



# **Bronx County Family Court School-Justice Survey**

Petitions Based Upon  
School-related Incidents  
During Two Three-Week Periods  
November 23 to December 16, 2011  
and  
January 23 to February 10, 2012

New York State  
  
Permanent Judicial Commission on  
**Justice for Children**

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Hon. Judith S. Kaye  
Chair

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Executive Director

## **Bronx County Family Court School-Justice Survey: Petitions Based Upon School-related Incidents**

Survey conducted under the direction of  
**Hon. Monica Drinane, Supervising Judge  
Bronx County Family Court**

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*Special Thanks to...*  
**the New York City Family Court and Bronx County Family Court  
for their assistance in conducting this study.**

**August 2012**

# Bronx County Family Court School-Justice Survey: Petitions Based Upon School-related Incidents

The Bronx County Family Court, under the direction of Supervising Judge Drinane, conducted the *Bronx County Family Court School-Justice Survey: Petitions Based Upon School-related Incidents Survey* to help identify, quantify and describe juvenile delinquency (D) and designated felony (E) petitions that include allegations based upon incidents that occurred at school. Incidents that occurred at school include incidents that occurred on school grounds and/or school buses. Supplemental petitions where the original petition was based upon incidents that occurred at school were excluded from the study population. Upon examination of the petitions, the Bronx County Family Court opted to include petitions that clearly indicated that the incident occurred as a student was followed off school grounds which indicates a safety issue for students.

## Study Description

The study was conducted during two three-week periods: November 23, 2011 to December 16, 2011; and January 23, 2012 to February 10, 2012. Of the 175 petitions filed in the Bronx Family Court during these two three-week periods, there were 45 D petitions and no E petitions filed that included allegations based upon incidents that occurred at school. That translates to **one in four petitions (25.7%) included allegations based upon incidents that occurred at school**. While there were fewer petitions filed between November 23 and December 16, 2011 (80 petitions) than between January 23 and February 10, 2012 (95 petitions), there were more school-related petitions filed during the first three-week period (25 petitions or 31.3%) compared to the second three-week period (20 petitions or 21.1%).

There were 40 unique students involved with these 45 petitions. While the primary universe of this analysis is the petition to help identify, quantify and describe the school-related workload of the court, data for unique students is included where applicable to help describe the students involved in the petitions during these two three-week periods.

## Demographics

### *Petitions*

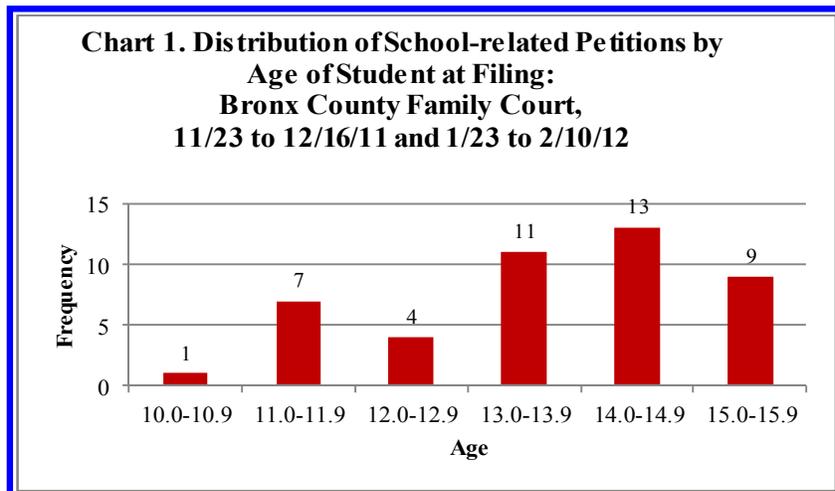
Males accounted for 66.7 percent of the 45 petitions including allegations based used school-related incidents during these two three-week periods. Race and Hispanic origin were unknown for a substantial proportion of petitions (22.2% and 51.1%, respectively).\* Of the 35 petitions with race data, there were 28 petitions for Black students (80.0%), 6 for White students (17.1%), and 1 for Asian students (2.9%). Of the 22 petitions with Hispanic Origin data, there were 13 petitions for Hispanic students (59.1%).

The petitions ranged in age of youth from 10.8 years to 15.9 years with an average age of 13.8 years. More than half of all petitions (24) included youth between the ages of 13.0 and 14.9 years with petitions for youth ages 14.0 to 14.9 years accounting for the largest number of petitions (see Chart 1). (Since this analysis focuses on family court petitions, youth ages 16 years and older involved with the adult criminal courts as a result of school-related incidents would not be included.)

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\*In addition to incomplete race/ethnicity data, race and ethnicity may not be self reported and could be inaccurate.

## Demographics cont'd



### Unique Students

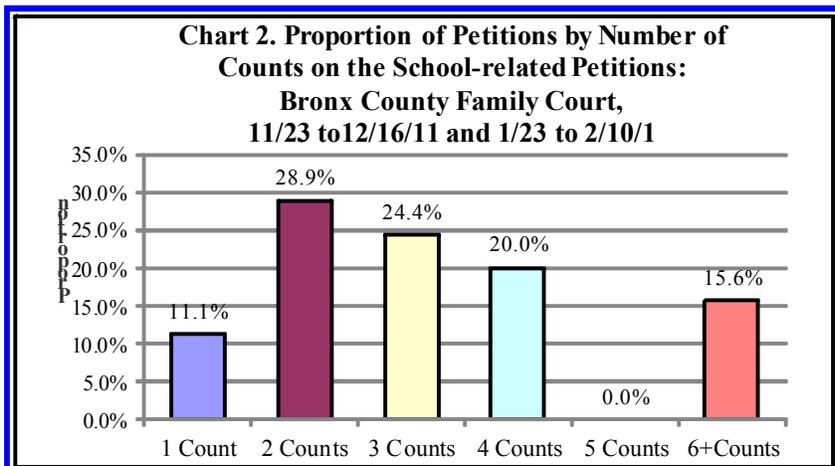
Similar to the petition analysis, males accounted for 65 percent of students involved with school-related petitions and more than half of the unique students (21) were between the ages of 13.0 and 14.9 years.

The percentages by race for the 30 unique students with reported race (24 Black students—80.0%; 5 White students—16.6%; 1 Asian students—3.3%) were also quite similar to the petition breakdown. Compared to the County’s racial breakdown (36.5%, 27.9% and 3.6%, respectively), Black students accounted for a significantly greater proportion of the students involved in the petitions while the proportion for the 11 Hispanic students (55.0%) of the 20 students with reported ethnicity is similar to the County’s ethnic breakdown (53.5%).<sup>1</sup>

## Allegations—Number of Counts

### Petitions

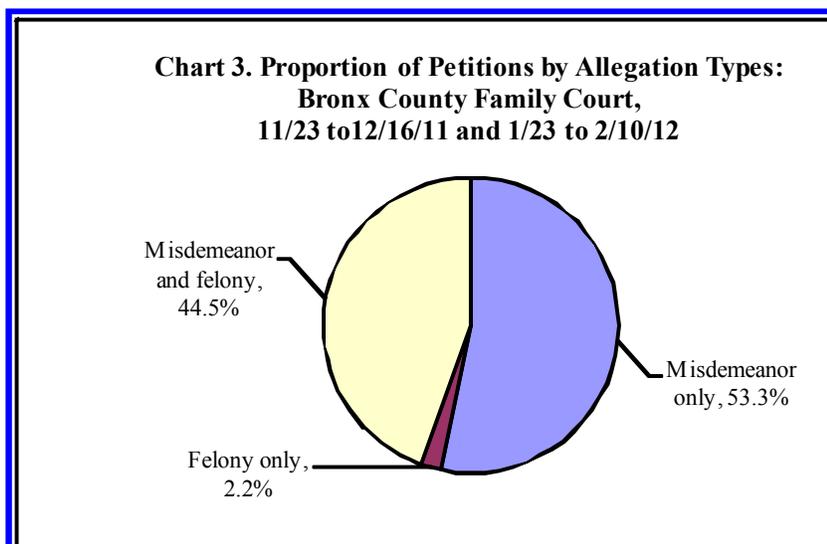
In total, there were 147 counts included in the 45 petitions. The majority (88.9%) of petitions included more than 1 count (see Chart 2). Nearly 3 out of 10 petitions (28.9%) included 2 counts and nearly half (44.4%) had 3 or 4 counts. Seven petitions (15.6%) had 6 or more counts.



## Allegations—Type

### *Petitions*

More than half (53.3%) of the petitions were based on misdemeanor allegations only. One petition (2.2%) was based on felony allegations only and 20 petitions (44.5%) were based on misdemeanor and felony allegations (see Chart 3). There were 3 juvenile delinquent counts: 2 were with misdemeanor allegations and 1 was with misdemeanor and felony allegations.



## Allegations—Counts and Class Type

### *Petitions*

The most common first count was Assault in the third degree (PL 120.00), a Class A misdemeanor, for 9 petitions; followed by 7 first counts of Attempted assault in the third degree [PL 110/120.00(1)], a Class B misdemeanor; and 6 first counts of Robbery in the second degree (PL 160.10), a Class C felony. (See Table 1 for frequency of allegations by count order and Table 2 for frequency of allegations by Class Type.)

With a total 26 counts, Menacing in the third degree (PL 120.15), a Class B misdemeanor, was the most common overall allegation. This was followed by 18 counts of Attempted assault in the third degree and 15 counts of Assault in the third degree.

The 113 misdemeanor counts encompassed 3 out of 4 (76.9%) of all allegations.

The 22 Class E felonies were the most common class type among the 34 felony allegations with 9 counts for Grand larceny in the fourth degree (PL 160.10) being the most common felony.

## Allegations—Obstructing Governmental Administration

### *Petitions*

There were 2 petitions that included the count of Obstructing governmental administration in the second degree (PL 195.05), a Class A misdemeanor. In one petition, this count was followed with the count of Resisting arrest (PL 205.30), a Class A misdemeanor. In the other petition, these counts were reversed. Both petitions involved a School Safety Officer.

<b>Table 1. Frequency of Allegations in the Petitions Based upon School-related Incidents by Count Order: Bronx County Family Court, 11/23 to 12/16/11 and 1/23 to 2/10/12</b>							
<b>Allegations</b>	<b>Count Order</b>						<b>Total</b>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6+</b>	
Attempted Assault in the third degree [PL 110/120.00(1)]	7	7	4				18
Attempted Assault in the second degree (PL 110/120.05)	4						4
Attempted Grand Larceny in the fourth degree [PL 110/155.30(5)]	2	3	2				7
Attempted Robbery in the third degree (110/160.05)	1						1
Attempted Robbery in the second degree (PL 110/160.10)	2						2
Assault in the third degree (PL 120.00)	9	2	4				15
Assault in the second degree (PL 120.05)	1						1
Menacing in the second degree (PL 120.14)	1	1		1			3
Menacing in the third degree (PL 120.15)		8	5	7		6	26
Criminal obstruction of breathing or blood circulation (PL 121.11)	1	2	1				4
Forcible touching (PL 130.52)	2						2
Sexual abuse in the third degree (PL 130.55)		1					1
Unlawful imprisonment in the second degree (PL 135.05)		4		6			10
Criminal mischief in the fourth degree (PL 145.00)				1			1
Criminal mischief in the third degree [PL 145.05(2)]	1						1
Petit larceny (PL 155.25)						6	6
Grand Larceny in the fourth degree (PL 155.30)	3	6					9
Robbery in the second degree (PL 160.10)	6						6
Criminal possession of stolen property in the fifth degree (PL 165.40)					6		6
Obstructing governmental administration in the second degree (PL 195.05)	1	1					2
Resisting arrest (PL 205.30)	1	1					2
Endangering the welfare of a child (PL 260.10)			6				6
Criminal possession of a weapon in the fourth degree (PL 265.01)	3	1	4	1			9
Unlawful possession of weapons by persons under sixteen (PL 265.05)		2			1		3
Unlawful Possession or Sale of Air Pistols and Air Rifles [NYC 10-131(b)]			1			1	2
<b>Total</b>	<b>45</b>	<b>39</b>	<b>27</b>	<b>16</b>	<b>7</b>	<b>13</b>	<b>147</b>

See Appendix A for further details about these allegations.

<b>Table 2. Frequency of Allegations in the Petitions Based upon School-related Incidents by Class Type: Bronx County Family Court, 11/23 to 12/16/11 and 1/23 to 2/10/12</b>							
<b>Allegations</b>	<b>Class Type</b>						
	<b>Misdemeanor</b>			<b>Felony</b>			<b>JD</b>
	<b>A</b>	<b>B</b>	<b>Unclass</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>JD</b>
Attempted Assault in the third degree [PL 110/120.00(1)]		18					
Attempted Assault in the second degree (PL 110/120.05)						4	
Attempted Grand Larceny in the fourth degree [PL 110/155.30(5)]						7	
Attempted Robbery in the third degree (PL 110/160.05)						1	
Attempted Robbery in the second degree (PL 110/160.10)					2		
Assault in the third degree (PL 120.00)	15						
Assault in the second degree (PL 120.05)					1		
Menacing in the second degree (PL 120.14)	3						
Menacing in the third degree (PL 120.15)		26					
Criminal obstruction of breathing or blood circulation (PL 121.11)	4						
Forcible touching (PL 130.52)	2						
Sexual abuse in the third degree (PL 130.55)		1					
Unlawful imprisonment in the second degree (PL 135.05)	10						
Criminal mischief in the fourth degree (PL 145.00)	1						
Criminal mischief in the third degree [PL 145.05(2)]						1	
Petit larceny (PL 155.25)	6						
Grand Larceny in the fourth degree (PL 155.30)						9	
Robbery in the second degree (PL 160.10)				6			
Criminal possession of stolen property in the fifth degree (PL 165.40)	6						
Obstructing governmental administration in the second degree (PL 195.05)	2						
Resisting arrest (PL 205.30)	2						
Endangering the welfare of a child (PL 260.10)	6						
Criminal possession of a weapon in the fourth degree (PL 265.01)	9						
Unlawful possession of weapons by persons under sixteen (PL 265.05)							3
Unlawful Possession or Sale of Air Pistols and Air Rifles [NYC 10-131(b)]			2				
<b>Total</b>	<b>66</b>	<b>45</b>	<b>2</b>	<b>6</b>	<b>3</b>	<b>22</b>	<b>3</b>

See Appendix A for further details about these allegations.

## Allegations—Weapons

### *Petitions*

Nine petitions (20% of all petitions) included 14 counts involving the possession of a weapon: 9 Criminal possession of a weapon in the fourth degree (PL 265.01), a Class A misdemeanor; 3 Unlawful possession of weapons by persons under sixteen (PL 265.05), adjudged a juvenile delinquent; and 2 Unlawful possession or sale of air pistols and air rifles [NYC 10-131(b)], an unclassified misdemeanor. The 2 counts of Unlawful possession or sale of air pistols and air rifles were the only weapon counts that specified firearms (1.4% of all counts). In 3 of the petitions—accounting for 6 of the counts—the allegations included weapon only counts.

### *Unique Students*

Eight of the 40 unique students (20%) had a petition that included a count involving the possession of a weapon. The students' age ranged from 12.2 to 15.9 years (average 14.4 years). Females accounted for fewer of the students with weapon counts than males (25% and 75%, respectively)—a proportion that is slightly more dramatic than their overall representation in the school-related petitions (33% and 67%, respectively).

## School Resource Officer Involvement

### *Petitions*

There were 7 petitions (16%) indicating a school resource officer (SRO) was involved in the school-related incidents. Two of these petitions, as mentioned earlier, included the count of Obstructing governmental administration in the second degree (PL 195.05), a Class A misdemeanor. The remaining 5 petitions included counts involving the possession of a weapon. Three of these five petitions indicated that the students had handed the weapons over to a dean or teacher who then handed the weapons over to the SRO. Two petitions indicated that the SRO was the primary contact for identifying or acquiring the weapon. The level of SROs' involvement noted in the weapon-related petitions is shown in Table 3.

<b>Table 3. Level of School Resource Officer Involvement—Primary, Secondary or No Involvement—Noted in 9 Petitions with Weapon Counts</b>	
<b>Weapon</b>	<b>SRO Involvement in Alleged Incident</b>
Knife	Secondary Involvement: Dean investigated possession of knife; student admitted having knife for protection and gave knife to dean; dean gave knife to SRO
Metal object	No Involvement
Gravity knife	Primary Involvement: SRO observed knife clipped on student's pocket and recovered
School binder	No Involvement
Wire	No Involvement
Light bulb-broken	No Involvement
BB gun	Secondary Involvement: Student possessed BB gun; gave to teacher who gave to SRO
BB gun	Secondary Involvement: Student possessed and used BB gun; gave to teacher who gave to SRO
Frozen water bottle	Primary Involvement: Student threw bottle at and hit SRO

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## School Resource Officer Involvement cont'd

### *Unique Students*

Seven of the 40 unique student (17.5%) had a petition that indicated SRO involvement.

## Location of School-related Incident

### *Petitions*

The majority of petitions (36 petitions or 80%) were for incidents that occurred on school grounds. Among those 36 petitions, there were 25 different known school and 3 unknown school locations.

Six petitions (13%) were related to a single school bus incident and 3 petitions (7%) were related to a single incident that occurred as a student was followed off school grounds. Both of the incidents that occurred on a school bus and off school grounds involved more than 1 respondent and numerous counts.

- The 6 school bus-related petitions, with 7 counts each, accounted for 42 of the counts—including 12 of the 35 felony counts: Count 1—Robbery in the second degree [PL 160.10(1)], a Class C felony; Count 2—Grand larceny in the fourth degree [PL 155.30(5)], a Class E felony; Count 3—Endangering the welfare of a child [PL 260.10(1)], a Class A misdemeanor; Count 4—Unlawful imprisonment in the second degree (PL 135.05), a Class A misdemeanor; Count 5—Criminal possession of stolen property in the fifth degree, (PL 165.40), a Class A misdemeanor; Count 6—Petit larceny, (PL 155.25), a Class A misdemeanor; and Count 7—Menacing in the third degree, (PL 120.15), a Class B misdemeanor.
- The 3 off school grounds-related petitions, with 2 counts each, included Class B misdemeanor allegations: Count 1—Attempted assault in the third degree [PL 110/120.00(1)]; and Count 2—Menacing in the third degree (PL 120.15).

## Number of Respondents

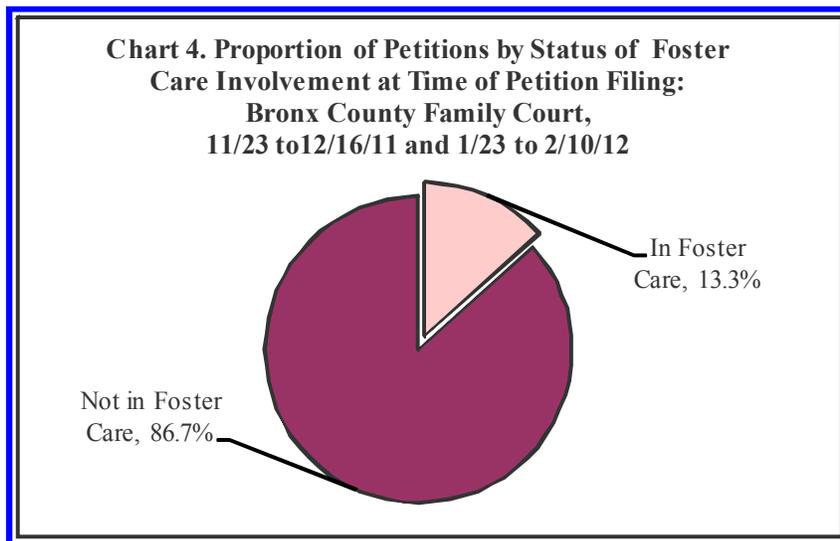
### *Petitions*

In 6 out of 10 petitions (28 petitions or 62%), there was a sole respondent on the petition. Only 2 petitions included 2 respondents, 11 petitions included 3 or 4 respondents and 4 petitions included 5 or more respondents.

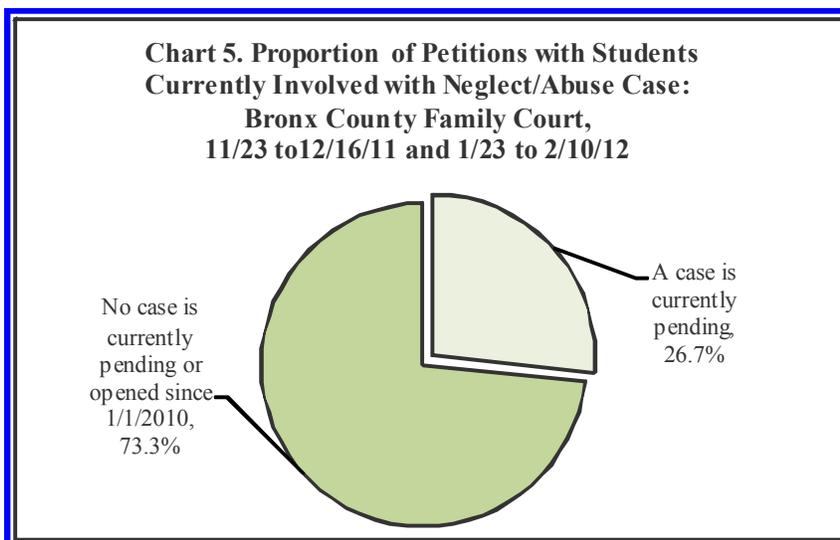
## Crossover Youth

### *Petitions*

At the time of the petition filings, 6 of the 45 petitions including school-related allegations—or 13.3 percent—were for youth currently in foster care (Chart 4).



Expanding the parameters to include petitions for students who had involvement with a current neglect or abuse case, the number jumps to 12—or 26.7 percent of the petitions including school-related allegations during these two three-week periods (Chart 5).



## Crossover Youth cont'd

### *Unique Students*

Of the 6 petitions with students currently in foster care, there were 4 unique students—10 percent of the 40 unique children involved in the 45 petitions. Using the overall New York City rate of children in foster care (7/1,000 City children—or 0.7%) as a proxy, the representation of children in foster care in these petitions far exceeds the expected proportion.<sup>2</sup> The number of students jumps to 9 when the scope is expanded to include those who had involvement with a current child welfare case (22.5%).

During these two three-week periods, the crossover youth involved in school-related petitions were basically similar to their non-child welfare involved peers by School Safety Agent involvement in the petition, place of occurrence, and school attendance at 80 percent or greater during the last full semester (see Table 4). Crossover youth were however more likely to be male, have combined misdemeanor and felony allegations in their petitions and counts involving the possession of a weapon and less likely to have an adult appeared on their behalf at the probation intake (see Table 4).

<b>Table 4. Unique Student Characteristics by Child Welfare Involvement as of 1/1/10</b>				
	<b>Crossover Youth—Abuse/Neglect Case Pending</b>		<b>No Case Currently Pending or Opened Since 1/1/2010</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
<b>Total Petitions</b>	9	100%	31	100%
<b>What is the youth's sex?</b>				
Female	2	22%	13	42%
Male	7	78%	18	58%
<b>What are the allegation types of the original petition?</b>				
Misdemeanor only	3	33%	18	58%
Felony only	0	0%	1	3%
Misdemeanor and felony	6	67%	12	39%
<b>Did the petitions included counts involving the possession of a weapon?</b>				
Yes	3	33%	5	16%
No	6	67%	26	84%
<b>What was the place of the occurrence?</b>				
School	7	78%	26	84%
School bus	2	22%	2	6%
Followed off school	0	0%	3	10%
<b>Was a School Safety Agent (SSA) involved in the petition?</b>				
Yes	1	11%	5	16%
No	8	89%	26	84%
<b>Was the youth's school attendance 80%+ last full semester?</b>				
Yes	3	33%	9 (of 30)	30%
No	6	67%	21	70%
<b>Did an adult appear on behalf of the juvenile at probation intake?</b>				
Yes	6	67%	26	87%
No	3	33%	4 (of 30)	13%

## NYC Juvenile Detention Risk Assessment Instrument

### *Petitions*

The findings from the NYC Juvenile Detention Risk Assessment Instrument (RAI) were available for 44 of the 45 petitions including school-related incidents. Among these petitions, only one issue was identified regarding the risk of failure to appear—an adult did not appear on behalf of the juvenile at probation intake for 8 of the 44 petitions with responses (Table 5).

	Yes	No
A.1. The youth has an open JD warrant	0	44
A.2. The youth has a prior JD or PINS warrant	0	43
A.3. An adult did not appear on behalf of the juvenile at probation intake	8 (18%)	36
A.4. The youth school attendance was less the 30% in the last full semester	0	44

Among the questions related to the risk of re-arrest, the most common issue was that the students' school attendance was below 80 percent during the last full semester for 68 percent of the petitions (Table 6). The next most common risk was that 9 petitions (20%) identified students who had an unsealed prior arrest (Table 6).

	Yes	No
B.1. The youth has an unsealed prior arrest	9 (20%)	35
B.2. The youth has an unsealed prior felony arrest	4 (9%)	40
B.3. The youth has a prior JD adjudication	2 (5%)	41
B.4. The youth has a prior designated felony adjudication	1 (2%)	42
B.5. The youth is currently on JD probation	1 (2%)	43
B.6. The youth's school attendance was 80% or more in the last full semester	14 (32%)	30 (68%)

While the numbers are small and therefore can be unstable, the RAI results appear quite similar for petitions for crossover youth and youth who have had no child welfare involvement as of January 1, 2010. One difference is that petitions for crossover youth indicate a larger percentage attended school 80 percent or more during the last full semester (42% vs. 28%) (Table 7); however, the unique student analysis revealed that the percentages for crossover youth and their peers attending 80 percent or more are much closer (33% and 30%, respectively) (see Table 4).

	Crossover Youth		No Involvement	
	Yes	No	Yes	No
A.3 An adult did not appear on behalf of the juvenile at probation intake	3 (25%)	9(75%)	5(16%)	27(84%)
B.1. The youth has an unsealed prior arrest	3 (25%)	9(75%)	6(19%)	26(81%)
B.2. The youth has an unsealed prior felony arrest	3 (25%)	9(75%)	1 (3%)	31(97%)
B.3. The youth has a prior JD adjudication	1 (8%)	11 (92%)	1 (3%)	30(97%)
B.4. The youth has a prior designated felony adjudication	1 (8%)	11 (92%)	0 (0%)	32(100%)
B.5. The youth is currently on JD probation	0 (0%)	12(100%)	1 (3%)	31(97%)
B.6. The youth's school attendance was 80%+ last full semester	5 (42%)	7(58%)	9(28%)	23(72%)

## Summary

This study reveals that a substantial proportion of petitions filed in the Bronx County Family Court during these two three-week periods under review (November 23, 2011 to December 16, 2011; and January 23, 2012 to February 10, 2012) included allegations based upon incidents that occurred at school. The variation in the number of school-related petitions during these two periods is not surprising as fluctuations have been previously observed, in particular increases have been observed before scheduled vacations.<sup>3</sup>

This descriptive analysis looked at two universes: petitions and unique students. By examining the petitions, this study was able to identify, quantify and describe the court's workload related to petitions that include allegations based upon incidents that occurred at school. By examining unique students, this study was able to identify, quantify and describe the students who were respondents in the school-related petitions. The following are a few highlights:

- Of the 175 petitions filed during these two three-week periods, there were 45 D petitions and no E petitions filed that included allegations based upon incidents that occurred at school—that is 1 in 4 petitions (25.7%) included allegations based upon incidents that occurred at school.
- More than half (53.3%) of the petitions were based on misdemeanor allegations only. One petition (2.2%) was based on felony allegations only and 20 petitions (44.5%) were based on a combination of misdemeanor and felony allegations.
- The most common first count in the petitions was Assault in the third degree (PL 120.00), a Class A misdemeanor, for 9 petitions; followed by 7 first counts of Attempted assault in the third degree [PL 110/120.00(1)], a Class B misdemeanor.
- With a total 26 counts in the petitions, Menacing in the third degree (PL 120.15), a Class B misdemeanor, was the most common overall allegation.
- Based on the petition and unique student analyses, Black students and students involved with the child welfare system were over-represented in school-related petitions compared to their respective peers.
- For students with school-related petitions, low school attendance—a factor that is related to the risk of re-arrest—was an issue for both students involved in the child welfare and their peers not involved in the child welfare system.

The number of petitions and particularly the number of unique students tended to be small. While the information provided in this report accurately describes the petitions and students during these two three-week periods, small numbers may not be stable and could vary substantially at different time periods. The completeness of data was also an issue and was a particular concern for race and ethnicity data.

The information from this study will help inform the New York City School-Justice Partnership Task Force and the New York City Family Court in their efforts to address the school-justice connection. The criminalization of school behaviors has in some cases flooded the juvenile and criminal courts with cases that originated in school incidents.<sup>4</sup> Research has demonstrated that first arrests can have unintended negative consequences for school-age youth, as a first arrest during high school can almost double the odds of dropping out of school and a court appearance following the first arrest nearly quadrupled the odds of dropping out.<sup>5</sup> More information and monitoring is needed from the courts to help inform the work to reduce the reliance on arrest (and suspension) to maintain discipline and order in schools and to reserve the justice and court systems' resources for those youth who need high-level intervention and services.

## Definitions

*D Petitions*—Juvenile Delinquent: When a person who is under 16 years old, but is at least 7 years old, commits an act which would be a "crime" if he or she were an adult, and is then found to be in need of supervision, treatment or confinement, the person is called a "juvenile delinquent." The act committed is called a "delinquent act." All juvenile delinquency cases are heard in Family Court.

*E Petitions*—Juvenile Offender: Children who are 13, 14 and 15 years old who commit more serious or violent acts may be treated as adults. These cases may be heard in Supreme Court, but may sometimes be transferred to the Family Court (E petitions- Designated Felony). If found guilty, the child is called a "juvenile offender," and is subject to more serious penalties than a juvenile delinquent.

*Petition*—A signed, formal written request to a Family Court, that starts a case and asks for specific assistance from the court.

## Endnotes

<sup>1</sup>U.S. Census Bureau. *Profile of General Population and Housing Characteristics: 2010 2010 New York City Demographic Profile Data*. Accessed 6/1/12. [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_DP\\_DPDP1](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1).

<sup>2</sup>NYS Office of Children and Family Services. 2011. *2010 Monitoring and Analysis Profiles With Selected Trend Data: 2006 - 2010*. [http://www.ocfs.state.ny.us/main/reports/maps/Maps\\_NYC\\_2010.pdf](http://www.ocfs.state.ny.us/main/reports/maps/Maps_NYC_2010.pdf). The New York City rate is used as a proxy since county-specific data is not available.

<sup>3</sup>NYC School-Justice Partnership Task Force. October 28, 2011. Discussion during full task force meeting. New York, NY.

<sup>4</sup>Skiba, R. and R. Petersen. 1999. "The dark side of zero tolerance: Can punishment lead to safe schools?" *Phi Delta Kappan* 80(9): 372-382. Available at <http://www.questia.com/googleScholar.qst?docId=5001266124>.

<sup>5</sup>Sweeten, Gary. 2006. "Who will graduate: Disruption of high school education by arrest and court involvement." *Justice Quarterly* 23(4): 462-480.

## APPENDIX A

### New York State Penal Law

#### *§ 110.00 Attempt to commit a crime.*

A person is guilty of an attempt to commit a crime when, with intent to commit a crime, he engages in conduct which tends to effect the commission of such crime.

#### *§ 120.00 Assault in the third degree.*

A person is guilty of assault in the third degree when:

1. With intent to cause physical injury to another person, he causes such injury to such person or to a third person; or
2. He recklessly causes physical injury to another person; or
3. With criminal negligence, he causes physical injury to another person by means of a deadly weapon or a dangerous instrument.

Assault in the third degree is a class A misdemeanor.

#### *§ 120.05 Assault in the second degree.*

A person is guilty of assault in the second degree when:

1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person; or
2. With intent to cause physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or

3. With intent to prevent a peace officer, a police officer, registered nurse, licensed practical nurse, sanitation enforcement agent, a firefighter, including a firefighter acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such firefighter, an emergency medical service paramedic or emergency medical service technician, or medical or related personnel in a hospital emergency department, a city marshal, a traffic enforcement officer or traffic enforcement agent, from performing a lawful duty, by means including releasing or failing to control an animal under circumstances evincing the actor's intent that the animal obstruct the lawful activity of such peace officer, police officer, registered nurse, licensed practical nurse, sanitation enforcement agent, firefighter, paramedic, technician, city marshal, traffic enforcement officer or traffic enforcement agent, he or she causes physical injury to such peace officer, police officer, registered nurse, licensed practical nurse, sanitation enforcement agent, firefighter, paramedic, technician or medical or related personnel in a hospital emergency department, city marshal, traffic enforcement officer or traffic enforcement agent; or

4. He recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or

5. For a purpose other than lawful medical or therapeutic treatment, he intentionally causes stupor, unconsciousness or other physical impairment or injury to another person by administering to him, without his consent, a drug, substance or preparation capable of producing the same; or

6. In the course of and in furtherance of the commission or attempted commission of a felony, other than a felony defined in article one hundred thirty which requires corroboration for conviction, or of immediate flight therefrom, he, or another participant if there be any,

causes physical injury to a person other than one of the participants;  
or

7. Having been charged with or convicted of a crime and while confined in a correctional facility, as defined in subdivision three of section forty of the correction law, pursuant to such charge or conviction, with intent to cause physical injury to another person, he causes such injury to such person or to a third person; or

8. Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, the defendant recklessly causes serious physical injury to such person; or

9. Being eighteen years old or more and with intent to cause physical injury to a person less than seven years old, the defendant causes such injury to such person; or

10. Acting at a place the person knows, or reasonably should know, is on school grounds and with intent to cause physical injury, he or she:

(a) causes such injury to an employee of a school or public school district; or

(b) not being a student of such school or public school district, causes physical injury to another, and such other person is a student of such school who is attending or present for educational purposes. For purposes of this subdivision the term "school grounds" shall have the meaning set forth in subdivision fourteen of section 220.00 of this chapter.

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator or station agent employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a traffic enforcement officer, traffic enforcement agent or sanitation enforcement agent, registered nurse or licensed practical nurse he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator or station agent, city marshal, traffic enforcement officer, traffic enforcement agent, registered nurse or licensed practical nurse or sanitation enforcement agent, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, or such city marshal, traffic enforcement officer, traffic enforcement agent, registered nurse or licensed practical nurse or sanitation enforcement agent is performing an assigned duty.

12. With intent to cause physical injury to a person who is sixty-five years of age or older, he or she causes such injury to such person, and the actor is more than ten years younger than such person.

Assault in the second degree is a class D felony.

### *§ 120.14 Menacing in the second degree.*

A person is guilty of menacing in the second degree when:

1. He or she intentionally places or attempts to place another person in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or

2. He or she repeatedly follows a person or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place another person in reasonable fear of physical injury, serious physical injury or death; or

3. He or she commits the crime of menacing in the third degree in violation of that part of a duly served order of protection, or such order which the defendant has actual knowledge of because he or she was present in court when such order was issued, pursuant to article eight

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of the family court act, section 530.12 of the criminal procedure law, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, which directed the respondent or defendant to stay away from the person or persons on whose behalf the order was issued.

Menacing in the second degree is a class A misdemeanor.

#### *§ 120.15 Menacing in the third degree.*

A person is guilty of menacing in the third degree when, by physical menace, he or she intentionally places or attempts to place another person in fear of death, imminent serious physical injury or physical injury.

Menacing in the third degree is a class B misdemeanor.

#### *§ 121.11 Criminal obstruction of breathing or blood circulation.*

A person is guilty of criminal obstruction of breathing or blood circulation when, with intent to impede the normal breathing or circulation of the blood of another person, he or she:

- a. applies pressure on the throat or neck of such person; or
- b. blocks the nose or mouth of such person.

Criminal obstruction of breathing or blood circulation is a class A misdemeanor.

#### *§ 130.52 Forcible touching.*

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire.

For the purposes of this section, forcible touching includes squeezing, grabbing or pinching.

Forcible touching is a class A misdemeanor.

#### *§ 130.55 Sexual abuse in the third degree.*

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.

Sexual abuse in the third degree is a class B misdemeanor.

#### *§ 135.05 Unlawful imprisonment in the second degree.*

A person is guilty of unlawful imprisonment in the second degree when he restrains another person.

Unlawful imprisonment in the second degree is a class A misdemeanor.

#### *§ 145.00 Criminal mischief in the fourth degree.*

A person is guilty of criminal mischief in the fourth degree when, having no right to do so nor any reasonable ground to believe that he or she has such right, he or she:

1. Intentionally damages property of another person; or
2. Intentionally participates in the destruction of an abandoned building as defined in section one thousand nine hundred seventy-one-a

of the real property actions and proceedings law; or

3. Recklessly damages property of another person in an amount exceeding two hundred fifty dollars; or

4. With intent to prevent a person from communicating a request for emergency assistance, intentionally disables or removes telephonic, TTY or similar communication sending equipment while that person: (a) is attempting to seek or is engaged in the process of seeking emergency assistance from police, law enforcement, fire or emergency medical services personnel; or (b) is attempting to seek or is engaged in the process of seeking emergency assistance from another person or entity in order to protect himself, herself or a third person from imminent physical injury. The fact that the defendant has an ownership interest in such equipment shall not be a defense to a charge pursuant to this subdivision.

Criminal mischief in the fourth degree is a class A misdemeanor.

#### *§ 145.05 Criminal mischief in the third degree.*

A person is guilty of criminal mischief in the third degree when, with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he or she has such right, he or she:

1. damages the motor vehicle of another person, by breaking into such vehicle when it is locked with the intent of stealing property, and within the previous ten year period, has been convicted three or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of criminal mischief in the fourth degree as defined in section 145.00, criminal mischief in the third degree as defined in this section, criminal mischief in the second degree as defined in section 145.10, or criminal mischief in the first degree as defined in section 145.12 of this article; or

2. damages property of another person in an amount exceeding two hundred fifty dollars.

Criminal mischief in the third degree is a class E felony.

#### *§ 155.25 Petit larceny.*

A person is guilty of petit larceny when he steals property.

Petit larceny is a class A misdemeanor.

#### *§ 155.30 Grand Larceny in the fourth degree.*

A person is guilty of grand larceny in the fourth degree when he steals property and when:

1. The value of the property exceeds one thousand dollars; or

2. The property consists of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant; or

3. The property consists of secret scientific material; or

4. The property consists of a credit card or debit card; or

5. The property, regardless of its nature and value, is taken from the person of another; or

6. The property, regardless of its nature and value, is obtained by extortion; or

7. The property consists of one or more firearms, rifles or shotguns, as such terms are defined in section 265.00 of this chapter; or

8. The value of the property exceeds one hundred dollars and the property consists of a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law, other than a motorcycle, as

defined in section one hundred twenty-three of such law; or

9. The property consists of a scroll, religious vestment, a vessel, an item comprising a display of religious symbols which forms a representative expression of faith, or other miscellaneous item of property which:

(a) has a value of at least one hundred dollars; and

(b) is kept for or used in connection with religious worship in any building, structure or upon the curtilage of such building or structure used as a place of religious worship by a religious corporation, as incorporated under the religious corporations law or the education law.

10. The property consists of an access device which the person intends to use unlawfully to obtain telephone service.

11. The property consists of anhydrous ammonia or liquified ammonia gas and the actor intends to use, or knows another person intends to use, such anhydrous ammonia or liquified ammonia gas to manufacture methamphetamine.

Grand larceny in the fourth degree is a class E felony.

#### *§ 160.10 Robbery in the second degree.*

A person is guilty of robbery in the second degree when he forcibly steals property and when:

1. He is aided by another person actually present; or

2. In the course of the commission of the crime or of immediate flight therefrom, he or another participant in the crime:

(a) Causes physical injury to any person who is not a participant in the crime; or

(b) Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or

3. The property consists of a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law.

Robbery in the second degree is a class C felony.

#### *§ 165.40 Criminal possession of stolen property in the fifth degree.*

A person is guilty of criminal possession of stolen property in the fifth degree when he knowingly possesses stolen property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof.

Criminal possession of stolen property in the fifth degree is a class A misdemeanor.

#### *§ 195.05 Obstructing governmental administration in the second degree.*

A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved, with radio, telephone, television or other telecommunications systems owned or operated by the state, or a county, city, town, village, fire district or emergency medical service or by means of releasing a dangerous animal under circumstances evincing the actor's intent that the animal obstruct governmental administration.

Obstructing governmental administration is a class A misdemeanor.

#### *§ 205.30 Resisting arrest.*

A person is guilty of resisting arrest when he intentionally prevents

or attempts to prevent a police officer or peace officer from effecting an authorized arrest of himself or another person.

Resisting arrest is a class A misdemeanor.

### *§ 260.10 Endangering the welfare of a child.*

A person is guilty of endangering the welfare of a child when:

1. He or she knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a child less than seventeen years old or directs or authorizes such child to engage in an occupation involving a substantial risk of danger to his or her life or health; or

2. Being a parent, guardian or other person legally charged with the care or custody of a child less than eighteen years old, he or she fails or refuses to exercise reasonable diligence in the control of such child to prevent him or her from becoming an "abused child," a "neglected child," a "juvenile delinquent" or a "person in need of supervision," as those terms are defined in articles ten, three and seven of the family court act.

3. A person is not guilty of the provisions of this section when he or she engages in the conduct described in subdivision one of section 260.00 of this article: (a) with the intent to wholly abandon the child by relinquishing responsibility for and right to the care and custody of such child; (b) with the intent that the child be safe from physical injury and cared for in an appropriate manner; (c) the child is left with an appropriate person, or in a suitable location and the person who leaves the child promptly notifies an appropriate person of the child's location; and (d) the child is not more than thirty days old.

Endangering the welfare of a child is a class A misdemeanor.

### *§ 265.01 Criminal possession of a weapon in the fourth degree.*

A person is guilty of criminal possession of a weapon in the fourth degree when:

(1) He or she possesses any firearm, electronic dart gun, electronic stun gun, gravity knife, switchblade knife, pilum ballistic knife, metal knuckle knife, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, wrist-brace type slingshot or slungshot, shirken or "Kung Fu star"; or

(2) He possesses any dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, or any other dangerous or deadly instrument or weapon with intent to use the same unlawfully against another; or

(3) He or she knowingly has in his or her possession a rifle, shotgun or firearm in or upon a building or grounds, used for educational purposes, of any school, college or university, except the forestry lands, wherever located, owned and maintained by the State University of New York college of environmental science and forestry, or upon a school bus as defined in section one hundred forty-two of the vehicle and traffic law, without the written authorization of such educational institution; or

(4) He possesses a rifle, shotgun, antique firearm, black powder rifle, black powder shotgun, or any muzzle-loading firearm, and has been convicted of a felony or serious offense; or

(5) He possesses any dangerous or deadly weapon and is not a citizen of the United States; or

(6) He is a person who has been certified not suitable to possess a rifle or shotgun, as defined in subdivision sixteen of section 265.00, and refuses to yield possession of such rifle or shotgun upon the demand of a police officer. Whenever a person is certified not suitable to

possess a rifle or shotgun, a member of the police department to which such certification is made, or of the state police, shall forthwith seize any rifle or shotgun possessed by such person. A rifle or shotgun seized as herein provided shall not be destroyed, but shall be delivered to the headquarters of such police department, or state police, and there retained until the aforesaid certificate has been rescinded by the director or physician in charge, or other disposition of such rifle or shotgun has been ordered or authorized by a court of competent jurisdiction.

(7) He knowingly possesses a bullet containing an explosive substance designed to detonate upon impact.

(8) He possesses any armor piercing ammunition with intent to use the same unlawfully against another.

Criminal possession of a weapon in the fourth degree is a class A misdemeanor.

### *§ 265.05 Unlawful possession of weapons by persons under sixteen.*

It shall be unlawful for any person under the age of sixteen to possess any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring or air, or any gun or any instrument or weapon in or upon which any loaded or blank cartridges may be used, or any loaded or blank cartridges or ammunition therefor, or any dangerous knife; provided that the possession of rifle or shotgun or ammunition therefor by the holder of a hunting license or permit issued pursuant to article eleven of the environmental conservation law and used in accordance with said law shall not be governed by this section.

A person who violates the provisions of this section shall be adjudged a juvenile delinquent.

Source: New York State Legislature. *Laws of New York*. (accessed 6/13/12) <http://public.leginfo.state.ny.us/menuf.cgi>.

## **NYC Administrative Code – The Gun Control Provisions**

### *§ 10-131 B. Air pistols and air rifles; selling or possessing.*

1. It shall be unlawful for any person to sell, offer to sell or have in such person's possession any air pistol or air rifle or similar instrument in which the propelling force is a spring or air, except that the sale of such instruments if accompanied by delivery to a point without the city, and possession for such purpose, shall not be unlawful if such person shall have secured an annual license from the police commissioner of the city authorizing such sale and possession. The sale and delivery of such instruments within the city from one licensee to another licensee, and the use of such instruments in connection with an amusement licensed by the department of consumer affairs or at rifle or pistol ranges duly authorized by law shall not be considered a violation of this subdivision.

Source: New York State Legislature. *Laws of New York*. (accessed 6/13/12) <http://public.leginfo.state.ny.us/menuf.cgi>.

## **United States Code**

### *18 USC 921 (a)*

(3) The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or

receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

*18 USC 930 (g)(2)*

(2) The term "dangerous **weapon**" means a **weapon**, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length.

Source: U.S. House of Representatives. *Search the United States Code*. (accessed 6/13/12) <http://uscode.house.gov/search/criteria.shtml>.