Reducing Felony Case Delay in Brooklyn

Evaluation of Jail Reduction Strategies Implemented in 2019

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

Center for Court Innovation

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Center for Court Innovation
520 Eighth Avenue, 18th Floor
New York, New York 10018
646.386.3100 fax 212.397.0985
www.courtinnovation.org

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

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Executive Summary

In recent years, research has drawn increasing attention to the harms of pretrial detention, prior to a finding of guilt or innocence. Among other outcomes, pretrial detention has been linked, independent of other factors, to reductions in employment and earnings, greater exposure to a conviction and incarceration at sentencing, and increased recidivism following release (*e.g.*, Digard & Swavola 2019; Dobbie, Goldin, & Yang 2018; Heaton, Mayson, & Stevenson 2017). Because people tend to be detained when they cannot afford bail, research has also found that pretrial detention disproportionately penalizes those who are poor, as well as people and communities of color (*e.g.*, Leslie & Pope 2017; Stevenson 2018). In New York City, 51% of the population, but almost 90% of those held pretrial, are Black or Latinx.

Pretrial reform involves an array of strategies, typically including reductions in the use of bail, implemented alongside greater reliance on supervised release or other non-monetary conditions (*e.g.*, Rempel & Pooler 2020; Skemer, Redcross, & Bloom 2020). For those who continue to be detained, another potentially impactful area involves reducing the time people spend in jail by addressing delays in criminal case processing (Lippman et al. 2017).

In 2019, with funding from the Art for Justice Fund, the Center for Court Innovation partnered with the court administration at the Kings County (Brooklyn) Supreme Court to implement a pilot project in Brooklyn, spanning several dimensions of pretrial reform—but with an intensive focus on reducing longstanding delays in felony case processing. State standards specify that felonies should be resolved within six months of an indictment (technically, 180 days), a benchmark corresponding to national best practices (Van Duizend, Steelman, & Suskin 2011). In New York City, however, only 35% of indictments that were resolved in 2019 met this time standard. The pilot project aimed to improve case processing performance as well as to encourage alternatives to bail in cases where the defendant was detained as of the first post-indictment court appearance.

In collaboration with the Office of Court Administration, the project sought to further the goals of New York State Chief Judge Janet DiFiore's Excellence Initiative, launched in 2016 to improve performance and reduce unnecessary delays in courts statewide.

Overview of the Evaluation

The evaluation presented in this report sought to achieve three main goals:

1. **Model Documentation:** Describe the final project model for reducing felony case delay (as well as increasing alternatives to bail) and the planning process leading up to it.

2. **Implementation Evaluation:** Describe and evaluate the implementation of the model, using a mix of quantitative and qualitative data to examine the extent to which implementation went as intended; where and why it deviated; and whether or how the project team or the Kings County Supreme Court made interim adjustments.

3. **Impact Evaluation:** Conduct a rigorous quasi-experimental evaluation testing whether the project achieved its primary purpose of producing quantifiable reductions in case processing time in comparison to similar cases processed a year earlier in 2018.

To achieve these goals, researchers relied on courtroom observations, document review, stakeholder and staff interviews, and the collection of quantitative data including court calendars, data provided by court staff, data provided by Supervised Release staff, and New York State Office of Court Administration data.

The Project Model

The project relied on a dedicated judge, whose near-exclusive assignment in 2019 was to implement the model. From February 11 to May 10, 2019, the judge presided over the Supreme Court arraignment of most newly indicted cases. (Exceptions included homicides, sex offenses, domestic violence cases, and gun cases, which were handled in specialized courtrooms.) The judge retained the cases throughout most of their pretrial proceedings and implemented formal guidelines documented in a two-page **case processing bench card** and a detailed **operational plan**, both of which were widely disseminated to partners in the Kings County District Attorney's Office and defense bar.

Based on prior national and citywide research, supplemented by first-hand experience within the project team representing cases in Brooklyn, the model included three key components:

- **Formalized Timeline:** A written guideline delineating specific events that should take place at each court date and additional tasks the prosecution and defense should perform in between each pair of court dates.

- **Target Adjournments Lengths:** Specific numbers of weeks that should elapse between court dates, varying based on the substantive nature of required between-appearance tasks (i.e., not all court date intervals had the same prescribed adjournment length).

- **Case Conferences:** A meeting led by the court attorney for the prosecution and defense to discuss the legal merits of the case and the possibility of a mutually acceptable resolution, held between the third and fourth appearances before the dedicated judge.

The goal of the model was not expediency for its own sake, but to reduce unnecessary delays—and resulting increases in people's time in pretrial detention—without abrogating the rights of the accused or short-circuiting necessary pretrial deliberations. The model could also reduce delays in providing justice for the victims of crime. The framework fit squarely within Chief Judge Janet DiFiore's *Excellence Initiative*, which seeks to ensure a just and expeditious resolution to cases (Unified Court System 2017).

The timeline was not, per se, designed to fit official time standards, but depending on case specifics, it landed close to the state's six-month benchmark. For cases not resolved through an acceptable plea agreement, the timeline specified that a trial would begin **21-27 weeks post-indictment**.

Impact Findings

We compared case processing times between 382 pilot cases and 349 similarly situated cases, whose Supreme Court arraignment was one year earlier.

- **Dispositions Within Six Months:** The pilot project produced a significant increase in the percentage of cases disposed within the six-month standard (51.2% v. 40.1%).

- **People Held in Pretrial Detention and Violent Felony Cases:** Results suggested the impact on six-month resolutions was driven by detained cases (52.9% v. 31.5%) and violent felony cases (42.8% v. 25.0%).

- **Impacts over Longer Periods:** Based on analyzing the timing of each case's disposition, pilot and comparison cases were disposed at similar rates over the first 15 weeks post-indictment; from there, a gap opened and continued to widen over time, with about 80% of pilot cases and 60% of comparison cases reaching a disposition by the 10-month mark.

Process Evaluation Findings & Lessons

Synthesizing the results of stakeholder interviews, court observations, and official data on interim time milestones met by project cases, the evaluation pointed to several key lessons.

- **The case processing guidelines, shorter adjournments, and case conferences generally worked.** Although actual implementation involved frequent lateness meeting interim time benchmarks (see below), both quantitative and qualitative data nonetheless suggest that the major components of the case processing strategies—written guidelines, preconceived numbers of target weeks for each adjournment, and a case conference—contributed to improvements over business-as-usual.

- **Written documentation aided implementation quality.** The project team produced and invited stakeholders to review drafts of written documents during the planning process. During implementation, stakeholders had written bench cards they could reference, stating how the case processing guidelines should work. A written model was central to the very nature of the project—replacing unformalized and historically ineffective case processing practices—and seemed to improve clarity and fidelity during the implementation period, especially by the judge assigned to the pilot court part.

- **The role of the judge was critical.** Fundamentally, the assigned judge was committed to expediting case processing. On the record, the judge routinely referenced time markers contained in the formal guidelines, checked whether attorneys had completed required tasks in between court dates, and admonished attorneys for lateness. Yet, for the model to be institutionalized, more judges will have to be trained in it and buy into its utility, outcomes that may depend on guidance from city and state court leadership.

- **There is room for improvement.** Although the case processing guidelines decreased the overall time to disposition, most cases still did *not* meet a range of interim benchmarks. For example, both the submission of grand jury minutes by the prosecution and the holding of a case conference took place behind schedule in over half of the cases. These results point to implementation deficits, while suggesting that impacts could have been greater if specific benchmarks contained in the guidelines were met more often.

- **A focus on detained cases might help.** The pilot included both the cases of people who were detained and released. Yet, research interviews pointed to an oft-repeated theme that both the prosecution and defense agencies could have more easily met interim benchmarks if the project had been limited to people held in pretrial detention.

- **Alternatives to bail were deemphasized.** In the planning stages, the project included plans to review the bail status of everyone held in pretrial detention as of the

Supreme Court arraignment—but these plans went largely unimplemented. Two defendants were released on unsecured bonds, following bail reviews requested by the defense attorney. Ultimately, eight defendants were released to the Supervised Release Program.

Conclusion

Implemented in 2020, New York's bail and discovery reforms forced important changes in decisions related to case processing and pretrial release. The state's discovery reforms, especially, align with the goals that informed the case processing guidelines. At the same time, the COVID-19 pandemic resulted in a tremendous backlog of cases, when court proceedings were paused or went remote, and when jury trials were largely suspended. Accordingly, the Brooklyn Project may serve as a model for what reform implementation could look like in New York as well as other jurisdictions seeking to limit case delays for people held pretrial.

Chapter 1

Introduction

In partnership with the Office of Court Administration and Supreme Court administrators in Brooklyn, New York, the Center for Court Innovation sought to introduce new jail reduction strategies as a regular part of case processing. The three main strategies included: 1) consideration of Supervised Release for people held in pretrial detention after an indictment; 2) regular use of more affordable ("alternative") forms of bail; and 3) protocols for reducing delays in case processing to limit the amount of time people held in pretrial detention remain there while awaiting the outcome of their case. Of these strategies, the third involved the greatest revisions to preexisting procedures and, therefore, constitutes our starting point in introducing the project's rationale.

Felony Case Delay and Closing Rikers Island

For decades, New York's court administrators have searched for effective ways of addressing rampant delays in the processing of felony indictments in New York City. Long-established state standards specify that these cases should be resolved within 180 days of the indictment. The National Center for State Courts has adopted this same 180-day standard as a nationwide best practice (Van Duizend, Steelman, & Suskin 2011).

In New York City, however, only 35% of disposed indictments in 2019 met this time standard, a similar result to the 38% meeting it three years earlier in 2016 (Lippman et al. 2017). Overall, the average time required to resolve a felony indictment in the city barely changed from 10.3 months in 2016 to 10.4 months in 2019. The Lippman Commission (Lippman et al. 2017) documented a number of key drivers of delay, including excessive adjournment length from one court appearance to the next; limited adoption of best practice calendar management strategies (e.g., as described in Ostrom, Hamblin, & Schauffler 2020a; Steelman & Griller 2013); delays obtaining evidence through the discovery process; and inefficiencies in scheduling trials.

The problem of felony case delay is not merely one of court inefficiency. For people held in pretrial detention, an unnecessarily long wait before reaching a case disposition means more time spent experiencing the many harms of pretrial incarceration (Leslie & Pope 2017;

Lowenkamp, VanNostrand, & Holsinger 2013; Rempel & Pooler 2020; Subramanian et al. 2015). Moreover, the Lippman Commission estimated that 55 percent of New York City's overall jail population as of September 2016 was held in pretrial detention on a pending indictment.[1] The Commission concluded that case processing reforms could significantly reduce the city's daily jail population—an outcome that would advance efforts to close the Rikers Island jail complex and end its notoriously inhumane and violent conditions (Bharara 2014; Lippman et al. 2017).

Although policymakers have intermittently contemplated closing the Rikers Island jails for decades, having already reduced the city's jail population from more than 20,000 at its peak occupancy in the early 1990s to just under 5,000 as of this report's October 2020 publication date, replacing Rikers with smaller, borough-based jails is now an especially realistic option.

In April 2017, both Mayor Bill de Blasio and the Lippman Commission called for Rikers to be closed. Then, in October 2019, New York's City Council approved a plan for both closing Rikers and building four new jails by 2026, one in each borough except Staten Island, which could house a combined daily capacity of 3,300 people (Randall 2019).

Lowering the city's jail population to 3,300, however, will require an array of new strategies, including case processing reform; reductions in the use of cash bail beyond the projected minimum effects of the state's new bail law (Rempel & Rodriguez 2020); and greater use of supervised release in lieu of bail (Rempel & Pooler 2020; Skemer, Redcross, & Bloom 2020).

In 2019, the Center for Court Innovation ("Center") began a pilot project in Brooklyn spanning several of these pretrial reform areas—but with an especially intensive focus on reducing longstanding delays in felony case processing. In this regard, partnering with the Office of Court Administration, the project sought to advance the goals of New York State Chief Judge Janet DiFiore's Excellence Initiative, which seeks to improve the performance across courts across the state.

The Brooklyn Pilot Project

The **Brooklyn Project** focused on indictments heard in the Kings County (Brooklyn) Supreme Court. As background, nearly all of New York City's criminal cases are initially arraigned in the city's "lower" Criminal Court. Cases arraigned on a felony and subsequently

indicted by a grand jury are then transferred to the Supreme Court, a separate trial court jurisdiction. Past research indicates that about one-third of the city's initial felony arraignments are indicted and transferred in this fashion (Rempel et al. 2016); but this indicted subgroup, in turn, accounts for the overwhelming majority of the city's pretrial jail population on any given day and has long been the focal point of efforts to address the city's case delay problem (Lippman et al. 2017).

The pilot was conducted in a single Brooklyn courtroom ("court part"), which handled most of the county's Supreme Court arraignments from February 11 to May 10, 2019.[2] Until the project ended in December 2019, cases generally remained in this courtroom until they were disposed or sent to trial.

Strategies to Reduce Felony Case Delay

To reduce delays in case processing, the project featured a series of best practice **calendar management strategies**. These strategies were finalized based on specific working knowledge within the project team of how the NYC Supreme Court typically operates and where this business-as-usual process could and should be improved. The project team also engaged in a purposeful effort to integrate effective judicial practices long advocated by the National Center for State Courts (Ostrom et al. 2020a; Ostrom et al. 2020b; Steelman & Griller 2013) and in prior research commissioned by the New York City Mayor's Office of Criminal Justice (Rempel et al. 2016).

Most importantly, the project introduced three key elements, concretized in a two-page **case processing bench card** (Appendix A) and detailed **operational plan** (Appendix B), both of which were widely disseminated to partners from Brooklyn's judiciary, prosecution, and defense bar.

- **Formal Guidelines:** In place of case-by-case decisions on how pretrial proceedings should unfold, the project relied on a detailed and formalized *timeline*, delineating specific events that should take place at each and every court date and additional tasks that the prosecution and defense should perform in between each set of court dates (e.g., between the first and second date, second and third date, etc.). While extenuating circumstances might cause legitimate deviations, the point of the timeline was to guide and constrain any *unmerited* delays in the processing of a normal case.

- **Purposeful Adjournment Length:** Given past NYC research findings that excessive adjournment length was a major driver of felony case processing delays (Lippman et al.

2017; Rempel et al. 2016), the guidelines also established target adjournments—i.e., target intervals in between court dates. Rather than set a single standard, the project team varied recommended adjournment length based on the substantive nature of required between-appearance tasks. For example, the timeline specifies 4 weeks between the first and second Supreme Court appearance but only 2 weeks between the second and third, given the smaller number of between-appearance tasks required in the latter instance.

- **Case Conference:** The project required the prosecution and defense to attend an *off-calendar*[3] *case conference* between the third and fourth Supreme Court appearance to discuss the legal merits of the case; consider whether an amicable plea agreement is possible; and/or set a timeline for any remaining discovery or other pretrial events.

The goal of these strategies was not expediency for expediency's sake, but to reduce unnecessary delays—and resulting increases in people's time in pretrial detention—without abrogating the rights of the accused or short-circuiting necessary pretrial deliberations.

The strategies fit squarely within the framework of Chief Judge Janet DiFiore's *Excellence Initiative*, which seeks to ensure a just and expeditious resolution to cases processed across the state (Unified Court System 2017). In addition, the strategies follow logically from the priorities of an earlier initiative led by the Mayor's Office of Criminal Justice since 2015 to reduce criminal case processing times in New York City (Office of the Mayor 2015).

Additional Jail Reduction Strategies

Supplementing the project's primary focus on case processing, for defendants held in pretrial detention as of the first Supreme Court appearance, the project also included a routine **bail review hearing**, consisting of the following two components.

Non-Traditional Forms of Bail. When judges in New York or around the country set bail, they allow defendants and their families to pay it either with cash they have available or with the help of an insurance (bail bond) company, where such companies generally charge an up-front deposit and non-refundable fees. The Brooklyn pilot sought to encourage the use of other, more affordable forms of bail included in NY's bail statute. For example, *partially secured bonds* and *unsecured bonds* respectively allow people to pay up to 10% and no bail money upfront respectively, with a promise that the money is owed if the defendant does not return to court (see Appendix C). As a practical matter, while the Brooklyn Project was launched in 2019, in 2020 New York's bail reform law began to *require* judges to allow

payment through a partially secured or unsecured bond (Rodriguez & Rempel 2019). Thus, one year after the pilot went into effect, this component coincidentally became mandated as a matter of law.

Supervised Release. New York City's Supervised Release Program allows defendants to receive pretrial supervision from a nonprofit service provider to help ensure their return to court. Yet, as of 2019, Supervised Release was serving many fewer cases than those continuing to have to pay bail (Rempel & Pooler 2020)—and people were rarely enrolled *after an indictment*. Additionally, Brooklyn had primarily enrolled misdemeanors (representing 58% of all new participants in 2018), even though nonviolent felonies were eligible. Accordingly, the project included a partnership with Brooklyn's Supervised Release Program (which is also run by the Center for Court Innovation) to route more Supreme Court felony cases from pretrial detention to Supervised Release.

Goals of the Evaluation

The current evaluation sought to achieve three main goals:

1. **Model Documentation:** Describe the final project model for reducing felony case delay and the planning process leading up to it (see Chapter 3).

2. **Implementation Evaluation:** Describe and evaluate the implementation of the model, using a mix of quantitative and qualitative data to examine the extent to which implementation went as intended; where and why it deviated; and whether or how the project team or Kings County Supreme Court made interim adjustments (see Chapter 4).

3. **Impact Evaluation:** Conduct a rigorous quasi-experimental evaluation testing whether the Brooklyn Project achieved its primary purpose of producing quantifiable reductions in case processing time in comparison to case processing outcomes for otherwise similar cases that were not subject to the model (see Chapter 5).

Lastly, the evaluation sought to examine the implementation and impacts of additional jail reduction strategies focused on increasing the use of non-traditional forms of bail and of Supervised Release in lieu of bail for people held in pretrial detention (see Chapter 6).

Reports on Major Findings and Their Implications

Two **interim reports** previously described the planning process, program model, implementation, and early findings (Center for Court Innovation 2019a; Center for Court Innovation 2019b). These findings were preliminary, and for this reason, the interim reports were mainly distributed to stakeholders in Brooklyn. (They are now publicly available upon request from the authors).

The current and **final evaluation report** describes and evaluates the planning, implementation, and impacts of the Brooklyn Project. The report's four coauthors include the principal investigator (Joanna Weill) and three Center for Court Innovation staff members (henceforth "project staff"), who planned and implemented the Brooklyn Project, and absorbed lessons from this process, in partnership with the Kings County Supreme Court.

Chapter 2

Evaluation Methods

The evaluation relied on a mix of quantitative and qualitative data collection as well as a quasi-experimental design for assessing the impact of the project on case processing times in the Kings County Supreme Court.

Data Sources

The evaluation relied on four main data sources.

Observations

At least one of the four coauthors of this report was present for every day of the project's intake period (February 11-May 10, 2019), during which dedicated court part heard new Supreme Court arraignments.[4] In addition, two of the coauthors observed regularly (typically twice a week) from May 10 until the end of pilot implementation in early December 2019. We took notes during these observations and shared and discussed findings with each other and with court staff. We also observed and recorded notes at select stakeholder meetings and trainings. Notes included information on release status before the court appearance; any bail applications made; and several data points about the judge's enforcement of the case processing guidelines on-the-record.

Document Review

The principal investigator collected and organized written implementation materials, including operational plans, training materials, bench cards, and updated bond forms. (For the most part, these materials were written by the other three coauthors of this report in their capacity as "project staff.")

Stakeholder and Staff Interviews

The principal investigator interviewed a wide range of stakeholders, including the Administrative Judge and Chief Clerk of the Kings County Supreme Court (Criminal Term);

the presiding judge in the pilot court part; the court attorney, court secretary, court officers and a court clerk staffing the courtroom; Center for Court Innovation project staff; seven defense attorneys (three each from the Legal Aid Society and Brooklyn Defender Services, plus one private attorney);[5] and four Kings County Assistant District Attorneys (ADAs).[6] The interviews sought to document how the model was implemented and to understand stakeholders' perceptions.[7]

Quantitative Data

We collected and analyzed four types of quantitative data:

- **Court Calendars:** We collected finished calendars (the court's documentation of what occurred at each appearance) for every day of the pilot project and digitized the data.

- **Court Staff:** Court staff assigned to the pilot court part (e.g., the court attorney and court clerk) provided documentation of case conference dates and grand jury minutes submission and return dates.

- **Supervised Release Data:** Supervised Release staff shared key data on the Supervised Release program with the project team, such as numbers of new participants over various timeframes.

- **Office of Court Administration (OCA) Data:** OCA provided electronic data for all cases arraigned, disposed, or pending in the Kings County Supreme Court from its statewide CRIMS database (in conjunction with a formal Data Use Agreement). The OCA data included cases heard in the Kings County Supreme Court in both 2019 and one year earlier in 2018, where the latter were drawn upon for the study's comparison group.

Quasi-Experimental Impact Evaluation

The impact evaluation sought to determine whether the pilot project reduced time to case disposition (including the number of cases resolved within the official court standard of 180 days or about six months) and average adjournment length. We also examined the extent to which the project led more cases to receive Supervised Release or non-traditional forms of bail in lieu of pretrial detention.

Study Groups: Pilot Project and Comparison Group

We compared indictments arraigned in the **pilot court part** ("Part ARR") during the intake period (February 11 to May 10, 2019) to similar indictments arraigned in **two preexisting court parts** ("TAP 1" or "TAP 2") during the same timeframe of the previous calendar year (February 11 to May 10, 2018).[8] Sex offense and homicide cases were excluded due to discrepancies in case assignment practices in 2018 and 2019.[9]

The resulting **project study group** included 404 cases arraigned during the intake period (for an average of 31.1 cases arraigned per week). The **comparison group** included 367 cases arraigned one year earlier (for an average of 28.2 cases arraigned per week).[10]

Comparability of Pilot and Comparison Cases

We first compared the background characteristics of the two study groups, with a plan to use propensity score adjustments or other statistical strategies if the two groups were not comparable. In theory, however, we expected the groups to have similar charges and other characteristics, since the pilot court part was assigned the same types of cases assigned during the previous year to one or the other of the two comparison parts.[11]

Indeed, the two groups were relatively similar in background (see Table 2.1). There were no significant differences in the race/ethnicity or age of the defendants; and, although there were significantly more women in the comparison group than the project group, the specific difference of 12.4% vs. 8.4% female across the two groups is relatively modest. Although there was an overall significant difference in the actual charges year to year, the specific differences were relatively small, and there were no significant differences in arraignment charge severity. There were also no significant differences in percent disposed at Supreme Court arraignment (before any further adjudication), detention status after Supreme Court arraignment, and whether the case was sent to a specialized court part during pretrial proceedings in lieu of remaining in the same part as where the Supreme Court arraignment took place. (Notably, a small number of cases in both study groups were transferred to a specialized part, such as a drug court, or were transferred for some other reason, such as the existence of another pending case involving the same defendant in a different courtroom.) Thus, we concluded that statistical adjustments to the data were unnecessary.

Table 2.1. Comparison of the Pilot Project and Comparison Groups

		Pilot (2019)		Comparison (2018)	
Defendant Demographic Characteristics					
Gender*	Male	91.6%	370	87.2%	320
	Female	8.4%	34	12.8%	47
Race / Ethnicity	Black	62.3%	241	65.6%	233
	Hispanic / Latino	26.1%	101	23.7%	84
	White	11.4%	44	10.7%	38
	Asian	0.3%	1	0.0%	0
Average Age		35		34	
Supreme Court Arraignment Charges					
Charge Severity	Violent Felony	51.0%	206	44.5%	163
	Nonviolent Felony	47.5%	192	51.6%	189
	Misdemeanor or Lesser	1.5%	6	3.8%	14
Charge Type* [a]					
Assault and Related (120)		19.1%	77	16.2%	56
Burglary and Related (140)		14.4%	58	13.9%	48
Larceny (155)		6.9%	28	6.9%	24
Robbery (160)		18.3%	74	15.3%	53
Drug Possession (220 Possession or Use)		13.9%	56	9.8%	34
Drug Sale (220 Sale)		4.2%	17	4.3%	15
Marijuana (221)		2.0%	8	4.6%	16
Firearms and Other Weapons (265)		6.2%	25	4.3%	15
Forgery and Related (170)		2.7%	11	6.9%	24
Other (Incl. Misdemeanors & Violations)		12.4%	50	17.6%	61
Supreme Court Arraignment Status					
Disposed at Supreme Court Arraignment		3.7%	15	6.0%	22
Detained after Supreme Court Arraignment		38.6%	150	42.6%	147
Sent to Specialized Court Part		22.8%	92	20.7%	76

* $p < .05$.
[a] Charges are missing in an additional 21 cases in 2018.

Chapter 3
Project Planning and Documentation

The chapter reviews the planning and launch process and summarizes the final project model for the benefit of both New York State and national policymakers interested in replication. Key documents memorializing the Brooklyn Project model are also included in appendices to this report, including the **case processing guidelines bench card** found in Appendix A. Additionally, an updated two-page case processing guidelines bench card may be found in Appendix D or downloaded here.[12]

Site Selection of Brooklyn, New York

At the end of 2017, the Center for Court Innovation received project funding from the Art for Justice Fund. Soon after, the Center's then executive director (Greg Berman) and director of jail reform (Michael Rempel) agreed Brooklyn was the ideal pilot site for implementing a model that would represent a significant change to business-as-usual. This decision reflected the Center's long history of testing new ideas in the Brooklyn courts and, especially, reflected a belief that the Administrative Judge of the Kings County Supreme Court for Criminal Matters, Hon. Matthew D'Emic, would be a receptive and effective partner.

With specific regard to felony case delay, Judge D'Emic had for several years been holding off-calendar case conferences between prosecutors and defense attorneys to discuss older cases pending past a certain point, generally one year or longer. He had also previously worked with the Center and the Mayor's Office of Criminal Justice to identify the major drivers of felony case delay throughout New York City. Stemming from this work, Judge D'Emic issued a memorandum to all Kings County Supreme Court judges in 2016, emphasizing the validity of the 180-day benchmark for resolving cases; advising judges to keep adjournment length to four weeks or less; and recommending additional strategies to avoid unnecessary delays. This memorandum later served as a template for one authored by the state's Chief Administrative Judge and sent to New York City's other borough-based Administrative Judges.[13]

Solidifying the selection of Brooklyn, the Center also had a long history of productive partnerships with the Kings County District Attorney's Office and Brooklyn's two main indigent defense agencies, the Legal Aid Society and Brooklyn Defender Services.

The Planning Process

In January 2018, the Center's executive director approached Judge D'Emic about piloting a jail reduction pilot project in his courthouse and, separately, obtained approval to proceed from New York State Chief Administrative Judge, Hon. Lawrence K. Marks. Judge D'Emic indicated from the outset that the pilot interested him, in part because of the proposal to deploy aggressive case processing benchmarks and, also, given the emphasis on using alternatives to traditional bail.

The Early Planning Process

Coordination with the Kings County Supreme Court. In the first half of 2018, Center project staff held multiple meetings with Administrative Judge D'Emic and the Chief Clerk for Criminal Matters, Daniel Alessandrino, as well as other court administrators overseeing bail payment and court date scheduling. Early on, project staff provided the Administrative Judge and Chief Clerk with a **Project Overview** (publicly available on request) and, later, a detailed **Operational Plan**, subsequently amended based on their feedback (see Appendix B).

Center staff simultaneously approached the leadership of **Brooklyn Justice Initiatives**, a Center project that operates Brooklyn's Supervised Release Program, to discuss this project's capacity to have a staff member present in a pilot courtroom in the Supreme Court.[14]

Engaging the District Attorney's Office and Defense Bar. Having developed a working framework and Operational Plan with the Kings County court administration, Center staff then reached out to the Kings County District Attorney's Office (KCDA) and Brooklyn's defense bar, including the Legal Aid Society, Brooklyn Defender Services, and Brooklyn's 18B Panel (private attorneys compensated to represent indigent clients charged with criminal offenses).

In meetings held in August and September 2018, staff engaged senior representatives from these agencies and sought feedback on the Operational Plan, incorporating all three strategic

areas: case processing, Supervised Release, and non-traditional forms of bail. Generally, the defense attorney representatives responded positively to the project. The use of Supervised Release and more affordable forms of bail, because these strategies promised to release more people from jail, were immediately attractive. In discussing the case processing strategy, defense leadership was concerned regarding whether there would be sufficient time to respond effectively to judges' decisions, specifically ones related to probable cause and suppression hearings. The final guideline did include time for precisely this trial preparation, to avoid compromising a defendant's due process rights.

For their part, KCDA representatives stated that the proposed benchmarks aligned with their goals. However, they expressed concerns around scheduling, staffing logistics, and meeting specific deadlines (some of which are discussed below).

Key Planning Decisions

Throughout the fall of 2018, the Kings County Administrative Judge and Chief Clerk reflected on project logistics. During this period, the two lead project staff (Krystal Rodriguez and Valerie Raine) began working part-time in offices inside the Kings County Supreme Court building, providing convenient access to discuss any issues or concerns with key judges and court administrators.

While the Operational Plan largely remained intact throughout the fall, two critical and interrelated planning decisions had to be worked out.

- **Preexisting or Newly Assigned Judges and Court Parts:** The first key decision was whether the two judges who were already handling pretrial proceedings for most Supreme Court cases immediately after their indictment (in courts parts TAP 1 and TAP 2) would be trained to implement the pilot model or, alternatively, whether another judge(s) and court part(s) would be newly established.

- **Detained Cases or All Cases:** The second key decision was whether the project would be implemented solely with cases held in pretrial detention as of the Supreme Court arraignment—in line with the project's goal of reducing pretrial incarceration—or whether the project would be extended to all cases, including those *not* detained.

The two decisions were interrelated, because an exclusive focus on detained cases would make the project smaller in scale, increasing the feasibility of implementing it either with the help of the two preexisting judges or by assigning a new judge on a part-time basis, allowing

the part-time judge to preside over an additional docket simultaneously. (This latter arrangement could be appealing to a judge who was interested in the project's goals, yet also wanted to reserve time to preside over trials or their usual docket.) On the other hand, extending the project to both detained and non-detained cases might require assigning a new judge full-time, with commitments to no other caseload.

Additional Decision Considerations. A complex array of factors informed the above-noted decisions. Both Center project staff and Kings County court administrators contemplated a wide range of permutations throughout the fall of 2018. Apart from what would work best in the abstract, a key practical consideration was whether it would even be logistically feasible to assign a new judge, given that the Kings County Supreme Court had a limited number of judges available to preside over pretrial proceedings, as opposed to being assigned to preside over trials. While this specific consideration favored the use of the two preexisting judges who were already handling pretrial Supreme Court cases in the preexisting court part, yet another factor argued in the opposite direction; those judges both had sizable accumulated caseloads and were adjudicating the majority of the Court's cases. Routing new cases to a different judge could both ease the workload of the former two, while also making available a new judge, without prior commitments to other cases, who might, also, be interested in trying a novel approach.

Final Structure of the Pilot. In the end, the Administrative Judge and Chief Clerk decided to establish a new court part and to assign a dedicated judge, Hon. John Ingram (now retired), to preside full-time for the express purpose of implementing the pilot project. They also decided to extend the pilot to all cases, regardless of their detention status, reasoning that that it was the court's responsibility to promote fair and equal treatment for all defendants and victims as well as to move all cases along more expeditiously.

The assignment of Judge Ingram carried clear advantages. He expressed a commitment from the outset to try implementing the case processing guidelines and was open to receiving training from Center project staff. On the other hand, there were perceptions communicated early on by defense attorneys that Judge Ingram favored the prosecution—a theme that continued to be expressed after the project was underway. Shortly after program implementation, prosecutors expressed contention with the pressure Judge Ingram placed on them to turn over materials. But on the basic question of willingness and interest in implementing the model, Judge Ingram was consistently cooperative with both the project team and the Kings County Supreme Court administration.

Project Announcement

In January 2019, Administrative Judge D'Emic emailed all Brooklyn stakeholders announcing that a new court part, known as Part ARR, would begin operations February 11, 2019 (see Appendix E for the full announcement) with the Hon. John Ingram as the presiding judge. The announcement clarified that cases assigned to this new part would be all those previously arraigned in preexisting court parts, TAP 1 or TAP 2, and that the arrangement would last until mid-May. In effect, the arraignment office sent most newly indicted cases to the pilot court part, except homicides, sex offenses, domestic violence, gun cases, and a small number of other categories that were assigned to other courtrooms, which specialized in a certain case type. The announcement clarified that any cases sent to the pilot court part for Supreme Court arraignment would stay there until disposed or ready for trial, allowing the judge to preside through most of the pretrial period.

Following the official announcement, Center staff held a final round of planning meetings with KCDA and defense representatives, leading them to surface several concerns. First, the attorney representatives believed that resource constraints would make it difficult for their agencies to adhere to the case processing guidelines with both detained and non-detained cases; they had always preferred limiting the project to detained cases only.

Additionally, KCDA representatives made a special scheduling request intended to reduce the staffing demands on the KCDA bureaus. Generally, arrests from each of the five geographic zones Brooklyn track to distinct KCDA bureaus for prosecution. Thus, KCDA representatives asked if cases from each zone could be arraigned and scheduled for future appearances on a different day of the week, each one having its corresponding day. The court administration, however, concluded that this constraint on the days when each case could be scheduled in the pilot court part was impractical.

Project Start-Up

The project launched February 11, 2019. As planned, most new Supreme Court arraignments were held in the pilot court part through May 10, 2019. These cases remained in the part until a disposition, transfer for trial, or the end of the pilot on December 6, 2019, in conjunction with the pending retirement of the presiding judge. In December, any cases remaining in the pilot court part were transferred to other parts.[15]

Research interviews revealed that after implementation, line attorneys gained an understanding of the model—but agencies reported receiving varying amounts of advance information. Attorneys from Brooklyn Defender Services reported receiving multiple emails explaining the pilot and an in-person training from Center project staff (which was offered at BDS's request). Legal Aid attorneys reported receiving an email. Assistant district attorneys at KCDA reported mostly learning about the pilot court part once in the courtroom. Line attorneys from all agencies reported surprise when they discovered both detained and non-detained cases would be subject to the case processing guidelines—mirroring resource and workload concerns their leadership had expressed in the above-noted final planning meetings in January 2019.

Training Activities

Center project staff spent the month leading up to start-up training the presiding judge and his court staff. Center staff also conducted separate formal trainings for court clerks and judges.

- **Training for Court Clerks:** In December 2018, Center staff provided formal training on non-traditional forms of bail (partially secured bonds, unsecured bonds, credit card bail, etc.) for court clerks with assignments throughout the Kings County Supreme Court, including cashier clerks. The training both provided an overview regarding each form of bail and reviewed the procedures for how clerks should use the new bond forms.

- **Judicial Training:** In September 2019, after the pilot project was underway, project staff also conducted a formal training for other judges assigned to Kings County Supreme Court on alternative forms of bail and on court procedures for using them.

Documentation and Memorialization

A critical element of both planning and implementation involved extensive written documentation of all new policies and procedures. *Center project staff prioritized producing written documents to ensure clarity and understanding among all agencies.* Accordingly, upon start-up, Center staff provided the District Attorney's Office, defense agencies, and court officers with a two-page case processing guidelines bench card (Appendix A) and a bench card on each form of bail (Appendix C). The presiding judge had these materials on-hand in his courtroom and often referred to the formal timelines on the record, for example when admonishing attorneys for any lateness in completing tasks. In addition, the court, KCDA, and defense leadership received the final Operational Plan

(Appendix B), which sought to describe in detail exactly how everything should work. However, it is worth noting that these materials did not always reach all the stakeholders who had need for them; for example, some of the presiding judge's staff did not receive copies nor did many of the attorneys and prosecutors working in the pilot court part.

Below, Table 3.1 summarizes the most essential features of the final case processing guidelines. Table 3.2 reviews all key documents produced during the planning process, with the goal of clearly memorializing the project model and making it available for replication.

Table 3.1. Case Processing Summary (Official Bench Card in Appendix A)

Cases are to be disposed, or a trial is to commence, by the seventh Supreme Court Appearance, or 21-27 weeks after indictment, except where extenuating circumstances apply. The purpose of each Supreme Court appearance is to be stated on the record.

Appearance	Purpose	Weeks Post-Indictment	Weeks Since Last Appearance
1st Supreme Court Appearance (Arraignment)	Bail is reviewed, and supervised release and alternative form/amount of bail are considered. Prosecutors turn over available discovery. Prosecutors to submit the grand jury minutes to the court off-calendar prior to 2nd appearance.	2	2
2nd Supreme Court Appearance	Judge provides the grand jury minutes decision. Prosecutors turn over available discovery. Prosecutors turn over grand jury minutes to defense off-calendar prior to 3rd appearance.	6	4
3rd Supreme Court Appearance	Prosecutors turn over remaining discovery. Judge enquires about pretrial hearings and determines what written motions are required. Off-calendar case conference scheduled between 3rd and 4th appearance.	8	2
4th Supreme Court Appearance	Plea entered or case scheduled for pretrial hearings.	12-14	4-6
5th Supreme Court Appearance	Pretrial hearings conducted.	15-17	3
6th Supreme Court Appearance	Judge decides on pretrial motions and sets firm trial date in an available court part.	17-23	2-6
7th Supreme Court Appearance	Trial begins.	21-27	4-6

Table 3.2. Documentation of the Final Pilot Model

Name of Document	Purpose and Content
Project Overview	The **Project Overview** was distributed to all Brooklyn stakeholders early in the planning process, summarizing the goals of the project and briefly outlining key strategies *(available upon request).*
Operational Plan	The **Operational Plan** serves as a detailed memorialization of all policies and procedures included within the project model. It was iterated over multiple drafts, first among Center for Court Innovation project staff and the Administrative Judge and Chief Clerk for Criminal Matters of the Kings County Supreme Court; and, later, with senior representatives of the Kings County District Attorney's Office, Legal Aid Society, Brooklyn Defender Services, 18B panel administrator, and the Mayor's Office of Criminal Justice (see Appendix B)
Case Processing Guidelines Bench Card	The **Case Processing Guidelines** bench card was a two-page reference guide for a judge seeking to implement the timeline—as well as for both prosecutors and defense attorneys (see Appendix A).
4th Supreme Court Appearance	The **Alternative Forms of Bail** bench card was a two-page reference guide for the judge and court clerks who are respectively involved in setting and executing non-traditional forms of bail, including partially secured bonds, unsecured bonds, and payment by credit card (see Appendix C).
Alternative Forms of Bail PowerPoint	Center project staff produced and delivered a PowerPoint presentation, **Alternative Forms of Bail**, for trainings of judges and court clerks on alternative forms of bail, including secured, partially secured, and unsecured bonds, and credit card bail *(available upon request).* (The presentations delivered in trainings varied slightly between judges and court clerks to address issues specific to those respective roles.)
Administrative Judge Announcement	The Administrative judge issued an email announcement to the defense bar and District Attorney to inform them of the pilot (see Appendix E).
Operational Directive	The **Operational Directive**, prepared and disseminated by the Chief Clerk, was a document for use by court administrators setting forth a step-by-step process for executing an alternative bond. The Operational Directive helped to ensure consistency and clarity, as the setting of alternative forms of bail became more common.

Change of Status/Release from Custody Order	This form was prepared and disseminated by the Chief Clerk with the Operational Directive and directed how cash bail, partially secured bail bonds, and unsecured bail bonds should be implemented when someone intended to post bail or bond, but the defendant was not at the courthouse (see Appendix F).
Secured, Partially Secured, and Unsecured Bond Forms	Center staff updated bond forms to facilitate the use of secured, partially secured and unsecured bond forms. The appropriate form was completed by Supreme Court clerks (see Appendix G).

Chapter 4

Implementation

A total of 363 cases were arraigned in the pilot court part during the intake period and remained in the pilot part until at least a second court appearance.[16] In examining what happened to these cases, this chapter is divided into three sections: (1) grand jury minutes; (2) case conferences; and (4) additional qualitative findings regarding implementation.

Grand Jury Minutes

The grand jury minutes are a transcript of the grand jury presentation that led to the indictment of the case. The District Attorney's office must turn over the grand jury minutes to the court; in turn, the judge, with the help of the court attorney, writes a decision on whether the grand jury presentation adequately and properly supported the charges in the indictment, dismissing any charges that are not supported by the evidence presented to the grand jury.

The project model specified that the judge should render the grand jury decision at the second Supreme Court appearance, scheduled for four weeks after the Supreme Court arraignment. This timeline required the prosecution to provide the minutes to the judge *before* the second appearance, affording the judge and court attorney ample time to conduct a review and write a decision. Thus, the guidelines required the prosecution to submit the minutes to the judge off-calendar (between court dates) two-weeks after the Supreme Court arraignment.

The submission of the grand jury minutes is a pivotal point in case proceedings, particularly in Brooklyn. Without them, judges cannot render a determination regarding the grand jury presentation's legal sufficiency; cases usually will not proceed to discovery; and defense attorneys are unable to fully examine the allegations or file necessary motions before their examination. Given its potential to cause delay, the grand jury minutes submission date for each case was a key benchmark for measuring adherence to the case processing guidelines.

Quantitative Findings on Grand Jury Minutes Submission

As shown in Table 4.1, KCDA submitted the grand jury minutes to the court in two weeks or less after the Supreme Court arraignment in 17.6% of pilot cases and submitted between two and three weeks in another 6.9%. All told, the submission preceded the second court appearance in 50.2% of cases, but in about half of these instances, the submission took place after the three-week mark—affording the judge limited time to have a decision ready at the next court appearance. Correspondingly, the judge rendered a decision on or prior to the second appearance in only half (49.9%) of the cases.[17]

Table 4.1. Grand Jury Minutes Submission and Decision Timeframes

	Not Detained (*N*=221)	Detained (*N*=142)	All Indictments (*N*=363)
Grand Jury Minutes Submission			
Two weeks or less post-arraignment	19.9%	14.1%	**17.6%**
More than two weeks and up to three weeks post-arraignment	5.0%	9.9%	**6.9%**
More than three weeks and prior to the date of the second court appearance	24.0%	23.9%	**24.0%**
Prior to the second court appearance, but specific date unknown	2.7%	0.0%	**1.7%**
At the second court appearance	21.7%	16.9%	**19.8%**
After the second court appearance	19.0%	24.6%	**21.2%**
No Grand Jury Minutes submitted [a]	7.7%	10.6%	**8.8%**
Grand Jury Minutes Decision			
At second court appearance (or prior)	51.6%	47.2%	**49.9%**
At third court appearance (or prior)	33.0%	34.5%	**33.6%**
After third court appearance	5.9%	6.3%	**6.1%**
Sent to a specialized court part prior to decision	1.8%	1.4%	**1.7%**
No Grand Jury minutes submitted [a]	7.7%	10.6%	**8.8%**

Note: Includes indictments with a second appearance in the pilot court part.
[a] It is possible that for a small number of these cases, the grand jury minutes were submitted, but the data is missing. If this was the case, these minutes would have been submitted after the second court date.

Course Correction. Given the difficulties KCDA experienced in achieving a timely submission of the minutes, soon after the pilot project was underway, the presiding judge systematically extended the target date from two to three weeks after the Supreme Court arraignment for submission and, in turn, pushed back the timing of second court appearance from four to five weeks post-arraignment. The latter change afforded the judge and his staff enough time to prepare a decision in more cases.

Qualitative Findings

In interviews, stakeholders relayed the following additional findings.

- **Inexplicability of Delays in Grand Jury Minutes Submission:** *In interviews, defense attorneys and court staff expressed confusion regarding why KCDA was unable to submit the grand jury minutes in less time.* Assistant district attorneys (ADAs) relayed that court reporters must transcribe the minutes from their shorthand, and ADAs must then review drafts and request any necessary revisions. ADAs also noted that some court reporters only transcribe their shorthand or make revisions on certain days of the week. Additionally, if the grand jury deliberations span many days, multiple court reporters become involved, meaning that any of them could hold up the process.

- **Workload Ramifications for the Court:** *Stakeholders indicated in research interviews that the above-noted lateness in the prosecution's submission of the minutes resulted in significant stress and workload for the judge's staff.* The judge's staff reported working past normal hours to prepare decisions in limited time prior to the second court appearance. To reduce this workload, staff from the Supreme Court's Law Department stepped in and reviewed some of the minutes.

- **Improvement Over the Preexisting Status Quo:** *Although there is no data available for other court parts, a wide range of stakeholders reported that the process was faster in the pilot court part, when compared with other court parts throughout the Kings County Supreme Court.* Some stakeholders credited the judge for this change, explaining that he may have had a positive impact on the prosecution by articulating a short deadline for submission and routinely requiring prosecutors to explain themselves on the record when the minutes were late. ADAs, also, indicated that the short deadline helped them put pressure on their court reporters to turn minutes around more quickly than they would have otherwise. Hence, despite non-fidelity to the project timeline, the case processing guidelines appear nonetheless to have yielded progress.

- **Possible Focus on Detained Cases:** Both ADAs and court staff suggested in interviews that grand jury minutes submission and decisions could be completed faster if the District

Attorney's Office could prioritize a limited selection of cases, such as those where the defendant was detained pretrial.

Case Conferences

There were 277 cases[18] remaining in the pilot court part until at least a fourth appearance.[19] Just prior to this appearance, the guidelines recommended holding an off-calendar case conference. The guidelines also required turning over all discovery to the defense beforehand, enabling all parties to gain a solid understanding of the prosecution's evidence.

Timing of the Case Conferences

As shown in Table 4.2, 9.4% of cases had a case conference prior to the fourth court appearance, and an additional 17.7% had it on the same date as the fourth appearance. This latter occurrence was an intentional solution devised by the court attorney, who reported difficulty scheduling conferences with the assigned ADA and defense attorney in between scheduled appearances; thus, the court attorney switched to the day of an appearance, while court was in session.

The results also indicate that cases where the defendant was held in pretrial detention were significantly more likely to have a case conference *after* the fourth appearance, when compared to non-detained defendants. A possible interpretation (unconfirmed through data analysis) is that detained defendants had more complex cases requiring substantial discovery and, therefore, these cases needed more time before the parties were able to have a productive case conference.

Notably, 30.7% of cases did not have a case conference at all. The majority of this subgroup pled guilty or were sent to another court part prior to conferencing, rendering the need for it moot.

Case Conferencing Procedures

Center project staff intended for the case conference to serve as a forum for the prosecution and defense to discuss the strengths and weaknesses of the case; missing discovery; pending factual, legal, or discovery issues; any remaining motion practice; Supervised Release or other alternatives to traditional bail; the need for a pre-pleading investigation report; the merits of any plea offer; any barriers to commencing a trial; and most any other pertinent issues.

Table 4.2. Timing of the Case Conference

	Not Detained (*N*=174)	Detained (*N*=103)	All Indictments (*N*=277)
Prior to 4th appearance	11.5%	5.8%	**9.4%**
Day of 4th appearance	19.5%	14.6%	**17.7%**
After 4th appearance and within 16 weeks post-arraignment	5.2%	8.7%	**6.5%**
After 4th appearance and from 17 to 20 weeks post-arraignment	11.5%	10.7%	**11.2%**
After 4th appearance and after 20 weeks post-arraignment	20.1%	32.0%	**24.5%**
No case conference recorded[a]	32.2%	28.2%	**30.7%**

Note: Includes indictments with a fourth appearance in the pilot court part.
[a] A small proportion of cases were missing data.

In research interviews, participants described the case conferences as follows. Once both the defense attorney and ADA arrived, the court attorney would take them outside the courtroom to conference. The conferences typically lasted between five and 45 minutes, with both the prosecutors and defense attorneys sharing their perspectives and clarifying what type of disposition they were seeking. The defense provided information about the defendant that the prosecution may not have known, and the ADA indicated what other information would be helpful to know or consider that might decrease the severity of their plea offer. *Typically, the attorneys would leave the case conference having developed a plan of action.*

Research interviews also suggest that when a conference was held on the day of an appearance, a disposition was unlikely to happen that same day, as ADAs often needed to talk with their supervisor about amending their offer, and the defense attorney sometimes needed more time to speak with their client or prepare a pre-pleading investigation report. Some attorneys also reported that having the conferences while the court was in session slowed down the daily calendar, as an appearance could not occur until after that case's conference had taken place. (Nonetheless, as noted above, the court attorney reported that it was difficult to schedule the attorneys for a time falling in between court dates, hence the accommodation of scheduling the case conference on the day of a scheduled appearance.)

Additional Findings Regarding the Case Conferences

In research interviews, defense attorneys and ADAs reported the following themes:

- **Positive Perceptions of the Case Conference:** *The majority of defense attorneys and ADAs expressed that the case conferences were helpful or that aspects of them were helpful.* In part, stakeholders reported valuing the conferences for establishing face-to-face communication between the opposing attorneys, which they found more productive than trying to reach each other via phone or email.

- **Importance of Discovery:** *The attorneys also reported that the usefulness of a case conference partially depended on whether enough discovery was complete and whether the defense had enough time to review the discovery prior to the conference.* Furthermore, interviews and observations suggested that discovery was not always complete prior to the conference. As a result, a second case conference was sometimes held when discovery was not complete at the time of the first or if the parties reported that they were close to a plea deal but needed more time for negotiations.[20]

- **Varying Perceptions Around Timing:** *Senior leadership of the two defense agencies and the District Attorney's office reported that the conference needed to be held earlier in case processing*, despite line attorneys assigned to the cases tending to report (as noted above) that without enough discovery turned over prior to the conference, it would be unhelpful.

- **Non-Utility in Trial Cases:** *Attorneys reported that case conferences were unnecessary in cases where they were committed to go to trial;* in these cases, attorneys believed that holding a case conference slowed down case processing. However, most cases do not go to trial, so the impact of this was likely minimal.

Additional Findings Regarding Implementation

Besides findings related specifically to the grand jury minutes and case conferences, the evaluation uncovered several additional themes and findings.

- **Role of the Judge in Holding the Parties Accountable:** *Researcher observations of the pilot court part demonstrated that the judge nearly always stated the purpose of the adjournment on the record—as was recommended by the formal guidelines.* He then often checked in on that purpose at the next court appearance. These behaviors may have created a sense of accountability and reduced the number of "purposeless" court appearances. However, some defense attorneys expressed that the frequent appearances mandated by the guidelines felt like "busy work," particularly when the "purpose" of the adjournment was incomplete. This feedback suggests the need to strike a balance

between pushing for short adjournments, while also being receptive, should attorneys explain why a short turnaround for between-appearance tasks may not be possible.

- **Lack of Tangible Sanctions for Prosecution Noncompliance:** Researcher observations suggested that the judge would sometimes state that the court will "charge time"[21] to the prosecution if a task was not completed on schedule, but this was infrequent. More often, if a milestone was not reached, the judge would threaten sanctions at the next court date. *Some defense attorneys suggested that the judge should impose tangible sanctions on the prosecution when deadlines for turning over grand jury minutes and discovery were not met.*

- **Over-Prioritizing Efficiency:** *Both researcher observations and stakeholder interviews suggested that sometimes the judge would prioritize efficiency and adherence to the timeline for their own sake.* In addition to holding case conferences when the defense was ready to go to trial, the judge would sometimes exert pressure to reach a disposition, even when discovery was incomplete or because a case was considered "old." This concern underscores that when training judges to implement the model, the message should be to hold the parties accountable for unnecessary deviations from the guidelines that undermine justice, not for legitimate deviations required due to case specifics.

- **Challenges Posed by Cases with Voluminous Discovery:** *In interviews, defense attorneys and court staff reported that it was difficult to follow the recommended timelines in the few cases where discovery was especially voluminous or the charges were extremely serious.* In these cases, the parties might reasonably require more time for the grand jury minutes to be provided, for discovery to be complete, for experts to be engaged, and for defendants to carefully consider the substantial jail or prison sentence they might face as part of the prosecution's plea offer.

- **Timing of Pretrial Hearings:** Finally, the case processing guidelines specified that pretrial hearings regarding probable cause and the admissibility of evidence should occur at the fifth Supreme Court appearance—held within the pilot court part. However, these hearings were conducted in trial parts, instead. *The presiding judge decided that the trial judge should conduct pretrial hearings, given their oftentimes direct relevance to what evidence would be admissible were a trial in fact to take place. Thus, cases were adjourned out of the pilot court part and sent to a trial part prior to pretrial hearings.*

Chapter 5

Impact Evaluation

This chapter reports the results of an impact evaluation, comparing case processing outcomes for cases handled in the pilot court part in 2019 to otherwise similar cases in 2018. (See Chapter 2 for a description of the quasi-experimental design.)

Time to Disposition

The primary aim of the case processing guidelines was to reduce the time between the indictment and disposition—especially for people held in pretrial detention. Specifically, the guidelines sought to increase compliance with official state standards and national best practices, which both consistently recommend resolving felony indictments within six months (technically, 180 days).

As shown in Table 5.1, the pilot project produced a significant increase in the percentage of cases disposed within both five months (41.2% v. 31.5%) and six months (51.2% v. 40.1%). The impact appeared to be driven by cases held in pretrial detention as opposed to cases released as of the Supreme Court arraignment. Among detained cases, 52.9% of those handled in the pilot court part compared to 31.1% of comparison cases were disposed within six months of the indictment. Additionally, the impact was largely driven by violent felony cases. Table 5.2 shows that there was nearly an 18-percentage point increase in the number of violent felony cases disposed within six months, but less than an eight-percentage point increase in the number of lesser charges disposed within six months.[22]

Survival Analysis

To understand more about how the time to disposition differed between pilot and comparison cases, we also looked at "survival plots," which show what proportion of cases have yet to be disposed as more time passes. This analysis includes measurement periods that exceed six months for those cases that could be tracked for longer.

Table 5.1. Percentage of Cases Disposed After Multiple Time Markers

	Not Detained		Detained [a]		All Indictments [b]	
	Pilot (*N*=229)	Comparison (*N*=192)	Pilot (*N*=138)	Comparison (*N*=135)	Pilot (*N*=382)	Comparison (*N*=349)
Percentage Disposed Within Each Timeframe of the Indictment						
Three Months	10.9%	15.1%	20.3%	13.3%	**17.8%**	**19.5%**
Four Months	24.1%	22.4%	35.0%*	21.5%	**31.1%**	**26.6%**
Five Months	36.4%	28.1%	42.6%**	25.2%	**41.2%****	**31.5%**
Six Months	46.9%	39.6%	52.9%***	31.1%	**51.2%****	**40.1%**

Note: *p<.05, **p<.01, ***p<.001.
[a] The number of detained cases here differs from the numbers in Table 2.1 due to missing data on when a case was disposed.
[b] The number of pilot and comparison indictments is greater when examining all indictments than when breaking out by detained and not detained indictments. This is because the former includes cases disposed at Supreme Court arraignment, which are not designated as detained or not detailed.

Table 5.2. Percentage of Cases Disposed After Multiple Time Markers by Charge Severity

	Nonviolent Felony or Lesser Charge		Violent Felony	
	Pilot (*N*=185)	Comparison (*N*=193)	Pilot (*N*=197)	Comparison (*N*=156)
Percentage Disposed Within Each Timeframe of the Indictment				
Three Months	23.8%	26.9%	12.2%	10.3%
Four Months	36.2%	35.8%	26.2%*	15.4%
Five Months	47.6%	42.0%	35.1%***	18.6%
Six Months	60.0%	52.3%	42.8%***	25.0%

Note: *p<.05, **p<.01, ***p<.001.

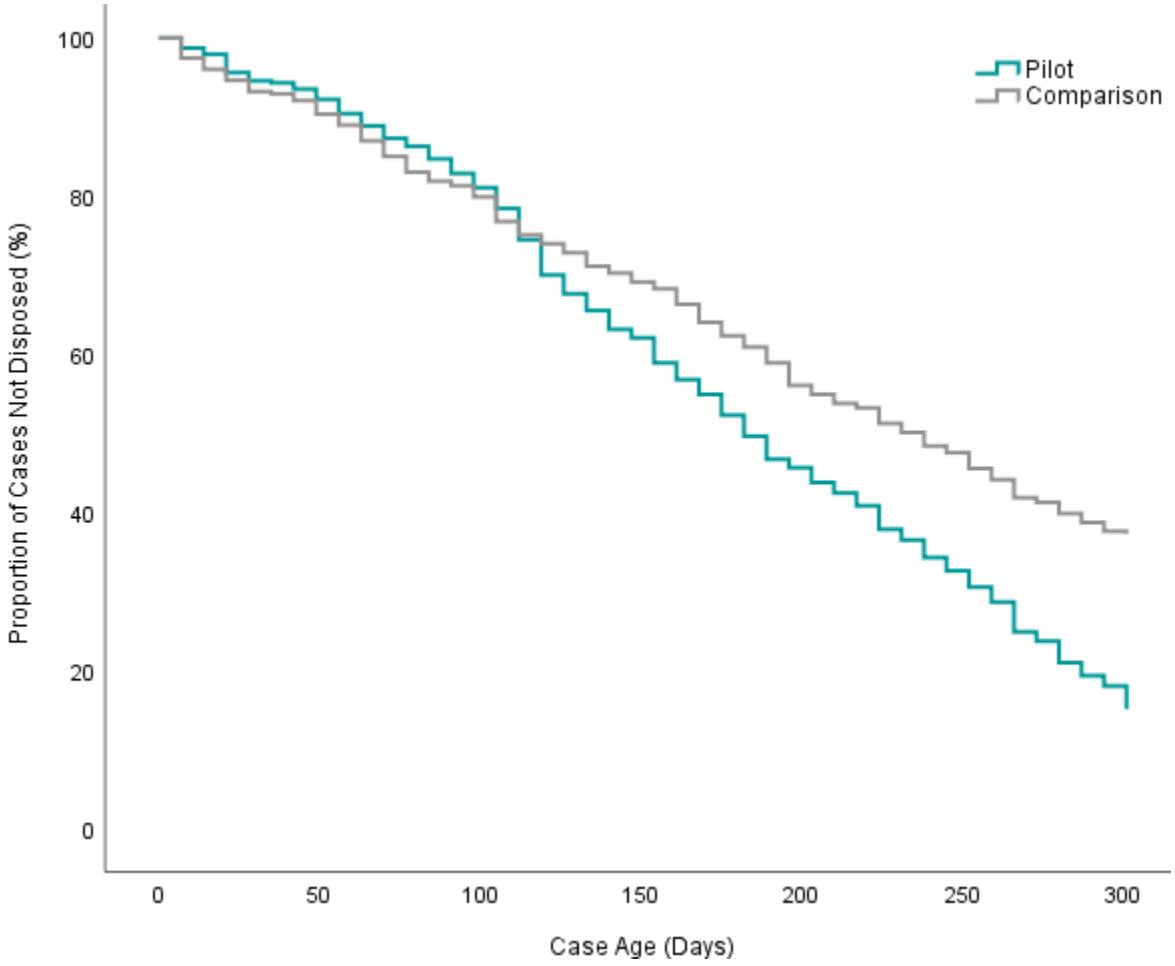
Figure 5.1 demonstrates that over the first 15 weeks (105 days or 3.5 months) post-indictment, pilot and comparison cases were disposed at relatively similar rates. After this point, pilot cases appeared to be disposed more quickly than those in the comparison group—shown in the steeper drop-off of pilot cases than comparison cases in Figure 5.1 below. The 15-week mark is soon after the case processing guidelines stated that a fourth court appearance should occur. The implication is that the impact of the pilot project in

expediting dispositions began around the time of the fourth court appearance, which also corresponded to when the guidelines recommend a case conference.

A visual inspection of the survival curves indicates from the 15-week mark forward, the gap only continues to widen between disposition rates among pilot project and comparison cases. The implication of the displayed trajectories is that about twice as many comparison cases as pilot cases remained pending (not yet disposed) at the 300-day mark (or after ten months); or, conversely, about 80% of pilot cases compared to 60% of comparison cases had reached a disposition by the 10-month mark.

Moreover, half of all pilot cases were disposed within 181 days, whereas it took 50 days longer (231 days) for half of the comparison group to be disposed.[23]

Figure 5.1. Proportion of Cases Still Not Disposed Over Time



Note: The difference between the survival curves is statistically significant (p<.001) using a Kaplan-Meier survival estimate. Median^{pilot} = 181. Median^{comparison} = 231.

Adjournment Length

Average adjournment length (defined as the interval in between court appearances) was significantly shorter for pilot than comparison cases, a finding that conforms to the intent of the project model to limit adjournments to the amount of time necessary to complete meaningful between-appearance tasks.[24] Specifically, pilot cases averaged 21.8 days between appearances, compared to 30.4 days for the comparison group.[25]

Disposition Outcomes

In interviews with defense attorneys and court staff, some expressed concern that the cases were moving too quickly, potentially resulting in insufficient time to complete discovery or pre-pleading investigation reports and giving defendants insufficient time to consider plea agreements that included substantial prison time. However, looking exclusively at disposed cases and controlling for a variety of charge severity and charge type measures, we found no significant differences between pilot and comparison cases in disposition type (dismissal or guilty plea/conviction) and conviction charge severity (felony or lesser charge) for those cases ending in conviction (felony or lesser). These results are tentative and should be interpreted with caution, however, since data for the evaluation was obtained when a meaningful fraction of cases had not been disposed or sentenced. We cannot rule out that there may be differences in other outcomes like sentencing.[26]

Chapter 6

Alternatives to Bail and Detention

This chapter examines the implementation and outcomes of additional jail reduction strategies: specifically, increasing formal bail reviews, potentially resulting in greater use of non-traditional ("alternative") forms of bail as well as Supervised Release.

Although explicitly specified in the case processing guidelines, there were no systematic bail reviews in the pilot court part—either at the Supreme Court arraignment or subsequently—and observations suggested that bail reviews, bail reductions, the use of non-traditional forms of bail, and Supervised Release were all uncommon. For defendants in pretrial detention, the judge only considered a partially secured or unsecured bond if a defense attorney made a bail application and specifically requested one—but the attorneys rarely did either. Additionally, the judge considered Supervised Release after a defendant was reviewed and deemed eligible by Supervised Release program staff, which took place in a limited number of cases during the pilot project.

Non-Traditional Forms of Bail

Besides reducing case delay, the Brooklyn Project's goals also included increasing the use of three non-traditional forms of bail: partially secured bonds, unsecured bonds, and payment by credit card, which are legally feasible only if the judge specifies it as an option.

Interviews with defense attorneys and ADAs suggested that some of them forgot that using these forms of bail was a part of the project, because they were used so rarely, in general, and were not part of the culture in Brooklyn.[27] Defense attorneys also suggested that most of their clients in the pilot court part were not in pretrial detention, so bail reviews would have affected few of their cases—except, in fact, almost 40% of pilot cases were detained as of the Supreme Court arraignment. Defense attorneys also stated that when their clients were detained, the attorneys were hesitant to make bail applications, because they did not expect them to be successful or were worried the judge would increase bail. Finally, observations and interviews with a range of stakeholders suggested that the judge was unwilling to change the Criminal Court judges' initial bail decision, unless there was a demonstrable "change of

circumstances." If such a change was present and the judge adjusted the bail amount, the judge would also sometimes include credit card bail as an option.

Considered in combination, the above factors likely resulted in few bail applications, bail reviews, bail reductions, and setting of alternatives to traditional bail. Indeed, our analysis indicates that defendants in the pilot court were no more likely to have their release conditions made more or less restrictive or to have their bail amounts increased or decreased than for cases in the comparison group (see Appendix N). Qualitatively, project staff observed that the judge added an unsecured bond as a bail option twice—once at Supreme Court arraignment and once post-arraignment.[28] In both instances, the defense attorney asked for a non-traditional form of bail, and the defendant was released on the unsecured bond.

Although procedures and documents for setting partially secured and unsecured bonds were disseminated to court staff at the start of the project, their historically rare use meant that court staff lacked familiarity with the paperwork, release order, and cashier clerk procedures when unsecured bonds were used. The Chief Clerk disseminated a memo clarifying the process soon after the second individual was released with an unsecured bond.

An Opportunity for a Veteran

One defendant, a veteran, remained detained on bail, even after his bail amount was lowered by another judge. His family could only afford to pay $700 bail but owned their home. At Supreme Court arraignment in the pilot court part, his mother demonstrated that she had access to these assets, but not cash, and the judge granted an unsecured surety bond. The veteran remained out of jail for the remainder of his time in the pilot court part, and his case was ultimately sent to mental health court to be considered there for participation.

Supervised Release

Procedures Under the Pilot Project

For the duration of the pilot project's intake period, Brooklyn Justice Initiatives assigned a staff member to review all cases scheduled for Supreme Court arraignment to determine if

they were eligible for the program under then-existing eligibility criteria, which restricted the program mainly to nonviolent felony and misdemeanor cases. Although some defendants may have already been eligible at the initial Criminal Court arraignment, the pilot offered a second opportunity for considering Supervised Release when either: (1) the case "slipped through the cracks" and was not screened or considered previously for no intentional reason; or (2) the case was previously found eligible but the Criminal Court arraignment judge ordered bail instead. (The pilot judge was only likely to consider this second category if the defendant experienced a clear "change of circumstances.") A third category for possible consideration was if the defendant was ineligible at the Criminal Court arraignment but, for instance due to a subsequent charge reduction at the indictment, the defendant later became eligible.

The staff member assigned to the pilot court part regularly screened defendants scheduled for Supreme Court arraignment and brought any eligible cases to the attention of the defense attorney and judge. However, data suggested that not many defendants held in pretrial detention as of the Supreme Court arraignment were screened, due to charge- and risk-based exclusions—especially the exclusion of nearly all violent and class A felonies, felony level gun or sex crimes, and any domestic violence cases. These exclusions were all eliminated by law in conjunction with New York's bail reform statute, which went into effect January 2020 (see Rempel & Rodriguez 2019).

Use of Supervised Release

Although the use of Supervised Release was limited, the presiding judge in the pilot part ordered it more frequently than non-traditional forms of bail. The judge released eight defendants to the program—five at Supreme Court arraignment and three subsequently—and declined to release four other eligible defendants. The Kings County District Attorney's office (KCDA) opposed Supervised Release in all 12 instances where the defense requested it. In interviews, ADAs reported lacking advance notice that the defense would be requesting Supervised Release; the ADAs indicated that if they had received earlier notice, they might not have been opposed. In turn, Supervised Release staff reported that they routinely notified KCDA bureau chiefs in advance when a case was eligible. Yet, the ADAs prosecuting the cases in the pilot court part maintained that they did not receive this information from their superiors.

As with non-traditional forms of bail, when the judge ordered Supervised Release, there was some initial delay in effectuating an individual's actual release, as Department of Correction officers stationed at the Supreme Court were unfamiliar with the demarcation used to indicate that the individual should, in fact, be released from jail.[29]

It is also worth noting that Supervised Release case managers and social workers reported needing to provide substantial levels of support to new participants released in the Supreme Court, as compared with those released at the earlier Criminal Court stage. Criminal Court arraignments take place about 24 hours after the arrest. By comparison, participants released from the Supreme Court were detained for an average 37 days. Staff expressed that these participants had experienced trauma during their time in jail and faced greater challenges regaining employment and housing and reclaiming their property upon release, than Criminal Court releasees. This suggests that the initial Criminal Court arraignment is the ideal time to provide Supervised Release as an alternative to detention.

Access to Resources

After being detained on bail for a month, a defendant was instead placed in Supervised Release following the Supreme Court arraignment. The Supervised Release providers were able to connect her with both the mental health and substance use treatment she needed. She continued working with Supervised Release and, following her success in the program, was subsequently released on her own recognizance.

Chapter 7

Conclusions

This chapter summarizes the major findings and lessons from the evaluation, notes the ramifications of New York's 2020 reforms to its bail and discovery laws on future replication, and identifies several important study limitations.

Summary of the Major Findings

Operationalizing best practices known in the field (Lippman et al. 2017; Ostrom et al. 2020b; Steelman & Griller 2013), the evaluation found that creating and implementing case processing guidelines that formalize exactly what should take place at and in between each set of court appearances significantly reduces felony case delay. Specifically, the results indicate that when compared to business-as-usual, the pilot project brought significantly more cases to a resolution within six months of an indictment (51.2% v. 40.1%). Conforming to the goal of reducing the jail population, the project produced an especially large increase in the six-month disposition rate for cases held in pretrial detention following the Supreme Court arraignment (52.9% v. 31.1%). The project also had an especially large effect on six-month dispositions with violent felony cases (42.8% v. 25.0%).

Additionally, findings point to a significant reduction in adjournment length—a known driver of case delay—from an average of 30 days elapsing in between court appearances in the comparison group to only 22 days for project cases. The evaluation also drew attention to case conferences as a particularly helpful practice, caveated by attorney perceptions that such a conference is more useful if it takes place after discovery materials have been fully shared.

Nonetheless, the implementation of the Brooklyn Project varied from how it was designed. Although the case processing guidelines decreased time to disposition, the majority of cases did *not* meet the guidelines' *interim benchmarks*. For example, the prosecution submitted the grand jury minutes prior to the second Supreme Court appearance *in only half of cases*; and the case conference took place as planned, *prior* to the fourth court appearance, in less than one in ten cases (although the conference was held on the day-of the fourth court appearance in another 18% of cases).

In sum, the case processing guidelines appeared to have achieved the intended purpose of disposing cases significantly sooner by setting specific goals and timeframes for each adjournment. However, it appears that the resulting positive effects could have been even greater if specific benchmarks contained in the guidelines were met more often.

The project also sought to increase the uptake of non-traditional forms of bail (especially partially secured and unsecured bonds) and Supervised Release, but here met with limited results. In the case of Supervised Release, the principal barrier consisted of restrictive program eligibility criteria that has since been eliminated by New York's bail reform law.

Key Lessons

Looking to future replication, we briefly draw attention to several important lessons.

- **Inclusive but sequenced planning proved effective**: The project team worked primarily with Kings County Supreme Court administrators—specifically, the Administrative Judge and Chief Clerk—for more than half a year *before* meaningfully engaging other stakeholders. Recognizing that the project would succeed or fail most of all based on court buy-in, and therefore developing strategies that would be acceptable to the court first, proved effective. The sequenced approach did not ultimately compromise the District Attorney's Office and defense bar's ability to provide input.

- **Documentation aided implementation quality**: The project team produced and invited all partners to review drafts of written documents during the planning process. During implementation, stakeholders had written bench cards they could reference, summarizing exactly how the case processing guidelines should work. A written model was central to the very nature of the project—replacing unformalized and historically ineffective case processing practices—and seemed to improve clarity and fidelity during the implementation period, especially by the judge assigned to the pilot court part.

- **The case processing guidelines, shorter adjournments, and case conferences generally worked.** Although actual implementation involved frequent lateness meeting interim time benchmarks, both quantitative and qualitative data nonetheless suggest that the major components of the case processing strategies—written guidelines, preconceived numbers of target weeks for each adjournment, and a case conference—all contributed to improvements over business-as-usual.

- **The judge's role was central**: Fundamentally, the presiding judge was committed to expediting case processing and realized the National Center for State Courts' recommendation that judges control the individual proceedings and their overall docket.

He routinely referenced time markers contained in the case processing guidelines on the record and admonished attorneys for lateness. Yet, for a model like the one we tested to be widely institutionalized, a larger number of judges will have to be trained in it and will have to buy into its utility in promoting efficiency and justice. Such an outcome may require reinforcing guidance from state court leadership, an in-depth review of current court practices, and guidelines tailored to the local court system. In this sense, the success of the pilot project, which required a single willing judge, may have been more easily achieved than future institutionalization.

- **It was necessary to guard against efficiency for its own sake.** Although the project model did not anticipate following the case processing guidelines literally when extenuating circumstances or due process considerations required a different course, research interviews and observation pointed to a concern the model at times spawned a focus on efficiency for its own sake. This input reflects the importance of repeating often to all parties the caveat that the ultimate end-goal is fair and just outcomes, not speed per se.

- **Delay is deeply ingrained and reflects systems, more than individuals:** Despite the above-noted positive lessons, it bears reflecting on the many implementation defects this evaluation documented, ultimately leading to missed interim benchmarks more often than not. For example, by all accounts, senior leadership and line staff from the Kings County District Attorney's Office had no philosophical objection to earlier submission of the grand jury minutes. Yet, preexisting procedures and handoff protocols and timeframes between court reporters and prosecutors proved resistant to change. Indeed, while some stakeholders were confused as to why the grand jury minutes could not be submitted earlier, stakeholders also reported improved submission times compared to other court parts, suggesting that it may simply have been too difficult to dramatically change systems to the extent that perhaps seemed reasonable in the abstract. Over time, it may be possible to realize greater systems changes than were seen during our brief pilot period.

- **New procedures may require frequent reminders for effective uptake.** The project sought to introduce routine bail reviews at the Supreme Court arraignment, but these reviews did not take place, nor were partially secured and unsecured bonds used on more than a handful of occasions, all contrary to project intentions. Some attorneys reported forgetting that these elements were part of the project model. It may be that even given the written formalization noted above, frequent memos and reminders need to be sent and resent as part of any change process that involve institutions—such as the use of non-traditional forms of bail—that were extremely rare in the preexisting status quo.

- **Focusing on detained cases may improve outcomes.** Although the court administration's goal of affording equal justice to all defendants was laudable, the reality is that the harms of the status quo fall disproportionately on people held in jail. Research interviews pointed to an oft-repeated theme that both prosecution and defense agencies

could have more easily met their obligations if the project had been limited to detained cases. This is a lesson worth considering in seeking to sustain or replicate the model.

New York's Recent Criminal Justice Reforms

The project was implemented in 2019. Then, New York State instituted groundbreaking reforms to the state's bail and discovery laws, which went into effect January 2020 and were further modified later in 2020 (see Rempel & Rodriguez 2019, 2020; and Rodriguez 2020).

Several of these reforms align with the Brooklyn Project. First, while eliminating the option of money bail in the vast majority of criminal cases, when bail continues to be set, the reforms called for the judge to make at least three forms of bail an option, one of which must be a partially secured or unsecured surety bond. The reforms also required judges to consider a defendant's ability to pay bail when deciding bail forms and amounts and to choose the "least restrictive" bail or release condition that would ensure return to court (Rempel & Rodriguez 2019). In some instances, the "least restrictive" condition would likely involve Supervised Release.

Furthermore, whereas few cases in the pilot project met the Supervised Release Program's eligibility criteria, the new bail law mandated universal eligibility regardless of charge or risk, putting an end to this implementation barrier experienced during the pilot period.

Finally, the final discovery reforms required prosecutors to turn over all "discoverable" materials to the defense on a strict timeline—within 20 days for incarcerated defendants and 35 days for non-incarcerated defendants, with an additional 30 days in both instances if the materials were especially voluminous (Rodriguez 2020). Insofar as speedier discovery advances the goals of the pilot project, and could, especially, allow the parties to hold meaningful case conferences earlier in the past, New York's discovery reforms offer important legal support for the Brooklyn Project's aims and procedures.

Center staff revised the original case processing guidelines to incorporate the new discovery timelines. A modified two-page bench card with updated case processing guidelines is separately published here and included as Appendix D.

Relevance During and After the COVID-19 Pandemic

After the completion of this project at the end of 2019, the beginning of 2020 saw the United States enter a period of extreme upheaval brought on by the COVID-19 pandemic. Within the criminal justice system, this necessitated quick reductions in the populations of crowded prisons and jails and changes to courtroom proceedings to increase social distancing and decrease the spread of the virus.

In New York City specifically, courts drastically adjusted their operations in March 2020. Modifications included the closure of several court parts, prolonged administrative adjournments, suspension of petit and grand jury proceedings, suspension of jury trials, and a transition to remote appearances to implement public health guidelines and prevent the transmission of the virus. While the implementation of the case processing guidelines precisely as piloted in Brooklyn is not feasible in the COVID-19 context, given these limited court operations, adopting portions of the guidelines for remote proceedings could assist the court in mitigating the current case backlog, particularly for detained individuals, in a systematic and consistent manner. Additionally, when in-person appearances resume, the guidelines and procedures highlighted in this report could become essential tools to fairly and effectively reduce backlog and streamline case processing. In recovering from the pandemic, these steps could help to ensure a fair and speedy trial not only for people charged with crimes, but also for victims of crime, for whom COVID-19 has delayed closure and justice (Chan, 2021).

Study Limitations

We encountered several limitations in coding official court data and ensuring comparability between the two study groups, of which four were especially noteworthy.

First, instead of randomizing cases to pilot project and comparison conditions, the study employed a quasi-experimental design, comparing similar Supreme Court cases arraigned in two consecutive years. Although the demographics and case characteristics of pilot and comparison cases were similar, the study groups may have differed in other ways that could have impacted the outcomes of interest. Additional differences include different judges, whose practices may have independently varied beyond causal effects attributable to the

project and changes to case processing and bail request practices within KCDA. There could also be independent effects resulting from the passage of the new criminal justice reforms in April 2019, amidst the pilot period, even if these laws were not technically put into effect until 2020.

Second, although the case processing guidelines required the completion of discovery by the third Supreme Court appearance, hard data was unavailable for the actual completion date.[30] Therefore, we could neither measure compliance with this important interim benchmark, nor could we determine the extent to which the case conference occurred after the completion of discovery, as the guidelines anticipated.

Third, there are limitations to our analyses due to missing data. A strength of this quasi-experiment is that it uses court administrative data and was implemented in collaboration with court stakeholders. However, court staff were unable to provide complete data for all relevant fields. For example, data measuring if and when a case conference occurred came from notes taken by the judge's staff. This data is missing in some instances and sometimes relied on staff recollection. Additionally, the final data on case conferences and grand jury minute decisions needed to be collected after the pilot court part had closed (near the end of 2019), when the assigned judge retired. In this transition, some of the case conference and grand jury minutes data was lost. Furthermore, the official court data did not record when a judge set a non-traditional form of bail, such as a partially or unsecured bond or credit card bail. As a result, we could not quantify the use of these forms of bail in the pilot court part. However, because by all accounts these forms of bail were used in no more than a handful of cases, some of which we documented through observation, we are confident that we were able to capture the essential finding that these forms of bail were rarely used.

Fourth, our model was not applied to cases arraigned in "specialized" court parts within the Kings County Supreme County, which respectively handle sex offense, domestic violence, gun-related, and several other types of cases. These serious and complex cases may be more likely to include lengthy discovery and other procedures that necessarily take longer to complete (e.g. DNA evidence, DD-5s, pre-pleading investigation reports.) Therefore, the findings cannot be reliably generalized to these types of cases; and it is conceivably these cases would merit modified guidelines that, while continuing to seek improvements over the status quo, anticipate a longer case processing timeline than the guidelines we implemented.

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Notes

[1] This statistic is unpublished, but the underlying analysis is available on request from the authors.

[2] Generally, sex offenses, gun cases, domestic violence cases, driving while under the influence of alcohol cases, homicides, gang-related cases, and some treatment and veterans court cases were arraigned in different court parts (both before and after the pilot project's implementation period).

[3] "Off calendar" refers to something occurring outside of when the court part is in session.

[4] The vast majority of court observations were conducted by the two lead project staff (Krystal Rodriguez and Valerie Raine), with the principal investigator (Joanna Weill) observing about once per week as well as overseeing data collection.

[5] Defense attorneys from the Legal Aid Society and Brooklyn Defender Services were invited to be interviewed based on the number of clients they represented in the pilot court part and their participation in case conferences (as defined in Chapter 3). We reached out to several 18B attorneys but did not receive a response. (These attorneys are members of a panel of private attorneys, who can represent indigent defendants when there is a conflict of interest preventing the two major defense agencies from participating.)

[6] In the pilot court part, there were two types of assistant district attorneys (ADAs). "Standing ADAs" were regularly present in the court part and assigned to present all cases on a single day, regardless of

specific case assignments. “Assigned ADAs” were assigned to specific cases and asked to attend court when their assigned cases were scheduled for a case conference. We interviewed three “standing ADAs” with experience in the court part but, while reaching out to several “assigned ADAs,” we were unable to schedule interviews. We also interviewed one Bureau Chief from the District Attorney’s Office.

[7] Interviews were semi-structured, lasted approximately one hour, and most were conducted in person.

[8] In the Office of Court Administration (OCA) data set, some cases, especially those still pending as of when the data was obtained, are missing their Supreme Court arraignment date. Excluding these cases would have resulted in biasing the data towards faster dispositions in the 2019 pilot court part study group. Using the finished calendar data, however, we were able to fill in accurate Supreme Court arraignment dates for nearly all of these cases. Although we could not similarly identify these cases in the 2018 comparison group (lacking access to court calendars for that year), there were far fewer pending cases remaining from 2018 and, thus, fewer cases missing their Supreme Court arraignment date. Additionally, any bias resulting from excluding these few 2018 cases would, in effect, be favorable to the comparison group—since the exclusion essentially removes from the comparison group a small number of cases with particularly lengthy case processing times; however, our results suggest a significant positive impact of the pilot project despite this bias.

[9] Sex offense cases (found in New York Penal Law sections 130 and 255) were excluded, because they were not intended to be arraigned in the pilot court part in 2019. Homicide charges (Penal Law section 125) were also excluded, because while most homicides charges were arraigned in a specialized court part, those that remained in the pilot and comparison court parts were not evenly distributed between 2018 and 2019, suggesting that there were differences in how cases were assigned to a Supreme Court arraignment court part between those two years. Additionally, some defendants’ Supreme Court indictments were superseded by another Supreme Court indictment. A comparison of the OCA data to the finished calendars in 2019 suggests that when this occurred, typically only one indictment was retained in the OCA data. The retained case *usually* maintained the earliest arraignment date and the latest disposition date. In four instances, however, the OCA data retained both cases. In 2019 when this did not occur, and both cases were retained by OCA, we retained the latter for our analysis. However, this same adjustment could not be made for 2018 data, as we did not have the court calendar for that year.

[10] Notably, some defendants had multiple cases included within the two study groups; and some cases had multiple defendants (co-defendants), both included in the data. In the 2018 comparison group, there were 29 instances where the defendant was also a defendant in another case, and in 2019 this occurred in 13 instances, a significant decrease between the two years ($p < .01$). In addition, five defendants had cases in both the comparison group and the pilot court part. In 2018, 61 defendants had co-defendants who were also in the study; and in 2019, 55 defendants had co-defendants in the study. These numbers do not include defendants with co-defendants, where such co-defendants were arraigned in some other court part besides the pilot part or those court parts used for the comparison group.

[11] The 2018 comparison group may include a type of case that is not present in the 2019 data. Cases that are not arraigned on the original arraignment date (due to warrants, hospitalizations, missing indictments, etc.) typically remain assigned to their original court part and are adjourned to a subsequent date for the purpose of arraignment. The 2018 comparison data likely included cases that were initially indicted and scheduled for arraignment prior to February 11 but were not actually arraigned until February 11 or later. However, for 2019, any cases that were originally scheduled for arraignment in a different court part, were not subsequently sent to the pilot court part. Therefore, the pilot court part likely saw fewer cases that missed their first arraignment date. However, it is not possible to identify and remove these cases in the 2018 comparison data. However, OCA data typically excludes some delays, such as any time the

defendant spent absconded on a warrant, in their count of "time to disposition," and these exclusions should help mitigate this difference.

[12] The bench card available for download is slightly modified from that used in the Brooklyn Project. Both bench cards are included as appendices to this report, but we have only separately published the modified version on our website. The modifications take into account several new timelines included in New York's discovery reform law, which went into effect in January 2020 (see Rodriguez 2020).

[13] The memorandum distributed by the Administrative Judge, Hon. Matthew D'Emic, is included as an appendix in Rempel et al (2017).

[14] Prior to project launch, Brooklyn's Supervised Release Program primarily enrolled new participants at the initial Criminal Court arraignment, which precedes an indictment or transfer of a case to the Supreme Court. Therefore, the program had not yet assigned a staff member to be regularly present in any courtrooms of the Supreme Court to accept new cases there.

[15] Beginning two weeks earlier on November 25, cases began to be adjourned to other upfront court parts that handle cases prior to trial-readiness. Any cases remaining in pilot court part after December 6 were administratively adjourned to other upfront court parts on that date.

[16] A second Supreme Court appearance, for the purpose of measuring the case processing guidelines, is defined as an appearance at least three weeks after the first Supreme Court appearance. This definition purposefully excludes appearances after short adjournments, which are typically scheduled (in a sense, "slipped in" independent of the regular appearance schedule) to accomplish specific purposes that do not occur as a customary event in case adjudicating (e.g. demonstrating financial need for a public defender, providing mental health evaluation results).

[17] A third Supreme Court appearance, for the purpose of measuring the case processing guidelines, is defined as an appearance at least a week after the second Supreme Court appearance (same reasoning as in the prior endnote).

[18] Some indictments in the data were superseded by another indictment. For this part of the analysis, we retained the indictment where there were at least four appearances since the Supreme Court arraignment date. When both indictments had at least four appearances, we retained the superseding indictment. Typically, when a case conference occurred, it was on the superseding indictment. This may create a bias towards case conferences occurring "early." For example, a case conference may occur prior to the fourth appearance post-arraignment on a superseding indictment, but additional appearances may have already occurred on the other ("superseded") case. Data indicated that there were only five instances of two indictments, one superseding the other, where both had at least four court appearances, thereby limiting the potential for any bias.

[19] A fourth Supreme Court appearance, for the purpose of measuring the case processing guidelines, is defined as an appearance at least three weeks after the third Supreme Court appearance (same reasoning as in endnote 15).

[20] The case conference dates used Table 4.2 are typically the first case conference date.

[21] New York's speedy trial law and subsequent case law permits time counting toward the prosecution's time limits to be tolled, or paused, during much of the pretrial period. In other words, not all delays count against the speedy trial time limits established by law. "Charging time" means that the court would count the days of delay against the prosecution, so that they have fewer days remaining before the speedy trial

time would expire. However, how much time was actually used by the District Attorney's office would only be consequential after they have exceeded the speedy trial limits and a motion was made to the court, requiring the court to evaluate how much time was chargeable or not chargeable against the prosecution. In other words, "charging time" does not have an immediate impact on the case proceedings.

[22] Significant differences between the study groups persisted in separate analyses controlling for differences in charge severity; the defendant's gender, race, and age; whether the defendant simultaneously faced multiple indictments; whether the defendant had a co-defendant also in the pilot; and whether the case was sent to a specialized court part. (See Appendices H, I, & J for the results of confirmatory logistic regressions for the entire sample and additional results analyzing and comparing program impacts for detained and non-detained cases and for violent felonies and other charges.)

[23] Survival analyses comparing detained and non-detained defendants can be found in Appendix K. Survival analyses comparing violent felonies and cases with lesser charges can be found in Appendix L.

[24] Average adjournment length is calculated by taking the case duration to date divided by one less than the number of court appearances to date.

[25] This significant difference persisted after controlling for other case characteristics. Additionally, we found that the decrease in average adjournment length was significantly larger for cases with non-detained defendants compared to cases with detained defendants (see Appendix M for full regression model including interaction results).

[26] As of the end of 2020, 13% of cases in the pilot and 2% of cases in the comparison group were still pending. However, we conducted a sensitivity analysis by looking exclusively at cases disposed within 12 months; there were no significant differences here either. We also looked at differences in sentence type (sentenced to jail or prison or not). There was no statistically significant difference in the proportion of defendants sentenced to incarceration in the pilot compared to the 2018 comparison group. However, an even larger portion of sentencing data was missing--24% in the pilot and 9% in the comparison group.

[27] It is important to note that this project began prior to the passing and implementation of reforms to New York's bail statute, which now require the use of either a partially secured or unsecured surety bond in every case where bail remains a legal option and is set.

[28] As of 2019, the Office of Court Administration did not reliably capture the use of non-traditional forms of bail. It is possible that these forms were used in other instances that Center staff and researchers did not observe. However, we aimed to be present in the courtroom throughout the arraignment period.

[29] The demarcation "RUS" (Released Under Supervision) is used to indicate that the individual was released to Supervised Release, but court staff and Department of Correction staff believed that only a designation of "ROR" (Release on Own Recognizance) meant an individual could be released from custody. The judge rectified this by indicating "ROR, RUS" on the securing orders.

[30] As of the beginning of 2020, the Office of Court Administration intended to begin collecting this data.