

# **AN ALTERNATIVE TO PRE-TRIAL DETENTION**

## **THE NEW YORK CITY SUPERVISED RELEASE PROGRAM AT RIKERS ISLAND**

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The "Manhattan Supervised Release" program, implemented in 2013 in New York City, provides an alternative to pretrial detention and allows selected individuals to continue working and living at home with their families as they await their trial. The program has greatly reduced the number of people in situations of economic vulnerability held in pre-trial detention, and program participants are also less likely to be sentenced to prison.

### **Context and Description**

The City of New York launched the "Manhattan Supervised Release" (MSR) program in 2013, allowing low risk, non-violent offenders the chance to continue working and remain at home with their families, as opposed to residing in jail as they await their trial.<sup>2</sup> The program is aimed at reducing the amount of time individuals spend in detention and works to decrease the use of the monetary bail system. The city-wide program was run from 2013 to 2016 by the New York City Criminal Justice Agency (CJA), a non-profit organization contracted to run the program for the city. Each year the city set aside US\$17.8 million to serve 3,000 clients. When broken down, MSR costs US\$16 a day per participant, as compared to the US\$460 a day it costs to keep an inmate in Rikers Island, one of the most notorious detention facilities in New York for overcrowding and bad conditions.<sup>3</sup> The initial MSR program ended on March 1, 2016 and was replaced by a more expansive city-wide program.

In 2015, inmates in Rikers Island stayed for an average of 57 days, with 211 new inmates arriving daily.<sup>4</sup> According to a statement made by Daniel J. O'Donnell, the Chairman of the New York State Assembly, 85% of inmates at Rikers are held in pretrial detention because they are unable to make bail.<sup>5</sup> In 2011, the average bail set in New York City courts was US\$2,000, while 44% of defendants were reportedly unable to make bail set at US\$500 or above.<sup>6</sup>

**The program allows low risk, non-violent offenders the chance to continue working and remain at home with their families as they await trial.**

In criminal court arraignment (i.e., pretrial hearings where bail is traditionally set and the defendant is subsequently sent to jail to await trial if they are unable to post bail), judges now have the opportunity to commit an eligible defendant to the supervised release program instead of setting bail.<sup>7</sup> The main participants in the program are defendants with non-violent felony charges – the majority being drug,

property, or fraud/theft crimes.<sup>8</sup> A defendant's adult criminal history and their willingness to comply with program requirements are considered before they are accepted into the MSR program.

Case managers develop personalized supervision for each participant in the program.<sup>9</sup> They work with their clients to ensure that they are in contact with their attorneys, make their scheduled court dates, and follow court requirements, in addition to assisting clients to find employment, and access treatment and counseling services when needed.<sup>10</sup> Each client's supervision levels are reevaluated on a monthly basis and adjustments are made accordingly. However, the supervision requirements and meetings are organized to ensure that the client is still able to report to work (if they are employed). Before clients enter the program, program staff collect and verify the necessary information for maintaining contact with the defendant.

## Results and Impact

The CJA recently conducted a study of 568 MSR clients, 72.5% of whom were male and 27.5% female.<sup>11</sup> The arraignment charge crime categories for the participants included drug offenses (42.1%), property crimes (35.9%), fraud/theft (17.7%), and other charges (4.3%).<sup>12</sup>

Their analysis found that 498 clients (87.7%) in the initial data set successfully completed the program, while the supervision was revoked for 57 clients (10%) because of failures to engage with case managers and an unwillingness to follow program guidelines.<sup>13</sup>

The CJA studied many aspects of the MSR program yielding both statistically significant and insignificant findings. In their statistical analysis, the CJA created two groups, one comprised of MSR clients and a control group

comprised of defendants who were eligible for the program based on their crime type and criminal background, but were not selected to participate in the MSR program.<sup>14</sup> The analysis controlled for age, ethnicity, sex, prior convictions, and crime type.

**Table 1. Differences between MSR clients and eligible, non-screened defendants on demographic characteristics, criminal history and case characteristics**

	MSR (%)	Non-MSR (%)
<b>Sex</b>		
Male	72.5	79.3
Female	27.5	20.7
<b>Age</b>		
16-19	15.7	9.4
20-29	46.7	47.9
30-39	19.2	22.5
40-49	10.2	11.4
50+	8.3	8.7
<b>Ethnicity</b>		
Black	54.6	48.8
Hispanic	31.9	32.2
Other	13.6	19.0
<b>Prior Convictions</b>		
Yes	37.7	44.5
No	62.3	55.5
<b>Charge Type</b>		
Property	36.3	31.6
Drug	41.7	44.6
Fraud/Theft	17.6	16.6
Other	4.4	7.2

Source: <http://www.nycja.org/supervised-release/>

The CJA concluded that MSR participants were much less likely to be sentenced to time in prison as compared to the control group – 33.4% of MSR clients as compared to 51.6% of the control group received a prison sentence.<sup>15</sup> While the CJA report does not go into detail

about the factors that cause the difference in sentencing rates, the program does position its clients "to be seen by the Court as someone who is worth another chance" by showing that despite their felony charge, its clients can be productive and active members of society by maintaining a job, attending counseling, and showing up at court dates.<sup>16</sup>

MSR clients also had lower rates of failure to appear at their trial (4.2%), as compared to the control group (6.8%).<sup>17</sup>



Road sign on Rikers Island. Source: Flickr CC [Nick Normal](#)

The CJA tested other variables such as rates of conviction, time from criminal court arraignment to first post-arraignment appearances, and re-arrest rates and found that many of these outcomes were not statistically significant. The program does not take into account specific impacts on women, an area that could be improved upon. In addition, the CJA does not outline the exact impact of the program on the numbers of people held in pre-trial detention. It can be assumed, however, that the program does significantly reduce the number of individuals in pre-trial detention as it serves 3,000 defendants who would otherwise be facing a bail charge and/or jail time.

To conclude, supervised release programs such as the MSR, greatly reduce the amount of time individuals spend in detention, while

ensuring instead that they continue to be active members of their community while awaiting trial. The MSR program greatly impacts the lives of economically vulnerable individuals who would be unable to make bail. In addition to reducing detention time, the program has yielded positive results: Those participating in the program were less likely to be sentenced to prison and were more likely to show up to their court date as compared to those not selected for the program.

In March 2017, New York City Mayor Bill de Blasio declared that he would start the process of closing Rikers Island, the jail complex in New York City. The process will require a significant reduction in the number of people sent to jail, in addition to the redistribution of remaining inmates to other jails around New York City. The process is expected to take ten years.

## Key Resources

Freda Solomon and Russell Ferri, *Community Supervision as a Money Bail Alternative: The Impact of CJA's Manhattan Supervised Release Program on Legal Outcomes and Pretrial Misconduct*, New York City Criminal Justice Agency, 2016, <http://www.nycja.org/supervised-release/>

New York City Criminal Justice Agency, "Who Are We, CJA Departments: Supervised Release," <http://www.nycja.org/departments.php>

## Endnotes

1. Program Assistant, WOLA.
2. "Mayor de Blasio Announces Citywide Rollout of \$17.8 Million Bail Alternative Program," *The Official Website of the City of New York*, April 8, 2016, <http://www1.nyc.gov/office-of-the-mayor/news/336-16/mayor-de-blasio-citywide-rollout-17-8-million-bail-alternative-program>
3. "Cost of inmate in NYC almost as much as Ivy

- League tuition,” *Associated Press*, September 20, 2013, <http://www.nydailynews.com/new-york/cost-inmate-nyc-ivy-league-tuition-article-1.1471630>
4. Goldstein, D., Weichselbaum, S., Thompson, C. Hager, E., Schwartzapfel, B. Chammah, M., Santo, A. & Tabor, N., “Inside Rikers Island, Through the Eyes of the People Who Live and Work There,” *New York Magazine*, June 28, 2015, <http://nymag.com/daily/intelligencer/2015/06/inside-rikers-island-interviews.html>
  5. O’donnell, D.J., “What to Do About the Rikers Island Jail,” *The New York Times*, March 1, 2016, [http://www.nytimes.com/2016/03/02/opinion/what-to-do-about-the-rikers-island-jail.html?\\_r=0](http://www.nytimes.com/2016/03/02/opinion/what-to-do-about-the-rikers-island-jail.html?_r=0)
  6. Tomlinson, R., Bickford, G. & Wilkey, A., *Report and Recommendations on Bail Reform in New York State*, New York County Lawyer’s Association, January 15, 2014, [https://www.nycla.org/siteFiles/Publications/Publications1668\\_0.pdf](https://www.nycla.org/siteFiles/Publications/Publications1668_0.pdf)
  7. Solomon, F. & Ferri, R., *Community Supervision as a Money Bail Alternative: The Impact of CJA’s Manhattan Supervised Release Program on Legal Outcomes and Pretrial Misconduct*, New York City Criminal Justice Agency, 2016, pp. 1-2, <http://www.nycja.org/supervised-release/>
  8. *Ibid*, p. 6.
  9. “Mayor de Blasio Announces Citywide Rollout of \$17.8 Million Bail Alternative Program,” *The Official Website of the City of New York*.
  10. New York City Criminal Justice Agency, “Who Are We, CJA Departments: Supervised Release,” <http://www.nycja.org/departments.php>
  11. Solomon & Ferri, p. 22.
  12. *Ibid*.
  13. *Ibid*, p. 6.
  14. *Ibid*, p. 22.
  15. *Ibid*, p. 24.
  16. New York City Criminal Justice Agency, “Who Are We, CJA Departments: Supervised Release”.
  17. *Ibid*, p. 30.
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*This series aims to share examples of innovative approaches that incorporate a gender perspective and the principles of public health and human rights into drug policy. Such innovations will have the best possible outcomes only when they are accompanied by more fundamental drug law and policy reform. However, in the absence of broader reforms, or carried out in conjunction with such reforms, these innovations can help break the vicious cycles of poverty, social exclusion, drug use, involvement in the drug trade, and incarceration that plague so many poor communities across the Americas today. Global Innovative Approaches is a tool that accompanies the publication [Women, Drug Policies and Incarceration: A Guide for Policy Reform in Latin America and the Caribbean](#).*