
Reducing Felony Case Delay in Brooklyn

Appendices

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

 Center
for
Court
Innovation

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Table of Contents

Appendix A: Pilot Case Processing Bench Card	1
Appendix B: Operational Plan	3
Appendix C: Alternative Forms of Bail Bench Card	14
Appendix D: Updated Case Processing Bench Card	16
Appendix E: Official Pilot Announcement	18
Appendix F: Change of Status/Release from Custody Order	20
Appendix G: Secured, Partially Secured, and Unsecured Bond Forms	21
Appendix H: Regression Results Predicting Disposition	24
Appendix I: Regression Results Predicting Disposition with Detainment Interaction	25
Appendix J: Regression Results Predicting Disposition with Charge Severity Interaction	26
Appendix K: Survival Plots by Detainment Status	27
Appendix L: Survival Plots by Charge Severity	29
Appendix M: Regression Results Predicting Adjourment Length with Detainment Interaction	31
Appendix N: Changes in Release Decisions	32

Appendix A

KINGS COUNTY SUPREME COURT: TESTING JAIL REDUCTION STRATEGIES CASE PROCESSING GUIDELINES

Overarching Goal: To mitigate unnecessary case delay without abrogating due process and other constitutional rights.

Target Population: Defendants held in pretrial detention after Supreme Court arraignment in Part ARR.

Overview of the Timeline: Cases would be disposed or a trial would commence by the seventh Supreme Court appearance, 21-27 weeks after indictment.

- **All Court Appearances and Off-calendar Conferences** to include:
 - Stated purposes and action items for each Supreme Court appearance.
 - Review of bail status and consideration of alternative bail options, including supervised release, alternative forms of bail, and defendant's financial resources to post bail.

Case Processing Guidelines

Filing of the Indictment to Supreme Court Arraignment

- On 180.80 day, case to be adjourned for **two weeks** for Supreme Court arraignment.

1st Appearance: Supreme Court Arraignment (2 weeks)

- **Bail Review:** Consideration for supervised release (if eligible) & alternative form/amount of bail.
- **Discovery:** Prosecutors to turn over available discovery, including: indictment, voluntary disclosure forms, police reports, and videos.
- **Grand Jury Minutes:** Judge to set an off-calendar date for the Prosecution to deliver Grand Jury minutes to the Court.

Adjournment: **Four weeks** for decision on the grand jury minutes and Open File Discovery.

2nd Appearance: Grand Jury Decision and Open File Discovery (OFD) (6 weeks)

- **Discovery:** All available Open File Discovery (OFD) to be served on defense.
- **Grand Jury Minutes:** Judge to rule on Grand Jury minutes and set an off-calendar date for the prosecutor to serve defense counsel with the Grand Jury minutes.

Adjournment: **Two weeks** for serving grand jury minutes on defense counsel (off-calendar) and completion of discovery.

3rd Appearance: Continuing Discovery, Pretrial Hearings and Case Conference (8 weeks)

- **Discovery:** Any remaining, available OFD to be served on defense counsel.
- **Pretrial Hearings:** Judge to inquire which hearings are necessary and whether the prosecutor opposes any requested by defense. Judge to decide which hearings, if any, require written motions.
- **Case Conference:** The court to set a date for an off-calendar case conference within two weeks of the third appearance.

Adjournment: *If no written motions are required, a **four-week adjournment** for completion of the case conference and possible disposition. If the People oppose any requested hearings, a **six-week adjournment** to complete motion practice and conduct the case conference.¹*

¹ Where written motion practice is required, the 6-week adjournment presumes two weeks for defense counsel's motion, two weeks for the prosecutor's motion, followed by two weeks for the Judge's decision to be completed.

**KINGS COUNTY SUPREME COURT: TESTING JAIL REDUCTION STRATEGIES
CASE PROCESSING GUIDELINES**

***NOTE:** For cases involving special discovery issues (i.e. DNA, medical records), consider adding an additional court appearance to complete discovery.*

Between Third and Fourth Appearances: Off-calendar case conference

Case conference to be used to discuss strengths and weaknesses of the case, missing discovery, any pending factual, legal or discovery issues, any remaining motion practice, bail alternatives, the need for a pre-pleading investigation report (PPI), and the merits of any plea offer or the barriers to commencing a trial.

4th Appearance: Possible Disposition (12-14 weeks)

- The purpose of the fourth court appearance is for entry of plea or scheduling pretrial hearings.

*Adjournment: **Three-week adjournment** to a trial part for hearings if no disposition is reached.*

5th Appearance: Pretrial Hearings (15-17 weeks)

- Pretrial hearings to be conducted.

*Adjournment: If no motions are required, a **two-week adjournment** for the court to render its decision. If defense counsel intends to file written motions, a **six-week adjournment**.*

6th Appearance: Decision on Pretrial Hearings and Schedule Trial Date (17-23 weeks)

- The Court to render its decision on pretrial motions and set a firm trial date in a court part that will be available for trial (either the part that conducted the pretrial hearings or a different available court part). Parties to be encouraged to subpoena and schedule witnesses and be prepared to start trial on the next court date.

*Adjournment: **Four weeks** for trial.*

7th Supreme Court Appearance: Trial (21-27 weeks after filing indictment)

- A trial to start on the seventh court appearance.

Cases Exceeding Standards and Goals

Where cases exceed 27 weeks:

Case Conferences

- At first court appearance after 27 weeks, the cause of delay to be stated on the record.
- Schedule a second off-calendar case conference.
 - Parties to assess possibility of a disposition and identify barriers to case resolution or trial.

Bail Review

- A formal bail review to be scheduled after any case exceeds standards and goals (i.e., at the first court date after the 27-week mark).
- When case delay is not attributable to the defendant, the Court to reconsider the bail status, including the potential for alternative forms of bail.

Appendix B

January 18, 2019

Testing Jail Reduction Strategies in Kings County Supreme Court

Operational Plan

INTRODUCTION

The Center for Court Innovation recently received one of the first 30 grants awarded by the Art for Justice Fund, a new philanthropic initiative intended to reduce mass incarceration in the United States. The Center proposed a two-year project to plan, pilot, and evaluate jail reduction strategies in the Kings County Supreme Court. The project relies on a two-pronged approach. The first prong involves the enhanced use of supervised release and other alternatives to traditional bail for indicted felony defendants held in jail as of the Supreme Court arraignment. The second prong involves reductions in case processing time for defendants who remain in jail throughout the pendency of their cases. The project fits squarely within the framework of Chief Judge Janet DiFiore’s *Excellence Initiative*, which seeks to ensure a just and expeditious resolution to all cases, as well as to reduce pretrial incarceration among nonviolent felonies. Center staff worked closely with judicial and non-judicial staff in Kings County to develop the pilot. The tentative start date will be in late January 2019, following a period of engagement and additional planning with all relevant players, including the Kings County District Attorney’s Office and defense bar.

TARGET POPULATION

The project will target indicted felony cases held in pretrial detention and handled in a newly established arraignment part (Part ARR) in the Kings County Supreme Court. The project will commence solely in Part ARR. After a period of monitoring and evaluation, if strategies prove to be effective, the court may consider expanding the program to other court parts. The arraignment court part will arraign all newly indicted “Zone” cases over a three-month period. All cases arraigned over the course of this period will be processed in this part, pursuant to case processing guidelines, until cases are trial-ready or reach a disposition. In effect, Part ARR will handle more than half of indicted cases in the pretrial stages, with the main exceptions including homicides, sex offenses, juvenile offenders, cases assigned to the Youth Part, and violent criminal enterprise cases.

I. ALTERNATIVES TO TRADITIONAL BAIL

The pilot will use bail review at Supreme Court arraignment as an opportunity to link more detained defendants to the City’s Supervised Release Program, as well as to set more affordable forms and amounts of bail. Strategies involve: (A) expanding the Supervised Release Program; (B) enabling the use of alternative forms of bail; and (C) exploring the potential for using a financial resource tool to provide judges with more information when setting bail.

A) Supervised Release

Background on the Supervised Release Program

The City's Supervised Release Program (SRP) was established in March 2016 by the Mayor's Office of Criminal Justice (MOCJ), which contracted with local nonprofit agencies to administer the program in each borough. Brooklyn Justice Initiatives, an operating program of the Center for Court Innovation, administers SRP in Brooklyn.

- Program Eligibility: Eligibility extends to most misdemeanors and nonviolent felonies, as well as to 16-19-year-olds charged with assault or robbery in the second degree, as part of the Pre-trial Youth Engagement Program (PYEP).¹ In addition, 16-19-year-olds with a *pending* assault or robbery in the second degree are eligible, assuming the new case is charge eligible. Domestic violence cases are excluded. Defendants classified as “high risk” on a formal Felony Re-Arrest tool developed by MOCJ and the NYC Criminal Justice Agency (CJA)² are ineligible for SRP, unless the defendant is eligible for PYEP.
- Pre-Arrest Screening: Currently, Brooklyn Justice Initiatives assigns SRP staff to every Criminal Court arraignment shift. They are available to screen cases pre-arrest, based on a review of the Criminal Court complaint, RAP sheet, and CJA report. For those found eligible, an SRP staff member requests permission from the assigned defense attorney to speak with the defendant. If the defendant expresses interest, SRP staff reconfirms eligibility with the attorney in advance of arraignment.³
- Enrollment Process at Arrest: Among cases found eligible, the defense attorney assumes responsibility for raising the SRP option at the Criminal Court arraignment. If the Court is considering SRP, an SRP staff member will stand on the record to confirm eligibility. The judge may exercise discretion to order SRP or not. The judge may also order SRP if the defendant meets all criteria other than having a verified community tie, provided the SRP staff member clarifies on the record that this criterion was not met.
- Intake and Program Participation: When a defendant is released to SRP, participation begins with an intake appointment, and the defendant completes an additional risk-needs assessment (CCAT-S). Based on the assessment flags, the defendant is assigned to a specific tier of supervision—involving more or less frequent contacts with an assigned case manager—and is linked to voluntary social services based on assessed treatment needs.

¹ Sixteen year-olds will track to the Youth Part in Kings County Supreme Court.

² The Felony Re-Arrest Tool was created by the Criminal Justice Agency for the Mayor's Office of Criminal Justice and is based on eight risk factors: (1) age at current arrest (younger age = higher risk), (2) prior arrest, (3) current open case, (4) warrant in last 4 years, (5) misdemeanor conviction in last year, (6) felony conviction in last 9 years, (7) drug conviction in last 9 years, and (8) current full-time activity defined as employment or school enrollment. High risk ineligibility only applies to misdemeanors and nonviolent felonies. Assault and robbery cases in the second degree that involve 16-19-year-old defendants are eligible regardless of risk.

³ For individuals with a +3 or +4 risk score, the SRP staff member must be able to verify a community tie for the defendant to be deemed eligible.

Project Strategies

Due to the high volume of nonviolent felonies arraigned in Criminal Court, all potentially eligible cases cannot be screened at that stage. Accordingly, SRP staff will seek to identify and enroll additional *indicted* felonies at the later Supreme Court arraignment.

- Step 1: Identification of Detained Nonviolent Felonies on Supreme Court Arraignment Date: Every weekday morning, a designated SRP staff member will review the Part ARR daily calendar to identify defendants indicted on nonviolent felony charges (or 16-19-year olds with eligible violent charges) who remain in pretrial detention. (If SRP staff identify potentially eligible defendants before the scheduled arraignment, they will try to coordinate with the defense attorney prior to that date.) Upon reviewing the daily calendar, the SRP staff member will review WebCrim and the Department of Correction (DOC) website (Rikers Inmate Lookup) to confirm whether the defendant is charge eligible and remains incarcerated. Nonviolent felony status will be based on the top indictment charge. They will be placed into one of three categories:
 - Category 1: Not Previously Screened for SRP: *Proceed to Step 2.*
 - Category 2: Previously Found Eligible but Not Enrolled: *Proceed to Step 2.*
 - Category 3: Previously Found Ineligible: *End consideration; do not proceed.*
- Step 2: Preliminary Eligibility List in Courtroom: For defendants deemed charge eligible and who are detained, the SRP staffer will leave a list including all relevant defendants' names and identifying case information in the court part, near the court calendar.⁴ The list will indicate that 1) the defendant is preliminarily eligible for SRP and 2) include the SRP staffer's contact information, if they are not presently in the courtroom. For Category 2 cases, the list will also indicate that the case was previously screened and found fully eligible on all criteria (e.g., meaning that it is not necessary to screen the case for risk eligibility).
- Step 3: Defense Attorney Notification: Defense attorneys will be advised to check the Preliminary Eligibility List as early as possible on the day of Supreme Court arraignment to learn whether their client is preliminarily eligible. (Ideally, defense attorneys will stop in Part ARR to check this list before signing in as ready to have their cases called.) The SRP staff member will generally be present in the courtroom, but as noted above, the Preliminary Eligibility list will include the staffer's contact information in the event s/he is not present. For Category 1 cases, if the defense attorney consents to having their client screened for eligibility, the defense attorney should provide pertinent information (i.e. Criminal Court complaint, RAP sheet, and CJA sheet) to the SRP staff member. For Category 2 cases, the defense attorney should notify the SRP staff member if they intend to raise the SRP option on the record, and whether they would like the SRP staff person to appear.
- Step 4: SRP Eligibility Determination: For Category 1 cases, once pertinent information is shared prior to the Supreme Court arraignment appearance, the SRP staffer will administer the screening tool to determine risk eligibility.

⁴The list will indicate that the listed defendants are preliminarily eligible based on SRP's review of charge and DOC hold eligibility, and it in no way reflects the view or decision of the presiding judge.

- Step 5: Defense Attorney Coordination: If the defendant is determined to be risk eligible, the SRP staffer will 1) notify the defense attorney of the defendant’s SRP eligibility, 2) confirm defense interest in SRP, and 3) request permission to speak with the defendant about the program (in most cases, post-arraignment).
- Step 6: Supreme Court Arraignment: At Supreme Court arraignment, the defense attorney will be responsible for raising the SRP alternative. The SRP staffer will be present to verify eligibility. In advance, it is also the responsibility of the defense attorney and SRP staffer to coordinate, such that the SRP staffer will in fact be in the courtroom when the potential supervised release participant is arraigned. As agreed with MOCJ, the SRP staffer need not have spoken to the defendant or verified community ties in advance, but where community ties remain unverified, the SRP staffer will inform the court on the record. The judge will then decide whether to release the defendant to SRP supervision. This process is qualified as follows for Category 1 and Category 2 cases, respectively.
 - *Category 1: Not Screened for SRP as of Criminal Court Arraignment:* The defense attorney will clarify that SRP eligibility was unknown as of the earlier Criminal Court arraignment date (in addition to other facts material to the bail determination). The SRP staffer will be prepared to confirm this point in court, where necessary. Thus, the fact that the defendant has since been found SRP-eligible constitutes new information that could be used to inform an updated bail decision.
 - *Category 2: Previously Found Eligible but Not Enrolled:* To make the case for considering SRP where the defendant’s eligibility status was already known as of the earlier Criminal Court arraignment, but where the Criminal Court judge opted against SRP, the defense attorney will have to raise other material changes of circumstances. These could include having verified community ties that were not available at the Criminal Court arraignment or gaining other new information as a result of intervening discovery or case developments, as examples.
- Step 6: Brief Introduction to the Program: If the judge agrees to SRP, the SRP staffer will confer briefly with the defendant in the holding cell near the courtroom immediately after Supreme Court arraignment. The purpose is to provide a 5-minute overview of the program and to verify that the defendant understands when and where to go for intake.

Step 7: SRP Intake: Every defendant will be required to appear for a full intake at the Supervised Release Program office on the 3rd floor of 120 Schermerhorn Street on the next business day after their release.

B) Alternative Forms of Bail

Background on Legally Permitted Forms of Bail in New York State

Criminal Procedure Law Article 500, specifically §500.10 (definitions) and §520.10, allows for nine different forms of bail. However, the most widely known and used are the two most onerous forms for defendants of limited financial means—*cash bail*, which requires all money to be paid up front, and *insurance company bond*, which requires defendants to obtain bail from a bail bond

company that typically charges a premium⁵, requires collateral equal to the total bond amount and charges other non-refundable fees.

Of the remaining “alternative” forms of bail, the criminal justice reform community has generally focused on the following.

- **Partially Secured Bond:** If the judge sets bail in the form of a partially secured bond, the defendant or a friend/family member (the “obligor”) must pay from 1 to 10 percent of the total bond amount. In addition, the obligor must complete a form that includes an affidavit that they will ensure defendant’s appearance in court and that they are financially able to pay the balance of the bond should the defendant fail to appear in court as ordered. The obligor must provide personal and financial information to complete the required form, including: occupation, source of income, current income, average income for the last five years and business and home address.
- **Unsecured Bond:** If the judge sets bail in the form of an unsecured bond, the process is identical to that of a partially secured bond except the obligor is not required to post any percentage of the total bond. As with a partially secured bond, the obligor is responsible for the total amount of the bond should the defendant fail to appear in court as ordered.
- **Credit Card:** At the time this plan was drafted, credit card bail was unavailable in the Supreme Court (although project strategies include extending credit card bail by using the same process that is currently available in the Criminal Court). The defendant or a friend/family member can pay the total bail amount by credit card. If they pay at the courthouse, they are charged a 3 percent non-refundable fee; if they pay online, they are charged a 2 percent non-refundable fee; and if they pay at a Department of Correction facility, the fee is 8 percent. The court will accept payment with up to three different credit cards (held by up to three different payers), where each card can be used to cover part of the total. If using the online system, there is no limit on the number of payers and credit cards.

Project Strategies

The following steps will be taken to facilitate the setting of *partially secured bonds* and *credit card bail*.⁶

- **Step 1: Defense Attorney Review:** In collaboration with senior LAS and BDS staff, Center staff will offer defense attorneys a review session on the statutory and administrative requirements for alternative forms of bail. The review will cover the mandatory paperwork that they are expected to help complete and the latest protocols that allow for paying an unsecured or partially secured bond between court dates.

⁵ Pursuant to New York Insurance Law § 6804, bondsmen are allowed to charge ten percent of a bond not exceeding \$3000, an additional 8 percent for any bond amount above \$3000, but not exceeding \$10,000, and an additional 6 percent on any bond amount exceeding \$10,000.

⁶ While consistent with project goals, the use of unsecured bonds will not be specifically discussed in this Operational Plan. In cases where a judge decides that an unsecured bond is appropriate, the protocols are the same as for partially secured bonds except no cash percentage is set.

- Step 2: Judges and Court Staff Review: Supreme Court judges and Court clerks will be offered a review session on alternative forms of bail, when they can be set, and how to satisfy statutory requirements. With regard to credit card bail, the review will clarify that the judge must clearly state this form of bail on the record, and it must be noted on the file for clerks to accept credit card payment.
- Step 3: Paperwork in Relevant Courtrooms: Each type of bond requires paperwork that must record specific personal and financial information of the individual(s) posting the bond. Part of this initiative will be ensuring that the appropriate forms are available in Part ARR
- Step 4: Bench Card: A bench card, summarizing alternative forms of bail, has been created and will be made available in the pilot court part.
- Step 5: Protocols for Posting Alternative Forms of Bail: Payment of a partially secured bond can only be processed if the defendant is present in the courthouse. Assuming a judge has already set the partially secured bond, obligors seeking to pay the bail on the day the defendant is scheduled for a court appearance should arrive at the courthouse with the assigned defense attorney and the partially secured bond form completed. The defense attorney should notify the court part clerk that the obligor is seeking to pay the bond. The obligor should report to the Cashier's Office, pay the designated percentage in cash, and submit the bond form. The obligor must then appear before the judge to swear to the justifying affidavit and have the bond approved by the judge. When the obligor wishes to pay the bail before the scheduled court date, the case must be advanced and added to the court calendar where the case is pending. The defense attorney must also file an Order to Produce, to ensure the defendant is produced on the advanced court date. An operational directive will be prepared to outline the process of setting and accepting payment for alternative forms of bail.
- Step 6: Availability of Credit Card Bail: Following the same approach that has been successfully implemented in the Criminal Court, an operational directive will be drafted to provide for credit card bail in Brooklyn Supreme Court. In brief, the order will describe how Supreme Court judges can set bail by credit card and describe procedures for payment of bail at the courthouse (when available) and online.⁷

C) Financial Resources Assessment Tool

Background on the Vera Institute's Bail Calculator

The Vera Institute of Justice (Vera) recently created and is in the process of validating a financial resources assessment tool, the *Bail Calculator*, which considers categories of information to determine the defendant's ability to pay bail, including: income, liquid assets, public benefits, expenses, dependents, and other payers. Based on that information, the tool is used to form a recommended amount of bail that is both (1) affordable to the defendant and (2) sufficient to ensure the defendant's return to court. In the future, this tool could prove useful in a court's

⁷ Credit card machines are typically provided and installed, at no cost, by whichever merchant vendor processes the credit card payments.

decision on bail. Center for Court Innovation staff will continue to work with Vera on strategies for implementation in Brooklyn.

II. REDUCING CASE PROCESSING TIME

Targeting all defendants still held in pretrial detention after Supreme Court arraignment, a standard case timeline will be implemented to promote timely and just case resolutions. Consistent with Chief Judge Janet DiFiore's *Excellence Initiative*, the Supreme Court Justice in Part ARR can use the timeline to hold the parties accountable to case processing expectations, while allowing for case-specific complexities or other unanticipated contingencies.

Background on Case Processing Time in the NYC Supreme Court

According to standards and goals established by the New York State court system, indicted felonies should reach disposition within 180 days from the filing of the indictment. Yet, among indicted felonies disposed in 2017 in Brooklyn, only 37 percent met this standard; and among the fraction of cases decided at trial, Brooklyn Supreme Court processing time averaged 623 days (or 20.4 months). Further, Brooklyn Supreme Court cases averaged almost 11 court appearances (with a median of nine appearances) prior to disposition; and, average adjournment length, representing additional elapsed time in between each pair of court appearances, was one month (30 days).

In April 2015, former Chief Judge Jonathan Lippman and Mayor Bill de Blasio launched a multi-agency Supreme Court initiative to identify the reasons for such lengthy case processing time. The initiative featured a combination of data-driven strategic planning for the entire City and borough-based teams charged with analyzing and addressing borough-specific problems and needs. In February 2016, Chief Judge DiFiore established the *Excellence Initiative*. Among other reforms, the *Excellence Initiative* places a special emphasis on increasing courts' capacity to hold trials as soon as cases are trial-ready.

Project Strategies

Under the leadership of Hon. Matthew D'Emic, Administrative Judge of the Kings County Supreme Court, and working with all key players, Brooklyn Supreme Court judges and administrators will seek to reduce the amount of time that detained defendants are held pretrial. The overriding strategy will involve reducing adjournment length at all stages of felony case processing. However, reducing adjournment length can only prove effective if the adjournments are meaningful and set to accomplish specific activities, e.g., inspection of Grand Jury minutes, completing discovery, filing motions. Clear case processing timelines can assist judges and attorneys in prescribing specific actions that need to occur between adjournments. Case conferencing between court dates will provide a more meaningful opportunity to negotiate pleas than the frequently pressured environment at court appearances. Finally, regularly scheduled bail reviews will allow the court to consider new information that may affect bail status.

Strategies will be organized into the following case processing timeline, to which parties will be encouraged to adhere, except where case complexities or other contingencies intervene. Project staff will explore with judges the most effective method for providing them with easy access to the proposed timeline when setting adjournments. In general, detained cases should reach

disposition or a trial should commence by the seventh Supreme Court appearance, which should take place 21-27 weeks after the indictment is filed.

Stage 1: Filing of the Indictment to Supreme Court Arraignment

On the Grand Jury Action date in AP1, indicted cases held in pretrial detention are currently adjourned for two weeks for Supreme Court arraignment. However, indictments are often not filed within that two-week period. For example, delay can occur when the foreperson must sign an indictment but has been released from jury duty. In collaboration with the District Attorney's Office, Center staff will explore a solution to this problem and other causes for delay.

Stage 2: Supreme Court Appearances

- **All Court Appearances and Off-Calendar Meetings or Case Conferences**

- *There should be stated purposes and action items for each Supreme Court appearance to ensure that time between court dates is productive and is used to help move the case forward.* The judge should clarify with the attorneys what action items are reasonable and can be completed by the next appearance. Action items should be stated on the record.
- *At each off-calendar case conference, parties should review bail status and consider alternative bail options. At every court appearance where the defendant is incarcerated solely because of the Brooklyn Supreme Court case, parties should inquire whether there has been any change in circumstances that might affect bail status.*

- **First Appearance: Supreme Court Arraignment**

- *Bail Review:* A bail review should take place that incorporates strategies noted in Section I above (consideration of supervised release if defendant is eligible, alternative forms of bail, and defendant's financial resources to pay bail).
- *Discovery:* The District Attorney's Office should be prepared with the indictment, voluntary disclosure forms and available discovery, including any videos that constitute potential evidence. The judge should ask the prosecution if they anticipate any unusual delays in turning over complete discovery to the defense.
- *Grand Jury Minutes:* The judge should set a specific date, *prior to the next court appearance*, for the Prosecution to turn over Grand Jury minutes to the court. (If feasible, Grand Jury minutes should be turned over to the Court at the Supreme Court arraignment.)

The Court should set a four-week adjournment for decision on the grand jury minutes and Open File Discovery. The remainder of the timeline applies only to cases that are still in pretrial detention after the Supreme Court arraignment (e.g., not to cases released to SRP).

- **Between First and Second Appearances:** The District Attorney’s office will provide Grand Jury minutes to the court by the date set at Supreme Court arraignment.
- **Second Appearance: Grand Jury Decision and Open File Discovery (OFD), Including Grand Jury Minutes**
 - *Discovery:* The District Attorney’s Office should be prepared to turn over all available Open File Discovery (OFD).
 - *Grand Jury Minutes:* The judge should render a decision on the Grand Jury minutes and serve a hard copy of that decision on the attorneys. The judge should set an off-calendar date for the prosecutor to serve defense counsel with the Grand Jury minutes, including any redactions.

At the second appearance, the Court should set a two-week adjournment for the provision of grand jury minutes to defense counsel (in between court dates) and completion of discovery.

- **Between Second and Third Appearances:** The District Attorney’s office will provide defense counsel with Grand Jury minutes, including any redactions, by the date set at the second appearance. The prosecutor should also continue to complete OFD, turning discovery over off-calendar to defense counsel where possible.
- **Third Appearance: Continuing Discovery, Scheduling of Hearings and Case Conference**
 - *Discovery:* The Prosecution should serve any remaining, available OFD on defense counsel.
 - *Pretrial Hearings:* The court should elicit from defense which pretrial hearings they believe they are entitled to and inquire which, if any, the prosecutor opposes.
 - *Case Conference:* The Court should then set a date for an off-calendar case conference within two weeks of the third court appearance.

If no motions are required, the Court should set a four-week adjournment for completion of the case conference and possible disposition. If the People oppose any requested hearings, the Court will set a six-week adjournment to complete motion practice and conduct the case conference.⁸

For cases involving DNA testing, requests for medical records, or other special discovery issues, an additional court appearance may be added here to complete discovery, after which the timeline will proceed.

⁸ The Judge should set a motion schedule with two weeks for defense to file motion, two weeks for the People to respond, and two weeks for the court to render decision.

- **Between Third and Fourth Appearances:** The court attorney, prosecutor, and defense attorney will conduct an off-calendar case conference midway between the third and fourth appearances. Parties should be prepared to present strengths and weaknesses of the case, discuss discovery and missing discovery, any pending factual, legal or discovery issues, any remaining motion practice, and bail alternatives. This case conference should address the merits of any plea offer, including whether a Pre-pleading Investigation Report (PPI) is required, or the issues that must be resolved to move the case to trial. In advance, the Assistant District Attorney (ADA) should obtain approval from supervisors regarding possible plea offers or ideally, a supervisor would participate in the case conference.
- **Fourth Appearance: Possible Disposition**
 - The purpose of the fourth court appearance would be for possible disposition (e.g., following from the case conference or related plea negotiations or developments).

The Court should set a three-week adjournment to a trial part for hearings if no disposition is reached.

- **Fifth Appearance: Pretrial Hearings**
 - Pretrial hearings should be conducted.

If no motions are required, the Court should set a two-week adjournment for the court to render its decision. If defense counsel intends to file written motions, the Court will set a six-week adjournment.⁹

- **Sixth Supreme Court Appearance: Decision on Pretrial Hearings and Schedule Trial Date**
 - The Court should render its decision on pretrial motions and set a definite trial date. Parties should be encouraged to subpoena and schedule witnesses and be prepared to start trial on the next court date.

The Court should set a four-week adjournment.

- **Seventh Supreme Court Appearance: Trial**
 - A trial should start on the seventh court appearance.

Cases Exceeding Standards and Goals

If the above described schedule is followed, case processing time will be 21-27 weeks from filing of the indictment. Where cases exceed 27 weeks, the cause for delay should be stated on

⁹The Judge should set a motion schedule with two weeks for defense to file motion, two weeks for the People to respond, and two weeks for the court to render decision. Where the judge can render a decision immediately upon the completion of the hearing, the “Sixth Supreme Court Appearance” should be omitted, and the case should be adjourned for six weeks for trial.

the record. Unless the cause of the delay is known and understood by all parties, the cases should be scheduled for a second case conference by court attorneys who are assigned to the part where the case is pending. At this second case conference, the parties should assess the possibility of a disposition and identify barriers to resolution of the case.

Bail Review

Whereas a defendant's pretrial detention status should be raised at every court appearance, a formal bail review should be scheduled after any case exceeds standards and goals (i.e., at the first court dates after the 27-week mark). The Court should identify the cause of delay. When it is not attributable to the defendant, the Court should reconsider the bail status, including the potential for alternative forms of bail.

JUDICIAL TRAINING

Several months after the project is underway and protocols have been tested and refined, promising strategies deemed suitable for a wide range of courtrooms will be introduced in a formal training for all Judges of the Brooklyn Supreme Court, not limited to those presiding in target court parts.

MONITORING AND EVALUATION

On a near daily basis, the Center for Court Innovation will place an embedded expert at the Brooklyn Supreme Court to aid judges and other players in implementing and monitoring project strategies: Valerie Raine (vraine@nycourts.gov) or Krystal Rodriguez (krodriguez@nycourts.gov). They will be available to answer questions in real time as well as to address larger policy questions.

Additionally, on an approximately quarterly basis, large group stakeholder check-in meetings will be held with project staff from the Center for Court Innovation, court administrators and participating judges in the Brooklyn Supreme Court, and key staff from the District Attorney's Office, LAS, and BDS. These meetings will serve to provide transparent updates on project progress as well as to express and brainstorm solutions to any challenges or concerns.

Finally, at the end of the project, the Center will conduct an evaluation of lessons learned from this pilot and of quantifiable impacts on the use of jail in Kings County Supreme Court.

Appendix C

Setting Alternative Forms of Bail in Kings County Supreme Court

<i>Definitions, see CPL 500.10</i>		
<i>General Definitions</i>		
Bail: cash or bail bond	Bail bond: written promise to post bail and appear in court	Principal: the defendant
Obligor: the person posting bail and promising defendant’s appearance and compliance with Court orders (can be the defendant, themselves, or someone else)	Undertaking to Answer: swearing that the obligor will be responsible to ensure defendant’s appearance, and pay the full bond amount, if defendant fails to appear or comply with court orders	Justifying Affidavit: swearing to the accuracy of the bail bond, and that they have not posted bail for another defendant in more than 2 cases
<i>Types</i>		
Partially Secured Bail Bond: bond secured with 1-10% cash of bond amount	Unsecured Bail Bond: bond with no upfront cash deposit	Fully Secured Bail Bond: bond fully secured with personal or real property
<i>Forms</i>		
Surety: someone other than the defendant paying bail and promising appearance	Appearance: defendant paying bail and promising appearance	Credit card: requiring payment of an administrative fee; up to 3 cards accepted

I. SETTING PARTIALLY SECURED AND UNSECURED FORMS OF BONDS

- 1) **Defense attorney** should make a bail application on the record specifying the type and form of bail being requested. (*e.g.* partially secured surety bond, unsecured appearance bond)
- 2) **Prosecutor** should have an opportunity to be heard on the bail application.
- 3) **The Judge**, when setting partially secured or unsecured bond, must specifically state on the record and write on the casefile:
 - a) the Full amount of the bond;
 - b) the Type of bond (partially secured or unsecured);
 - c) the Form of bail (surety or appearance bond); and,
 - d) *If a partially secured bond*, the percentage that must be deposited (from 1-10%).

II. BEFORE POSTING OF PARTIALLY SECURED AND UNSECURED BONDS

- 1) **Defense attorney should:**
 - a) Confirm with DOC that there are no additional holds;
 - b) Assist the obligor with completing the *applicable* combined one-page bond form and any additional justifying affidavits and undertakings to answer, as necessary. (*Partially secured and unsecured bonds are completed on distinct forms.*); and,
 - c) Review paperwork for accuracy and completeness.
 - d) *If the case is not on the calendar*, defense attorney should consult with the court clerk to have the case advanced to a mutually agreed upon date, and must file an “Order to Produce” to have the defendant transported to court from DOC facilities.

NOTE: For cases involving **more than two obligors**, additional combined one-sheet bond forms will need to be completed.

Setting Alternative Forms of Bail in Kings County Supreme Court

III. POSTING OF PARTIALLY SECURED BOND DEPOSIT

- 1) **Defense attorney** should inform the Clerk and the Prosecutor of the court part that the obligor is present and intends to post/undertake a partially secured or unsecured bond.
- 2) **The Clerk** in the court part should review bond form(s) for accuracy and completeness, including whether the bond is partially secured or unsecured before payment is made.
- 3) **Obligor should:**
 - a) Report to the Cashier's Office on the 13th Floor;
 - b) Inform the cashier clerk that they are posting a deposit on a partially secured bond;
 - c) Provide the completed combined *one-sheet* bond form, the defendant's name and indictment number; and,
 - d) Make the cash payment of the deposit amount set in the bond form.
- 4) **The Cashier's Clerk** should provide a bail receipt to the obligor.
- 5) **The Court Clerk** should ask DOC to hold the defendant (when necessary) because the obligor is posting bail, so that the defendant is not transported back to a DOC facility.

NOTE: If the obligor is someone other than the defendant (a surety), then defendant's appearance can be waived in the courtroom to execute the bond.

IV. EXECUTING PARTIALLY SECURED AND UNSECURED BONDS ON THE RECORD

- 1) **The Clerk**, once the obligor has returned to the courtroom, should review the bail receipts and present the completed combined *one-sheet* bond form(s) **for the Judge's review and signature**. The combined *one-sheet* bond form lists the following:
 - a) the Bail bond;
 - b) the Justifying Affidavit(s) (up to two obligors' signatures per justifying affidavit); and,
 - c) the Undertaking to Answer form(s) (up to two obligors' signatures per undertaking to answer)
- 2) **The Clerk** must then swear-in the obligor to state their obligation and promises on the record. (Refer to attached script.)
- 3) **The obligor** must affirm, *under oath and penalty of perjury*, statements listed on the bond form.

V. PROCESSING RELEASE AFTER COURT APPEARANCE

- 1) **The clerk** should issue a cut slip and follow established procedures to deliver the cut slip to a DOC officer at the Kings County Supreme Court, DOC floor (3rd floor).

VI. SETTING CREDIT CARD BAIL

When setting credit card bail, the judge must indicate on the record and on the casefile that credit card payment is permitted.

- **Standard Fee:** There is a non-refundable 3% administrative fee charged to the bail payer if bail is paid at the courthouse and a 2% fee if bail is paid subsequently by using the City's online system.
- **Number of Credit Cards and Bail Payers:** If bail is posted at the courthouse, the Clerk may accept up to 3 credit cards from up to 3 individuals to pay the bail.
- **No Limit on Credit Card Payment:** There is no OCA administrative limit to the amount of bail that can be posted with a credit card.

Appendix D

NEW YORK STATE SUPREME COURT, CRIMINAL TERM Recommended Case Processing Guidelines

Why This Bench Card? To help mitigate unnecessary case delays for individuals detained pretrial, and ensure adherence to the discovery and bail statutes, without abrogating due process and other constitutional rights of the accused.

Overview of the Timeline: Cases must be disposed, or a trial must commence, by the sixth Supreme Court appearance—24 weeks post-indictment.

All Court Appearances and Conferences to include:

- *Reviewing bail status* to determine whether pretrial conditions remain the **least restrictive necessary** to ensure the defendant’s court appearance and compliance with conditions. If money bail is deemed necessary and the defendant is detained, reconsider whether forms and amounts are affordable.
- *Stating goals and action items* for current and upcoming appearances, as well as off-calendar obligations.
- *Monitoring adherence* to discovery obligations.

Case Processing Guidelines

Filing of the Indictment to Supreme Court Arraignment

- *On 180.80 day:* Case to be adjourned for **two weeks** for Supreme Court arraignment.

1st Appearance: Supreme Court Arraignment

(2 weeks post-indictment)

- *Bail Review:* Ensure pretrial conditions are the least restrictive necessary (see “*Reviewing bail status*” above).
- *Discovery:* Prosecution turns over all “automatic” discovery to defense **within 20 days of Criminal Court arraignment** (35 days if the defendant is out, per statute). Prosecutors state on the record their efforts to obtain voluminous materials not yet in their possession, and whether they are requesting a 30-day stay for these materials (e.g. video surveillance, body camera, dashboard camera footage, DNA reports, and medical records).¹
- *Protective Orders:* Prosecution makes request for a protective order, if necessary. Court must conduct a hearing **within three days of the request**.
- *Grand Jury Minutes:* Judge orders prosecutors to turn over grand jury minutes to the Court **within two weeks off-calendar** (if they were not already disclosed and review of the minutes is required).²

Adjournment: Four weeks for automatic discovery to be completed and grand jury minutes to be turned over off-calendar and for decision on the grand jury minutes, if required.

2nd Appearance: Discovery & Decision on Grand Jury Sufficiency

(6 weeks post-indictment)

- *Bail Review:* Ensure pretrial conditions are the least restrictive necessary.
- *Discovery:* Prosecutors turn over discovery that is voluminous or not initially in their actual possession **within 50 days of the Criminal Court arraignment**.
- *Certificate of Compliance:* If the prosecutors believe in good faith that they have met their discovery obligation, they should file a certificate of compliance, listing the materials disclosed.
- *Grand Jury Minutes:* Judge serves decision on grand jury minutes on the defense and prosecution. Prosecutor should serve grand jury minutes, including permissible redactions, on defense counsel if they were not already served within the “initial discovery” period.

Adjournment: Four weeks for defense counsel to review discovery and serve reciprocal discovery.

3rd Appearance: Case Conference & Reciprocal Discovery

(10 weeks post-indictment)

- *Bail Review:* Ensure pretrial conditions are the least restrictive necessary.
- *Reciprocal Discovery:* Defense turns over reciprocal discovery **within 30 days of the prosecutor’s certificate of compliance** and submits their own certificate of compliance.
 - *Continued Discovery:* Prosecution serves all remaining discovery on defense.

(3rd appearance continued below)

¹ C.P.L. § 245.10(1)(a)(i) & (ii) enumerates the materials that must be turned over as part of “automatic” discovery.

² C.P.L. § 245.20(b) requires the prosecutors to turn over grand jury minutes *expeditiously* when court review is required.

Appendix D

- *Case Conference*: Schedule a **case conference** including the assigned prosecutor, assigned defense attorney, and the judge’s court attorney to discuss strengths and weaknesses of the case; alternatives to bail and detention; any missing discovery; pending factual, legal or discovery issues; any remaining motion practice; the need for a pre-pleading investigation report (PPI); the merits of any plea offer; necessary pretrial hearings; and any barriers to commencing a trial. The case conference should occur “off-calendar” **before the 4th court appearance**.
- *Motion Practice*: Determine what, if any, motions need to be written and served. If motion practice is required for pretrial hearings and/or other legal matters, allow two weeks for the moving party to submit their motion, an additional two weeks for the opposing party’s response, followed by two weeks for the court to prepare a decision.

Adjournment: Six weeks to file any necessary motions for pretrial hearings and/or other legal issues, for the continued disclosure of discovery, and for a case conference to be convened.

4th Appearance: Decision on Pretrial Hearings & Continued Duty to Disclose (16 weeks post-indictment)

- *Bail Review*: Ensure pretrial conditions are the least restrictive necessary.
- *Pretrial Hearings*: Judge renders a decision on which pretrial hearings are granted.
- *Discovery*: If parties have become aware of new discovery, they have a continued duty to disclose and should turn over new materials. If discovery obligations remain to be met, parties should raise the issue and the court should consider appropriate sanctions and remedies for missing discovery.

Adjournment: Four weeks for possible disposition, pretrial hearings, and supplemental discovery. Between court dates, parties should reach a disposition or prepare for a pretrial hearing—including subpoenaing and scheduling necessary witnesses.

5th Appearance: Possible Disposition, Supplemental Discovery, & Hearings (20 weeks post-indictment)

- *Bail Review*: Ensure pretrial conditions are the least restrictive necessary.
- *Possible Disposition*: The purpose of the fifth court appearance is for entry of a plea, if parties have reached an agreed upon disposition. Discovery must be disclosed **7 days before the plea expires**, giving the defendant an opportunity to review the evidence.
- *Supplemental Discovery*: Prosecution serves “supplemental discovery”—a list of the uncharged misconduct or criminal acts intended to be used at trial for impeachment of the defendant or to prove a material issue in the case. This discovery must be turned over no later than **15 days prior to first scheduled trial date**.
- *Supplemental Certificate of Compliance*: If either party has served additional discovery after certificates have already been filed, a **supplemental certificate of compliance** must be served listing the additional materials disclosed.
- *Pretrial Hearings*: If no disposition is reached, the judge should conduct or send the case to another court part to conduct the pretrial hearing. The judge’s decision on the hearing should be served on all parties **within two weeks**.
- *Trial Readiness*: After complying with the discovery obligations listed above, the prosecution should file a certificate of trial readiness if they are actually and presently ready to proceed.
- *Scheduling trial*: The judge should set a firm trial date in **four weeks** in a court part that will be available for trial. Parties should subpoena and schedule witnesses and be prepared to start trial on the next court date.

*Adjournment: Four-week adjournment to a trial part (where necessary) for trial. The judge’s decision on the pretrial hearing should be served on all parties **off-calendar**, within two weeks of the completion of the hearing.*

6th Appearance: Trial (24 weeks post-indictment)

- *Bail Review*: Ensure pretrial conditions are the least restrictive necessary.
- *Trial*: A trial should be conducted.

Cases Exceeding Standards and Goals

Where cases exceed 24 weeks:

- *Bail Review*: A formal bail review should be conducted after any case exceeds standards and goals.
- *Cause of Delay*: At first court appearance after 24 weeks, the cause of delay should be stated on the record.
- *Case Conference*: A second case conference should be scheduled for parties to assess possibility of a disposition and identify barriers to case resolution or trial.

For More Information: Please contact Krystal Rodriguez (rodriguezk@courtinnovation.org)

Appendix E



STATE OF NEW YORK
UNIFIED COURT SYSTEM
SECOND JUDICIAL DISTRICT, SUPREME COURT

320 JAY STREET
BROOKLYN, NEW YORK 11201
(347) 296-1000 • FAX (347) 296-1327

LAWRENCE K. MARKS
Chief Administrative Judge

GEORGE J. SILVER
Deputy Chief Administrative Judge
New York City Courts

MATTHEW J. D'EMIC
Administrative Judge for Criminal Matters
Second Judicial District

January 18, 2019

Lisa Schreibersdorf, Esq.
Brooklyn Defender Services
177 Livingston Street
Brooklyn, NY 11201

Re: Jail Reduction Strategies Pilot: New Arraignment Court Part

Dear Ms. Schreibersdorf:

I am writing to inform you of a pilot program involving the creation of an arraignment part (Part ARR) designed to expand use of the Supervised Release Program and to test new case processing guidelines.

Beginning February 11, 2019, the Honorable John Ingram will preside in Part ARR, located on the fourth floor. Indictments currently arraigned in TAP 1 and TAP 2 (*i.e.*, "Zone" cases) will be arraigned in Part ARR.

After May 17, 2019, arraignments will again take place in TAP 1 and TAP 2 but the Part ARR inventory will remain with Judge Ingram until disposition or trial ready status.

Part ARR will pilot pretrial jail reduction strategies for indicted defendants in the Kings County Supreme Court. Specifically, Part ARR will consider the use of the Supervised Release Program (SRP) and alternative forms of bail for detained defendants at the Supreme Court arraignment; and will implement case processing guidelines designed to reduce case processing time in a manner consistent with defendants' due process rights and a just resolution of each case. The goals of this initiative fit squarely within the framework of Chief Judge Janet DiFiore's *Excellence Initiative*. The Kings County Supreme Court is implementing this initiative in collaboration with the Center for Court Innovation.

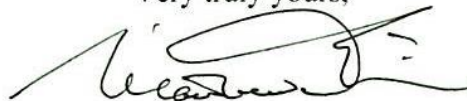
Supervised Release Program: A supervised release staff member will be assigned to conduct a paper screening of defendants who are “charge eligible” and will coordinate communication with the court and with defense attorneys. For the week of February 11-15, the SRP staff member will be “on-call” and contact information will be provided to defense attorneys. Thereafter, the SRP staff member will usually be present in Part ARR.

Alternative Forms of Bail: Part ARR court staff will receive training on the nine statutory forms of bail, pursuant to C.P.L. § 520.10. The required bond forms, including partially secured and unsecured bond forms, will be available in Part ARR. A bench card outlining the procedures for executing and posting alternative forms of bail will be provided to all stakeholder agencies.

Case Processing Guidelines: To reduce pretrial detention time and unnecessary delay, case processing guidelines will be applied to cases processed in Part ARR where the guidelines do not impinge on the defendants’ due process rights or jeopardize public safety. The guidelines will be provided to the defense bar and prosecution.

Ongoing Pilot Review: Once Part ARR has commenced, periodic stakeholder meetings will be held to obtain feedback, address concerns, and adjust operations, as necessary. The court appreciates each agency’s and individual attorney’s cooperation.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew J. D'Emic". The signature is fluid and cursive, with a large loop at the end.

Matthew J. D’Emic

cc: Hon. John G. Ingram
Valerie Raine, Esq.
Daniel Alessandrino

Appendix F



Supreme Court of the State of New York
County of Kings, Part _____

Change of Status/ Release from Custody Order

Present: Hon. _____

PEOPLE OF THE STATE OF NEW YORK Against _____, Defendant
--

IND/SCI/Docket # _____

NYSID# _____

Date of Birth _____

To the New York City Commissioner of Correction:

Be advised of the following action in connection with the above captioned matter

- Released on Recognizance
- Sufficient bail posted
- Surety hearing order satisfied and sufficient bail posted
- Indictment/Complaint Dismissed

Other:

It is ORDERED that the above-named defendant be released from custody immediately unless there are warrants, detainers or other charges lodged against the defendant.

To be completed if matter has a future court date

- You are further directed to advise the defendant that he/she must appear in Court as indicated below:

Date: _____ at 9:30 A.M. in Part _____ of the
Supreme Court, Kings County at the Courthouse thereof, 320 Jay Street,
Brooklyn, New York.

If the defendant is not released from custody due to warrants, detainers or other charges it is ORDERED that you shall produce the defendant for the scheduled court appearance as indicated above.

Dated: _____

Judge/Court Clerk. (seal)

Received by
Department of Correction: _____

KSC 003 (rev. 6/14/19)

Appendix G



State of New York
 County _____ Part _____

Secured Bail Bond

Justifying Affidavit and Undertaking to Answer

Docket/Indictment No. _____

PEOPLE OF THE STATE OF NEW YORK
 against
 _____ Defendant

Top Charge _____

Date Bail Set _____ Adjourn Date _____ Adjourn Part _____

An indictment has been filed in this Court charging the above-listed offense against the defendant. Bail has been fixed in the following amount:

- \$ _____ Secured appearance bond (defendant is sole obligor)
Full Amount of Bond
- \$ _____ Secured surety bond (obligor other than/in addition to defendant)
Full Amount of Bond

BAIL BOND

The obligor(s) listed below jointly and severally undertake(s) that the defendant shall appear in the above-entitled action whenever required and that defendant will at all times render himself/herself amenable to the orders and processes of this Court. If the defendant does not comply with any such requirement, order, or process, the obligor(s) will pay to the People of the State of New York the full amount of the bond listed above.

Name of obligor _____ Is obligor the defendant? Y / N
 Home address _____ Occupation _____

Real property pledged (twice the value of the undertaking) _____

_____ the title of which is of record, in the obligor's name in the Office of the Register of the County of _____: and is recorded therein as follows:

Section _____, Liber _____, Page _____, Lot _____, Block _____, Recording Date _____.

Personal property not exempt from execution is deposited _____

The unencumbered value of the above property is: _____

Check if more than one obligor and include required information on each additional obligor on additional page(s)

JUSTIFYING AFFIDAVIT and UNDERTAKING TO ANSWER

I hereby swear/affirm that I am [the sole] / [one of multiple] obligor(s) named in the Bail Bond in the above-titled action. I attest to the accuracy and truth of the information listed above regarding my address, description and value of personal or real property.

I swear/affirm that within one month prior to this date I did not make bail for another defendant in more than two cases not arising out of the same transaction. In the prior month, I did not deposit money or property as bail nor have I served as an obligor for a bail bond in any Court having criminal jurisdiction or in any criminal proceeding.

- I also swear/affirm that no previous application for this bail has been made, or
- A previous application was made for this bail was made to Judge _____ on the _____ day of _____, 20____, and was denied for the following reasons: _____ and except for such application no previous application has been made.

As [the sole] / [one of multiple] obligor(s) named in the above-titled action, I swear/affirm that I will undertake that the above-mentioned defendant shall appear and answer the above-mentioned charge, in whatever Court it may be prosecuted. The defendant shall at all times render himself/herself amenable to the orders and process of the Court. If convicted, the defendant shall appear for judgment and render himself/herself in execution thereof. If the defendant fails to perform any of these conditions, then I jointly and severally will pay to the People of the State of New York the full amount of bond fixed.

 Signature of obligor

 Signature of obligor (if multiple obligors)

 Print name

 Print name

On this day, the obligor(s) listed above was/were sworn before me and deposed. The obligor(s) swore that he/she/they reside(s) at the above-mentioned location(s), the description and value of the pledged real or personal property, and is/are the obligor(s) who executed and signed the above instrument.

The within bail bond is allowed.

Dated: _____

 Judge/Justice



Indictment No. _____

Top Charge _____

_____ Date Bail Set _____ Adjourn Date _____ Adjourn Part _____

PEOPLE OF THE STATE OF NEW YORK
against
_____, Defendant

An indictment has been filed in this Court charging the above-listed offense against the defendant. Bail has been fixed in the amount listed below with a _____ % deposit.

\$ _____ Partially secured appearance bond (defendant is sole obligor)
Full Amount of Bond

\$ _____ Partially secured surety bond (obligor other than/in addition to defendant)
Full Amount of Bond

BAIL BOND

The obligor(s) listed below jointly and severally undertake(s) that the defendant shall appear in the above-entitled action whenever required and that defendant will at all times render himself/herself amenable to the orders and processes of this Court. If the defendant does not comply with any such requirement, order, or process, the obligor(s) will pay to the People of the State of New York the full amount of the bond listed above.

Name of obligor _____ Is obligor the defendant? Y / N
Occupation/source of income _____ Length of employment _____
Business address _____
Home address _____
Income for past year \$ _____ Average annual income past five years \$ _____

Complete only if multiple obligors:

Name of obligor _____ Is obligor the defendant? Y / N
Occupation/source of income _____ Length of employment _____
Business address _____
Home address _____
Income for past year \$ _____ Average annual income past five years \$ _____

Check if more than two obligors and include required information on each additional obligor on additional page(s)

The obligor(s) deposit(s) the following to secure partial payment \$ _____

JUSTIFYING AFFIDAVIT and UNDERTAKING TO ANSWER

I hereby swear/affirm that I am [the sole] / [one of multiple] obligor(s) named in the Bail Bond in the above-titled action. I attest to the accuracy and truth of the information listed above regarding my occupation, place of business, income, and residence.

I swear/affirm that within one month prior to this date I did not make bail for another defendant in more than two cases not arising out of the same transaction. In the prior month, I did not deposit money or property as bail nor have I served as an obligor for a bail bond in any Court having criminal jurisdiction or in any criminal proceeding.

I also swear/affirm that no previous application for this bail has been made, or

A previous application was made for this bail was made to Judge _____ on the ____ day of _____, 20____, and was denied for the following reasons: _____ and except for such application no previous application has been made.

As [the sole] / [one of multiple] obligor(s) named in the above-titled action, I swear/affirm that I will undertake that the above-mentioned defendant shall appear and answer the above-mentioned charge, in whatever Court it may be prosecuted. The defendant shall at all times render himself/herself amenable to the orders and process of the Court. If convicted, the defendant shall appear for judgment and render himself/herself in execution thereof. If the defendant fails to perform any of these conditions, then I jointly and severally will pay to the People of the State of New York the full amount of bond fixed.

Signature of obligor

Signature of obligor (if multiple obligors)

Print name

Print name

On this day, the obligor(s) listed above was/were sworn before me and deposed. The obligor(s) swore that he/she/they reside(s) at the above-mentioned location(s), is/are employed at the above-mentioned address(es), and is/are the obligor(s) who executed and signed the above instrument.

The within bail bond is allowed.

Dated:
CRC 3293 (Rev. 10/11/18)

Judge/Justice



PEOPLE OF THE STATE OF NEW YORK
against
_____, Defendant

Indictment No. _____

Top Charge _____

Date Bail Set Adjourn Date Adjourn Part

An indictment has been filed in this Court charging the above-listed offense against the defendant. Bail has been fixed in the following amount:

\$ _____ Unsecured appearance bond (defendant is sole obligor)
Full Amount of Bond

\$ _____ Unsecured surety bond (obligor other than/in addition to defendant)
Full Amount of Bond

BAIL BOND

The obligor(s) listed below jointly and severally undertake(s) that the defendant shall appear in the above-entitled action whenever required and that defendant will at all times render himself/herself amenable to the orders and processes of this Court. If the defendant does not comply with any such requirement, order, or process, the obligor(s) will pay to the People of the State of New York the full amount of the bond listed above.

Name of obligor _____ Is obligor the defendant? Y / N
Occupation/source of income _____ Length of employment _____
Business address _____
Home address _____
Income for past year \$ _____ Average annual income past five years \$ _____

Complete only if multiple obligors:

Name of obligor _____ Is obligor the defendant? Y / N
Occupation/source of income _____ Length of employment _____
Business address _____
Home address _____
Income for past year \$ _____ Average annual income past five years \$ _____

Check if more than two obligors and include required information on each additional obligor on additional page(s)

JUSTIFYING AFFIDAVIT and UNDERTAKING TO ANSWER

I hereby swear/affirm that I am [the sole] / [one of multiple] obligor(s) named in the Bail Bond in the above-titled action. I attest to the accuracy and truth of the information listed above regarding my occupation, place of business, income, and residence.

I swear/affirm that within one month prior to this date I did not make bail for another defendant in more than two cases not arising out of the same transaction. In the prior month, I did not deposit money or property as bail nor have I served as an obligor for a bail bond in any Court having criminal jurisdiction or in any criminal proceeding.

I also swear/affirm that no previous application for this bail has been made, or

A previous application for this bail was made to Judge _____ on the _____ day of _____, 20____, and was denied for the following reasons: _____ and except for such application no previous application has been made.

As [the sole] / [one of multiple] obligor(s) named in the above-titled action, I swear/affirm that I will undertake that the above-mentioned defendant shall appear and answer the above-mentioned charge, in whatever Court it may be prosecuted. The defendant shall at all times render himself/herself amenable to the orders and process of the Court. If convicted, the defendant shall appear for judgment and render himself/herself in execution thereof. If the defendant fails to perform any of these conditions, then I jointly and severally will pay to the People of the State of New York the full amount of bond fixed.

Signature of obligor

Signature of obligor (if multiple obligors)

Print name

Print name

On this day, the obligor(s) listed above was/were sworn before me and deposed. The obligor(s) swore that he/she/they reside(s) at the above-mentioned location(s), is/are employed at the above-mentioned address(es), and is/are the obligor(s) who executed and signed the above instrument.

The within bail bond is allowed.

Dated:

Judge/Justice

Appendix H

Logistic Regression Predicting Disposition within Six Months

	B	S.E.	Wald	df	Sig.	Exp(B)
Gender (0=Female, 1=Male)	0.187	0.257	0.527	1	0.468	1.206
Race/ethnicity (Compared to White)			0.407	2	0.816	
Black	-0.162	0.257	0.398	1	0.528	0.850
Hispanic/Latino	-0.155	0.285	0.297	1	0.586	0.856
Age	-0.003	0.007	0.197	1	0.658	0.997
Violent felony offense	-0.899	0.161	31.118	1	0.000	0.407
Case sent to a specialized court part (0=Yes, 1=No)	0.444	0.191	5.377	1	0.020	1.558
Defendant had multiple cases in the sample	-0.148	0.379	0.153	1	0.695	0.862
Defendant had a codefendant in the sample	-0.071	0.224	0.100	1	0.752	0.932
<i>Treatment (0=Comparison, 1=Pilot)</i>	<i>0.545</i>	<i>0.160</i>	<i>11.553</i>	<i>1</i>	<i>0.001</i>	<i>1.725</i>
Constant	-0.269	0.455	0.350	1	0.554	0.764

Note: $N = 704$. Nagelkerke $R^2 = 0.094$.

Logistic Regression Predicting Disposition within Five Months

	B	S.E.	Wald	df	Sig.	Exp(B)
Gender (0=Female, 1=Male)	0.048	0.266	0.032	1	0.858	1.049
Race/ethnicity (Compared to White)			0.240	2	0.887	
Black	0.084	0.265	0.101	1	0.750	1.088
Hispanic/Latino	0.002	0.294	0.000	1	0.995	1.002
Age	-0.001	0.007	0.005	1	0.942	0.999
Violent felony offense	-0.757	0.166	20.812	1	0.000	0.469
Case sent to a specialized court part (0=Yes, 1=No)	0.428	0.201	4.537	1	0.033	1.534
Defendant had multiple cases in the sample	0.017	0.390	0.002	1	0.965	1.017
Defendant had a codefendant in the sample	-0.099	0.232	0.181	1	0.671	0.906
<i>Treatment (0=Comparison, 1=Pilot)</i>	<i>0.509</i>	<i>0.165</i>	<i>9.545</i>	<i>1</i>	<i>0.002</i>	<i>1.663</i>
Constant	-0.888	0.469	3.583	1	0.058	0.411

Note: $N = 704$. Nagelkerke $R^2 = 0.069$.

Appendix I

Subgroup analyses suggest that there was a significant impact on individuals who were detained, but not for those who were not detained. However, interaction analyses suggest that impact on detained and not detained individuals was not itself significantly different.

Logistic Regression Predicting Disposition within Six Months with Detainment Interaction

	B	S.E.	Wald	df	Sig.	Exp(B)
Gender (0=Female, 1=Male)	0.198	0.269	0.539	1	0.463	1.219
Race/ethnicity (Compared to White)			0.565	2	0.754	
Black	-0.197	0.262	0.565	1	0.452	0.821
Hispanic/Latino	-0.169	0.290	0.339	1	0.561	0.845
Age	0.000	0.007	0.003	1	0.959	1.000
Violent felony offense	-0.864	0.174	24.691	1	0.000	0.422
Case sent to a specialized court part (0=Yes, 1=No)	0.325	0.195	2.783	1	0.095	1.384
Defendant had multiple cases in the sample	-0.301	0.415	0.528	1	0.467	0.740
Defendant had a codefendant in the sample	0.044	0.231	0.036	1	0.849	1.045
Detained	-0.061	0.253	0.058	1	0.810	0.941
<i>Treatment (0=Comparison, 1=Pilot)</i>	<i>0.425</i>	<i>0.211</i>	<i>4.048</i>	<i>1</i>	<i>0.044</i>	<i>1.530</i>
<i>Interaction (Detained by year)</i>	<i>0.542</i>	<i>0.335</i>	<i>2.622</i>	<i>1</i>	<i>0.105</i>	<i>1.719</i>
Constant	-0.417	0.476	0.768	1	0.381	0.659

Note: Cases not disposed at arraignment. $N = 667$. Nagelkerke $R^2 = 0.094$.

Logistic Regression Predicting Disposition within Five Months with Detainment Interaction

	B	S.E.	Wald	df	Sig.	Exp(B)
Gender (0=Female, 1=Male)	0.049	0.283	0.029	1	0.864	1.050
Race/ethnicity (Compared to White)			0.146	2	0.929	
Black	0.050	0.273	0.034	1	0.854	1.051
Hispanic/Latino	-0.024	0.303	0.006	1	0.936	0.976
Age	0.003	0.007	0.182	1	0.670	1.003
Violent felony offense	-0.725	0.182	15.859	1	0.000	0.484
Case sent to a specialized court part (0=Yes, 1=No)	0.283	0.206	1.899	1	0.168	1.328
Defendant had multiple cases in the sample	-0.184	0.438	0.176	1	0.674	0.832
Defendant had a codefendant in the sample	0.051	0.241	0.044	1	0.834	1.052
Detained	0.175	0.271	0.417	1	0.518	1.191
<i>Treatment (0=Comparison, 1=Pilot)</i>	<i>0.510</i>	<i>0.224</i>	<i>5.157</i>	<i>1</i>	<i>0.023</i>	<i>1.665</i>
<i>Interaction (Detained by year)</i>	<i>0.321</i>	<i>0.349</i>	<i>0.846</i>	<i>1</i>	<i>0.358</i>	<i>1.379</i>
Constant	-1.189	0.502	5.613	1	0.018	0.305

Note: Cases not disposed at arraignment. $N = 667$. Nagelkerke $R^2 = 0.068$.

Appendix J

Subgroup analyses suggest that there was a significant impact on violent felony cases, but not on cases with lesser charges. However, interaction analyses suggest that the impact experienced by violent felony and lesser charges was not itself significantly different.

Logistic Regression Predicting Disposition within Six Months with Violent Felony Interaction

	B	S.E.	Wald	df	Sig.	Exp(B)
Gender (0=Female, 1=Male)	.184	.258	.508	1	.476	1.202
Race/ethnicity (Compared to White)			.516	2	.773	
Black	-.184	.258	.512	1	.474	.832
Hispanic/Latino	-.168	.285	.346	1	.556	.846
Age	-.003	.007	.180	1	.671	.997
Violent felony offense	-1.145	.240	22.801	1	.000	.318
Case sent to a specialized court part (0=Yes, 1=No)	.455	.192	5.621	1	.018	1.576
Defendant had multiple cases in the sample	-.234	.349	.450	1	.502	.791
Defendant had a codefendant in the sample	-.057	.225	.065	1	.799	.944
<i>Treatment (0=Comparison, 1=Pilot)</i>	.334	.216	2.394	1	.122	1.397
<i>Interaction (Violent felony by year)</i>	.454	.321	1.992	1	.158	1.574
Constant	-.159	.461	.118	1	.731	.853

Note: $N=704$. Nagelkerke $R^2 = 0.099$.

Logistic Regression Predicting Disposition within Five Months with Violent Felony Interaction

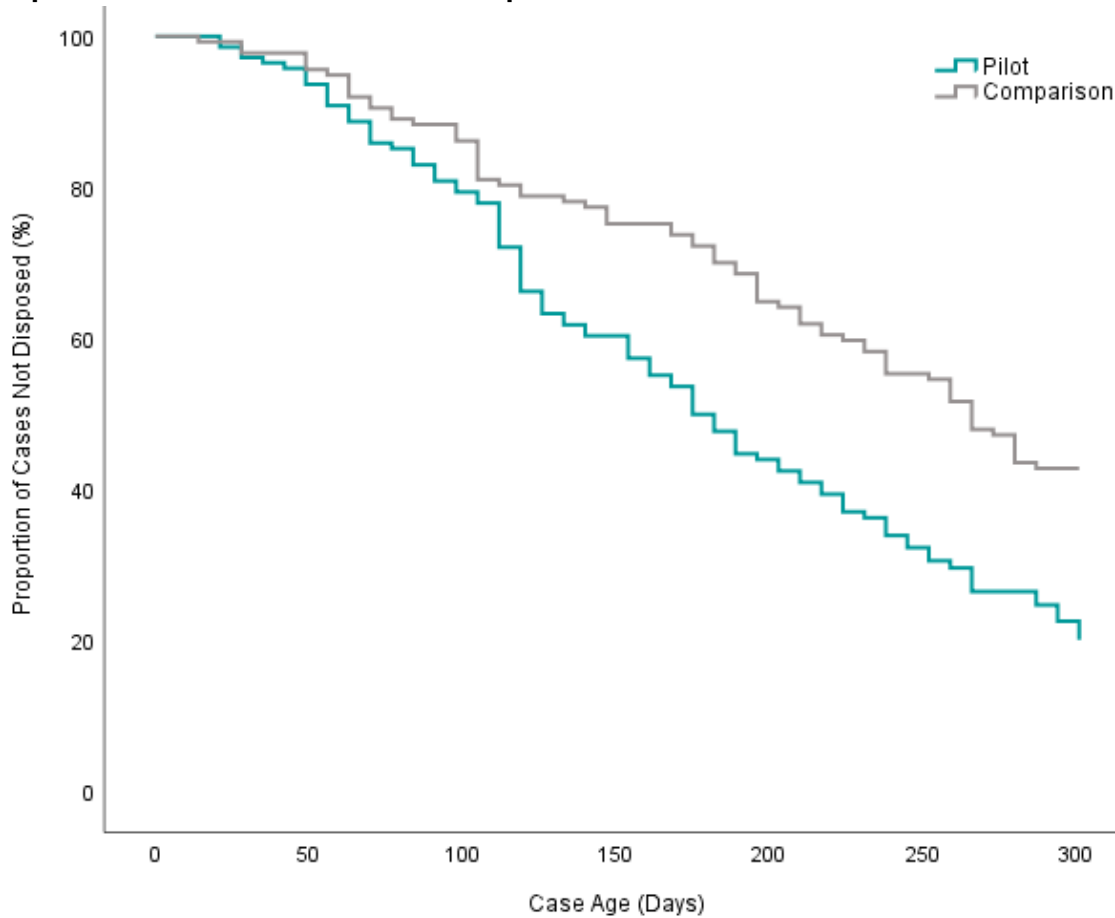
	B	S.E.	Wald	df	Sig.	Exp(B)
Gender (0=Female, 1=Male)	.050	.267	.035	1	.852	1.051
Race/ethnicity (Compared to White)			.167	2	.920	
Black	.063	.265	.057	1	.811	1.065
Hispanic/Latino	-.008	.293	.001	1	.978	.992
Age	.000	.007	.004	1	.951	1.000
Violent felony offense	-1.089	.257	17.911	1	.000	.336
Case sent to a specialized court part (0=Yes, 1=No)	.445	.201	4.877	1	.027	1.560
Defendant had multiple cases in the sample	-.014	.359	.001	1	.969	.986
Defendant had a codefendant in the sample	-.081	.232	.121	1	.728	.923
<i>Treatment (0=Comparison, 1=Pilot)</i>	.265	.215	1.520	1	.218	1.303
<i>Interaction (Violent felony by year)</i>	.581	.335	3.004	1	.083	1.789
Constant	-.771	.475	2.628	1	.105	.463

Note: $N=704$. Nagelkerke $R^2 = 0.074$.

Appendix K

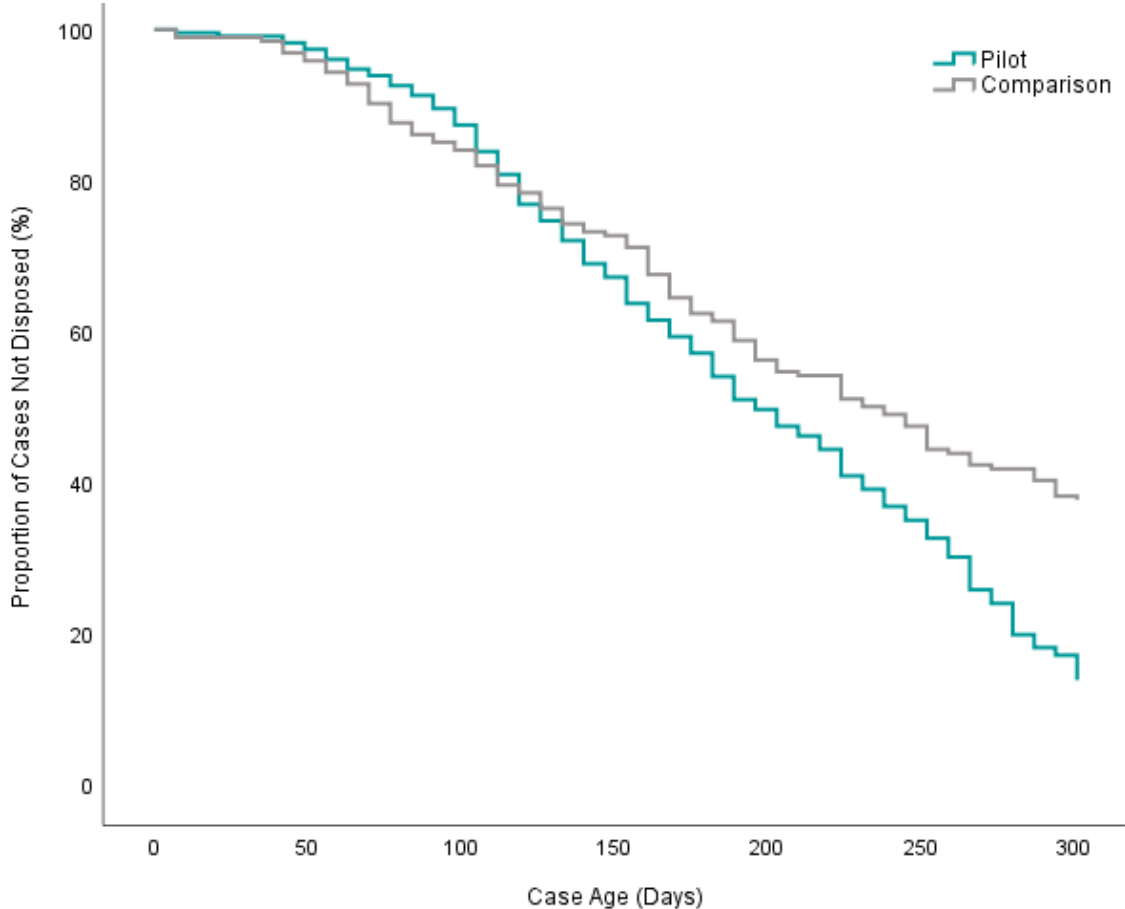
We can better understand the difference between cases with incarcerated and non-incarcerated defendants by separately examining their survival plots. Around 105 days post-Supreme Court indictment, the gap between the pilot cases and the comparison group seemed to widen more for cases with detained defendants compared to cases with not detained defendants. However, both detained and not detained cases were disposed significantly faster in the pilot than in the comparison group.

Proportion of Detained Cases Not Disposed Over Time



Note: $p < .001$ using a Kaplan-Meier survival estimate. Median^{pilot} = 174. Median^{comparison} = 264.

Proportion of Not Detained Cases Not Disposed Over Time

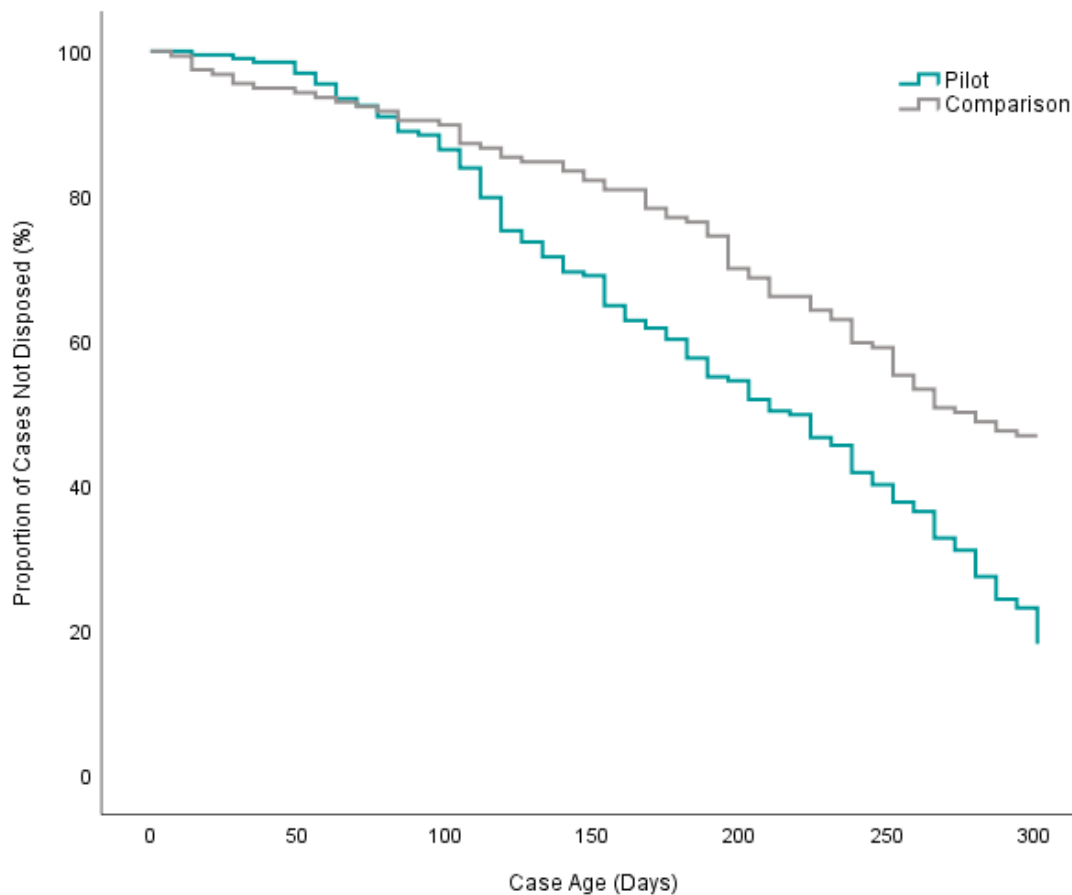


Note: $p < .001$ using a Kaplan-Meier survival estimate. Median^{pilot} = 195. Median^{comparison} = 230.

Appendix L

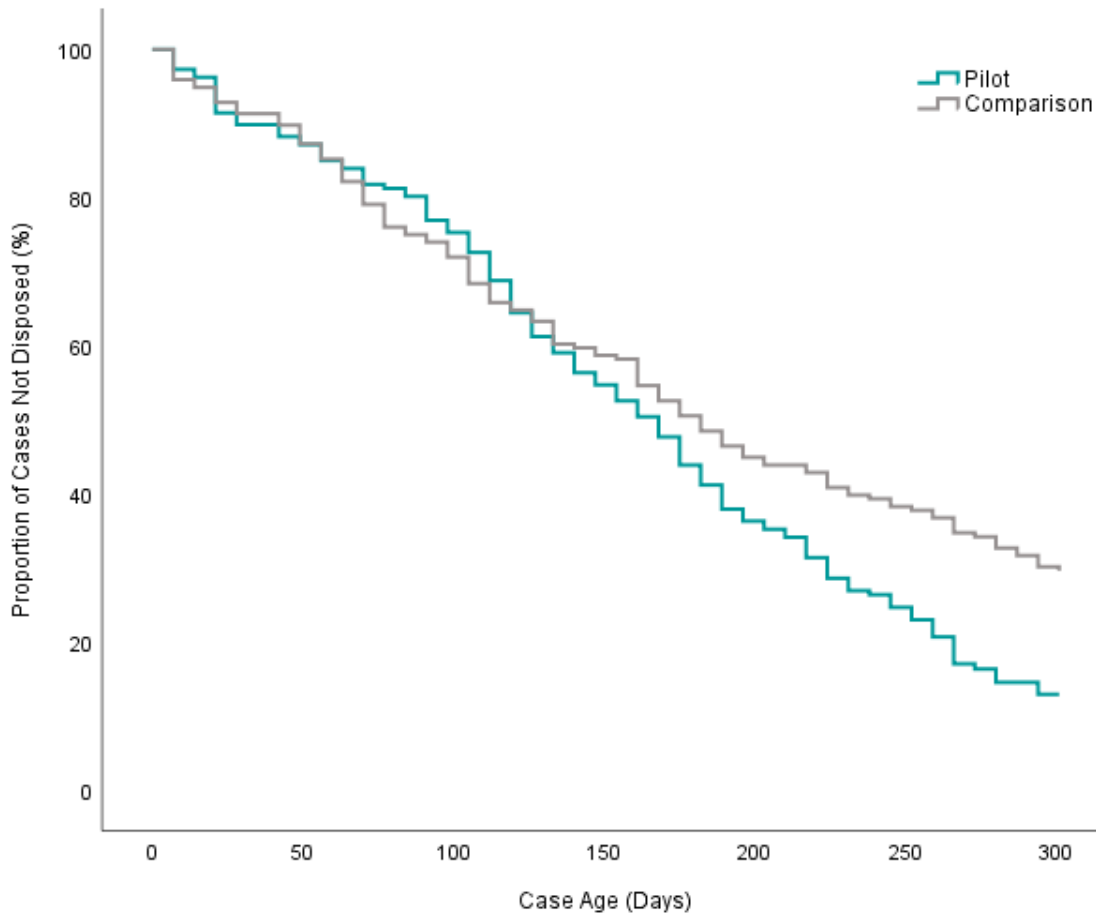
To better understand the impact on violent felony cases and cases with lesser charges we can separately examine their survival plots. A visual examination of the plots suggests that while the gap between the pilot cases and the comparison group appears to begin widening around 105 days post-Supreme Court indictment for violent felony cases, cases with lesser charges appear to be disposed at rates similar to those in the comparison year for much longer. However, both violent felony cases and lesser charged cases were disposed faster in the pilot than in the comparison group.

Proportion of Violent Felony Cases Not Disposed Over Time



Note: $p < .001$ using a Kaplan-Meier survival estimate. Median^{pilot} = 210. Median^{comparison} = 273.

Proportion of Cases Charged with a Non-violent Felony or a Lesser Charge Not Disposed Over Time



Note: $p=.004$ using a Kaplan-Meier survival estimate. Median^{pilot} = 161. Median^{comparison} = 176.

Appendix M

Linear Regression Predicting Average Adjudgment Length with Interaction

	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
Constant	32.024	2.068		15.484	0.000
Gender (0=Female, 1=Male)	1.092	1.159	0.032	0.942	0.346
Black (Compared to White)	-0.819	1.162	-0.037	-0.704	0.481
Hispanic/Latino (Compared to White)	-0.368	1.285	-0.015	-0.286	0.775
Age	-0.065	0.031	-0.073	-2.135	0.033
Violent felony offense	-0.374	0.751	-0.018	-0.499	0.618
Case sent to a specialized court part (0=Yes, 1=No)	4.133	0.836	0.166	4.944	0.000
Defendant had multiple cases in the sample	2.207	1.729	0.043	1.276	0.202
Defendant had a codefendant in the sample	1.160	1.002	0.039	1.158	0.247
Incarcerated	-6.915	1.081	-0.319	-6.399	0.000
<i>Treatment (0=Comparison, 1=Pilot)</i>	<i>-10.555</i>	<i>0.931</i>	<i>-0.494</i>	<i>-11.337</i>	<i>0.000</i>
<i>Interaction (Incarcerated by year)</i>	<i>4.740</i>	<i>1.449</i>	<i>0.180</i>	<i>3.271</i>	<i>0.001</i>

Note: Cases not disposed at arraignment. $N = 674$. Adjusted $R^2 = 0.257$.

Appendix N

Ranking the pretrial release options from “least restrictive” to “most restrictive” for the defendant (ROR, Supervised Release, Bail, Remand) and comparing the release decisions between the Criminal Court and Supreme Court, we determined whether the release condition became “less restrictive,” “more restrictive,” or “unchanged” for a defendant. When comparing the pilot cases to the comparison cases, we did not see a significant difference; defendants in the pilot were no more likely to have their release condition made more or less restrictive than those in the comparison group.

Change in Release Conditions

	Pilot (N=388)	Comparison (N=345)
More restrictive release status	5.2%	4.9%
Release status unchanged	89.9%	92.2%
Less restrictive release status	4.9%	2.9%

The subsequent table breaks this down further, to indicate each release decision at Criminal Court arraignment and if and how the release decision changed at Supreme Court arraignment.

Release Decisions Changes between Criminal Court and Supreme Court

	Criminal Court Release Decision	Supreme Court Release Decision	Pilot	Comparison
More restrictive release status	ROR	Bail	9	7
		Remand	1	0
	SRP	Bail	4	3
		Remand	1	0
	Bail	Remand	5	7
	Total		20	17
Release status unchanged	ROR		108	70
	SRP		14	15
	Bail		219	218
	Remand		8	15
	Total		349	318
Less restrictive release status	SRP	ROR	2	2
	Bail	ROR	12	7
		SRP	5	0
	Remand	Bail	0	1
	Total		19	10

Additionally, for defendants whose release condition was bail at both the Criminal Court arraignment and Supreme Court arraignment, we examined whether their bail amount was increased, decreased, or stayed the same. Comparing the groups, bail was no more likely to be increased or decreased between Criminal Court and Supreme Court arraignment.

Change in Bail Amount

	Pilot (N=210)	Comparison (N=107)
Bail amount increased	21.4%	19.6%
Bail amount unchanged	74.8%	78.5%
Bail amount decreased	3.8%	1.9%