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RESEARCH

# Youth Court as Diversion

Outcomes for Shoplifting Cases at the Staten Island  
Youth Court

BY WARREN A. REICH

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## **Contents**

Acknowledgements	i
Executive Summary	iii
1. Introduction	1
2. Sample and Methods	3
3. Study Findings	5
4. Discussion and Conclusions	9
References	10

## EXECUTIVE SUMMARY

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Youth courts, also called teen courts, peer juries, or student courts, have proliferated in the United States since the 1990s. According to a current estimate, there are more than 1,000 youth courts in the U.S. that serve more than 100,000 young people each year (National Association of Youth Courts, 2013; Pearson, 2003). Youth courts represent an alternative approach for those who have committed either a minor offense or a school disciplinary infraction. These courts generally do not determine guilt or innocence but hold a “hearing” to clarify what happened and why and to determine an appropriate response, which may include sanctions such as community service, letters of apology, or other learning opportunities.

The present study examines the Staten Island Youth Court, which was instituted in February 2009 as a project of the Center for Court Innovation. The Staten Island Youth Court is part of a larger, statewide effort to improve the judicial response to 16- and 17-year-old criminal defendants. Recognizing that the adult criminal justice system is not well-equipped to address the needs of young offenders, New York State Chief Judge Jonathan Lippman has sought to encourage courts to develop age-appropriate services for this population and to create meaningful alternatives so that 16- and 17-year-olds facing nonviolent charges have the opportunity to avoid criminal convictions (Rempel, Lambson, Cadoret, & Franklin, 2013).

The Staten Island Youth Court is one such alternative. It began hearing criminal cases of 16- and 17-year-olds in June 2009. Judges in the Staten Island Criminal Court can refer 16- or 17-year-old defendants who face charges for low-level, nonviolent misdemeanor crimes through the interim disposition of Adjudgment in Contemplation of Dismissal (ACD). In New York State, misdemeanor cases that receive an ACD disposition are usually automatically dismissed six months later if the defendant successfully completes the sanctions. An ACD disposition might involve having the young person attend a hearing at the Staten Island Youth Court and face the sanctions imposed by a peer jury.

The present study focuses on whether the Staten Island Youth Court serves as an effective diversionary option that reduces the prevalence of guilty findings and permanent criminal convictions that create adverse collateral consequences well into adulthood. Demonstrating that the Staten Island Youth Court leads to a less punitive approach to young offenders would provide empirical support for the broader reform proposed by Chief Judge Lippman. Specifically, the analysis tracks the initial dispositions and final case outcomes of criminal cases in which a 16- or 17-year-old was arraigned in the Staten Island Criminal Court on a shoplifting charge—the most common offense that is heard by the Staten Island Youth Court. The research questions are:

1. Did the use of the ACD disposition in lieu of a conviction or guilty finding increase after the Staten Island Youth Court began hearing criminal cases?
2. Were ACD cases, regardless of whether they were referred to the Staten Island Youth Court, ultimately more likely to be dismissed after the Staten Island Youth Court began hearing criminal cases?

3. Did the trend in the number of ACD cases that were ultimately dismissed correspond with the trend in criminal convictions that might create adverse collateral consequences?

De-identified case-level data were obtained for 978 16- and 17-year-olds arraigned for shoplifting in Staten Island between January 1, 2005 and December 31, 2011. The data for this analysis were obtained after June 30, 2012, so that it was possible to determine whether the most recently arraigned case had completed the six-month term required to dismiss an ACD.

Results indicate the following:

- Did ACDs increase after the Staten Island Youth Court began hearing criminal cases? There was a more than tenfold increase in shoplifting cases disposed with an ACD from the pre- to post-June 2009 time period.
- Were ACD cases eventually dismissed? Nearly all ACD cases were dismissed after six months *both* before and after the Staten Island Youth Court began hearing criminal cases.
- Did the trend in the use of ACDs correspond with the trend in criminal convictions? An increase in the rate of dismissals for 16- and 17-year-old defendants was found after the time the Staten Island Youth Court began hearing criminal cases. The Staten Island Criminal Court's increasing use of the ACD option was accompanied by a decline in sealed Youthful Offender (YO) findings and sealed non-criminal convictions. (A YO finding allows many 16- and 17-year-old defendants to have their cases sealed, and thus to avoid a criminal record, despite pleading guilty. A youth can only receive one YO finding; thus having this finding on record places a teen at greater risk of having a permanent criminal conviction should he or she plead guilty in a future case.) However, no evidence was found that ACDs diminished the rate of unsealed criminal convictions that create a permanent criminal record for the youth.

In sum, although causality cannot be established with certainty, the advent of the Staten Island Youth Court as a diversion option for shoplifting cases appeared to correspond with an increased use of ACDs and decreased use of YO findings and non-criminal convictions. There was no evidence of a trend toward fewer unsealed convictions. However, because YO findings declined, more youths retained the opportunity to be granted YO status in the future should they plead guilty to another crime when they are still 16 or 17 years old. Taken together, these trends suggest that the Staten Island Criminal Court's increasing inclination to use the ACD option, and its concomitant near-perfect success in leading to case dismissal, was responsible for the decline in YO findings and non-criminal convictions.

# 1. Introduction

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According to a current estimate there are more than 1,000 youth courts in the U.S. that serve more than 100,000 young people each year (National Association of Youth Courts, 2013; Pearson, 2003). These courts represent a diversion alternative for youths who have committed either a minor offense or a school disciplinary infraction. Youth courts, which generally do not determine guilt or innocence, use the hearing process to clarify what happened and why and to help respondents understand the impact of their actions on themselves and others. The courts then decide on an appropriate response, which may include sanctions such as community service, letters of apology, or learning opportunities.

The goal of youth court is to use positive peer pressure to ensure that young people who have committed minor offenses or school-based infractions have an opportunity to restore any harm to the community and receive guidance on making better decisions going forward (Butts, Buck, & Coggeshall, 2002; Fishman, 2011; Pearson & Jurich, 2005). For youth court members (those who receive training to serve as judge, jury, and advocates), youth courts teach transferrable skills such as active listening, critical thinking and public speaking and promote civic engagement.

Recent studies show that as many as 95% of participants successfully comply with youth court-imposed sanctions, which may have the effect of reducing the caseload burden on traditional courts if the youth court operates as a diversion from conventional case processing (Butts & Buck, 2000; Center for Court Innovation, 2010). Participants generally report satisfaction with the process, believe the youth court treated them fairly and with dignity, and feel that the court showed care for their concerns (Butts et al., 2002; Harrison, Maupin, & Mays, 2001; Pearson & Jurich, 2005; Tyler, 2001). Youth courts have not, however, reliably been shown to reduce recidivism (Schwalbe et al., 2012; Stickle et al., 2008).

## ***The Staten Island Youth Court***

Recognizing that the adult criminal justice system is not well-equipped to address the needs of young offenders, Chief Judge Jonathan Lippman initiated the Adolescent Diversion Program across New York State to improve the judicial response to cases involving 16- and 17-year-old defendants (Rempel, Lambson, Cadoret, & Franklin, 2013). Part of this effort involved creating new alternative court dispositions to reduce the chances that defendants would leave court with a criminal record.

In line with this effort, the Staten Island Youth Court began hearing criminal cases of 16- and 17-year-olds in June 2009 referred by judges, police, and probation officers. A judge in the Staten Island (Richmond County) Criminal Court can refer to the Staten Island Youth Court a 16- or 17-year-old defendant who has been charged with a nonviolent misdemeanor crime. The mechanism for doing so is the interim disposition of “Adjournment in Contemplation of Dismissal” (ACD). In New York State, misdemeanor cases that receive an ACD disposition will automatically be dismissed six months later unless the prosecutor takes proactive steps to reopen the case due to alleged noncompliance with court-imposed conditions—a step that is rare in practice. If the young person agrees to attend a hearing at the Staten Island Youth Court, he or she then faces the

sanctions imposed by a peer jury. Successfully completing these sanctions and maintaining a clean record for six months assures a dismissal of the charges in criminal court. Should these conditions not be met, the case may be reopened.

## 2. Sample and Methods

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The present study focuses on whether the Staten Island Youth Court serves as an effective diversionary option that reduces the prevalence of guilty findings and permanent criminal convictions that create adverse collateral consequences. Specifically, this analysis tracked the initial dispositions and final outcomes of cases in which a 16- or 17-year-old was arraigned in the Staten Island Criminal Court on a shoplifting charge—the most common offense that is heard by the Staten Island Youth Court and among the most common offenses heard by youth courts nationwide (Butts et al., 2002; Harrison et al., 2001; National Association of Youth Courts, 2013). The present analysis explores three research questions:

1. Did the use of the ACD disposition in lieu of a conviction or guilty finding increase after the Staten Island Youth Court began hearing criminal cases?
2. Were ACD cases, regardless of whether they were referred to the Staten Island Youth Court, ultimately more likely to be dismissed after the Staten Island Youth Court began hearing criminal cases?
3. Did the trend in the number of ACD cases that were ultimately dismissed correspond with the trend in criminal convictions that might create adverse collateral consequences?

Affirmative answers to these questions would offer preliminary evidence that the Staten Island Youth Court has been effective as a diversion from conventional case processing by changing case outcomes for 16- and 17-year-old defendants in Staten Island. Such a demonstration would provide empirical support for the broader reform proposed by Chief Judge Lippman seeking to improve the judicial response to 16- and 17-year-old defendants.

### *Creating time-lag data*

De-identified case-level data were obtained from the New York State Unified Court System for 978 16- and 17-year-olds arraigned for shoplifting on Staten Island between January 1, 2005 and December 31, 2011. Some of these cases were arraigned on only a shoplifting charge while others were arraigned on multiple charges including shoplifting. Sixty-four cases (6.5%) were excluded from the analysis due to missing data. The data for this analysis were obtained after June 30, 2012, so that it was possible to determine whether the most recently arraigned case had completed the six-month term required to dismiss an ACD.

Cases were grouped in three-month intervals before and after June 16, 2009, the date the Staten Island Youth Court began hearing criminal court cases. There were, on average, 32.5 shoplifting cases per interval, ranging from 18 to 50 with no discernible trend over the study period. The average number of shoplifting cases per quarter changed only slightly from 30.7 to 35.7 pre- to post-June 2009. Thus there was no clear evidence of “net-widening” wherein the availability of the new diversion opportunity increased caseload by encouraging a greater number of arrests and prosecutions of low-level infractions (Prichard, 2010; Rasmussen, 2004).

### *Case dispositions*

Initial case dispositions were identified as pled guilty/conviction, dismissed, or ACD. Final case dispositions were coded as dismissed, criminal conviction, non-criminal conviction with a

Youthful Offender (YO) finding, or non-criminal conviction without a YO finding. Only one of these categories, criminal conviction, creates a permanent criminal record. A YO finding allows many 16- and 17-year-old defendants to have their cases sealed, and thus to avoid a criminal record, despite pleading guilty. (A conviction can also be sealed for a non-criminal violation-level offense.) However, a youth can only receive one YO finding; thus having this finding on record places a teen at greater risk of having a permanent criminal conviction should he or she plead guilty in a future case.

### 3. Study Findings

***Did the use of the ACD disposition in lieu of a conviction or guilty finding increase after the Staten Island Youth Court began hearing criminal cases?***

The difference over time in the use of ACDs was substantial: more than a tenfold increase in shoplifting cases disposed with an ACD was observed from the 57 months before to the 27 months after June 2009 (see Table 1).

Figure 1 documents an upward trend in ACDs that began approximately nine months prior to the date at which Staten Island Youth Court began hearing criminal cases. The Staten Island Youth Court had been hearing non-criminal cases since February 2009 and began planning for criminal cases at approximately the same time as the upward trend in ACDs. Thus, Figure 1 might reveal an anticipatory impact of the Staten Island Youth Court. That is, judges and district attorneys might have been more inclined to dispose of cases with an ACD between September 2008 and June 2009 because they were involved in the development of this new diversion option.

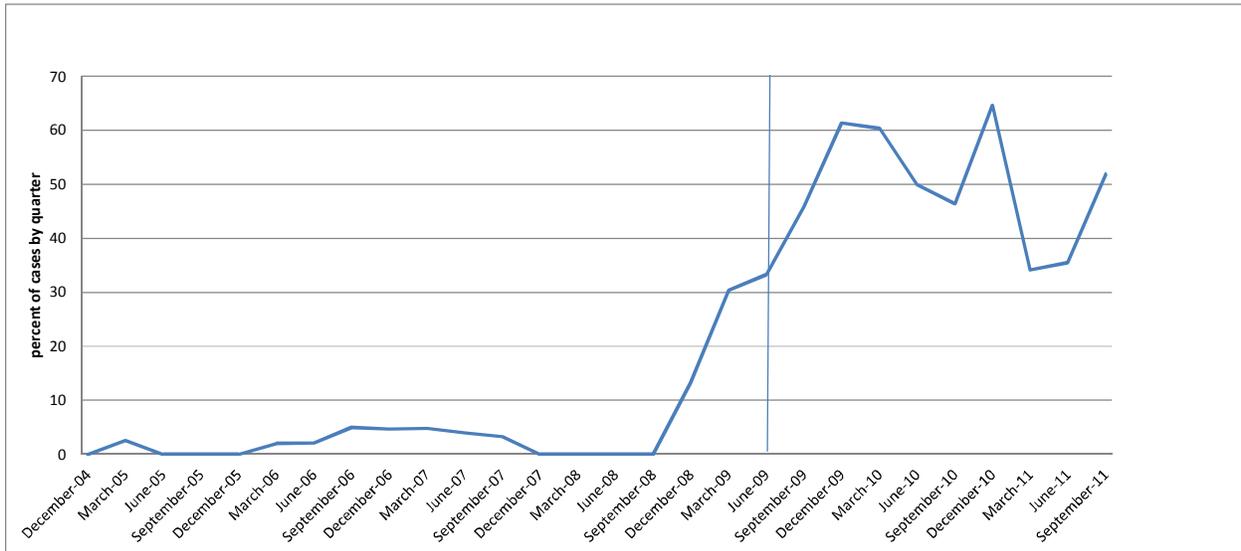
**Table 1: Case Dispositions Before and After the Staten Island Youth Court Began Hearing Criminal Cases**

Disposition	pre-June 2009 (n = 553)	post-June 2009 (n = 361)	<i>p</i>
<i>Initial Disposition</i>			
ACD	3.8%	49.0%	< .001
Pled guilty/convicted	87.2%	41.3%	< .001
Dismissed	9.0%	9.4%	<i>ns</i>
<i>Final Disposition</i>			
Dismissed	12.8%	60.2%	< .001
Convicted-sealed <sup>a</sup>	72.3%	25.2%	< .001
Convicted-not sealed	14.2%	14.6%	<i>ns</i>

<sup>a</sup>Sealed convictions include YO (Youthful Offender) findings and non-criminal violations.

Note. ACD: Adjournment in Contemplation of Dismissal.

**Figure 1. Quarterly Percent of Shoplifting Cases With an ACD Initial Disposition**



Note. The vertical line marks the date at which the Staten Island Youth Court began hearing criminal court cases.

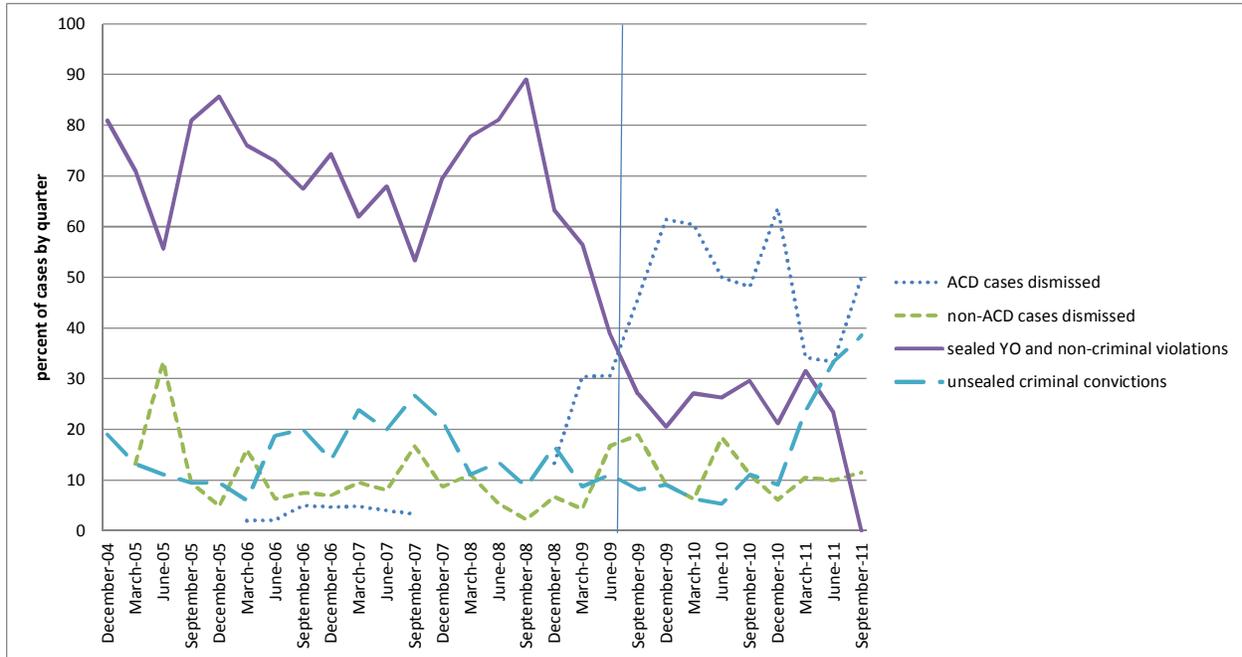
***Were ACD cases, regardless of whether they were referred to the Staten Island Youth Court, ultimately more likely to be dismissed after the Staten Island Youth Court began hearing criminal cases?***

The vast majority of ACD cases were dismissed both before and after the Staten Island Youth Court began hearing criminal cases. The single exception involved one case for which the final outcome was a criminal conviction. Thus, ACD cases were no more or less likely to be dismissed since June 2009, as the success rate was nearly perfect throughout the study period.

***Did the trend in the number of ACD cases that were ultimately dismissed correspond with the trend in criminal convictions that might create adverse collateral consequences?***

Table 1 shows a clear post-June 2009 increase in dismissals and a decrease in sealed convictions (YO findings and non-criminal convictions). Figure 2 illustrates that this trend originated approximately nine months before the onset of the Staten Island Youth Court, which corresponds to the time at which there was a rapid increase in the use of the ACD disposition. The trends in final case dispositions suggest that the post-September 2008 rise in ACD cases that were dismissed (dotted line) was mirrored closely by the decline in sealed YO findings and non-criminal violations (solid line).<sup>1</sup> Yet the trend in dismissals was not closely related to the trend in unsealed criminal convictions, which remained relatively constant through most of the study period, spiking upward during the last nine months. The rate of dismissed non-ACD cases was not related to the trend in sealed convictions.<sup>2</sup>

**Figure 2. Final Dispositions of ACD and Non-ACD Cases by Quarter**

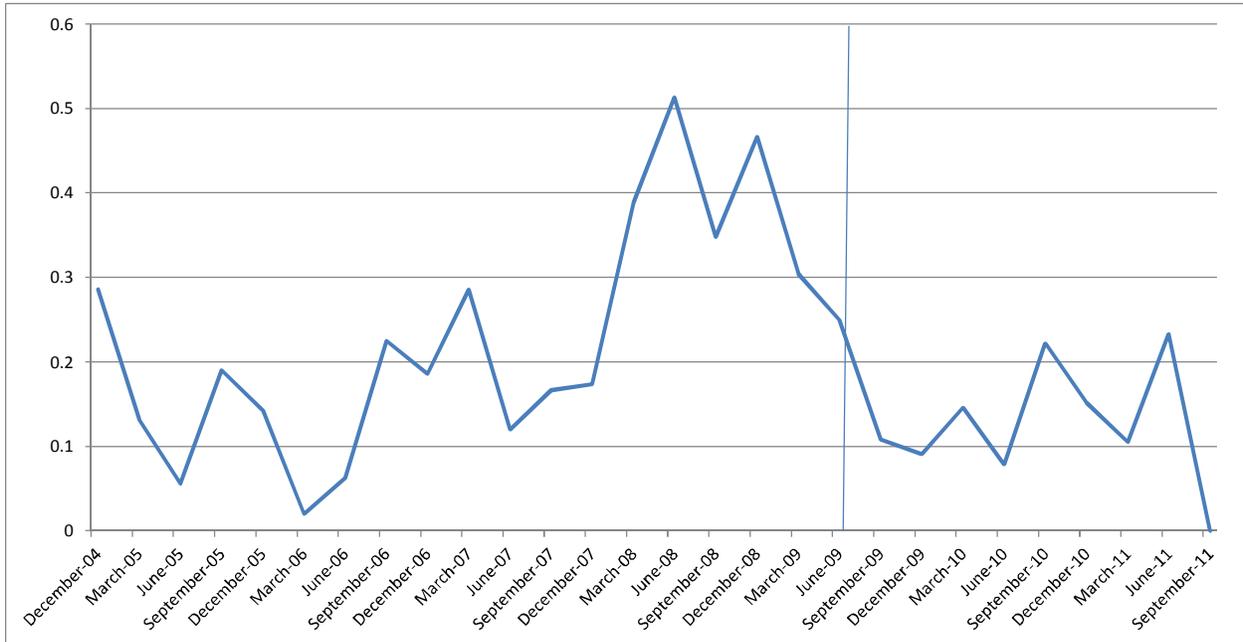


Note. The vertical line marks the date at which the Staten Island Youth Court began hearing criminal court cases.

Figure 3 further clarifies the relevant trends by tracking the quarterly rate of YO findings over the study period. There was a downward trend in this outcome since June 2008 that followed a rise dating back to December 2007. This trend coincided with the above-noted increase in ACDs and, in turn, with cases that were ultimately dismissed since June 2008.

Taken together, these trends suggest that the Staten Island Criminal Court’s increasing inclination to use the ACD option, and its concomitant near-perfect success in leading to case dismissal, was responsible for the decline in YO findings and non-criminal convictions. Cases that would otherwise have resulted in sealed YO findings and non-criminal convictions culminated in dismissal following the successful completion of the ACD sanction. However, the increase in dismissals did not correspond with a reduction in unsealed criminal convictions that produce a permanent criminal record.<sup>3</sup>

**Figure 3. Quarterly Percent of All Cases With a YO Finding**



*Note.* The vertical line marks the date at which the Staten Island Youth Court began hearing criminal court cases.

## 4. Discussion and Conclusion

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The planning and implementation of the Staten Island Youth Court as a diversion program for 16- and 17-year-old criminal defendants coincided with an increase in the use of the ACD as an initial disposition, which in turn led to a rise in the rate of case dismissals. The increase in case dismissals appears not to be the result of a net-widening trend as the number of shoplifting cases did not increase substantially per quarter. The increased rate of ACD cases appears to have decreased the rate of sealed YO findings and non-criminal convictions. No evidence was found that ACDs diminished the rate of unsealed criminal convictions, which carry more severe consequences for the convicted youths. Those whose cases were dismissed retained the opportunity to be granted a YO status should they plead guilty in the future. Having a YO finding on one's record increases legal exposure to a permanent criminal conviction in future cases.

Since the rate of ACDs in fact increased prior to the Staten Island Youth Court hearing adult criminal cases, it is unclear whether it was the Staten Island Youth Court's handling of criminal cases *per se* that stimulated the increasing use of the ACD option. While it is true that the Staten Island Youth Court planning process was roughly contemporaneous with the upward trend in the use of ACDs, not all ACDs were referred to Staten Island Youth Court, and we cannot know what might have been the trend in ACDs if the Staten Island Youth Court had never begun to hear criminal cases. Still, the evidence strongly suggests that, consistent with the overall aims of advocates and Chief Judge Lippman's Adolescent Diversion Program, the Staten Island Criminal Court is moving toward a less punitive response to 16- and 17-year-olds arrested for shoplifting.

### Endnotes

1. The correlation between the quarterly numbers of ACD dismissals and sealed convictions (YO findings and non-criminal violations) was -.65 over the study period. The trend in ACDs did not closely coincide with the quarterly number of unsealed criminal convictions,  $r = -.12$ . The correlation between non-ACD dismissed cases and sealed convictions was weaker (and in the opposite direction),  $r = .23$  across all quarters in which there was at least one ACD dismissal.
2. There was a moderate negative correlation of  $-.44$  between the quarterly numbers of ACDs and YO findings from 9 months prior to the inception of the Staten Island Youth Court—the time at which ACDs began to spike.
3. Post-June 2009, an ACD disposition was far more likely for youth arraigned on a shoplifting charge only, 61.3% compared to youth with multiple arraignment charges (7.3%,  $p < .001$ ).

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