helpful to the provider agencies. They also reported that they had developed good working relationships with court staff (i.e., judges, attorneys, and probation staff) who believed that the work they did was critical to advancing public safety.

The data provided above show some descriptive evidence that the models implemented in New York City are likely contributing to positive outcomes. Overall, fewer youth are being detained, many youth are being released with no supervision at all, and others are receiving supervision and services while in the community, all with no measurable decrease in public safety. In fact, juvenile crime is down—the number of juveniles arrested for major felony crimes in New York City decreased by 38 percent between the 2006 and 2013 fiscal years, and by 13 percent from just 2012 to 2013.⁷ And there is research that one specific model for youth with mental health needs works. Researchers at the Center for Court Innovation conducted a rigorous evaluation of its QUEST Futures program, an ATD model designed to provide supervision and mental health services to youth in Queens who have mental health needs, and found that youth who went through the program were significantly less likely than a similarly situated comparison group to be rearrested for a new offense and a new felony offense one year post-program enrollment.⁸

Challenges

Several limitations and challenges to the implementation of detention reform were identified by stakeholders. These challenges, described in detail below, focus largely on confidence with the RAI, finding the right role for the police department, and the appropriateness of the scope of ATD programming.

RAI

While many stakeholders felt comfortable using the RAI as part of the decision-making process, some expressed concerns about factors that are or are not included on the RAI; these concerns have been pervasive since the creation of the instrument in 2006. The main area of contention involves the exclusion from the RAI of severity of the current charge for which the youth has been arrested. Some judges and prosecutors expressed discomfort in using an instrument that does not automatically place youth charged with more serious, violent offenses in a higher category of risk than youth brought in on minor offenses like shoplifting

and graffiti. As one stakeholder summed it up, “There was tremendous push back...people were like, ‘How could this be, that this was not part of what made a kid at-risk?’” Although the research did not support adding charge severity to the scored part of the RAI, the assessment form does contain an area where these most serious charges can be flagged and brought to a judge’s attention. Since the RAI is designed to be just one piece of information on which judges base their decisions, they have flexibility to choose detention for youth charged with serious and/or violent offenses who score as low- or moderate-risk, if they think it is the most appropriate response. Overall, judges’ decisions are in line with the RAI recommendation about two-thirds of the time. Others said that it was time for the RAI to be revalidated based on research about a sample of youth who went through a system that has changed substantially, due in part to the constellation of system reforms in New York City in the past several years.

NYPD involvement

Although a few stakeholders thought that, consistent with national best practices, the NYPD should have been more active stakeholders throughout the process, others thought this was less important, given that the focus of the reform work was decision making at arraignment—a decision point well beyond the time when police have initial contact with the youth. For example, one stakeholder said that “involving PD in the conversation is critical,” while pointing out that in other counties across the nation that have done successful detention reform, police work directly with the detention centers to collaboratively decide which youth can be brought to detention in the first place. However, another stakeholder said that the NYPD took on an important package of front-end reforms within its own agency, separate and apart from what the stakeholder group was doing, and stated that “the whole city’s focus on detention reform propelled the NYPD to intensify the reform of the juvenile crime desk and the decision making process on who to drop off and who to remand.” The fact that the NYPD was refining their approach to making decisions on which youth to bring to detention and which to release with a Family Court Appearance Ticket (FCAT, or an order to go home and show up in Family Court on a future date) bears out in the numbers. As noted previously, police admissions to detention decreased by 40 percent from 2008 to 2012, and the use of detention by police continues to trend downward. In addition, through October 2013, arrests for low-level misdemeanor crimes, for which police arguably have the most discretion as to whether or not to arrest, are down by 38 percent compared to the same period last year.⁹

ATDs

Though the ATD programs were largely considered successful, there were some services that young people could not access in the community. Many stakeholders pointed to a need for additional services that fall outside of the scope of the original ATD continuum, including more mental health programs, respite options for families in turmoil that need a “time-out,” and programs designed to meet the unique needs of crossover youth (those with concurrent involvement in the juvenile justice and child welfare systems). With the one notable exception described earlier, there is a dearth of the type of rigorous evaluation research needed to prove whether the majority of the city’s ATD programs are effective, and no research at all that examines whether current ATD programs are operating with fidelity to their respective models, and are effective options for all young people assessed as moderate-risk.

ATD providers identified time constraints as a major challenge in working with youth. Because participation in any one tier of an ATD program is designed to be capped at 60 days, some stakeholders and providers thought that youth were not in the program long enough to have their needs addressed in a meaningful way. However, the time limitation was intentional and by design—an ATD is not designed or meant to provide long-term treatment. Consistent with best practices, the ATD model is about supervision, ensuring that the

young person shows up for court and stays arrest-free during the pendency of the case. While the youth's social service needs should certainly be addressed and met, such an undertaking should not necessarily occur as part of the ATD and should not be tied to ATD compliance. As one provider summed it up, "it's not about changing kids' lives in a limited time; it's about them leaving the program with a better understanding of what's possible." This exemplifies the continuing struggle in the juvenile justice system in general, including in New York City, over the function of the Family Court to both maintain liberty and provide help. The 60-day period was specifically set within that context to limit excessive exposure to treatment (and potential failure to abide by treatment requirements) prior to a youth being adjudicated delinquent while still presumed innocent.

Looking Ahead

With seven years of detention reform concluded, New York City's focus in this area can now shift to reassessing the suitability of the continuum of programs and fully understanding the outcomes of the work that's been done. Because New York City is unique in many ways—it was the first jurisdiction to use a validated detention risk assessment instrument, and the sheer volume of its delinquency population has allowed for the development of a wide range of community-based supervision options—the system is now in a position to contribute to the evidence on effectiveness in assessing and supervising young people at this point in the system. In addition to the targeted steps outlined below, now is an opportune time for the city to take a step back and, while celebrating the good work to date, strategically assess what more can be done to limit, in a safe and effective manner, the number of young people detained—and determine whether the 28 percent reduction in daily population could go even higher.

Reassess the continuum of services

The fact that several programming gaps were identified by stakeholders indicates that it might be time for the group to reconvene and take another look at the original program model and continuum of services. The group may need to revisit its definitions of supervision programs and conduct another review of national best practices. It may be that the city is comfortable with the original model that emphasizes supervision and not service delivery. However, the city may decide that delivery of services to special populations, such as those with mental health needs, is an important component to successful supervision while ensuring that non-compliance with these more service-oriented components does not lead to detention. In addition, the city should examine the youth who are routinely detained, particularly the low- and moderate-risk youth, look at model programs in operation locally and nationally, brainstorm about new program ideas, and consider expanding the continuum if there is programming that could further reduce the detention population in a safe and cost-effective manner. It's also important to balance the desire to expand the continuum of services with the actual demand of program slots, since the juvenile justice population is shrinking and current programs are not at capacity.

Revalidate the RAI

The RAI is based on a validation study that is now seven years old and just as the delinquency system has changed, so have the young people going through it. An array of community-based options is now available to youth, both pre- and post-disposition. It's possible that factors that predicted a young person's likelihood of rearrest in 2006 are now different, and that the very existence of these new programs has altered young people's trajectories through the system in a way that matters when predicting risk. In addition, some stakeholders remain skeptical about certain factors that are and are not included in the RAI. For these reasons, a follow-up validation study should be conducted.

Establish an evidence base

The ATD model developed and implemented by the city has not been subject to any evaluation studies. Now that the programs are well-established and beginning to monitor outcomes, the timing is ideal for an independent third-party evaluator to begin both documenting the process of these programs as well as measuring evidence of their effectiveness. This will allow for the programs to make improvements in areas that are found not to work, and for the city to base its contracting decisions on research evidence. Doing so will place New York City in a position to share knowledge on effective ATD programming on a national level.

Address juvenile offenders in detention

The great majority of the reforms mentioned in this report address delinquent youth whose cases are heard in the Family Court. However, there is another population of young people in juvenile detention facilities in New York City—called juvenile offenders (JOs)—who are charged with the most serious and violent crimes and are adjudicated in adult courts.¹⁰ These youth spend far longer in detention than their Family Court counterparts, sometimes serving their entire sentence in a detention facility.¹¹ Also, as the reforms discussed in this report have taken hold for juvenile delinquents, the juvenile offender population has grown as a proportion of all youth in detention from 33 percent in 2008 to 45 percent in 2012.¹² A full discussion of issues impacting the juvenile offender population is beyond the scope of this document, and the Juvenile Justice Advisory Committee¹³ has established a subcommittee specifically to address these issues. It is worth noting that, if the new city administration wishes to address juvenile detention issues, the juvenile offender will be a critical component.

Examine and improve conditions of confinement to better address the intensifying risks and needs of detained youth

Though far fewer youth are being arrested and detained, the youth who are now remanded to detention are presenting with significantly higher risk levels and increasingly more complex needs than ever before. In 2012, nearly half (47 percent) of delinquency cases remanded to detention were deemed high-risk; in the same year, nearly half (45 percent) of the entire detention population were JOs charged as adults with the most serious and violent felonies. Despite the dropping census and admission rates, the rate of assaultive incidents among youth in detention remains high at the detention centers. In addition, the mental health needs of youth in care have also intensified—approximately 85 percent of young people assessed in secure detention reported at intake at least one traumatic event, including sexual and physical abuse, and domestic or intimate partner violence. Furthermore, one in three young people screened positive for Post-Traumatic Stress Disorder (PTSD) and/or depression. Finally, the DOE reports that for fall 2013, 54 percent of all youth in detention and placement-based educational settings are classified as having a disability, the highest percentage recorded.¹⁴ As the detained population continues to become a more challenging one, the city will need to revisit conditions of confinement regularly to ensure that services and resources are in place to keep youth safe and on the right path to a successful transition to adulthood.

Continue to examine the impact of the reforms on disproportionate minority contact

In 2011, New York City, under the leadership of the Criminal Justice Coordinator's Office and with funding from DCJS, convened a working group to examine and propose strategies for reducing the overrepresentation of youth of color in the juvenile justice system, commonly known as disproportionate minority contact (DMC). Though detention was only one of several system points that fell under the working group's gaze, it was a central area of concern because, at the time, youth of color represented 92 percent of all detention admissions. Over the course of its work, the group reviewed data indicating that the introduction of the RAI and ATDs had begun to diminish, but certainly not eliminate, disparities that existed in the way that detention

decisions were being made. It is important for that examination to continue, to keep a finger on the pulse of how detention practices impact youth of color and how the city can continue to work toward a system that is equitable.

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Endnotes

- ¹ New York City Independent Budget Office Fiscal Brief, "The Rising Cost of the City's Juvenile Justice System." Revised January 2008.
- ² In New York State, young people who are alleged to have committed all but the most serious delinquent acts (acts that would be crimes if committed by adults) while they were age 15 or younger are handled as delinquency cases in the juvenile justice system.
- ³ This study included only youth who were facing delinquency charges for a new arrest, for an incident that happened before the 16th birthday (note that some youth were 16 or older at the time of arrest); it did not include youth brought to court on technical violations of probation, youth under 16 who were charged as adults due to the severity of their crimes (known as juvenile offenders), and young people arrested for incidents that happened when they were 16 or 17 years old, who are statutorily excluded from the juvenile justice system in New York State. The study sample included only youth who were referred by probation for prosecution on the same day of their probation intake meeting.
- ⁴ Youth brought to detention by police can also be released by the Law Department, before or after filing what's called a pre-petition, which is a request to hold a youth in detention prior to the individual being petitioned to court, either because the youth presents a high level of risk or returning home is not considered to be in the child's best interest. Source: Criminal Justice Coordinator's Office.
- ⁵ Data source: Criminal Justice Coordinator's Office.
- ⁶ Data source: New York City Department of Probation.
- ⁷ See New York City Mayor's Management Report (MMR).
- ⁸ Josephine Hahn, "Mental Health and Juvenile Justice: An Evaluation of a Community-Based Intervention in Queens, New York." New York, NY: Center for Court Innovation, August 2013.
- ⁹ Data source: New York City Juvenile Justice Indicators, Criminal Justice Coordinator's Office.
- ¹⁰ There were 1,234 arrests of JOs in 2012 alone; 77% of these arrests were for first- or second-degree felony robberies. See Marian Gewirtz, "Annual Report on the Adult Court Case Processing of Juvenile Offenders in New York City, January through December 2012," New York, NY: Criminal Justice Agency, December 2013.
- ¹¹ The median case processing time for JOs remanded to detention in 2012 was 333 days. *Ibid.*
- ¹² Source: Administration for Children's Services.
- ¹³ The Juvenile Justice Advisory Committee is an interagency committee that examines issues concerning New York City's Juvenile Justice System. The committee's members include the Department of Probation; the Administration for Children's Services; Family Court; Law Department; Legal Aid; the New York City Police Department; the Department of Education; Health and Hospitals Corporation; Department of Health and Mental Hygiene; New York State Office of Children and Family Services; New York State Division of Criminal Justice Services; and family and community members. It is co-chaired by the Commissioners of Probation and ACS.
- ¹⁴ Source: New York City Administration for Children's Services.