

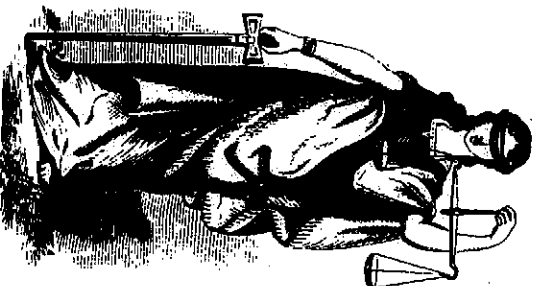
CONTINUING LEGAL EDUCATION

Spring 2013

June 13, 2013

Supervised Release Program of the Criminal Justice Agency

Andrea J. Barrow, Esq. and Mari Curbelo, Esq.

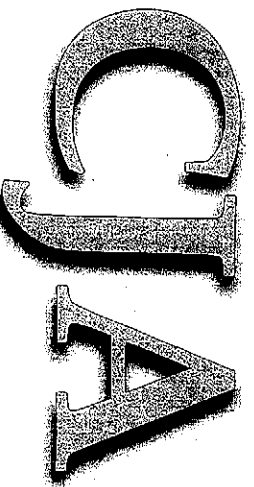


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Research Brief

NEW YORK CITY CRIMINAL JUSTICE AGENCY, Inc.

**No. 32
May 2013**

A series of reports summarizing current research from CJA

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CJA is a not-for-profit corporation that provides a variety of criminal justice services under a contract with the City of New York. CJA staff interview defendants arrested in New York City, make recommendations for pretrial release, and notify released defendants of upcoming court dates. Within the Agency, the Research Department conducts studies covering a broad array of criminal justice policy concerns. The Research Brief series summarizes the results of some of these studies.

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QUEENS SUPERVISED RELEASE: A BRIEF PROGRAM DESCRIPTION

By Mari Curbelo, Esq.,
Jerome E. McElroy,
and Mary T. Phillips, Ph.D.

The Queens Supervised Release program began as a pilot project funded by the City through the Office of the Criminal Justice Coordinator (OCJC). Objectives are to reduce reliance on money bail and lower pretrial detention for a population that does not pose a substantial risk to public safety. The project helps to minimize the costs of incarceration, both institutional (e.g., the amount the City spends on jail) and individual (e.g., loss of income, ability to attend school and care for one's family). The program also seeks to offer clients opportunities for voluntary treatment where appropriate as early as possible.

The program was designed to provide judges with an alternative to setting money bail, but there is concern that supervision might, in some instances, replace release on recognizance (ROR). Such "net-widening" has been the experience in many federal and state

jurisdictions. Therefore, the initial question was how to develop a program that would lead to supervised release only for those who would otherwise be held on bail.

As a result of those concerns, the program does not actively pursue persons who are recommended by CJA for ROR and who do not appear to have been arrested before. Additionally, certain charges with a low probability of bail being set are excluded. The program also utilizes the defense attorney as the "gatekeeper" regarding the likelihood of detention on bail, and will not proceed with a case if the defense refuses.

CJA has been operating a supervised release program for persons charged with nonviolent felony offenses in Queens since August 2009. This Brief describes the first 40 months of the program's operation

This report is available on CJA's web site:
www.nycja.org/research/research.htm

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Program Exclusions

To address public safety concerns, the program excludes from consideration those charged with a Violent Felony Offense (VFO) as defined in the Penal Law and those at highest risk for re-arrest or failure to appear (FTA).

Risk of pretrial recidivism is addressed by excluding those persons having more than six misdemeanor convictions and/or more than one felony conviction and/or any adult VFO conviction within the last 10 years.

Risk of failure to appear (FTA) is addressed using CJA's pretrial risk assessment as a guideline. (CJA interviews virtually all defendants between arrest and arraignment, and issues a recommendation based on objective, validated factors.) If a person is otherwise eligible, but assessed as High Risk (Not Recommended) by CJA, program staff will examine the warrant history for mitigating circumstances. Such mitigating factors could include the warrant being old, resulting from failure to pay a fine, or the person returning voluntarily to vacate the warrant within 30 days of issuance.

Program Participation

The program uses validated intake-assessment instruments that help identify substance abuse and mental health needs. Participation further requires frequent face-to-face and telephone contacts with program staff, and cooperation with program verification efforts concerning applicable activities and responsibilities, such as employment or school. Referrals to outside agencies for additional services, which are voluntary, are made where appropriate. Case managers, who are social workers, evaluate the client's service needs and his/her supervision requirements as determined during the intake-assessment process and through their continued work with clients throughout the pendency of the case. Non-compliance may increase the level of supervision. Compliance with outside treatment, employment, schooling, and other pro-social activities and responsibilities are considered in lowering the supervision levels.

Written progress reports are submitted at all scheduled court appearances. If there are any problems with compliance, program staff appear in person with the report. Reports contain information regarding the client's cooperation with the intake-assessment process; indication of need for, and

referral to, outside services; specification of the level of appropriate supervision; details about the client's compliance with all face-to-face appointments with the case manager and telephone contact requirements; and information about any docketed re-arrests. Unscheduled reports are provided in advance of the court date if there is a serious failure in compliance with the conditions of release (for example, loss of contact or a serious docketed re-arrest), or as required by the Court.

Successful and Unsuccessful Termination

Successful completion of supervision occurs typically when the client enters a plea to a misdemeanor and receives a non-incarcerative sentence. A client's participation also ends successfully upon entering a guilty plea to a felony or when supervision is transferred to Mental Health Court (MHC), Queens Treatment Court (QTC), Treatment Alternatives for Safer Communities (TASC), an Alternative to Incarceration (ATI) program, or a program operated by the Queens District Attorney (DA).

Unsuccessful terminations occur when the Court revokes supervision by setting bail on the case or changing the detention status. These unsuccessful terminations are associated with being re-arrested and detained on a new felony case, not reporting to the program, failing to appear for a court date, or other client misconduct.

Some terminations fall into a more neutral category, and may include a client's being held for immigration or being detained on a violation of probation or parole on a previous case.

Number of Clients

By November 30, 2012, 1,001 clients had been accepted into the program, and 864 (86%) had completed it (Figure 1). At the cutoff date, the program had 137 active participants.

Figure 1
Number of Clients Served
August 3, 2009 – November 30, 2012



N = 1,001

May 2013

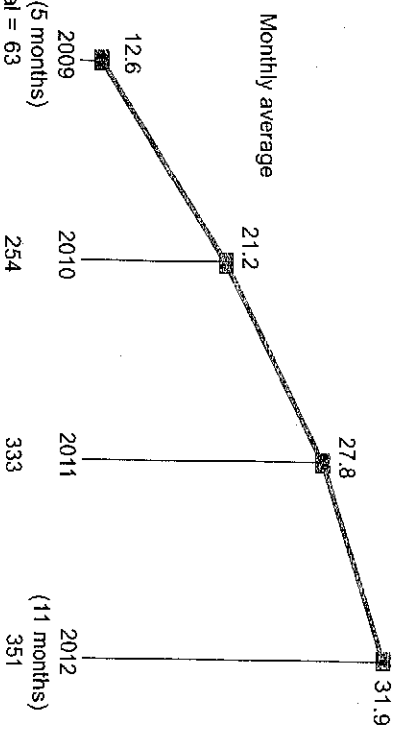
Figure 2 illustrates the program's growth during its first 40 months of operation.

In the first year (2009), 63 clients were released to the program during the five months that it was in operation. The monthly average was 12.6 for 2009.

Participation increased during each subsequent year: 254 in 2010 (averaging 21.2 per month); 333 in 2011 (averaging 27.8 per month), and 351 for the first eleven months of 2012 (averaging 31.9 per month).

Monthly fluctuations in 2012 ranged from 53 in January to 19 in November (not shown).

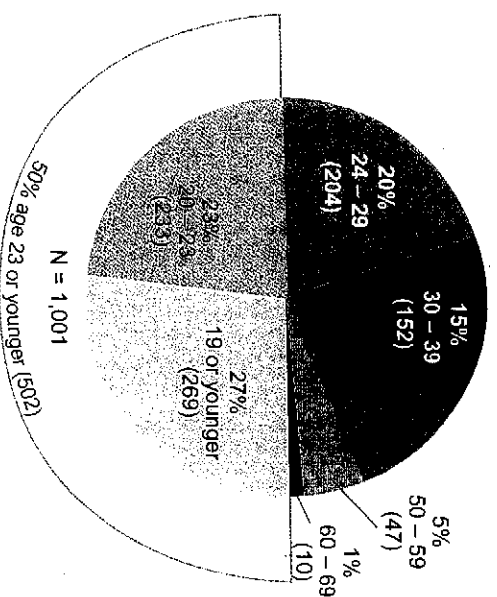
Figure 2
Average Number of Clients Released to the Program
Per Month During Each Year of Operation
August 3, 2009 – November 30, 2012



Age

Of the 1,001 clients accepted into the program through November 2012, half were 23 years of age or younger, as shown in Figure 3. More than a quarter were 19 or younger (27%), and nearly as many were 20 to 23 years of age (23%). Over two thirds were under the age of 30.

Figure 3
Age of Program Clients



Gender

About 82% of program clients were men, and 18% were women (not shown).

CJA Recommendation

Figure 4
CJA Recommendation Category
Assigned to Program Clients

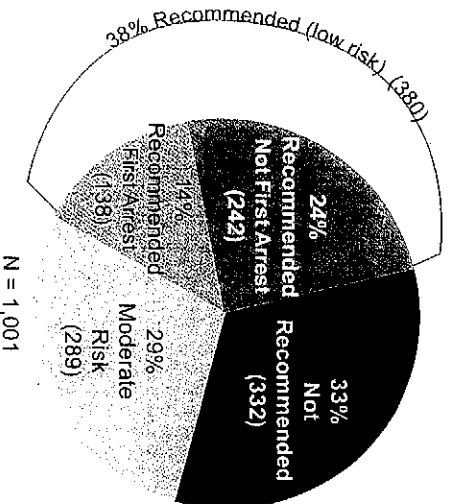


Figure 4 illustrates the distribution of CJA recommendation categories assigned to program clients: 29% were assigned to the Moderate FTA Risk category, 38% to the Recommended (Low FTA Risk) category, and 33% to a Not Recommended category.

Among those who had been recommended for release, the majority had a prior arrest: 24% of the total were recommended with a prior arrest, compared to 14% who were recommended with no prior arrest on a criminal charge. (The latter are accepted by the program only on referral from the Court.)

Charge

Program eligibility requirements restrict the complaint charge to nonviolent felony offenses. (A small number of exceptions were initially made during the reporting period as a result of judicial referrals, a practice that has been discontinued.) In addition, defendants charged only with fraud, forgery, and similar crimes, or a felony under the Vehicle and Traffic Law are excluded because of the low statistical likelihood of bail being set.

Figure 5 shows that about half of program clients were charged with a drug offense as the top complaint charge (51%). The next largest category consisted of larceny and stolen property offenses (25%). The remaining clients were charged with burglary (6%), robbery (5%), and various other offenses (9%).

Among the robbery charges, robbery in the second degree predominated (5%), with third degree (non-VFO) robbery comprising another 3% of the total. Robbery in the first degree comprised less than 1% of the total. None of the robbery charges involved a gun.

Needs Assessment

Figures 6 and 7 present data on the program's assessment of clients' needs and their willingness to utilize services offered to them.

Half of all clients were assessed to be in need of either substance abuse treatment, mental health services, or both. Figure 6 shows that the three groups were evenly divided, with 17% in each single-needs group, and another 17% needing both types of services.

Most clients with substance abuse or mental health needs were not linked to any services prior to acceptance in the program. Figure 7 shows that only 22% of clients with both needs were already linked to services, and the proportion was even smaller — 13% — among clients assessed to be in need of one type of service or the other.

On the other hand, the majority of clients with both needs were willing to enroll in outside services (58%). Among the single-need groups, a larger proportion of those in need of substance abuse treatment were willing to enroll in outside services (49%), compared to those with mental health needs (35%).

Figure 5
Crime Category of the Top Complaint Charge
For Program Clients

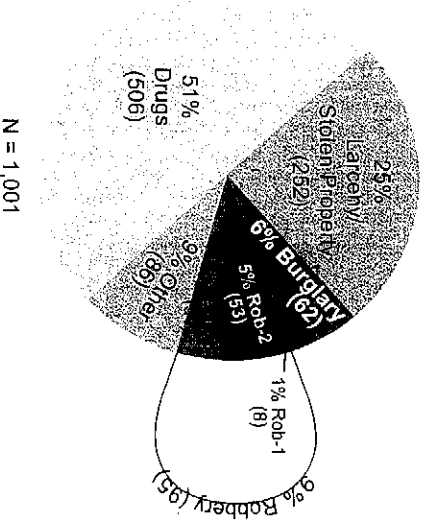
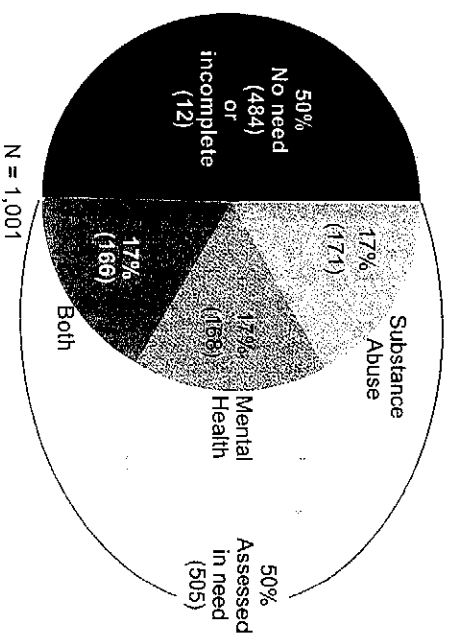
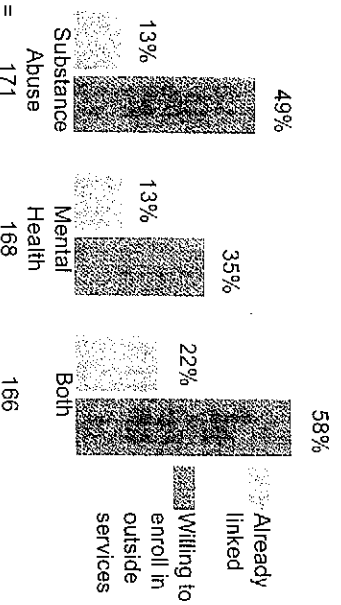


Figure 6
Needs Assessment



Percentages may not total 100% because of rounding.

Figure 7
Linkage to Services for Clients in Need



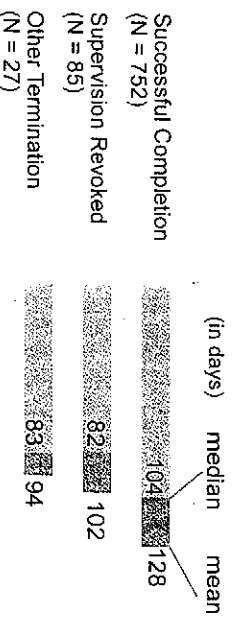
Program Status

Among the 864 clients who had completed the program by November 30, 2012, the vast majority completed it successfully (87%), as shown in Figure 8. Successful completion usually occurred when the case was adjudicated (68%), but could also occur pre-adjudication (1%) or at the transfer of the client to Mental Health Court, Queens Treatment Court, or TASC (14%), to another Alternative-To-Incarceration (ATI) program (3%), to Family Court (less than 1%), or in other ways (1%).

Supervision was revoked for 10% of clients, usually because of a failure to appear (FTA) resulting in program failure exit (4%) or because of a new arrest resulting in detention (6%). Supervision was revoked solely for other reasons for three clients. Twenty-seven clients (3%) were terminated for reasons other than client misconduct.

Successful completers spent an average (mean) of 128 days in the program (median 104) — longer than those who had their supervision revoked or were otherwise terminated (Figure 9).

Figure 9
Length of Time to Exit by Completed Status Type



Failure To Appear

Failure to appear (FTA) rates for program participants were quite low: 32 (3%) of the 1,001 program clients exited the program because of a failure to appear for a scheduled court appearance (Figure 10). Eighteen additional clients had a warrant ordered because of a missed court appearance, but they returned to court within 30 days (usually with an explanation, such as being sick, being in an in-patient treatment program, lacking the carfare, being confused about the court date, and so on). In seven cases the client was prevented from attending court because of detention by other legal authorities. Combining these categories results in a total warrant rate of 6%, but nearly half did not result in a program failure exit.

Figure 8
Completed Status Type

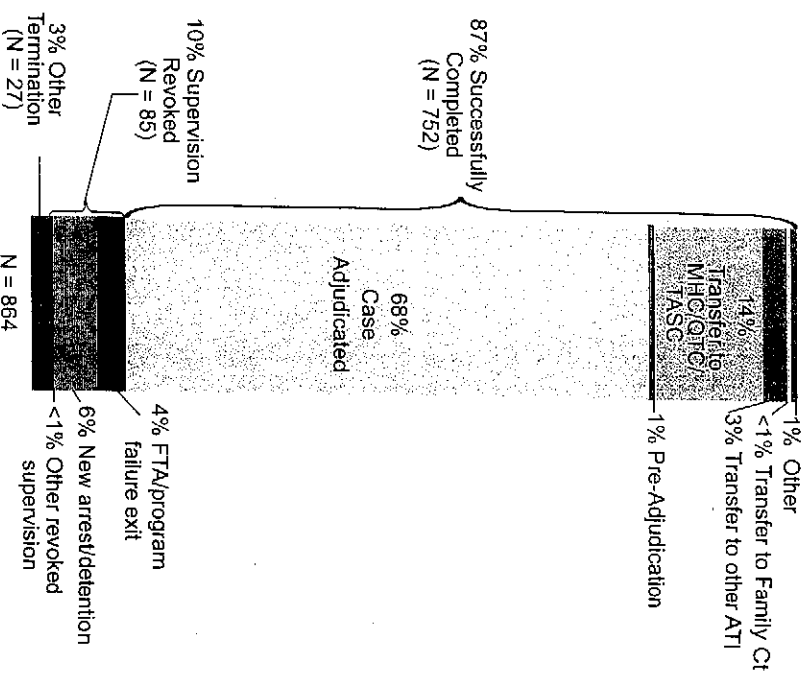
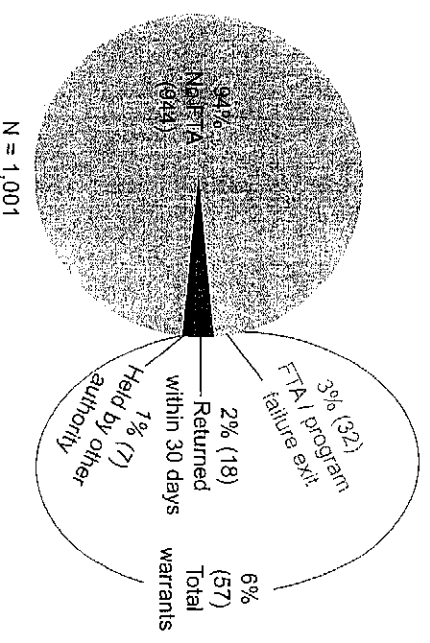


Figure 10
In-Program Failure to Appear



Re-Arrest

Of the total 1,001 clients, 225 (22.5%) were re-arrested while in the program (Figure 11). Re-arrests that were not prosecuted are excluded from these figures.

Re-arrests among program clients tended to be for a different, and often less severe, charge than their original arrest. Although all clients were charged with a felony on the program arrest, only a small proportion were re-arrested and arraigned on a felony charge (66, or 6.6% of the total). Most re-arrests were for misdemeanor charges: 150, or 15% of all clients, were re-arrested and arraigned on a misdemeanor charge. A handful of clients (9, constituting 0.9% of the total) were re-arrested and arraigned on a non-criminal violation or infraction.

Whereas a drug offense was the top complaint charge for about half of the program clients (Figure 5), little more than a quarter of re-arrests were for drugs (28%, Figure 12). Many re-arrests were for minor offenses such as turnstile jumping (14%) or some other offense not included in robbery, burglary, larceny, or drugs (26%).

The average time from program entry to re-arrest was 68 days, with a median of 52 days (not shown).

Correlates of In-Program Re-Arrests

Among program clients, in-program re-arrest was associated with being young, male, and arrested for robbery.

Figure 13 shows that 34% of clients aged 16 to 19 were re-arrested while in the program, compared to much lower rates for older clients. At 30 years of age and older, re-arrest rates were 12% or lower in every age group. (The few clients younger than 16 and older than 59 are not included in the figure; there were no re-arrests among either group.)

Males were more likely to be re-arrested than females: 24% of males compared to 13% of females were re-arrested while in the program (not shown).

Figure 14 shows that defendants whose program arrest was on a drug charge (half of clients) were among the least likely to be re-arrested. Their in-program re-arrest rate was 17%, compared to 29% for those originally arrested on a larceny/stop property charge and higher rates for burglary and robbery.

Figure 11
In-Program Re-Arrest (Docketed Only)

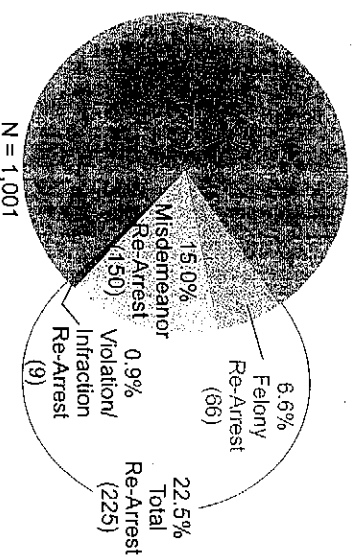
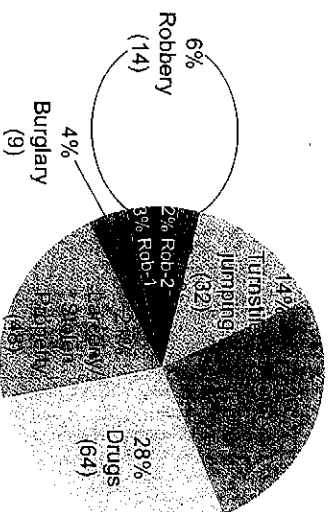


Figure 12
Charge Type of In-Program Re-Arrest



Percentages may not total 100% because of rounding.

Figure 13
Re-Arrest by Age

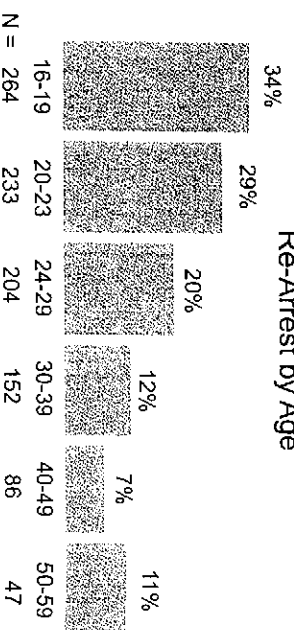
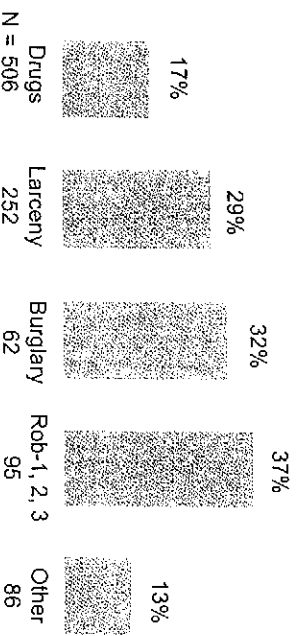
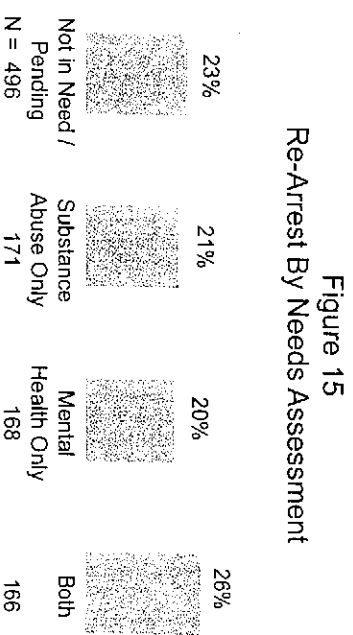


Figure 14
Re-Arrest by Crime Category of Program Arrest



Correlates of Re-Arrest (continued)

Having a substance abuse or mental health problem was not associated with a higher risk of re-arrest, as shown in Figure 15. There was little difference in the re-arrest rate between those not in need of either type of service (23%) and those in need of both types of service (26%). The re-arrest rates among clients in need of only one type of service were marginally lower.



Summary & Conclusions

What have we learned from the Supervised Release Program in Queens? The most important lesson is that it can serve as an effective alternative to money bail even for cases entering the court system on felony charges. Almost 90% of the participants completed the program successfully. When re-arrests did occur among these felony-charged defendants, they were overwhelmingly for non-felony charges.

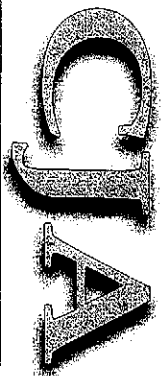
The program has also demonstrated that half of the participants have substance abuse or mental health needs, or both, and that a majority of those defendants can be voluntarily linked to community-based services. Thus, the program not only saves detention-based bed space for a population that would otherwise have bail set, but facilitates services for the defendants during the pendency of their cases.

When the program began, it was estimated that as many as 250 defendants could be placed during a full year of operation. This estimate proved a bit optimistic when only 13 defendants on average per month were placed in the program during the first five months. However, the estimate was on target for the first full calendar year when 254 defendants were placed in the program. The number rose to 333 for the second full year, and had already reached 351 by November of the third year. The trend reflects the court's

growing confidence in the reliability and effectiveness of the program, which, in turn, reflects the staff's emphasis on providing the judge with timely and accurate reports on the defendant's status in the program.

Over its three and one-half years of operation, the program has also shown that case managers who are trained social workers can use their professional skills not only to monitor compliance with the conditions of release, but to construct relationships that encourage participants to obtain services that help them manage their problems. For example, some participants with substance abuse problems who initially refuse the referral may request it after working with the case manager.

The success of the program in Queens has encouraged the City to support its extension to Manhattan. A Manhattan Supervised Release Program began operating in April 2013. The composition of the nonviolent felony population in Manhattan and some of the case processing procedures there differ somewhat from those in Queens. The expansion will provide an opportunity to determine which, if any, changes in the program will be required as it moves from one county to another. Those insights will be critical as we strive to comply with Chief Judge Lippman's recent encouragement to "coun- ties around the state to consider such supervised release programs."



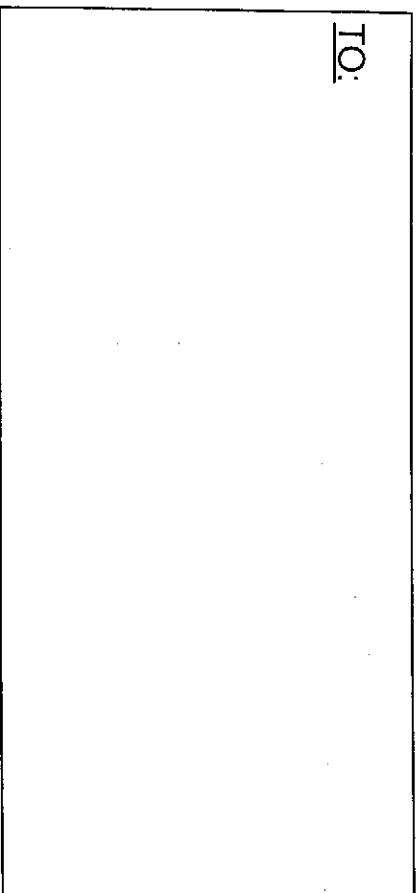
Research Brief from

No. 32 (May 2013)

Queens Supervised Release: A Brief Program Description

The New York City Criminal Justice Agency, Inc.
52 Duane Street
New York, NY 10007

TO:



Research Brief from **CJA**

No. 32 (May 2013)

Queens Supervised Release: A Brief Program Description

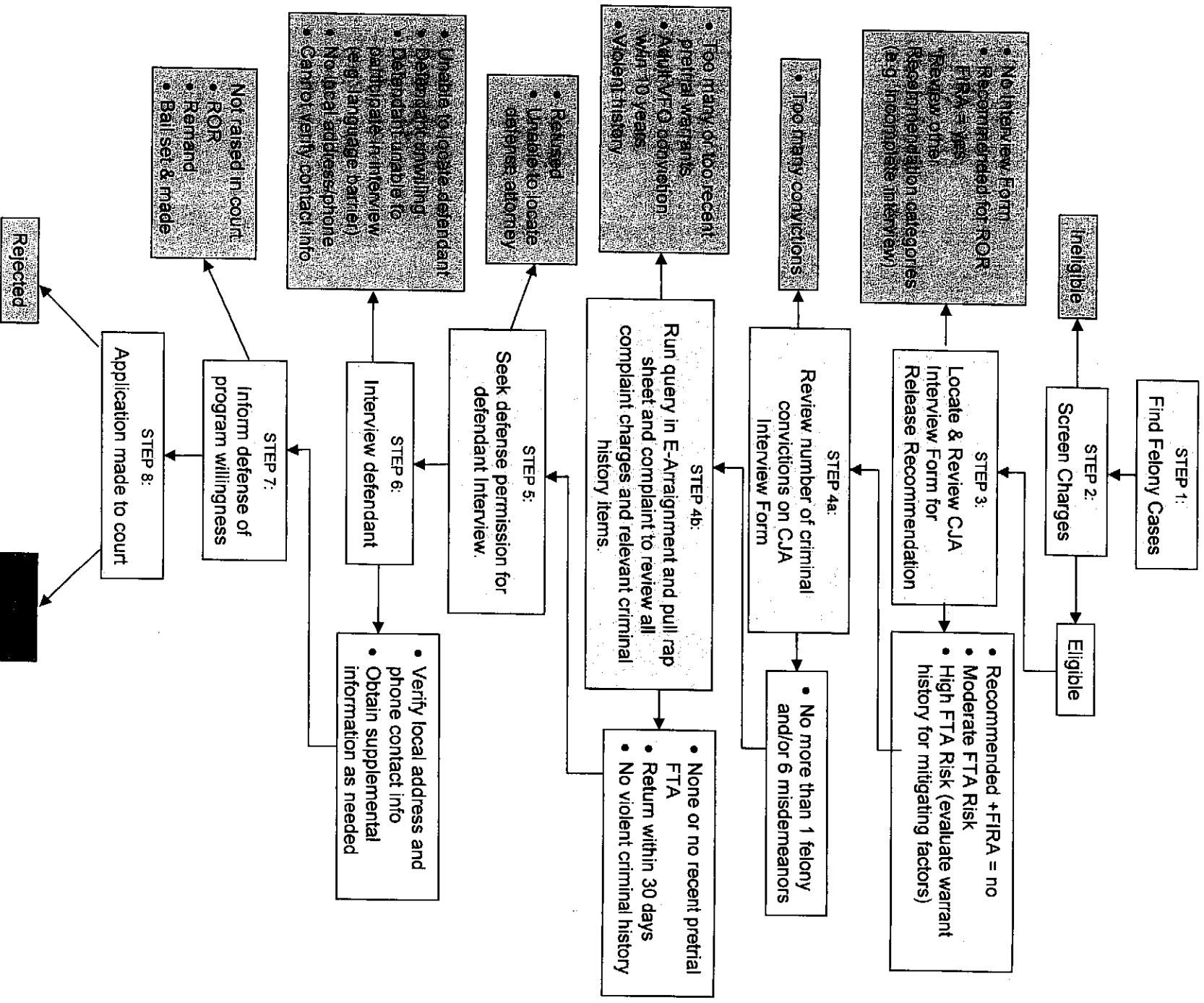
Forthcoming:

No. 33 (January 2014) *Case Processing in Brooklyn's Integrated DV Court*
by Richard R. Peterson, Ph.D.

Most recently published in this series:

- No. 31 (January 2013) *The EVE Project* (Peterson)
- No. 30 (September 2012) *New York City's Bail System — A World Apart* (Phillips)
- No. 29 (May 2012) *Evaluation of Brooklyn's Video Statement Program For DV Cases* (Peterson)
- No. 28 (January 2012) *Implementing Brooklyn's Video Statement Program For DV Cases* (Peterson)
- No. 27 (September 2011) *How Release Type Affects Failure To Appear* (Phillips)
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- No. 23 (May 2010) *Making Bail in New York City* (Phillips)
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MANHATTAN SUPERVISED RELEASE DECISION MODEL



NEW YORK CITY

CRIMINAL JUSTICE AGENCY

SUPERVISED RELEASED PROGRAM

299 BROADWAY, SUITE 1816
NEW YORK, NEW YORK 10007

OFFICE: (212) 693-9080
FAX: (212) 693-9085

What are the terms of supervision if the Court places you in our program as an alternative to bail?

1. Report directly to our Case Managers, at our office a few blocks away, at 299 Broadway to establish further contact with the Supervised Release Program. If the office is currently closed, you will be given an appointment time for tomorrow morning, or the soonest possible date.
2. Meet regularly with our Case Managers, who are licensed social workers, at our offices at 299 Broadway. This is typically two face-to-face meetings and one scheduled phone call every week until your level of supervision changes or until your supervision is deemed completed by the Court.
3. Comply with an initial intake assessment process which includes: written and verbal assessments related to mental health and substance abuse, clinical interactions with a Case Manager, and a mandatory drug test administered within the first few weeks of supervision.
4. Make every court appearance and avoid rearrests.

The Case Managers will submit written progress reports to the Judge, your defense lawyer, and the Assistant District Attorney on every scheduled court appearance that you have until your supervision is deemed completed by the Court. These progress reports include the following information:

- any clinical recommendations, relating to mental health and substance abuse, based on their assessments,
- a record of your compliance with our reporting requirements,
- and of docketed re-arrests, if any.

Unscheduled reports will be provided in advance of the court date to all the parties if there is a serious failure in compliance with the conditions of release, ie., loss of contact, docketed re-arrest, or as required by the Court.

I _____ understand the terms above.

NEW YORK CITY
CRIMINAL JUSTICE AGENCY
SUPERVISED RELEASED PROGRAM

I, _____ (Docket Number _____) understand that I have been released under supervision to the New York City Criminal Justice Agency Supervised Release Program. As a condition of my release I agree:

1. To report for and complete an intake-assessment process at the Program's office located at the **299 Broadway, 18th Floor, Suite 1816, New York, NY 10007, (212) 693-9080;**
2. To maintain telephone and face-to-face contact as directed by the Program;
3. To notify the Program immediately of any change in address or telephone;
4. To be present at every court appearance as directed by the Court, avoid re-arrests and adhere to any other condition imposed by the Court; and
5. That the Program will monitor my compliance with the conditions of release and will report my compliance or non-compliance to the Court.

I understand that if I fail to comply with the above conditions, the Court may advance the case, revoke my release, set bail, and/or issue a warrant for my arrest.

Client's Intake Appointment Date

Client's Intake Appointment Time

Client's CJA Arrest #

Date released

Judge /
 /Part

Next Court Date /
 /Part

Client Street Address, Apt. #

Client's City, State, and Zip code

()

Client's Phone Number

Client's Signature

NEW YORK CITY

CRIMINAL JUSTICE AGENCY

SUPERVISED RELEASE PROGRAM

299 BROADWAY, SUITE 1816
NEW YORK, NEW YORK 10007

OFFICE: (212) 693-9080
FAX: (212) 693-9085

ANDREA J. BARROW, Esq.
PROGRAM MANAGER

FACT SHEET ON THE SUPERVISED RELEASE PROGRAM IN MANHATTAN

- OVERVIEW: The Criminal Justice Agency's Supervised Release Program targets persons charged with non-violent felony charges at Criminal Court arraignment. Participation entails completing an intake-assessment process, maintaining frequent face-to-face and telephone contacts with program staff, and cooperating with program verification efforts concerning applicable activities and responsibilities, such as employment or school. Referrals to outside agencies for additional services, which are voluntary, are made where appropriate.
- TARGET POPULATION: The Supervised Release Program targets persons who are:
 - Found to have a substantial risk of detention based on a review of charge characteristics;
 - Found not to pose a very low risk or very high risk of failing to appear if released on recognizance using CJA's pre-trial risk assessment as a guideline for further program eligibility screening;
 - Found not to pose a high risk of pretrial recidivism based on criminal history (currently defined as having more than six (6) misdemeanor convictions and/or more than one (1) felony conviction and/or any adult Violent Felony Offense (VFO) conviction within the last 10 years);
 - Not charged with either an A felony, or a VFO¹, or DV-related offenses.
- CASE MANAGEMENT: The Supervised Release Program will provide intensive monitoring through a team of case managers who will evaluate the client's service needs and his/her supervision requirements as determined during the intake-assessment process. Reporting requirements will be adjusted over time to reflect changes in circumstances, including the client's compliance and court-ordered requirements.
- COURT REPORTING: Written reports will be submitted at all scheduled court appearances. If there are any problems with compliance, the program manager or other program staff will appear in person with the report. In terms of content, at a minimum, the initial reports will contain information regarding the client's cooperation with the intake-assessment process; indication of need for, and referral to, outside services; specification of the level of appropriate supervision; details about the client's compliance with all face-to-face appointments with the case manager and telephone contact requirements; and information about any docketed re-arrests.
 - Unscheduled reports will be provided in advance of the court date to all the parties if there is a serious failure in compliance with the conditions of release, ie., loss of contact, docketed re-arrest, or as required by the Court.

¹ As per contract with the City, ineligible charges include: A-level felony offenses and all Violent Felony Offenses as defined in PL§70.02.

New York City Criminal Justice Agency Supervised Release Program

**Andrea J. Barrow, Esq.
Mari Curbelo, Esq.**

**New York City
Criminal
Justice Agency**

STRUCTURE OF PRESENTATION

- Description of the Criminal Justice Agency:
New York City's Pre-trial Service Agency since
1973.
- CJA's first Supervised Release program in
Queens operating since August 2009
- CJA's newest Supervised Release program
opened in Manhattan in April 2013
- Numbers

FUNCTIONS OF THE CRIMINAL JUSTICE AGENCY

- CJA contracts with the City to provide interviews and recommendations, notification, and research.
- Interviewers at Central booking interview arrestees to produce reports (the CJA Interview) to assist the court in making the release/bail decision.
- Data is collected electronically from the Police, OCA, CJA interviewers and NYC Corrections to be integrated in the Agency's comprehensive database for notification of future court dates and for ongoing research.
- CJA produces research reports on pre-trial, bail, and a broad array of criminal justice policy issues.

CJA INTERVIEW AND RECOMMENDATION

- In 2011, CJA conducted about 283,000 interviews of defendants held for Criminal Court arraignment.
- CJA participates in E-arraignment so that the Interview report is included along with the complaint and RAP sheet as part of the printed court papers.
- Information in the Interview report includes residence, occupation, family and/or community ties. Criminal history information is also collected: counts of previous convictions for felonies, misdemeanors and open cases, and bench warrants because these factor into the recommendation.
- The empirical research has shown that these factors are related to failure to appear, which is the statutory basis for the release decision in NY. (CPL §510.30)

CJA'S RECOMMENDATION SYSTEM

- CJA's recommendation is based on a validated objective point-scale system. A new recommendation system was implemented in 2003.
- This gave CJA greater confidence in discerning between levels of risk for Failure to Appear.
- Three Principal and Largest Categories:
 - Recommended for release on recognizance (ROR) – FTA rate 8%, (+7 to +12 points)
 - Moderate Risk for failing to appear if released on recognizance – FTA rate 12% (+3 to +6 points), and
 - Not Recommended for release on recognizance because of High Risk of FTA - FTA rate 22%, (-12 to +2 points).

BACKGROUND FOR SUPERVISED RELEASE

- Many pre-trial service agencies provide supervision along with the traditional pre-trial services.
- Historically, CJA was interested in providing a supervised release option, however, this was tempered by case processing realities and net-widening concerns. Most recently the 2011 Annual Report noted that 43% of all cases are disposed at arraignment, 57% are continued. The arraignment ROR rate for all continued cases (non-disposed felonies, misdemeanors and violations combined) city-wide was 68%.
- However, the ROR rate for felony cases at criminal court arraignment is 40%. That means that 60% have bail set or are otherwise detained at criminal court arraignment.

ADDITIONAL FACTORS

- CJA's leadership role in revising the National Association of Pre-trial Services (NAPSA)'s standards in 2003, which are modeled on the ABA's revised Standards for Pre-Trial Services. These envision a continuum of release options, ranging from a presumption of release on recognizance, release on condition, imposition of reasonable and reachable bail, up to preventive detention.
- CJA participated in NYCLA Criminal Court Task Force and provided research data. In 2005 the Task Force issued a resolution supporting a Supervised Release pilot program in Queens.
- City responded and together with CJA, devised the Queens Supervised Release Project in 2009.

QUEENS SUPERVISED RELEASE

- This pilot program was funded by the City to offer supervised release to a limited group of defendants charged with selected non-violent felony offenses, who do not pose a substantial risk to public safety.

GOALS AND MEASURES OF SUCCESS

- **Goals:** The release of otherwise detention-bound defendants would generate cost savings at both the institutional and individual levels.
- No increase in FTA or in serious/felony re-arrests.
- Test if better court outcomes, including treatment diversions.
- Remain vigilant about net-widening: concern that ROR'd defendants – ROR plus.
- Preliminary numbers suggest that Queens ROR rate has increased since the start of Queens Supervised Release.
- Due to frequent waiver of CPL §180.80 in Queens, research has also shown an additional displacement of pre-trial detention time. Because the overwhelming majority of successful program clients receive a conditional discharge sentence there is post-sentence jail displacement, as well.

SUPERVISED RELEASE DESIGN

- We have established eligibility criteria
- The defense attorney is the gate keeper to avoid net widening and to minimize the use of the program in cases where the client should be released on recognizance
- Our offices are in a setting outside of the court
- Our case managers are social workers, not pre-trial officers
- We have institutional resources to be accountable to the Court
 - Notified of our client's future court dates
 - Notified if a Client has an online re-arrest
- Presence in arraignment part

EXPANSION

- **Bail reform is in the air**
 - **Human Rights Watch report, “The Price of Freedom”**
 - **National Association of Criminal Defense Lawyers Resolution**
 - **Chief Judge Lippman’s State of the Judiciary Address**
- **The positive experience in Queens has afforded us the opportunity to secure funding from the City to expand into Manhattan**
- **We secured the funding in 2012 and the planning continued through the beginning of 2013**

MANHATTAN START-UP

- In April 2013 the Manhattan Supervised Release program began operation. As of today, we have had 82 clients released into our program.

HOW SUPERVISED RELEASE IS USED

- Supervised Release is a tool for the Court as an alternative to setting bail.
- A tool for lawyers to keep their clients out of jail

HOW IT WORKS

- At arraignment, if your client is eligible, and you believe the program is right for your client - you decide whether to ask the Judge to release your client into the program.

WHAT IS SUPERVISION?

An agreement to be supervised, is an agreement to the following:

- (1) To meet with our licensed social workers regularly in our Program Offices for the duration of their case.
- (2) To allow social workers to complete an assessment to determine whether client has mental health or substance abuse treatment needs.
- (3) To allow us to report to the Court - program attendance, the assessment results referrals made, and re-arrests, if any.

ELIGIBILITY

In order to be eligible for the Program, the case must be **BOTH charge eligible** and the person must be **criminal history eligible**

CHARGE ELIGIBLE CASES

Non-Violent, B, C, D and E Felonies*

- **No Misdemeanor Cases**
- **No A Felonies**
- **No VTL/DV/Contempt**

***As per Penal Law §70.02**

CRIMINAL HISTORY ELIGIBILITY REQUIREMENTS

Defendant must have

- Six or fewer misdemeanor convictions
- Not more than 1 adult felony conviction
 - If prior felony conviction is for a VFO, the conviction must be at least 10 years old.
- other relevant Criminal History is also considered

HOW SUPERVISED RELEASE BECOMES AN OPTION FOR DEFENSE COUNSEL

- Court Reps staff the arraignment parts
Monday through Friday, 9:00am – 1:00am.
- Court clerks provide calendars to screen charges
- Access to NYC database eArraignment for Rap, CJA
and Complaint.

FURTHER SCREENING

**After an initial finding of eligibility Court Reps
Screen Rap Sheet for more information:**

- **Does the defendant have a significant warrant history?**
 - **Mitigating circumstances?**

OTHER ONGOING MATTERS

- Other open cases?
 - Indicted felonies?
- On probation or parole?
- Do they report a local address?
 - Do they have contacts in the community?
 - If homeless, do they have supportive housing?

ATTORNEY AS GATEKEEPER

- The Court Rep approaches Defense Counsel and asks if bail is likely to be set?
 - If NO, Court Rep does not pursue the case any further.
 - If YES, Court Rep presents the attorney with the terms of supervision.

ATTORNEY AND CLIENT DISCUSS PROGRAM

In the back, attorney considers the option of Supervised Release with the client.

SOME CONSIDERATIONS

- Is this a case where the client should be ROR'd?
- Is the client in a position to make bail?
- Will the client be able to comply with the conditions of supervision?

INTEREST IN SUPERVISED RELEASE

If attorney and client are interested, the Court Rep conducts an interview.

OUR INTERVIEW

- Re-introduce the program. Discuss the required face-to-face office appointments with our social work staff.
- Re-read the terms sheet – allow for questions, clarification.

INTERVIEW (CONT'D)

- If the defendant is willing, the Court Rep requests contact information for someone:
 - (1) Verify local address
 - (2) Serve as a contact in the event of release to program
- If verified, client signs terms and case is fully eligible for Supervised Release.

RAISE SUPERVISION ON RECORD

- **Defense Attorney requests Supervised Release as part of bail application**
- **We can interview the client and serve as a backup if attorney is unsure whether to raise it initially**

JUDGE AGREES TO RELEASE INTO PROGRAM

- The client signs a contract agreeing to the terms of supervision.
- The Court Rep reads contract terms on the record.
 - Terms state: (1) client agrees to report for intake, (2) to complete the assessment (3) to comply with reporting requirements (4) To allow us to report this information
- A copy of the contract is given to all parties.
- The client is given an appointment to report to our program office at 299 Broadway.

SUPERVISED RELEASE ADJOURNMENTS

- For reporting purposes, our cases require adjournments of six weeks or less.
- Out of arraignment, if co-defendants have 180.80 dates, may be adjourned to track.
- Every subsequent adjournment should be in six week increments.

CLIENT “ROR’D” TO SUPERVISED RELEASE

- **The Court Papers will include contract and state Supervised Release.**
- **OCA will indicate client is “ROR”.**
- **Before leaving arraignment, the client waits to meet with the Court Rep and is given a time/date for intake**

INTAKE

- Intake is the first meeting with the Case Manager/Licensed Social Worker
 - Introductions
 - Explain program expectations
 - Identify and discuss appt. scheduling, probation, outstanding warrants, if any

LEVELS OF SUPERVISION

There are graduated levels of supervision

All clients begin on Level 1 Supervision

- **Level 1 Supervision**
 - **two face-to-face visits and one scheduled telephone call each week**

LEVELS OF SUPERVISION (CONT'D)

- **Level 2 Supervision**

- one face-to-face visit and one scheduled telephone call each week

- **Level 3 Supervision**

- Three weekly telephone calls

- **Level 4 Supervision**

- One telephone call each week

LEVELS OF SUPERVISION (CONT'D)

The level of supervision changes as the client establishes a track record of compliance, or secures regular work, starts an educational or training program or, if in need, enters into a treatment program.

ASSESSMENT

The assessment to determine substance abuse or mental health treatment needs is conducted over the first few weeks.

ASSESSMENT TOOLS

- **Several clinical tools are used by Case Managers to complete the assessment. These include:**
 - **One oral swab drug test**
 - **Written tests**
 - **Verbal tests**
 - **Clinical observations based on interactions**

REFERRALS

- If a need is identified, a referral for services is offered.
- Accepting the referral is voluntary.

REPORTING

- A progress letter is produced and submitted to the Court at every scheduled court appearance for the life of the case.
- Copies of this letter are submitted to the defense attorney, the ADA and Judge who released the client at his or her arraignment.

COURT LETTER CONTENT

- The number of office appointments made
 - Ex: 10/10 face-to-face visits and 4/5 phone calls.
 - Reasons, if compelling, about missed appointments or calls.
- Results of Assessment
 - Ex: Client is not in need of additional outside services.
 - Ex: Client would benefit from substance abuse treatment.
- If a referral for outside services was made
- Participation in constructive outside activities such as school, training program, or employment
- Information on docketed re-arrests, if any

CIRCUMSTANCES OF OFF CALENDAR LETTERS

- **Felony, or serious docketed re-arrests**
- **Loss of Contact**

LOSS OF CONTACT

■ Process:

- If a client misses several appointments
- unable to contact him or her
- we will reach out to the defense attorney for assistance.

LOSS OF CONTACT (CONT'D)

- If a week passes, and we have not heard from the client, a Loss of Contact letter is sent to the client's address.
- If we do not hear back within a week, we send a letter informing the court that we have lost contact with the client.

LOSS OF CONTACT

The Court decides whether to wait and address the issue on the next scheduled court date or to advance the case and issue a warrant.

WORKING WITH ATTORNEYS

- Our social workers remain in contact with the defense attorneys over the course of the supervision.
- Social workers or program staff can appear on the case at the attorney's request.
- Social workers encourage and attempt to facilitate client's on-going communication with his or her defense attorney.
- If diversion is negotiated, we hand over reporting to plea negotiated program.

ENDING SUPERVISION

Supervision continues until:

- **The conclusion of the case: by dismissal, by plea, through trial**
 - **or until supervision is revoked by a Judge.**
-
- **We continue to supervise if a case has been reduced.**

ENDING SUPERVISION (CONT'D)

- **We do not supervise cases where bail is set (double supervision).**
- **We do not supervise post-plea through a repleader that involves participation in a treatment program.**

ENDING SUPERVISION (CONT'D)

- We will close the case if a client is detained without the possibility release.
- Examples: Probation violations, ICE detainer or unreachable bail on another case.



QUEENS SUPERVISED RELEASE PROGRAM NUMBERS

- Beginning in August 2009, to date 1,197 clients have been released into our Queens Supervised Release program.
- 86% of all participants have successfully completed.
- Only 10% have had supervision revoked by the court – usually for a felony level re-arrest or detention on an earlier case (probation violation, ICE, etc.)
- Our overall Failure to Appear rate is 6%. Revocation of supervision for Failing to Appear is under 4%.

QUEENS SUPERVISED RELEASE PROGRAM NUMBERS THROUGH JANUARY 31, 2013

| CLIENTS' STATUS | | |
|--|------------|-------------|
| Active | 127 | 12.0% |
| Completed | 928 | 88.0% |
| COMPLETED STATUS TYPE | | |
| Successfully Completed | 802 | 86.4% |
| Case adjudicated | 626 | 67.5% |
| Pre-adjudication | 5 | 0.5% |
| Transferred to TASC/QTC | 125 | 13.5% |
| Transferred to MHC | 6 | 0.6% |
| Transferred to other ATI | 28 | 3.0% |
| Transferred to Family Court | 4 | 0.4% |
| District Attorney Monitoring | 5 | 0.5% |
| Other | 3 | 0.3% |
| Supervision Revoked | 96 | 10.3% |
| Failure to appear/program failure | 36 | 3.9% |
| Detention on a new rearrest | 51 | 5.5% |
| New rearrest and participation issues | 5 | 0.5% |
| Solely participation issues | 1 | 0.1% |
| Other | 3 | 0.3% |
| Other Termination | 30 | 3.2% |
| Previous case and detention | 18 | 1.9% |
| Immigration/Parole detention | 7 | 0.8% |
| Other detention (bail on instant case) | 1 | 0.1% |
| Program termination | 4 | 0.4% |
| Other | 0 | 0.0% |
| Total Completed | 928 | 100% |

QUEENS SUPERVISED RELEASE PROGRAM NUMBERS THROUGH JANUARY 31, 2013

FAILURES TO APPEAR FOR 1055 CLIENTS THROUGH JANUARY 31, 2013

| | | |
|--|---|----|
| In-patient detox/treatment | 4 | 4% |
| Sick | 3 | 3% |
| No carfare | 2 | 2% |
| Family crisis | 1 | 1% |
| Confused date/Arrived late/Court closed/in error | 7 | 7% |
| Unknown | 1 | 1% |
| Afraid of Court Outcome | 1 | 1% |
| Detained by Other Legal Authorities | 7 | 7% |

TIME TO EXIT FROM PROGRAM BY PROGRAM STATUS

| Program Status | Total Number of Clients | Percent | Mean (Days) | Median (Days) |
|-----------------------|-------------------------|---------|-------------|---------------|
| Active | 127 | 12.0% | 98.4 | 90 |
| Successful Completion | 802 | 76.0% | 129.7 | 105.5 |
| Supervision Revoked | 96 | 9.1% | 101.7 | 82.5 |
| Other Termination | 30 | 2.8% | 95.1 | 79.5 |