

# Jail in New York City: Evidence-Based Opportunities for Reform

To identify ways to safely reduce the use of jail, the New York City Mayor's Office of Criminal Justice commissioned research on the path of criminal cases from arrest to bail decisions to sentencing. The research also examined how much taxpayers spend on incarceration. With funding from the Annie E. Casey Foundation, the research was performed by the Center for Court Innovation in collaboration with the Vera Institute of Justice.

## Pre-Arrest Decision-Making

### *Use of Desk Appearance Tickets:*

Law enforcement has discretion on whether to take a defendant into custody or to issue a Desk Appearance Ticket, which assigns a date to appear in court. The study found that law enforcement is appropriately giving tickets to low-risk defendants and that only one percent of defendants issued a Desk Appearance Ticket in 2013 posed a "high risk" of re-arrest. Pointing, however, to racial and ethnic disproportionalities, black defendants were seven and Hispanics six percentage points less likely than similarly situated whites to receive a Desk Appearance Ticket in lieu of arrest.

### *Long Waits for Arraignment:*

Arraignment dates on tickets were scheduled an average of two months (61 days) after an arrest citywide, and more than three months (96 days) later in the Bronx. The failure-to-appear rates of 22 percent city-wide and 29 percent in the Bronx partly reflect the long period from arrest to arraignment, leading many defendants to forget their court date.

### *Expanded Opportunities for Early Diversion:*

When looking at nonviolent misdemeanor defendants ages 16 to 24, four in five received either a straight dismissal or adjournment in

contemplation of dismissal. These dismissals often took place after an overnight stay in a holding cell and multiple court appearances. These cases are logical candidates for early diversion before the court process begins.

## Bail Decisions at Arraignment

### *Bail-Setting:*

Among misdemeanor cases not resolved at arraignment, 21 percent had to make bail, a figure that rose to 54 percent among felonies. There was little evidence of racial or ethnic disproportionalities in bail-setting.

### *Bail-Making:*

Among all defendants ordered to make bail, only 11 percent could do so in time to avoid a jail-stay. An additional 43 percent were able to make bail subsequently, suggesting the current bail-payment process at arraignment could be improved to allow more defendants to avoid stays in jail while awaiting an outcome of their case.

### *Bail and Risk to Public Safety:*

Almost two-thirds of misdemeanor defendants detained at arraignment posed only a minimal-to-moderate risk of re-offense; and among detained felony defendants, 59 percent posed a minimal-to-moderate risk. When isolating

risk of future violence—technically defined as the risk of committing a violent felony—76 percent of misdemeanor and 52 percent of felony defendants subject to pretrial detention posed only a “minimal” or “low” risk. This suggests that many defendants detained pretrial do not pose a significant risk to the public.

### **Disposition and Sentencing Decisions**

#### *Manhattan:*

Cases sentenced in Manhattan’s courts accounted for 40 percent of the city’s jail sentences in misdemeanor cases, 40 percent of the city’s state prison sentences in felony cases, and 34 percent of the city’s jail sentences in felony cases, and yet Manhattan accounts for only 29 percent of the city’s overall defendant population.

#### *Jail in Misdemeanor Cases:*

Sixteen percent of misdemeanor cases that ended in a conviction received a jail sentence. Those sentences were overwhelmingly brief, with more than four in five running for 30 days or less—of minimal value in terms of incapacitation, deterrence, or rehabilitation.

#### *Effect of Jail on Future Criminal Behavior:*

Jail sentences increased the risk of future criminal behavior. Net of other factors, jail resulted in a seven percentage point increase in the two-year re-arrest rate among similarly situated defendants. Based on prior research, this likely reflects a combination of factors, including exposure to others with a history of criminal behavior, the potentially dehumanizing and stigmatizing effects of incarceration itself, and adverse effects on employment, income, and other social ties.

### **Cost of Incarceration in New York City**

#### *Jail Expenditures:*

Using 2013 as the index year, New York City spends almost \$1.4 billion annually for jail expenses related to one year of arrests. Of that total, 69 percent of the jail expenses pay for the incarceration of individuals who are held in jail pretrial and have not been convicted of a crime.

#### *Prison Expenditures:*

Prison sentences originating from 2013 arrests in New York City imposed a total cost to the state of \$1.9 billion.

### **For More Information**

The full report is available for download at: [http://www.courtinnovation.org/Jail\\_Report](http://www.courtinnovation.org/Jail_Report)