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# Youth Diversion in Brooklyn

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## An Impact Evaluation

By Tia Pooler



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<sup>1</sup> During the timeframe of this study, Judge Grasso presided in Kings County Criminal Court and was assigned as Supervising Judge - Arraignments for the Criminal Court.

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# Executive Summary

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Youth diversion programs aim to route young people who have been arrested away from the traditional criminal justice process. By completing alternative programming, participants can have their charges dismissed, thereby reducing social and economic barriers that accompany a criminal record. In addition, alternative programming provides an opportunity for the defendant to be assessed and connected to services if appropriate.

In September 2014, the Brooklyn Task Force of the American Bar Association’s Racial Justice Improvement Project, partnered with Brooklyn Justice Initiatives, a project of the Center for Court Innovation, as well as Young New Yorkers and the City’s Department of Education (DOE), to implement a pilot diversion program for young people arrested and set to appear in adult criminal court in Kings County. The program—DAT-Y (Desk Appearance Ticket-Youth)—accepts 16- and 17-year-olds who receive a desk appearance ticket (or “DAT”). A DAT is an order to appear in criminal court at a later date in lieu of being taken into custody at time of arrest.

The DAT-Y program offers adolescent-appropriate services to participants and an immediate sealing and dismissal, often in place of the common adjournment in contemplation of dismissal (ACD) disposition. For a typical case, an ACD given at arraignment will not require any services or other program mandates. Instead, the adjournment remains in effect for six months, after which time the case is dismissed so long as the young person has had no further criminal justice involvement. In contrast, the adolescent services offered through DAT-Y include either: 1) an individual case management session with a social worker; 2) an individual educational assessment session with a Department of Education representative; 3) a group session on the community impact of criminal behavior; or 4) a group session in a restorative justice arts program. Upon completion of the DAT-Y services, the participants’ cases are sealed and dismissed immediately, avoiding the six-month period of time when the case would, traditionally, still be hanging over the head of the youth and could potentially be re-opened.

The Brooklyn DAT-Y pilot program evaluated in this report included DATs of 16- and 17-year-olds between April and August 2014. Center for Court Innovation research staff analyzed program impacts on case resolutions and re-arrest at six- and 12-months post-

arraignment. Using propensity score matching techniques, 164 DAT-Y participants were matched to similar defendants who received a DAT prior to the pilot program and thus did not go through the diversion program.

Overall, study findings revealed positive program impacts on case resolutions. The results support the idea that the DAT-Y program can effectively achieve its immediate stated goals for young defendants (increased procedural justice, increased access to service providers, and less severe case outcomes), while not compromising public safety. With a program completion rate of over 98% in the Brooklyn-based pilot, the DAT-Y model has since been expanded to the Bronx.

- **Disposition:** DAT-Y participants were significantly more likely to receive an outright dismissal (98% v. 0%) than the comparison group. Comparison cases mostly (92%) received an Adjournment in Contemplation of Dismissal. DAT-Y participants also had a lower rate of guilty pleas (<1% v. 9%); these differences were statistically significant.
- **Time to Arraignment:** DAT-Y cases were arraigned more quickly than cases in the comparison group (47 v. 52 days), a statistically significant difference.
- **Re-Arrest:** There were no significant differences between re-arrest rates for DAT-Y participants and the comparison sample at six or twelve months. About one-third of both DAT-Y participants (37%) and comparison defendants (33%) had been re-arrested at one-year post-arraignment.
- **Re-Arrest by Specific Intervention:** Subgroup analyses suggest a lower re-arrest rate among DATY participants taking part in the Brooklyn Justice Initiatives group program (26%) and the Young New Yorkers art program (25%). In contrast, DAT-Y participants in the Department of Education (DOE) intervention group experienced a *higher* re-arrest rate (56%) than comparison defendants overall; this difference is likely due to higher risk among those participants who were routed to the DOE program when their school attendance records were deemed problematic.

This last finding, may have important implications for future diversion efforts focused on young people. The higher re-arrest rates among DOE intervention participants suggests that assessing school attendance records during screening may help programs to identify higher-

risk subpopulations whose educational needs can be mitigated through targeted interventions relating to school.

In sum, individuals in the DAT-Y program were more likely to receive a straight dismissal, and less likely to take a guilty plea, than those in the comparison group. This indicates, for some, a reduction in the collateral consequences that can result from a conviction. Since overall re-arrest rates were not statistically different, the use of an extremely brief diversion intervention as an alternative to conventional prosecution did not jeopardize public safety.

# Chapter 1

## Introduction

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In recent years, numerous diversion programs have been implemented across the criminal justice system with the shared aim to “divert” an individual away from the traditional criminal justice experience. Such diversion programs occur at a variety of points in the process—initiated, for example, by police in lieu of an arrest or later by the prosecutor or court.<sup>2</sup> Generally, the goal of diversion for non-violent offenses is to avoid a formal court case and incarceration; these programs provide an alternative path for defendants to have their charges reduced or dismissed. For young people in particular, diversion aims include swifter case processing, improved case outcomes, and avoidance of the types of barriers often associated with a criminal record (e.g., in terms of employment, education, and housing). In addition, alternative programming can provide an opportunity for the defendant to be connected to appropriate services. Despite some indication that diversion programs result in positive outcomes for participants (e.g. Broner, Mayrl, and Landsberg 2005; Wilson and Hoge 2013; Zlatic, Wilkerson, and McAllister 2010), there has been little empirical evidence that such programs reduce future criminal behavior (Camilletti 2010). The current study seeks to illustrate the impact of one such diversion program on both case outcomes and re-offense.

## The DAT-Y Program

### Background

In 2010, the American Bar Association launched the Racial Justice Improvement Project (RJIP) with the support of the Bureau of Justice Assistance. The RJIP seeks to identify and reform policies and practices that produce racial disparities in local criminal justice systems across the country. To do this, four counties across the country initiated an RJIP task force; Kings County (Brooklyn), New York was one of these initial sites.<sup>3</sup> The Brooklyn Task

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<sup>2</sup> For police-led example, see the Durham County (NC) Misdemeanor Diversion Program: <http://dconc.gov/government/departments-a-e/criminal-justice-resource-center/misdemeanor-diversion-program>.

<sup>3</sup> The other original RJIP sites included Delaware; New Orleans, LA; and St. Louis, MN. RJIP expanded to include four additional counties in 2013.



Force (BTF) is comprised of a variety of criminal justice players, including judges, defense attorneys, prosecutors, law enforcement, corrections (probation), and service providers.

The members of the Brooklyn Task Force decided to focus their program on juvenile justice reform, and looked to youth diversion models to reduce the negative impacts of criminal justice involvement on young peoples' lives. New York is one of only two states, along with North Carolina, that currently define 16- and 17-year-olds as criminally responsible adults. This means adolescents are processed through adult courts, instead of being handled through the juvenile justice system where the best interests of the child are statutorily prioritized. Young people with a permanent criminal record in the adult justice system, often experience long-term adverse effects, for example through reduced employment opportunities.

In 2013, just over 5,000 individuals between 16 and 17 years old were arrested in Brooklyn on misdemeanor or non-violent felony charges (DCJS 2016). Specifically, the Brooklyn Task Force set out to create a diversion pilot program that would target this population. The resulting program was modeled on the existing practice of adjustment (i.e., diversion) to family court for those juveniles *under* age 16 (BTF 2015). An important aspect of the program was ensuring that a dedicated team was responsible for the young person's case from start to finish; this includes the probation officer, district attorney, and defense attorney.

Program implementation underwent three distinct pilot phases as illustrated in Table 1.1. The first two pilot phases allowed stakeholders to work through program logistics and challenges, and determine that the project could be practically implemented. The Brooklyn Task Force then moved forward with implementing an expanded phase III pilot as explained in more detail in the next section. The phase III pilot is the subject of this impact evaluation; for simplicity, only this 2014 iteration of the program is referred to as "DAT-Y" throughout this report.

**Table 1.1. Program Pilot Phases 2012 - 2014**

	Pilot Phase I	Pilot Phase II	Pilot Phase III (DAT-Y)
<b>Key Characteristics<sup>1</sup></b>			
Location of arrest	Kings County (Brooklyn)	Kings County (Brooklyn)	Kings County (Brooklyn)
Age at arrest	16 & 17	16 & 17	16 & 17
Pilot arraignment dates	Oct. – Nov. 2012	Oct. – Nov. 2013	Sept. 2014
Eligible Charges	Marijuana Possession and Theft of Services (Transit) DATs	All non-violent DATs	All DATs <sup>2</sup>
Program Specifics	Three-hour session of educational and decision-making workshops	Three-hour arts-based restorative justice workshop	One of the following: educational session; arts-based restorative justice workshop; group session on community impact; individual case management session
No. Participants	25	29	166

<sup>1</sup> <http://racialjusticeproject.weebly.com/new-york.html>

<sup>2</sup> DATs with associated temporary orders of protection are not eligible for DAT-Y programming.

## Program Structure and Goals

Beginning in 2014, the Brooklyn Task Force partnered with Brooklyn Justice Initiatives at the Center for Court Innovation, the Young New Yorkers organization, and the Department of Education to implement the expanded phase III pilot program for young defendants in Kings County. The program—DAT-Y (Desk Appearance Ticket-Youth)—reflects the eligibility criteria: only individuals aged 16 or 17 who receive a desk appearance ticket (DAT) at arrest are eligible for the program. DATs are an order to appear in criminal court at a later date, given in lieu of detention, and are issued at the discretion of the police for many non-felony offenses.<sup>4</sup> DATs are not issued to defendants with an active warrant and are more likely to be used with young arrestees. In 2012, 40% of arrestees between 16 and 19 years old received a DAT, compared to 27% of older arrestees in New York City (Phillips 2014).

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<sup>4</sup> DATs are issued according to criteria in addition to charge exclusions set out in the Criminal Procedure Law. For example, the defendants' identification must be verified and they cannot have violated an Order of Protection. Criminal history may also affect the decision to serve a DAT.

Upon successful completion of DAT-Y program requirements, participants' cases are immediately sealed and dismissed. Prior to the pilot, young people arrested on DATs most often received an adjournment in contemplation of dismissal (ACD) at arraignment. Typically, there are no services and no program mandates for defendants granted an ACD; cases are dismissed and sealed if there is no further criminal justice involvement within a specific amount of time (typically six months or one year). With no specific conditions attached, an ACD introduces uncertainty and minimizes intervention from the courts—something the Brooklyn Task Force viewed as a missed opportunity to connect young people to services they may need. In contrast, the adolescent service interventions offered through DAT-Y include:

1. Individual case management session with a social worker;
2. Individual educational assessment session with a Department of Education representative;
3. Group session on the community impact of crime; and
4. Group session in a restorative justice arts program.

Brooklyn's DAT-Y program seeks to change the traditional interaction young people have with the criminal justice system by employing procedural justice elements such as regular status updates, including respectful and transparent communication with the judge, and immediate and certain sanctions in response to noncompliance. Key program goals include:

- Increased perceptions of procedural justice through positive engagement between participants and all court and criminal justice actors;
- Interventions which both address young defendants' needs and hold them accountable, while providing a proportional response to low-level offenses;
- More resources available to the young defendants, including educational counseling and restorative justice programming;
- A swifter justice system response for young people, with reduced time between arrest and arraignment;
- Diminished negative collateral consequences associated with a criminal record; and
- Reduced likelihood of future arrests.

It is these last three program goals in the above list that are the focus of the current evaluation. However, given the brevity of the DAT-Y intervention on a low-level misdemeanor population, substantial positive effects on re-arrest rates were not hypothesized to be a likely program effect.

## **Screening and Program Mandates**

The DAT-Y pilot evaluated in this report focuses on 16- and 17-years-olds arrested and given a desk appearance ticket in Brooklyn between April and August 2014. These DATs were arraigned on Mondays in a select one-month period (September 2014) in a specialized DAT court, overseen by a dedicated DAT judge (the Honorable George Grasso). The Department of Probation pre-screened all cases for eligibility one week prior to arraignment; if the individual had ongoing protective orders or other open cases, they were considered ineligible for DAT-Y; such cases continued to be processed according to standard practices. At this point, probation also assessed possible school issues—such as problems with attendance—and flagged participants for the DOE representative who would coordinate an educational assessment and programming. If eligible, defendants were then assigned to one of the four possible interventions deemed to be the most appropriate by probation (see Appendix A for the intake screening tool).

Each intervention included a brief workshop or session and took place on the same day as arraignment; group classes immediately followed court appearances and individual sessions were scheduled throughout the remainder of the day. A pizza lunch was provided and all participants received a list of available service providers. Contact with service providers was not part of the DAT-Y mandate, but participants were encouraged to engage with services voluntarily. Once the mandated program was completed, participants returned to court (typically on the Friday following their arraignment) for a graduation ceremony. Graduates received a certificate of completion and their case was then dismissed and sealed. However, participants were again encouraged to continue working with service providers on a voluntary basis post-dismissal.

The four service interventions available to DAT-Y participants were:

- **Brooklyn Justice Initiatives, Individual Case Management Session:** Participants met individually with onsite clinicians. Depending on the participant's needs, social workers provided crisis intervention and referrals to a number of community-based resources.

- **Brooklyn Justice Initiatives, Group Session:** One session (approximately three hours in duration) provided young people with a space to explore their impact on their community while simultaneously exploring the impact that their community has on them.
- **Department of Education, Individual Session:** Onsite DOE staff met with participants to conduct an in-depth educational assessment and work through attendance and school issues.
- **Young New Yorkers, Group Session:** Participants completed one session of a restorative justice arts program. The curriculum was tailored to develop the emotional and behavioral skills of participants while facilitating responsible and creative self-expression.

## DAT-Y Participant Profile

In total, 246 individuals were referred to be arraigned in the DAT-Y court during the pilot in September 2014; of these, 40 (16%) were subsequently arraigned elsewhere; 33 (13%) failed to appear for arraignment; and seven (3%) received dispositions other than the DAT-Y program. This means that 67% (166) of the referred defendants enrolled in the DAT-Y pilot program. Of the 166 program participants, two were not assigned a New York State identification number (NYSID),<sup>5</sup> which eliminates them from recidivism analyses. For the purposes of this study, the remaining 164 participants were included in the impact evaluation and will be reported on here.<sup>6</sup> (Figure 1.1) The majority of program participants were male (80%) and black (75%). There were slightly more 17- than 16-year-olds (55% v. 45%).

Cases from throughout Brooklyn were DAT-Y eligible. Figure 1.2 presents the full array of arrest charges leading to DAT-Y participation; criminal possession of marijuana, theft of services, petit larceny, and criminal trespass made up 86% of all DAT-Y arrests. As shown in Figure 1.3, just under one-third of participants (29%) had a prior arrest; the majority of these were misdemeanor-level arrests. Of those who had been arrested before, 58% had one prior

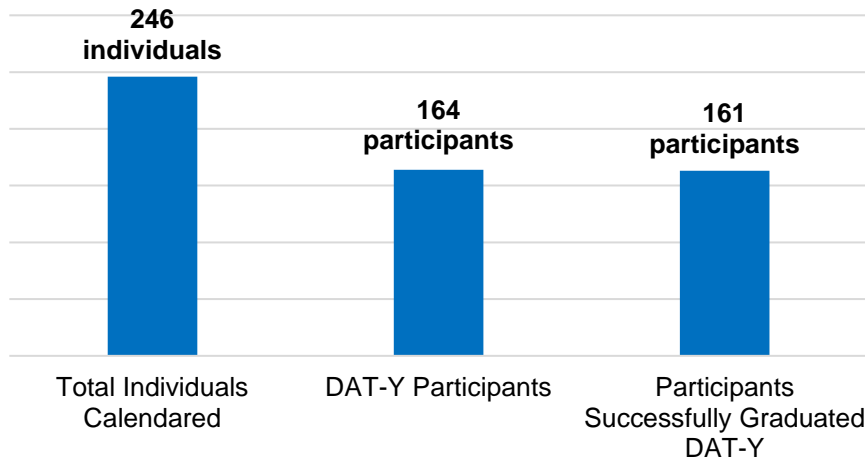
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<sup>5</sup> A unique state identifier assigned to individuals arrested and fingerprinted in New York by the NY Division of Criminal Justice Services. A NYSID is not assigned for very minor offenses in which the defendant is not subject to fingerprinting.

<sup>6</sup> These 164 DAT-Y participants had 176 cases between them—i.e., there was more than one arrest/docket for some program participants.

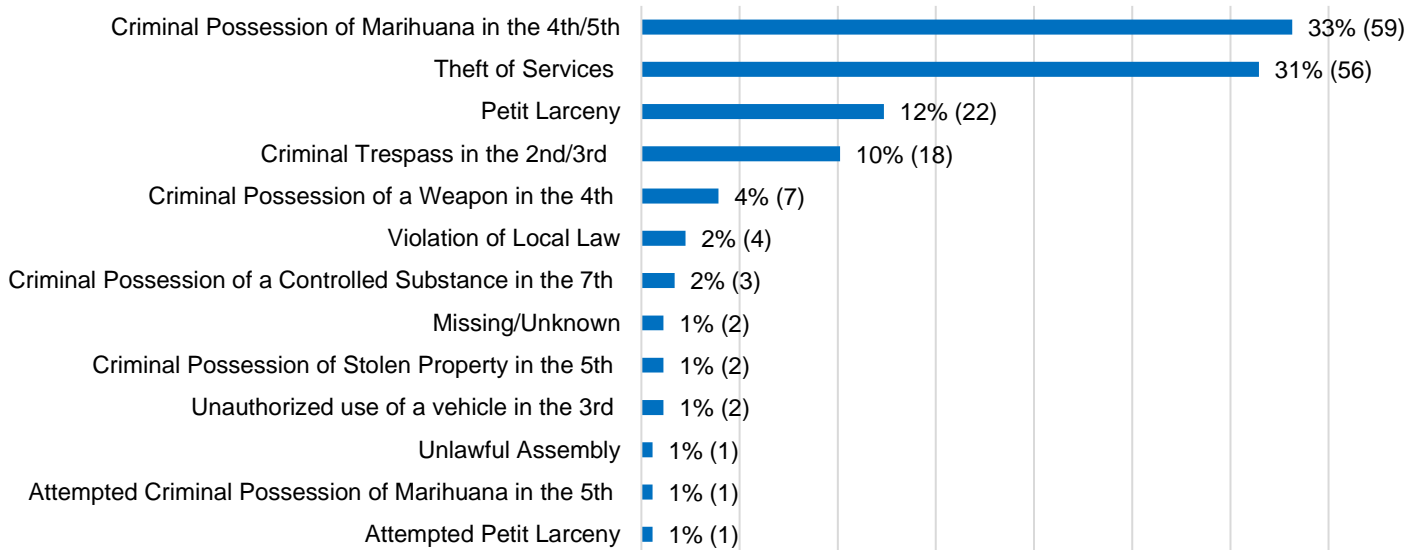
arrest, 25% had two priors, and 17% had three or more prior arrests. Therefore, although most participants (71%) were first-time offenders, this was not exclusionary criteria.

**Figure 1.1. Volume of DAT-Y Participants**

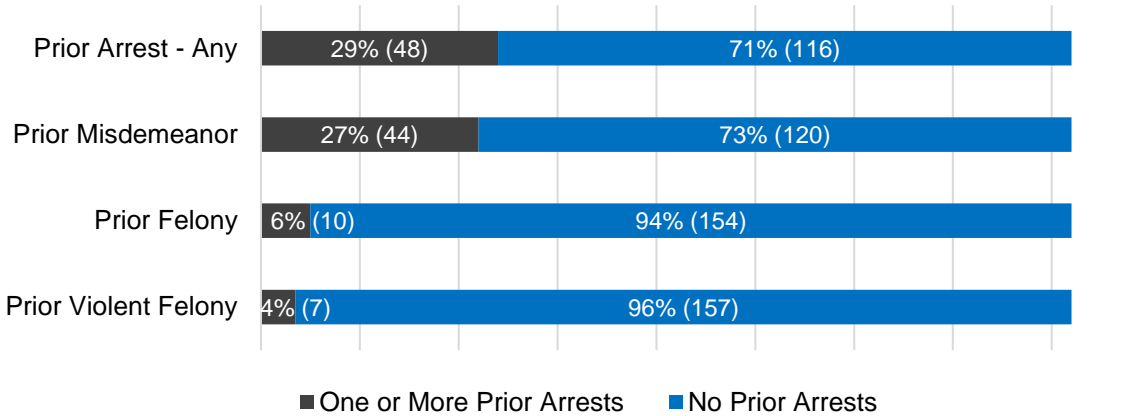


*Note:* Some participants had more than one case in DAT-Y. A total of 261 cases were referred to the DAT-Y Court. The 164 DAT-Y participants had a total of 176 cases (of which 173 were successfully completed).

**Figure 1.2. DAT-Y Arrest Charge**

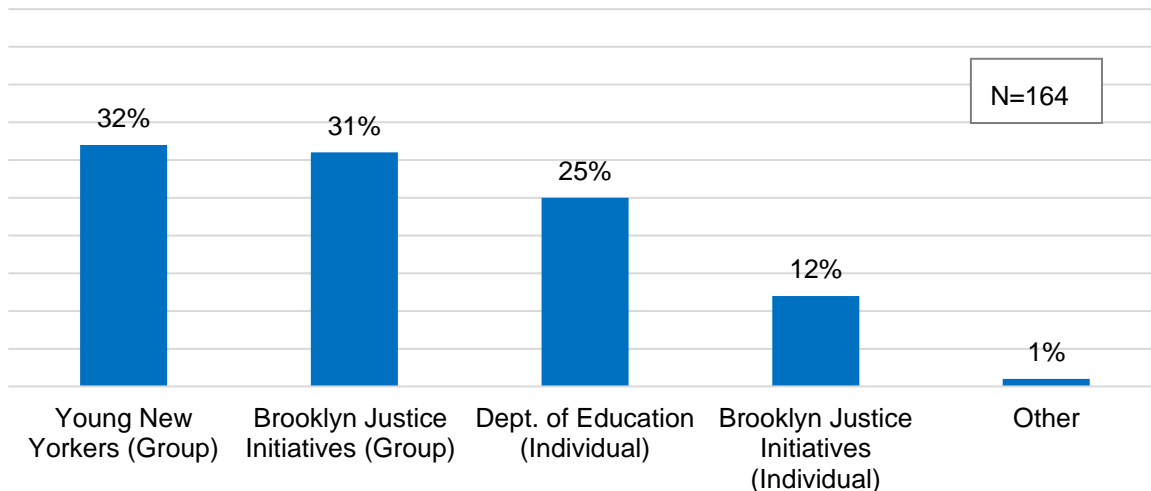


**Figure 1.3. Prior Arrests for DAT-Y Participants**



The majority of DAT-Y participants were assigned to the Young New Yorkers group arts program (32%), a group session at Brooklyn Justice Initiatives (31%), or an individual session with the Department of Education (25%; see Figure 1.4). Twelve percent of participants attended an individual case management session (with Brooklyn Justice Initiatives), and one individual completed a customized program through the Misdemeanor Brooklyn Treatment Court, which offers substance abuse treatment in the borough. Of the 164 individuals participating in the DAT-Y program, only three did not graduate, resulting in a program completion rate of over 98%.

**Figure 1.4. DAT-Y Participants by Program Type**



## Chapter 2

# Evaluation Methods

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This evaluation compares the re-arrest outcomes of DAT-Y pilot program participants to those of a matched comparison sample in order to determine program impacts. Specifically, the participant sample includes those 16- and 17-year-olds arrested in Kings County in July and August 2014, given a Desk Appearance Ticket, arraigned in September 2014, and subsequently entering the DAT-Y program. The final participant sample size is 164 (with 176 cases between them).

## Comparison Sample

Center for Court Innovation researchers obtained case-level data from the Office of Court Administration (OCA) for cases arraigned on DAT-eligible charges in Kings County between June 1, 2012 and September 30, 2014. Only cases where the defendant was 16 or 17 years of age were included in the initial sample. This dataset allowed researchers to draw a matched comparison sample from a large initial pool of over 1,200 cases. Cases excluded prior to matching included those missing key identifiers needed for tracking re-arrest and/or determining DAT-Y eligibility (i.e., NYSID, date of birth, arrest charge) as well as those that would be ineligible for the program based on the following:

- Felony arrest charge;
- Arraigned in a non-DAT court;
- No disposition at arraignment; or
- Defendant had open warrants.

In addition, defendants arrested during the summer of 2013—when the previous pilot was in operation (phase II)—were excluded from the comparison pool (as the pilot might impact outcomes); all comparison individuals were arrested and arraigned before summer 2014.

Arraignment charges for each case were collapsed into six charge types (trespass, petit larceny, theft, marijuana, weapon, other); charge severity (A or B misdemeanor,



violation/other) was coded separately. The charge type “other” includes vehicle and transit charges, disorderly conduct, and (non-marijuana) drug charges. Comparison cases with arraignment charges that never appeared in the DAT-Y participant population (mainly assault) were removed from the potential comparison pool.

As shown in Table 2.1, the DAT-Y participants and the potential comparison pool appear very similar in terms of demographic characteristics, with no statistically significant differences between the groups. However, the samples do differ in terms of criminal history and current charges; the DAT-Y participants were arrested on more serious charges (A v. B misdemeanors), and were slightly less likely to be arrested for a marijuana charge ( $p < .10$ ) than those in the comparison pool. Participants also have a more extensive criminal history than those in the comparison group. Participants were more likely to ever have been arrested for a misdemeanor ( $p < .01$ ); they also had *more* such previous arrests ( $p < .05$ ). These findings support the need for a matching methodology in order to create an appropriate comparison sample.

### **Adjustment for Selection Bias**

We examined the p-values for all bivariate comparisons. In order to generate propensity scores for all cases, we entered all characteristics in a backward stepwise logistic regression model, for which the dependent variable was sample membership (0 = comparison, 1 = DAT-Y participant). The final model consisted of independent variables with evidence of a possible difference between the two samples, based on the bivariate comparisons. For this purpose, we applied the following criteria: If there was a bivariate difference at a significance level of .50 or lower, the variable was included. The backward stepwise procedure deleted those variables whose p-value was greater than .50 when included in a regression framework. Such liberal variable inclusion criteria maximize the balancing effect of the resulting propensity scores (see Rosenbaum 2002; Rubin and Thomas 1996).

We then employed a one-to-one matching strategy, in which each DAT-Y participant’s propensity score was compared to the pool of potential comparisons, and the comparison case with the closest score (of those not already selected) became the match. The result was one matched comparison case for each of the 164 DAT-Y sample cases (total N = 328).

The analysis of baseline characteristics was repeated and we confirmed that the initial significant differences were eliminated (see the adjusted samples in Table 2.1).

**Table 2.1. Baseline Characteristics Before and After Propensity Matching**

Sample Characteristics	Unadjusted Samples		Adjusted Samples	
	DAT-Y Participants	Comparison Group	DAT-Y Participants	Comparison Group
N	164	1,219	164	164
<b>Age at Arrest</b>				
16	45%	51%	45%	47%
17	55%	49%	55%	53%
<b>Gender</b>				
Male	80%	79%	80%	77%
<b>Race<sup>1</sup></b>				
White	25%	29%	25%	24%
Black	75%	71%	75%	76%
<b>Ethnicity<sup>2</sup></b>				
Hispanic	17%	24%	17%	18%
<b>Current Arraignment Charge Severity</b>				
Violation/Other	4%	2%	4%	6%
B Misdemeanor	37%**	49%	37%	37%
A Misdemeanor	59%*	49%	59%	58%
<b>Current Arraignment Charge Code Type<sup>3</sup></b>				
Penal Law	96%*	99%	96%	95%
<b>Current Case Arraignment Charge Category</b>				
Trespass	10%	10%	10%	9%
Petit Larceny	13%	10%	13%	16%
Theft	32%	32%	32%	32%
Marijuana	35%+	43%	35%	34%
Weapon	4%	3%	4%	4%
Other <sup>4</sup>	6%**	2%	6%	5%

\*p<.10 †p<.05 \*\*p<.01 \*\*\*p<.001

<sup>1</sup> 3% missing race data for DAT-Y; 5% for unmatched comparison group; 2% for matched comparison group.

<sup>2</sup> 1% missing ethnicity data for DAT-Y; 1% for unmatched comparison group; 1% for matched comparison group.

<sup>3</sup> Non Penal Law charge types: NYC Administrative Code, MTA Rules and Regulations, and Vehicle and Traffic Law.

<sup>4</sup> Other includes vehicle, transit, disorderly conduct, and drug charges.

**Table 2.1. Baseline Characteristics Before and After Propensity Matching- Cont.**

Sample Characteristics	Unadjusted Samples		Adjusted Samples	
	DAT-Y Participants	Comparison Group	DAT-Y Participants	Comparison Group
N	164	1,219	164	164
Prior Criminal History				
Any Prior Arrest	29%*	22%	29%	26%
Average # Prior Arrests	0.48+	0.35	0.48	0.36
Any Prior Misdemeanor Arrest	27%**	18%	27%	24%
Average #, Misdemeanor Arrests	0.40*	0.28	0.40	0.32
Any Prior Felony Arrest	6%	7%	6%	4%
Average #, Felony Arrests	0.07	0.07	0.07	0.04
Any Prior Violent Felony Arrest	4%	6%	4%	2%
Average #, Violent Felony Arrests	0.04	0.06	0.04	0.02

\*p<.10 †p<.05 \*\*p<.01 \*\*\*p<.001

## Analysis Plan

Researchers examined the following outcomes to determine program impacts:

- Final case disposition;
- Case processing time (days from arrest to arraignment);
- Any re-arrest (at six months and one-year post-arraignment);
- Type of re-arrest (misdemeanor, felony, violent felony).

Separate sub-analyses by DAT-Y intervention type (i.e., BJI group session, DOE, YNY group session) were conducted where sample size allowed (i.e., N > 40). These sub-analyses included only DAT-Y cases participating in these specific mandates and their matched comparison cases. Finally, a survival analysis allowed researchers to identify any differences in time to re-arrest between the DAT-Y group and the matched comparison sample.

## Chapter 3

# Findings

### Case Outcomes

Nearly all DAT-Y participants had their cases dismissed (98%), with only three not successfully graduating; less than one percent pled guilty. In contrast, cases in the comparison group were significantly more likely to receive an adjournment in contemplation of dismissal (ACD, 92%), and nine percent took a guilty plea. DAT-Y participants were arraigned more quickly than the comparison group. In absolute terms, the difference was small (47 days compared to 52 days), but statistically significant (Table 3.1).

**Table 3.1. Program Effects on Case Processing**

Outcome Variables	N	DAT-Y Participants 164	Comparison Group 164
<b>Dispositions</b>			
Not Disposed		1%	0%
Pled Guilty <sup>1</sup>		1%**	9%
Dismissed		98%***	0%
ACD		1%***	92%
<b>Case Processing Times</b>			
Average Time from Arrest to Arraignment (days)		47*	52

+p<.10 \*p<.05 \*\*p<.01 \*\*\*p<.001

<sup>1</sup> One DAT-Y participant pled guilty to an A Misdemeanor charge; a total of 14 comparison cases pled guilty to a violation.

### Re-Arrest

Table 3.2 presents results of the recidivism analyses at both six months and one year post-arraignment. (As a reminder, programming is generally completed on the same day as arraignment, so post-arraignment time represents nearly exclusively post-program time.) There were no statistical differences in re-arrest between the two groups at either time period. The relatively small number of individuals in *either* group re-arrested for a violent felony offense indicates that defendants who receive DATs are rarely involved in future violence (regardless of what intervention they receive).

**Table 3.2. Program Effects on Re-Arrest**

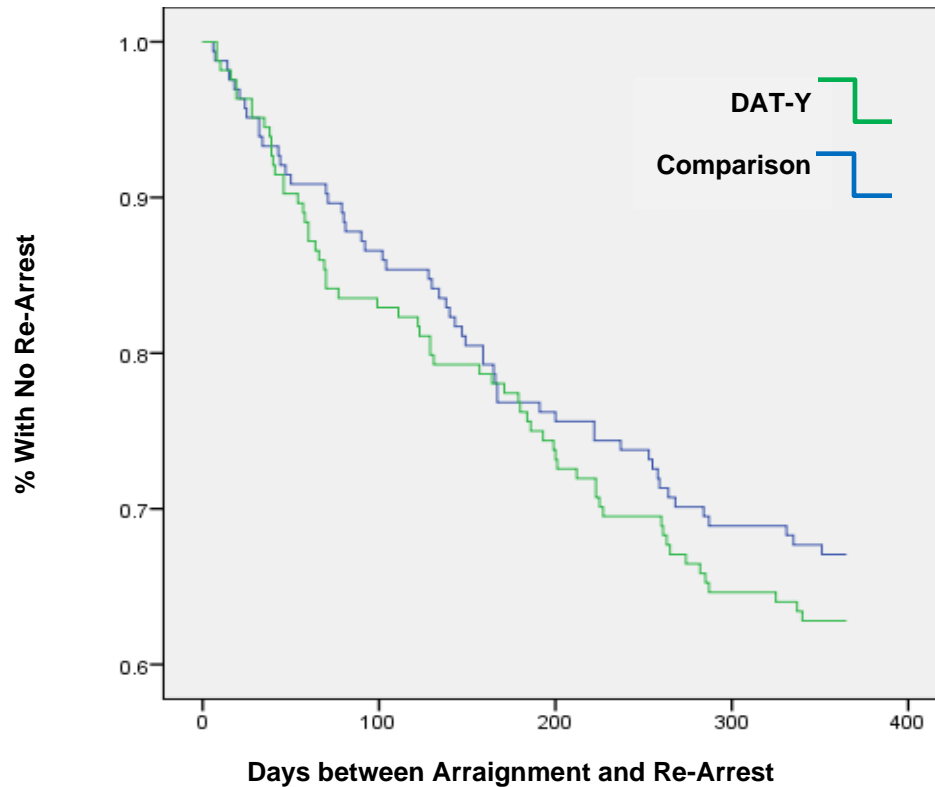
Re-Arrest Variable	DAT-Y Participants	Matched Comparison Group
N	164	164
<b>Six Months after Initial Arraignment</b>		
Any Re-Arrest	23%	22%
Mean # Re-Arrests	0.24	0.24
Any Misdemeanor Re-Arrest	20%	18%
Any Felony Re-Arrest	6%	6%
Any Violent Felony Re-Arrest	3%	3%
<b>One Year after Initial Arraignment</b>		
Any Re-Arrest	37%	33%
Mean # Re-Arrests	0.76	0.51
Any Misdemeanor Re-Arrest	29%	28%
Any Felony Re-Arrest	13%	9%
Any Violent Felony Re-Arrest	10%+	5%

+p<.10 \*p<.05 \*\*p<.01 \*\*\*p<.001

### **Time to Re-Arrest**

A survival analysis compared the length of time (in days) between arraignment and the event of a re-arrest over a one-year period. The survival periods (i.e., time with no re-arrest) of the two groups were not significantly different. The Kaplan-Meier curves, illustrating the comparison time between the two groups, are presented in Figure 3.1.

**Figure 3.1. Survival of DAT-Y Participants versus Comparison Group, Re-Arrest at One Year Post-Arraignment**



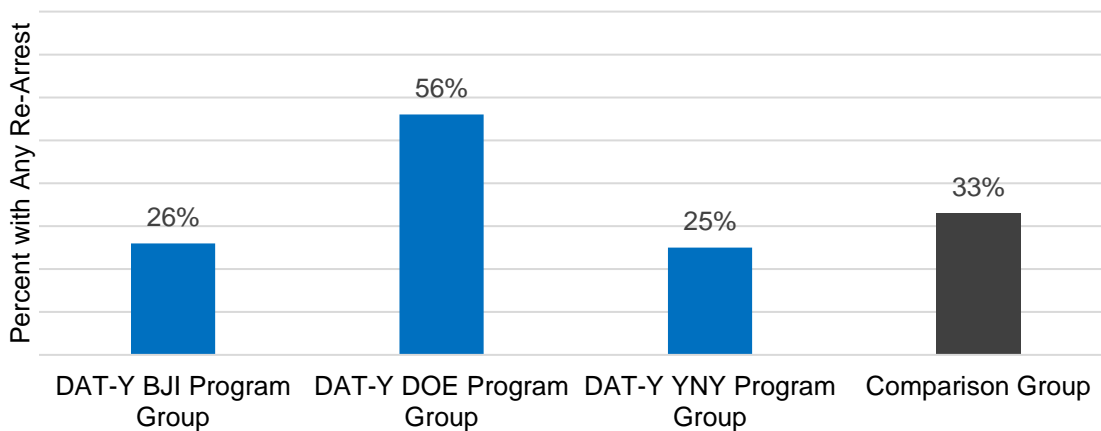
For those defendants who experienced re-arrest in the one-year post-arraignment period, we also compared the average number of days to re-arrest. Again, using this measure, the difference between the groups was not statistically significant.

## Participant Subgroups

Finally, we explored differences between the specific interventions by comparing subgroups of DAT-Y participants. Subgroup re-arrest analyses were limited to the three intervention groups with 40 or more participants. The results presented in Figure 3.2 should be interpreted with caution, as the sub-sample sizes are small.

While the re-arrest rates for DAT-Y BJI group and YNY group participants were slightly lower (26% and 25% respectively) than the overall comparison group, the *higher* re-arrest rate for DAT-Y DOE participants (56%) may reveal something instructive. Given the intensive assessment carried out for young individuals with noted educational issues, this intervention may have targeted the higher-risk individuals with more complex needs. For example, certain factors related to school attendance and/or performance may also be related to increased risk of re-arrests. Such higher risk may also explain the higher rate of felony re-arrest in this group: 20% of youth in the DOE participant group had a new felony arrest, while rates among the other intervention groups and the comparison group ranged from 9% to 12%. If this hypothesis holds, future DAT-Y programs may want to adopt a formal risk-need screen for all participants; this would allow for those individuals deemed to have deeper or more complex criminogenic needs to receive counselling, educational assistance or additional connections to voluntary services as appropriate.

**Figure 3.2. Program Sub-Group Effects on Any Re-Arrest (One Year Post-Arraignment)**



## Discussion

Collaboration was highlighted as a key element throughout Brooklyn’s DAT-Y pilot program. All justice system actors involved (judge, district attorney’s office, defense bar, probation) supported the program goals. The effective communication and collaboration observed between Task Force members, service providers (Department of Education, Young New Yorkers, and Brooklyn Justice Initiatives) and the judge were crucial components in the program’s operation.

The DAT-Y program aims to provide a swift justice system response and reduce the collateral consequences of criminal justice involvement for young people. This study has provided some evidence to support these aims. First, findings show decreased average time from arrest to arraignment; this may be particularly important given a recent expansion in the proportion of DAT cases with arrest-to-arraignment times longer than two months in New York City, combined with evidence of an association between failure to appear in court and longer arrest-to-arraignment times (Phillips 2015). Second, DAT-Y participants received more favorable dispositions in the form of an immediate dismissal. Although the majority of the comparison cases received adjournments in contemplation of dismissal (ACD), these young people only arrive at the possibility of dismissal after six months of compliance. Further, an ACD disposition exposes individuals to a further escalation of criminal sanctions should new low-level cases arise. Finally, DAT-Y participants had a lower rate of guilty pleas (< 1% v. 9%).

In summary, these outcomes indicate progress toward the program's intended goals: to create a more proportionate response for justice-involved young people who commit non-violent offenses; to promote the principles of procedural justice in the courtroom; to avoid the collateral consequences of traditional case processing that come from the common six-month ACD; and to create an opportunity to provide voluntary linkages and services to support participants with criminogenic needs—all while not compromising public safety.

Despite evidence that DAT-Y participants are, indeed, benefiting from improved case processing and favorable case outcomes, there is, at this point, limited support for reduced *future* criminal justice involvement. However, given the brevity of the intervention on this low-level misdemeanor DAT participant population, substantial positive effects on re-arrest rates were not hypothesized to be a likely program effect. While criminal justice programs are generally asked to report impacts on recidivism, this limited outcome measure arguably reflects a study limitation. Other appropriate outcome measures, given the goals of DAT-Y, would include future educational and employment attainment, housing, and longer-term justice system involvement. Still, the findings from this study show the DAT-Y participants and those in the comparison group were re-arrested at the same rate within six months of their arraignment; it is important to note that this timespan is the typical length of an ACD. Therefore, the use of an extremely brief diversion intervention as an alternative to conventional prosecution did not jeopardize public safety. Finally, the higher re-arrest rates among DOE intervention participants in this study, suggests that specifically assessing school attendance records during screening may help programs to identify higher-risk



subpopulations. With the right resources, efforts can then focus on those young people, whose educational needs might be mitigated through targeted interventions relating to their experience at school.

## **DAT-Y Expansion and Future Research**

The DAT-Y program was expanded to the Bronx in October 2015. Similar to the Brooklyn pilot, a special court part hears the DAT-eligible cases of 16- and 17-year-olds, who are then adjourned to same-day DAT-Y programming operated by Bronx Community Solutions. Participants take part in a three-hour session, with components geared towards understanding their communities and motivating them to make positive decisions. Later on the same day, participants return before the judge to have their cases sealed and dismissed, on the condition that they have completed their programming. The more time-compact model promotes an even swifter and proportional justice system response for participants. Furthermore, utilizing Bronx Community Solutions as the sole service provider for the DAT-Y intervention, allows for the opportunity in the future to tailor that intervention based on an informative risk-need screen (as discussed on p. 16)<sup>7</sup>. So far, 896 cases have gone through the Bronx DAT-Y program, with a successful completion rate of 99%.<sup>8</sup>

The Bronx DAT-Y program has placed a renewed focus on procedural justice while encouraging voluntary engagement with appropriate services beyond the participant's current court case. These program goals – boosting positive perceptions of procedural fairness between the participant, judge, prosecutors and program facilitators/counselors, and reducing participants' criminogenic needs – are worthy outcomes that reach beyond a simple impact analysis on re-arrest rates. Bronx Community Solutions connects all DAT-Y participants to referral information for services like employment assistance.

Future research should include a rigorous evaluation study on this new DAT-Y population, utilizing both court data (for case outcome and re-arrest measures) and sociodemographic data collected during intake. Educational, family, and employment data, along with information on engagement in voluntary services, would provide a richer understanding of the DAT-Y population and enable more accurate matching to an appropriate comparison

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<sup>7</sup> For example, those who would have been deemed most appropriate for an educational assessment and DOE intervention in the Brooklyn model, may be at higher risk of reoffending and would therefore benefit from more in-depth service linkages or voluntary case management.

<sup>8</sup> As at December 31 2017.

group. Researchers should also assess knowledge gained from the three-hour group session and explore whether a swifter, same-day resolution for case dismissal has a positive effect on DAT-Y participants. Future research could improve upon the limitations posed by official records re-arrest as the primary outcome measure by following up with select DAT-Y participants and comparison defendants in order to measure impact on alternative outcomes—for instance, school attendance and performance, employment, housing. Finally, a DAT-Y participant survey could assess perceptions of procedural justice based on experiences in the court and during the group session intervention.

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# Appendix A. Brooklyn DAT-Y Intake Form

## Participant Information: To be filled out by Attorney.

Name: _____		DOB: _____	Gender: M <input type="radio"/> F <input type="radio"/>
Address: _____			
Phone: _____			
Emergency Contact: _____		Phone: _____	
<input type="checkbox"/> <b>CLIENT ADVISED THAT CONTACT INFO WILL BE PROVIDED TO PROBATION, COURT, AND PROGRAM</b>			
Docket No: _____		Arrest Date: _____	
Intake Date: _____		Top Charge: _____	

## Program Information: To be filled out by DOP.

Program Information	
<input type="radio"/> Young New Yorkers	<input type="radio"/> Educational Diagnostic
<input type="radio"/> BJI Group	<input type="radio"/> Individual Session with BJI
Scheduled Program Date _____	Actual Program Date _____
Compliance Date: _____	Dispo: _____

NYSID: \_\_\_\_\_

**Screening Information: To be filled out by DOP.**

**Education**

Name of Current School: \_\_\_\_\_ Grade: \_\_\_\_\_

Are you attending school and on track to graduate?  Yes  No

\_\_\_\_\_

Are there any issues in school that you need help with?  Yes  No

\_\_\_\_\_

**Employment**

Are you currently employed?  Yes  No

If Yes, where?

\_\_\_\_\_

what are your hours?

\_\_\_\_\_

If No, are you interested in speaking to someone about employment opportunities?

Yes  No

\_\_\_\_\_

