
Felony Case Delay in New York City

Lessons from a Pilot Project in Brooklyn

By Joanna Weill, Michael Rempel, Krystal Rodriguez, and Valerie Raine

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Center for Court Innovation

520 Eighth Avenue, 18th Floor

New York, New York 10018

646.386.3100 fax 212.397.0985

www.courtinnovation.org

For correspondence, please contact Krystal Rodriguez (rodriguezsk@courtinnovation.org), Michael Rempel (rempelm@courtinnovation.org), or Joanna Weill (weillj@courtinnovation.org) at the Center for Court Innovation.

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The project’s evaluation relies on data from the Office of Court Administration. Any OCA data provided herein does not constitute an official record of the New York State Unified Court System, which does not represent or warrant the accuracy thereof. The opinions, findings, and conclusions expressed in this publication are those of the authors and not those of the New York State Unified Court System, which assumes no liability for its contents or use thereof.

Felony Case Delay in New York City: Lessons from a Pilot Project in Brooklyn

New York City’s courts have long struggled to resolve felony cases—those involving more serious charges—in a timely fashion. Despite the constitutional guarantee of a speedy trial, in 2019, for indicted felonies, New York City only met the state’s standard for a six-month resolution in about a third of cases. Case processing delays magnify the well-documented harms and risks of incarceration for the thousands of people held in jail before trial each year. Delays also impose protracted stress and trauma on victims of crime. A recent pilot project we implemented in Brooklyn significantly reduced felony case delay. What follows is a summary of the city’s case processing problem, the steps we took to ameliorate it, and major findings from the published evaluation. The pilot project was completed prior to the COVID-19 pandemic and the transition to remote court operations. Given the added backlog of unresolved cases and—absent new reforms—the persistence of case delay when the pandemic abates, the project has taken on new urgency. For more, see our [full evaluation report](#).

The Longstanding Case Delay Problem in New York City

The city’s criminal courts have been plagued by a seemingly intractable case delay problem for nearly 50 years.¹ In 2013, a series of investigative *New York Times* articles—focusing on what the paper called “the Bronx’s dysfunctional court system”—pointed to crippling delays in resolving both felony and misdemeanor cases.² Beginning in 2015, attempts at reform have been led by the Mayor’s Office of Criminal Justice and the Office of Court Administration. In 2016, New York’s Chief Judge, Janet DiFiore, created the Excellence Initiative, whose goal is to improve case processing performance across court jurisdictions statewide.

Within New York City, efforts have largely focused on more serious indicted cases, which are adjudicated in the Supreme Court. These cases almost exclusively involve felony charges and account for the majority of the city’s pretrial jail population.³ Indicted cases require the most processing time and also experience the greatest delays relative to court standards.⁴ Research by the Independent Budget Office indicates that indicted felonies in New York City take about 50 percent longer to reach a disposition than similar cases in the rest of the state.⁵

- **Failure to Meet Accepted Standards:** Consistent with national best practices,⁶ court administrators in New York expect felonies to be resolved within 180 days of an indictment. Yet this benchmark was met by only **35 percent** of the city’s disposed felony indictments in 2019; only **two-thirds** had been disposed after a year. The city’s performance places it in the “less timely” category of courts nationwide.⁷
- **Average Time to a Disposition:** In 2019, felony indictments in New York City **averaged more than 10 months** (316 days) to a disposition. Little has changed over the past five years; in 2014, the average processing time was just shy of 10 months (293 days).⁸
- **Especially Long Trial Delays:** For the 6 percent of indicted felonies resolved at trial instead of through a plea agreement or dismissal, the average time to a verdict in 2019 was **a year and a half** (557 days). In the Bronx, felony trial verdicts arrived on average, after **almost two years** (708 days).
- **Pretrial Detention Status:** There is little evidence of differences in case processing times for people detained before trial, for whom there is ostensibly a greater need to ensure a speedy resolution, than for people who are released. In 2019, indicted cases where people were detained throughout the pretrial period averaged 10.7 months to a disposition, compared to 10.2 months for released cases. (After controlling for differences in the charges and criminal histories of detained and released defendants, their adjusted processing times grew even more similar.) Nor are there systemic efforts to review people’s pretrial status, potentially easing bail or ordering supervised release in lieu of bail when it has proven to be unaffordable.

What’s Causing the Felony Case Delay?

The [Center for Court Innovation](#) and the [Independent Commission](#) on New York City Criminal Justice and Incarceration Reform (the Lippman Commission) previously drew attention to several key drivers of delay. They include lengthy adjournments; frequent unproductive court appearances where little happens to move the case forward; a failure on the part of prosecutors to share evidence with the defense early in a case (at times reflecting delays in the prior transmission of evidence from police to prosecutors); and difficulties scheduling and starting a trial, such as selecting a mutually convenient date for attorneys, ensuring the availability of trial judges, and coordinating the availability of witnesses.⁹

Research—in New York City as well as [nationally](#)—does *not* suggest a relationship between delays and a court’s caseload or structure.¹⁰ Notably, in New York City, felony arrests and court caseloads have declined since 2014, with no discernable reduction in case processing times. Even amidst higher caseloads in 2014, a citywide sample of courtrooms handling pretrial proceedings in the city’s Supreme Court were, on average, in session under four hours per day; and trial courtrooms often did not have cases scheduled.¹¹

The pilot project described below sought to address the drivers of case delay in *pretrial* proceedings, focusing especially on: (1) reducing adjournment lengths, and (2) improving judges' calendar management practices to ensure that time spent at, and in between, court appearances is used productively.

- **Adjournment Lengths.** On average, indicted cases disposed in 2019 required **11 Supreme Court appearances** with **33 days** between each appearance. Earlier research has established that judges throughout the city's Supreme Court often set standard adjournments (e.g., first available date for the attorneys, starting about a month later), without taking into account whether the parties might reasonably be capable of completing between-appearance tasks in less time.¹²
- **Effective Calendar Management.** The National Center for State Courts has found that at the root of many of the delays in trial courts nationwide is the limited adoption of best practice **calendar management strategies**. These include early triage to assess the complexity and legal issues of each case; interim due dates to ensure attorneys are accountable for moving a case forward; meaningful progress expected at each court date; and the proactive deployment of judicial authority to ensure goals are met.¹³

The Brooklyn Project

In 2019, the Center for Court Innovation partnered with the Office of Court Administration to launch a pilot project in the Kings County (Brooklyn) Supreme Court, intended to advance the goals of Chief Judge DiFiore's Excellence Initiative in addressing felony case delay. (The project also included several other strategies to reduce the use of jail; see the full evaluation for details.¹⁴)

Brooklyn was considered an ideal pilot site, given the commitment of the borough's Administrative Judge to reduce incarceration and, towards that end, to reform case processing. The project's case processing aims included three core elements:

- **Formal Timeline:** The project issued clear written guidelines identifying specific events that should take place at each court appearance. In addition, the guidelines named additional tasks the prosecution and defense should perform in between court dates, for instance related to motions and discovery. Depending on the specifics of the case, the timeline anticipated that for cases not resolved through a plea agreement, a trial should begin **21 to 27 weeks post-indictment**.
- **Reduced Adjournments:** The guidelines established target adjournment lengths that varied based on the nature of the standard between-appearance tasks at each stage. For example, the timeline specified a four-week adjournment from the first to second court date, but only a two-week adjournment from the second to third.

- **Case Conferences:** Between the third and fourth court dates, the project specified that the prosecution and defense attend a case conference led by the court attorney to discuss pending legal or discovery issues, the possibility of a mutually acceptable resolution, and a reasonable timeline for completing any remaining discovery or other pretrial matters.

Implementation

Throughout planning and implementation with the judge, court staff, and attorneys, the project team sought to emphasize that the **goal was *not* expediency for its own sake**. Rather it was to reduce unnecessary delays—which in turn increase the time people spent in detention before trial—without abrogating the rights of the accused. The guidelines built in flexibility for case-specific circumstances that made deviations necessary and just.

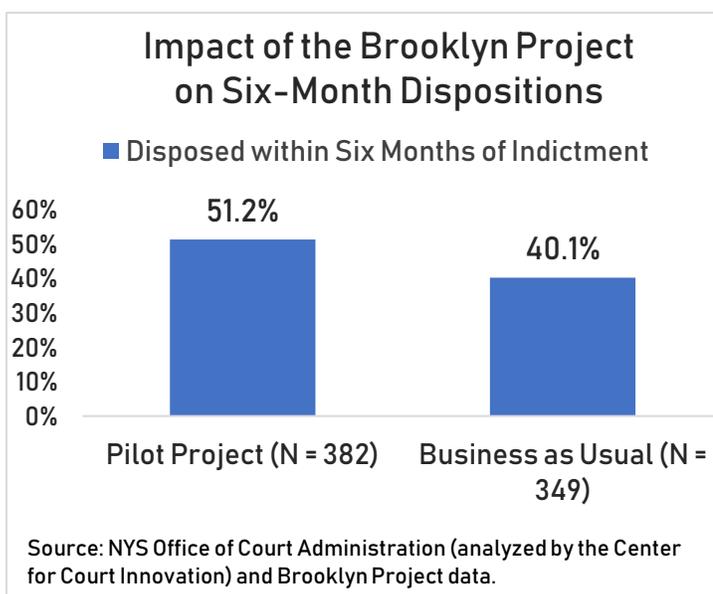
In the pilot project, for three months beginning February 2019, most newly indicted cases in Brooklyn were routed for their Supreme Court arraignment to a **dedicated judge**. (Exceptions included homicides, sex offenses, domestic violence cases, and gun cases, which remained in preexisting specialized courtrooms.) The project’s judge presided over the cases for most of the pretrial period, until they were either disposed through a plea agreement, transferred to another judge, or were ready for trial.

To aid implementation, the project team relied on extensive written documentation. For instance, the team created a two-page **case processing bench card** and a detailed **operational plan**, both of which were disseminated to Brooklyn’s prosecution and defense bar.¹⁵

Major Impact Findings

We compared case processing times between 382 cases routed through our pilot project in 2019, and 349 similarly situated cases whose Supreme Court arraignment occurred one year earlier.¹⁶

- **Dispositions Within Six Months:** The pilot project produced an **11 percentage-point increase** in the number of cases disposed within the state’s six-month time standard.



- **Greater Impacts Over Time:** The impact of the project became increasingly clear when outcomes were compared over longer timeframes. By the 10-month mark, the results suggested that about 80 percent of pilot cases had been resolved, compared to 60 percent of comparison cases. Overall, half of pilot cases were resolved in 181 days, compared to 231 days for the comparison group.

Additional Key Takeaways

Five themes are worth noting (see the full evaluation for additional lessons¹⁷):

1. **Critical Role of the Judge:** The judge assigned to the pilot project adhered assiduously to the National Center for State Courts' recommendation that judges control the proceedings and their overall docket. The judge clearly stated for the record the purpose of each adjournment, followed up at the next appearance to ensure that purpose was achieved, and admonished attorneys for missed deadlines—increasing accountability as well as the likelihood that each appearance would be productive.
2. **Value of the Case Conference:** The majority of prosecutors and defense attorneys interviewed for the evaluation described the case conferences or aspects of the conferences as helpful, particularly the direct communication they facilitated between the opposing attorneys.
3. **Adherence to the Guidelines:** Amidst a positive overall evaluation, the results pointed to significant deviations from interim benchmarks. For example, in more than half of the cases, both the submission of grand jury minutes by the prosecution and the holding of a case conference took place behind schedule. With the benefit of added planning time to iron out procedures and logistics with prosecutors and defense attorneys, more interim milestones might well have been met more often.
4. **Focus on Pretrial Detention:** The project included cases of people who were released pretrial and people who were detained. In interviews with both prosecutors and defense attorneys conducted as part of our research, the theme emerged repeatedly that if the implementation had prioritized people held in pretrial detention, attorneys could have met more interim milestones. (Those we interviewed recognized that the harms of case delay fall disproportionately on people in jail; and, indeed, prior research has identified that even a short stay in jail—let alone the months people often languish before trial—can have long-lasting deleterious effects¹⁸). Any case delay reduction strategy should also prioritize regular bail reviews in the cases of people held pretrial, during which Supervised Release, more affordable forms or amounts of bail, or appropriate alternatives could be considered.
5. **The Importance of Training:** Given what the project revealed regarding the importance of a committed and effective judge, if the measures discussed above were implemented more widely, additional judges would have to be trained—and regularly re-trained.

Transforming the model we piloted into “business as usual” would require reinforcement from city and state criminal justice leaders, an in-depth review of current practices, and guidelines tailored to local court systems (though without tailoring in a manner that relaxes expectations).

- 6. Ongoing Monitoring and Accountability:** Evaluating the Brooklyn Project demonstrated that the approach led to an improvement over the preexisting status quo. Acknowledging that implementation efforts throughout a court system would pose greater challenges, it would be important to track time to disposition on an ongoing basis, both for the court system as a whole and for individual courtrooms. As recommended by [national research](#), all court actors, including the judge, court attorney, prosecution, and defense, would have to own their part in meeting time standards (extenuating circumstances notwithstanding).¹⁹

Moving Forward

Lessons from the pilot project in Brooklyn could aid ongoing efforts to realize the goals of Chief Judge Janet DiFiore’s Excellence Initiative. Furthermore, since the end of the pilot project, statewide bail and discovery reforms were implemented in 2020, which generally align with the goals of the Brooklyn Project. The discovery timelines mandated by these reforms are described in a [separate publication](#).²⁰ Incorporating the new discovery reforms, we modified our original case processing timeline and published an updated [bench card](#) to aid judges, prosecutors, and defense attorneys citywide.²¹

Notably, the COVID-19 pandemic required courts to drastically adjust their operations in March 2020. Modifications included prolonged administrative adjournments, suspension of petit and grand jury proceedings, suspension of jury trials, and a transition to remote appearances to implement public health guidelines and prevent the transmission of the virus (while core court functions remained operational). Although implementation of the case processing guidelines precisely as piloted in Brooklyn is not currently feasible, given these limited court operations, adopting portions of the guidelines for remote proceedings could assist the court in mitigating the current case backlog, particularly for detained individuals, in a systematic and consistent manner.

The principal stakes of protracted case delays are not court inefficiency, but the well-being of the people whose futures are awaiting resolution by the system. A prolonged stay in jail before trial increases people’s exposure to long-term trauma and disrupts their family and work lives (including their long-term earning potential) along with access to housing and any treatment they might be receiving. Detention also increases the likelihood of conviction and incarceration at sentencing on the current case—independent of the legal merits.²² The harms of case delay may extend to crime victims as well, who may be seeking justice and closure from the courts.²³

The Lippman Commission projected that case processing reforms could significantly reduce the city’s daily jail population—with an impact second in importance only to reducing the city’s reliance on money bail.²⁴ With New York having implemented a groundbreaking set of bail reforms in 2020,²⁵ case delay has become an especially timely frontier in New York’s efforts to durably reduce its reliance on incarceration.

For More Information

Read the full evaluation report or our bench card for judges:

<https://www.courtinnovation.org/publications/case-delay-brooklyn>

Notes

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⁷ Ostrom, B. J., Hamblin, L. E., & Schaffler, R. Y. (2020). *Delivering Timely Justice in Criminal Cases: A National Picture*. Williamsburg, VA: National Center for State Courts. Available at: https://www.ncsc.org/_data/assets/pdf_file/0017/53216/Delivering-Timely-Justice-in-Criminal-Cases-A-National-Picture.pdf.

⁸ Rempel et al. (2016), Op Cit.

⁹ Lippman, J., Aborn, R., Cartagena, J. et al. (2017), Op Cit.; Rempel et al. (2016), Op Cit.

¹⁰ Rempel, M. et al. (2016), Op Cit.; for national results, see, also, Ostrom, B. J., Raaen, N., Schaffler, R. Y., & Hamblin, L. E. (2020). *Success in Criminal Caseflow Management: Lessons from the Field*. Williamsburg, VA: National Center for State Courts. Available at: https://www.ncsc.org/_data/assets/pdf_file/0018/53217/Success-in-Criminal-Caseflow-Management-Lessons-from-the-Field.pdf.

¹¹ Rempel et al. (2016), Op Cit.

¹² Rempel et al. (2016), Op Cit.

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¹⁴ Weill, J. et al. (2020), Op Cit.

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- ¹⁵ The bench card and operational plan is included in the appendices of Weill, J., et al. (2020), Op Cit. or available as a self-contained document from the current authors upon request.
- ¹⁶ For additional details on the methodology and results, See Weill, J., et al. (2020), Op Cit.
- ¹⁷ Weill, J., et al. (2020), Op Cit.
- ¹⁸ See, e.g., Digard, L. & Swavola, E. (2019). *Justice Denied: The Harmful and Lasting Effects of Pretrial Detention*. New York, NY: Vera Institute of Justice. Available at: <https://www.vera.org/publications/for-the-record-justice-denied-pretrial-detention>; Dobbie, W., Goldin, J., & Yang, C. (2018). “The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges.” *American Economic Review* 108 (2): 201–240. Available at: <https://pubs.aeaweb.org/doi/pdfplus/10.1257/aer.20161503>; Rempel, M., & Pooler, T. (2020). *Reducing Pretrial Detention in New York City: Data-Driven Strategies for Decarceration*. New York, NY: Center for Court Innovation. Available at: <https://www.courtinnovation.org/publications/reducing-pretrial-detention>; and Subramanian, R., Delaney, R., Roberts, S., & Fishman, N. (2015). *Incarceration’s Front Door: The Misuse of Jails in America*. New York, NY: Vera Institute of Justice. Available at: <https://www.vera.org/publications/incarcerations-front-door-the-misuse-of-jails-in-america>.
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- ²¹ Rodriguez, K. (2020). *Recommended Case Processing Guidelines*. New York, NY: Center for Court Innovation. Available at: <https://www.courtinnovation.org/publications/case-delay-brooklyn>.
- ²² See publications cited above regarding the manifold harms of pretrial detention (note 18). For New York City evidence regarding the impact of pretrial detention in producing increased exposure to conviction and incarceration at sentencing, net of other factors, see, also, Hahn, J. (2016). *An Experiment in Bail Reform: Examining the Impact of the Brooklyn Supervised Release Program*. New York, NY: Center for Court Innovation. Available at: <https://www.courtinnovation.org/publications/experiment-bail-reform-examining-impact-brooklyn-supervised-release-program>; Phillips, M. T. (2012). *A Decade of Bail Research in New York City*. New York, NY: Criminal Justice Agency. Available at: <https://www.prisonpolicy.org/scans/DecadeBailResearch12.pdf>; and Rempel, M., Kerodal, A., Spadafore, J., & Mai, C. (2017). *Jail in New York City: Evidence-Based Opportunities for Reform*. New York, NY: Center for Court Innovation. <https://www.courtinnovation.org/publications/jail-new-york-city-evidence-based-opportunities-reform>.
- ²³ Chan, M. (2021). “‘I Want This Over.’ For Victims and the Accused, Justice Is Delayed as COVID-19 Snarls Courts.” *Time*. Available at: <https://time.com/5939482/covid-19-criminal-cases-backlog>.
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- ²⁵ For a summary of New York’s bail reform law implemented January 2020, see Rempel, M., & Rodriguez, K. (2019). *Bail Reform in New York: Legislative Provisions and Implications for New York City*. New York, NY: Center for Court Innovation. Available at: <https://www.courtinnovation.org/publications/bail-reform-NYS>; and for a summary of amendments to this law implemented July 2020 and of the effects of both the original and amended reforms on the city’s jail population, see Rempel, M. & Rodriguez, K. (2020). *Bail Reform Revisited: The Impact of New York’s Amended Bail Law on Pretrial Detention*. New York, NY: Center for Court Innovation. Available at: <https://www.courtinnovation.org/publications/bail-revisited-NYS>.