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EXPANDING SUPERVISED RELEASE IN NEW YORK CITY

An Evaluation of June 2019 Changes

Policy Brief

Center for Court Innovation

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Expanding Supervised Release in New York City: An Evaluation of June 2019 Changes

New York City jails held an average of 5,468 individuals a day in 2021,[1] far below the peak incarceration of over 20,000 in the early 90s,[2] but above the City's stated aim of 3,300.[3] In working towards this goal, New York City expanded its Supervised Release Program (SRP). Through SRP, individuals awaiting trial are released under community supervision to ensure their return to court, rather than having bail set and/or being detained in jail. The program includes phone and in-person check-ins and connections to voluntary services. More recent iterations of the program have allowed judges to set mandatory programming as a condition of release for participants in SRP. This brief looks at the impact of one SRP expansion implemented in June 2019.

New York City's Supervised Release Program

SRP was first piloted in Queens County in New York City in 2009. By 2016, the program had evolved and expanded citywide. Adult defendants were eligible for the citywide SRP if they met specific criteria: 1) facing a non-violent felony or misdemeanor, 2) not meeting criteria to be considered "high-risk" of pretrial felony re-arrest according to an assessment tool, 3) verifying a "community tie" or collateral contact,[4] 4) having no pending violent felony case, and 5) receiving defense attorney consent. Additionally, SRP excludes individuals with the following instant charges: domestic violence, class A felonies, felony sex crimes, and felony gun charges.[5]

The first large expansion of SRP since 2016 occurred at the beginning of June 2019. This expansion made several major changes that increased the number of people eligible for the program. The criteria were changed so that fewer people were considered too "high risk" to participate. In addition, SRP became available to youth ages 16-19 charged with select violent felony offenses and/or considered "high risk." Further, defendants were no longer required to provide a verified community tie. This program expansion is the focus of the current study. A subsequent program expansion occurred in December 2019, as New York

State prepared for 2020 bail reform legislation to go into effect. Other research has examined the impact of the December 2019 expansion.[6]

New York City Jail Population Context

The jail population over time provides important context for the SRP expansion. Figure 1 presents a timeline of recent notable events, including reform efforts, that may have impacted the jail population. In addition, the figure illustrates that New York City's average daily jail population dropped steadily leading up to and after the first large SRP expansion in June 2019. In November 2019, the jail population then dramatically dropped as the city and judges anticipated and prepared for the January 1, 2020 implementation of bail reform, which would end pretrial detention for most misdemeanor and non-violent felony charges. To align with the bail reform legislation, SRP expanded eligibility in December to allow *any defendant* to be supervised pretrial.

After bail reform was officially implemented in January 2020, the jail population continued to decline until the onset of the COVID-19 pandemic, when the population dropped even more dramatically. At this time, COVID-19 spread through NYC's Rikers Island jail complex, and city officials, attorneys, and others looked for ways to release people detained in the jails. These initiatives included the release of nearly 300 sentenced individuals into the newly established Early Release Program[7] as well as calls for additional pretrial release. SRP admissions were paused at this time, though people who were already in the program continued to be supervised. By July 2020, the jail population again began to rise. This was in part due to newly implemented amendments to the bail reform laws, as well as changes in judicial decision-making.[8] SRP resumed accepting new admissions in July 2020, once the Office of Court Administration included SRP providers in the new virtual arraignment process.

The general decline in incarceration observed through the beginning of the COVID-19 pandemic does not necessarily translate to reduced racial disparities, long documented in NYC jails.[9] Between October 2018 and January 2022, as the average daily jail population dropped by nearly 4,500, Black individuals made up an increasingly larger proportion of the jail population (from 54% to 58%), while White and Latinx populations continued to shrink (7% to 5% and 33% to 31%, respectively).

Figure 1. NYC's Jail Population Declined Up Until Shortly After the Onset of the COVID-19 Pandemic
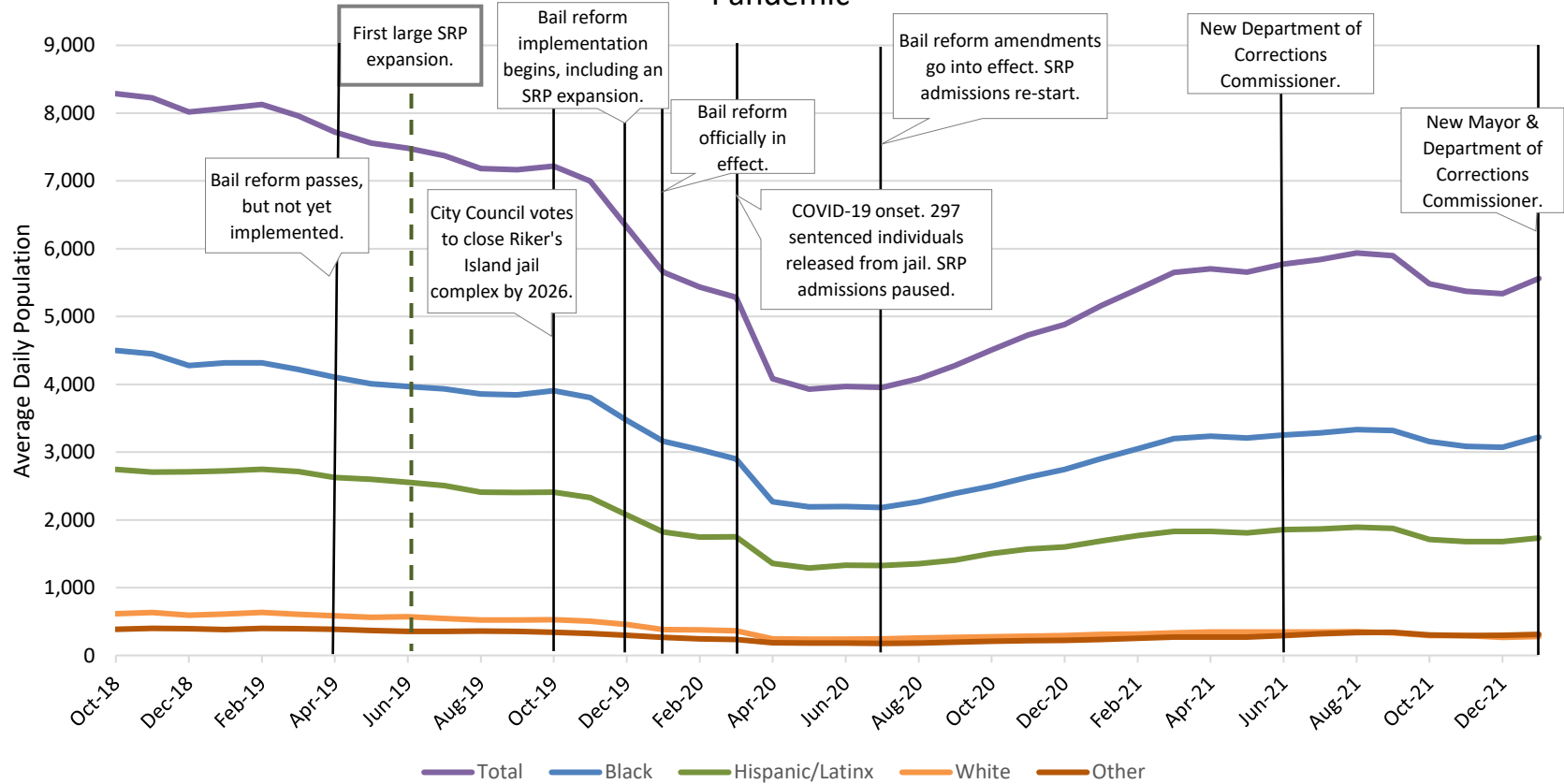
Current Study & Methodology

The Center for Court Innovation conducted a time series analysis to examine the impact of the major SRP expansion in June 2019. A time series analysis assesses impact using repeated measurements over time to determine whether a change would have occurred if a specific program had not been implemented. As a first step, we calculated the rates[10] of both supervised release and detention at arraignment for every week between January 1, 2017 and March 8, 2020 (the week before the onset of COVID-19 lockdown measures in New York City). We then compared pre- and post-implementation rates (post-implementation began with the June 2019 SRP expansion) using an independent samples *t*-test, revealing significant differences in the trends before and after the program expansion. Afterward, we created regression models using pre-implementation rates to predict SRP enrollment and detention trends. We used these models to calculate the predicted rates during the post-implementation period had the pre-implementation trends continued. Finally, we compared these predicted rates to actual observed post-implementation rates using a paired samples *t*-test. This allowed us to determine if observed post-expansion SRP enrollment rates and/or rates of detention at arraignment significantly differ from what would have occurred otherwise (predicted rates). We used this to answer four questions about the June 2019 program expansion:

1) Did SRP enrollment rates increase after the June 2019 expansion?
2) Did any observed changes in SRP enrollment rates disproportionately impact specific racial/ethnic groups?
3) Did detention rates at arraignment decrease after the June 2019 SRP expansion?
4) Did any observed changes in detention rates at arraignment disproportionately impact specific racial/ethnic groups?

The Impact of SRP Expansion

The June 2019 SRP expansion significantly increased SRP usage. Full results can be found in the Appendices. Figure 2 shows that prior to the expansion, SRP experienced a slow and steady increase. If the expansion had no impact, the observed SRP rates (the light set of blue, green, and orange lines) should climb at the same predicted steady rate (the darker set of lines). Instead, the observed numbers rise significantly faster than predicted. This suggests that **the June 2019 SRP expansion did increase SRP enrollment rates**. **This impact was relatively similar across racial groups, with no meaningful differences.** In addition to the visible increase in SRP enrollment rate after the June 2019 expansion, there is an even larger observed increase in SRP enrollment rate following the December 2019 expansion.[11]

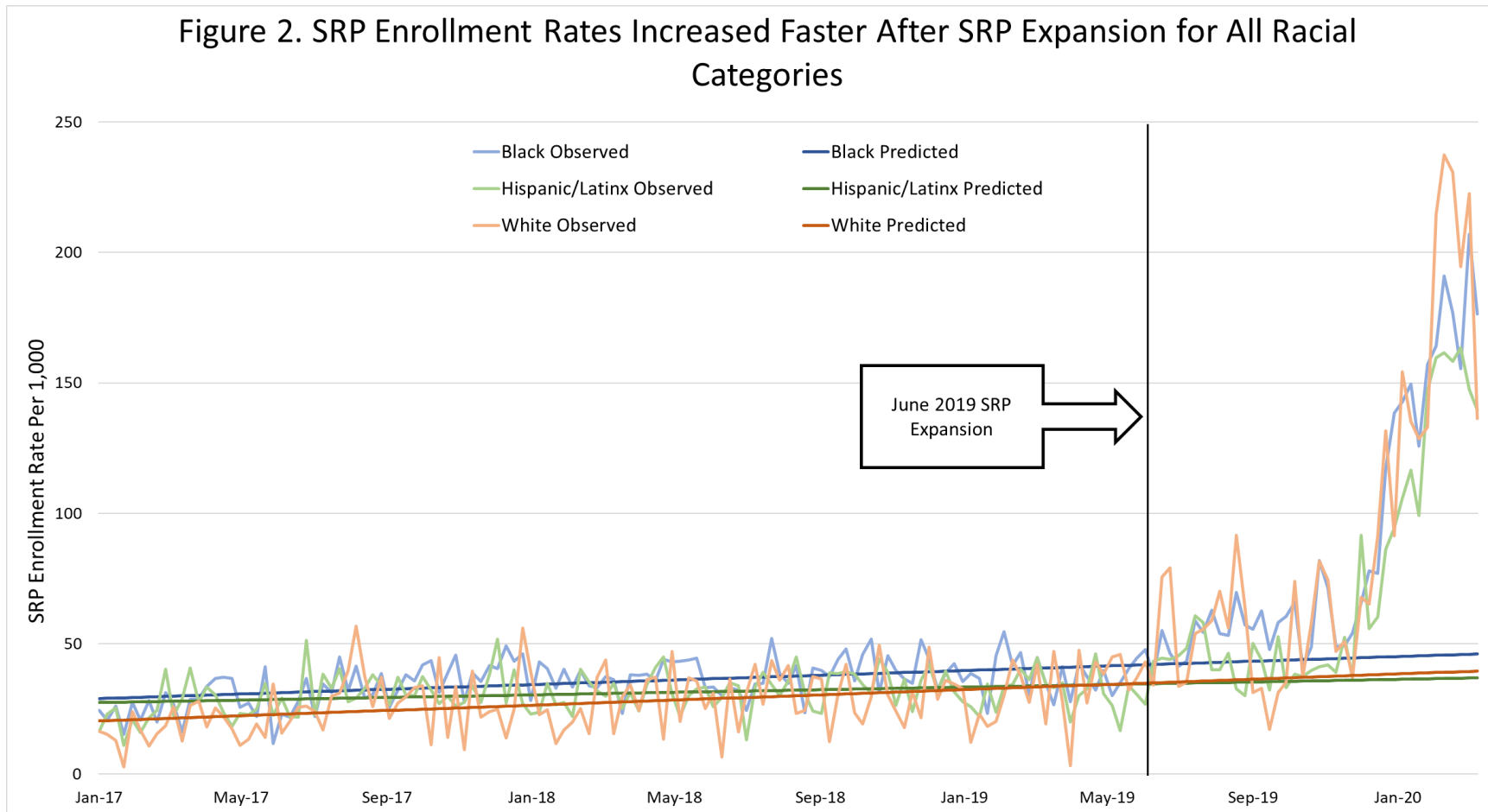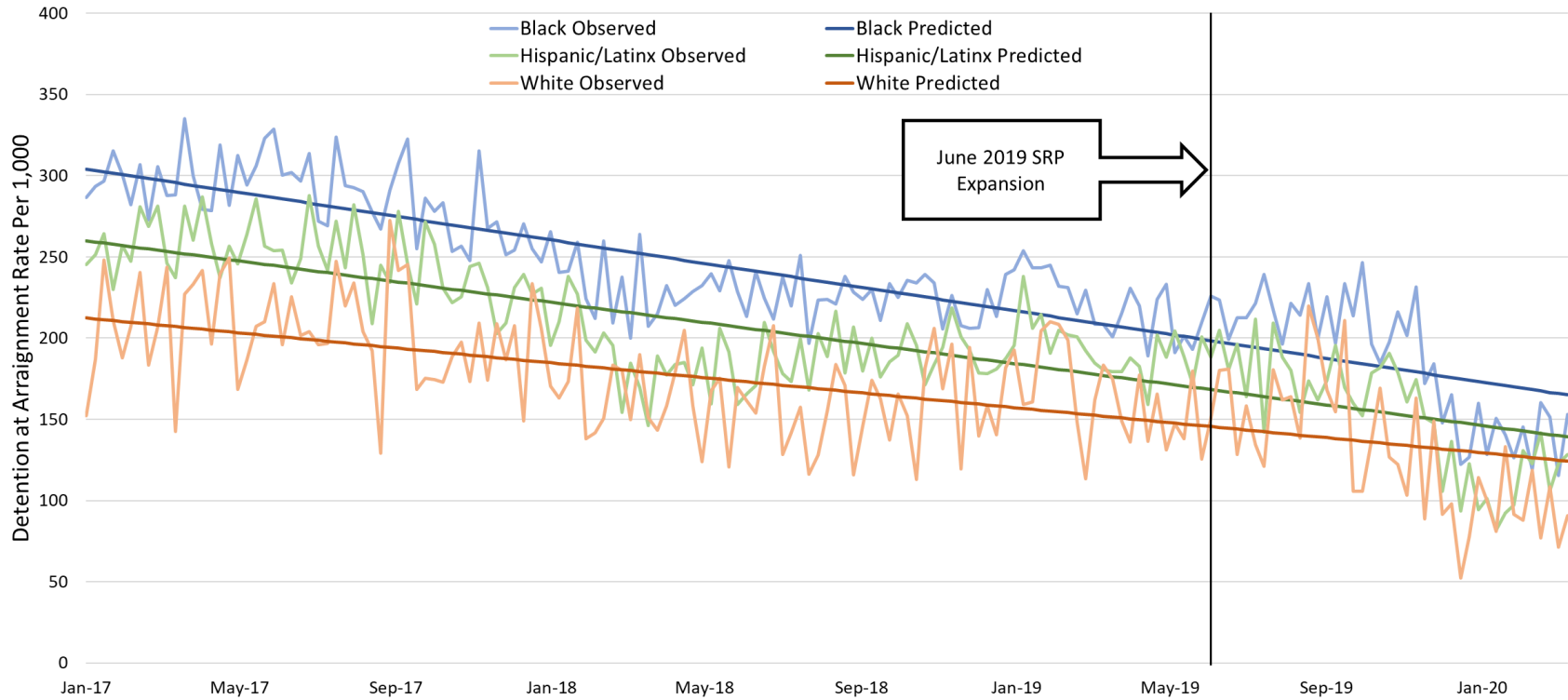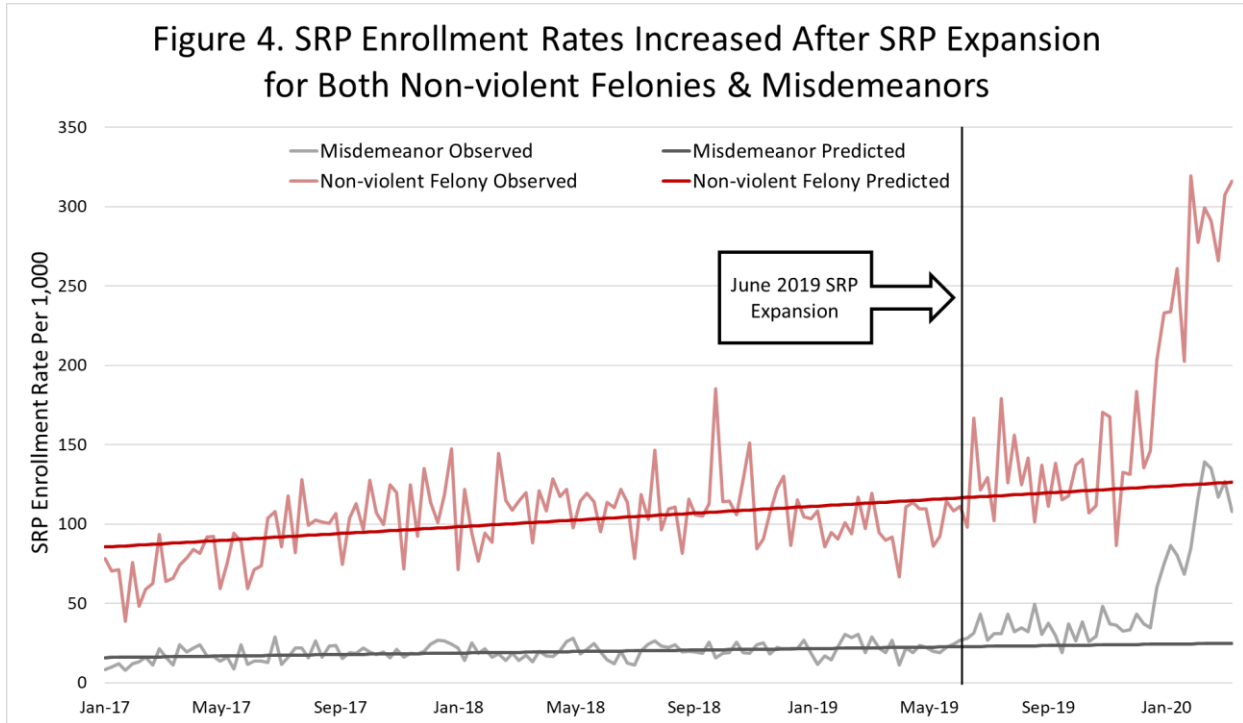Figure 2. SRP Enrollment Rates Increased Faster After SRP Expansion for All Racial Categories

Figure 3. Rates of Detention at Arraignment Did Not Decrease After SRP Expansion for Any Racial Category

If SRP is used as an alternative to bail, as SRP rates rise, we should conversely expect to see rates of detention at arraignment fall. In the case of a time series evaluation, if the SRP expansion has an impact, detention rates would fall faster after the SRP expansion then would be predicted by pre-implementation rates. However, as Figure 3 demonstrates, **detention rates at arraignment did not significantly drop below predicted rates after the program expansion. This was true for all racial groups.**

Charge Severity

To tease out the seemingly counterintuitive findings (i.e., stable reliance on detention alongside increasing use of SRP), we examined how the expansion impacted misdemeanors and non-violent felonies separately. (We did not break out violent felonies, because most were not eligible for SRP before the June 2019 expansion and only youth were eligible afterwards.) The time series analysis in Figure 4 indicates that the June 2019 expansion increased use of SRP for *both* non-violent felonies and misdemeanors. This is notable, because SRP is intended as an alternative to bail for those who would otherwise be detained; if the expansion increases SRP rates for misdemeanor cases, this indicates an increase in supervision for cases that would otherwise be released without conditions. That is, **increased reliance on SRP for misdemeanors may suggest net-widening or over-supervision.**

Figure 4. SRP Enrollment Rates Increased After SRP Expansion for Both Non-violent Felonies & Misdemeanors

Figure 5. Rates of Detention at Arraignment Decreased Faster after SRP Expansion for Non-violent Felony Offenses
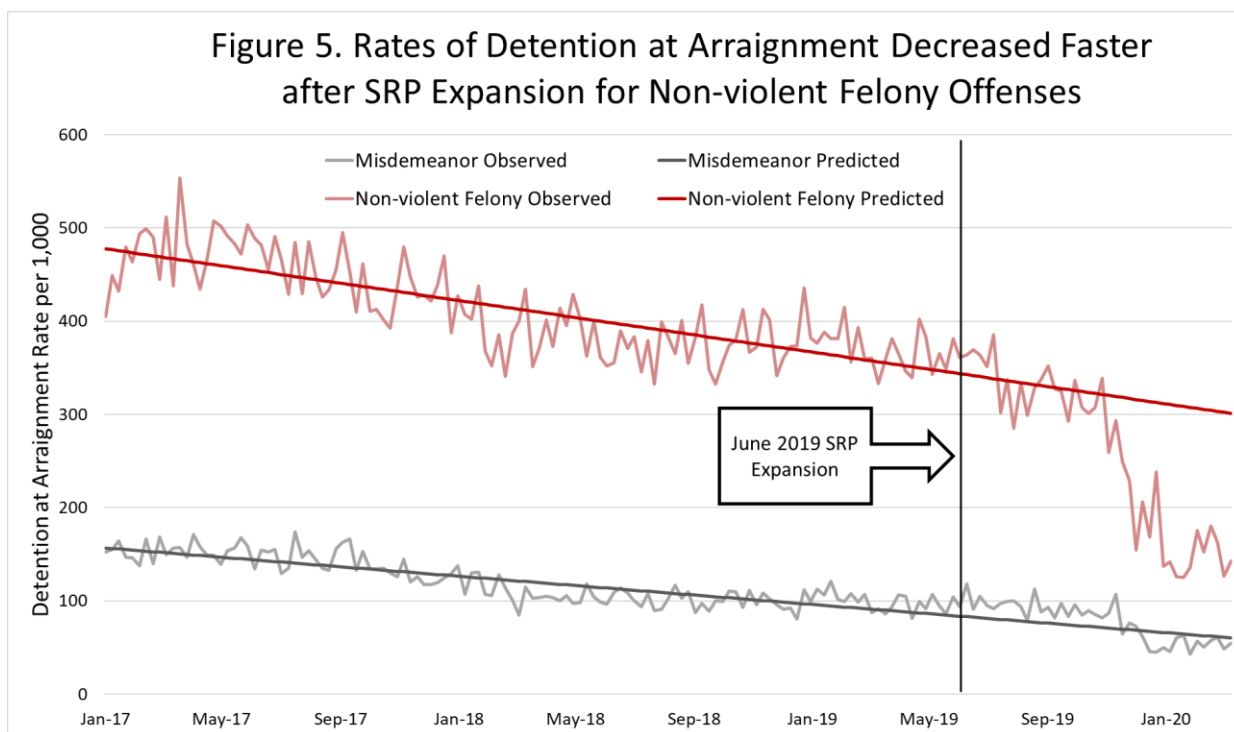
Figure 5 shows detention rates at arraignment for misdemeanors and non-violent felonies. While data suggests the June 2019 program expansion significantly decreased detention of non-violent felony offenses, it did not decrease detention for misdemeanors. There is even a small, but non-meaningful, increase in detention for misdemeanors after the implementation. This is likely a spurious correlation, or caused by another concurrent event, as there is no reason to believe misdemeanor incarceration would increase as a result of the program expansion. The lack of decline in misdemeanor detention also further suggests that net-widening occurred, and that the observed increase in SRP for misdemeanors is not driven by individuals who would have otherwise been detained.[12]

Conclusion & Recommendations

Previous research indicates that New York City's Supervised Release Program is an effective alternative to pretrial bail and incarceration.[13] Over the past several years, the program changed and expanded. The December 2019 expansion, in conjunction with the New York State bail reforms that went into place in January 2020, made all individuals eligible for SRP and had a dramatic impact on both the number of SRP participants and detention.[14] However, the question of the impact of the expansion in June 2019 remained. Addressing this question

specifically helps policymakers to understand the impact of pretrial supervision expansion outside the context of large-scale bail and policy reforms.

This study found that this smaller expansion increased SRP rates and did so similarly across racial groups. It reduced detention at arraignment for non-violent felony offenses, though not for misdemeanor offenses. Non-violent felonies are more likely to be incarcerated and are therefore the intended target of SRP. Additionally, increased use of SRP for misdemeanors suggests the potential over-supervision of individuals who otherwise might be released without conditions. From these findings we can draw three notable conclusions:

1) **Increasing program participation does not always decrease detention**. For small program expansions to have a true impact on detention, these initiatives must target serious crimes that are likely to be detained.

2) **Large changes are needed for large impact**. Not surprisingly, it is more difficult for small program expansions to have a large impact on reducing detention in city jails. Larger expansions, especially those driven by legislative change (like the December 2019 expansion in preparation for bail reform), may have a greater impact.

3) **Targeted efforts to reduce racial disparities are necessary.** As we have found in previous research,[15] disparities are not automatically impacted by increasing program participation and decreasing detention across the board. To reduce racial disparities, targeted efforts must be made to decrease detained populations of color—whether this is done directly or by targeting charges that are more commonly experienced by people of color.

A notable limitation in this work is the inability to determine *which* June 2019 event was the cause of observed changes. Based on our knowledge of the Supervised Release Program (and the Center for Court Innovation's role as one of the SRP service providers), there is no concurrent program change that would have impacted SRP rates. However, as detailed in Figure 1, the bail reform legislation *passed* on April 1, 2019, even if it was not officially legally implemented until January 1, 2020. Therefore, it cannot be ruled out that some early implementation and preparation may have coincided with the June 2019 expansion.

Together the findings of this report highlight the importance of measuring the impact of program implementation and expansion to inform future work and jail reduction efforts in New York City and other jurisdictions.

Acknowledgements

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We also thank the New York State Office of Court Administration for providing case-level data to the Center for Court Innovation. Any OCA data provided herein does not constitute an official record of the New York State Unified Court System, which does not represent or warrant the accuracy thereof. The opinions, findings, and conclusions expressed in this publication are those of the author and not those of the New York State Unified Court System, which assumes no liability for its contents or use thereof.

[1] New York State Division of Criminal Justice Services. 2022. *Annual Jail Population Trends*. Retrieved from https://www.criminaljustice.ny.gov/crimnet/ojsa/jail_pop_y.pdf.

[2] Vera Institute of Justice. 2021. *Incarceration Trends: New York City, NY*. Retrieved from https://trends.vera.org/state/NY/county/new_york_county.

[3] New York City Council. 2019. *City Invests $391 Million in Communities and Comprehensive Reforms to the Criminal Justice System*. Retrieved from https://council.nyc.gov/press/2019/10/17/1817/.

[4] "Community tie" verification means speaking with a person and confirming that they can be used as an emergency contact in the event SRP staff needs to reach a participant.

[5] Redcross, C., M. Skemer, D.G. Collado, I. Rahman, & J. LaChance. 2017. *New York City's Pretrial Supervised Release Program: An Alternative to Bail*. New York, NY: MDRC. Retrieved from https://www.mdrc.org/publication/new-york-city-s-pretrial-supervised-release-program.

[6] Rempel, M., & J. Weill. 2021. *One Year Later: Bail Reform in New York City*. Retrieved from https://www.courtinnovation.org/publications/bail-NYS-one-year.

[7] Martinez, A., J. Weill, L. Villegas, C. Wada, M. Rempel, & T. Pooler. 2022. *The Will to Decarcerate: COVID-19 and NYC's Early Release Program*. New York, NY: Center for Court Innovation. Retrieved from https://www.courtinnovation.org/publications/early-release-2022; Pooler, T. & C. Wada. 2020. *The Early Release 6A Program Documented Results: Six Month Update* (September 22, 2020). New York, NY: CASES, Center for Court Innovation, and the NYC Criminal Justice Agency. Retrieved from: https://www.courtinnovation.org/publications/Rikers-early-release.

[8] Rempel, M., & J. Weill. 2021, Op Cit.

[9] Western, B., J. Davis, F. Ganter, & N. Smith. 2021. "The Cumulative Risk of Jail Incarceration." *Proceedings of the National Academy of Sciences* 118(16). doi: 10.1073/pnas.2023429118.

[10] We calculated rates using the following equation: number of individuals receiving the outcome of interest (SRP enrollment or detention at arraignment) divided by the number of those who could have received that outcome. This was all multiplied by 1,000. For rates for specific races and charge severities, rate calculations included only people in that specific subgroup.

[11] To further separate impact of the June and December expansions, we conducted independent samples *t*-tests excluding the weeks from November 2019 onward (November was chosen because large changes in rates began around this time). The observed detention rates and SRP rates remained significantly different pre- and post- implementation.

[12] We also examined the intersection of race and charge severity. There were no notable takeaways. However, these full results can be found in the Appendices.

[13] Redcross, C., M. Skemer, D.G. Collado, I. Rahman, & J. LaChance. 2017. *New York City's Pretrial Supervised Release Program: An Alternative to Bail*. Retrieved from https://www.mdrc.org/publication/new-york-city-s-pretrial-supervised-release-program; Skemer, M., C. Redcross, H. Bloom. 2020. *Pursuing Pretrial Justice Through an Alternative to Bail: Findings from an Evaluation of New York City's Supervised Release Program*. Retrieved from https://www.mdrc.org/publication/pursuing-pretrial-justice-through-alternative-bail.

[14] Rempel, M., & J. Weill. 2021, Op Cit.

[15] Weill, J., A.B. Cissner, & S. Naraharisetti. 2022. *Population Review Teams: Evaluating Jail Reduction and Racial Disparities Across Three Jurisdictions*. New York, NY: Center for Court Innovation.

Appendix A. Time Series Evaluation for Supervised Release Enrollment Rate

			Overall	Black	Latinx	White	Misd.	NVFO	Black Misd.	Black NVFO	Latinx Misd.	Latinx NVFO	White Misd.	White NVFO
Independent Samples t-test	Pre-implementation	M	31.754	35.458	30.998	27.649	19.357	100.969	23.243	106.478	16.497	107.203	19.514	76.004
		SD	6.237	8.197	7.530	11.349	5.019	22.221	6.645	29.477	6.515	29.855	10.368	49.065
	Post-implementation	M	78.334	86.588	70.419	87.665	53.331	171.702	60.858	180.308	45.105	161.845	66.143	183.195
		SD	46.451	49.714	43.966	60.494	33.997	69.353	36.762	72.699	31.720	79.141	49.908	96.159
		t	-6.402	-6.556	-5.714	-6.316	-6.376	-6.424	-6.517	-6.335	-5.736	-4.322	-5.941	-6.853
		df	40.470	40.710	40.766	40.920	40.569	42.702	40.854	44.354	41.103	43.760	41.129	46.957
		Significance (2-tailed)	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
Linear Regression		Constant Coefficient	26.385	28.999	27.449	20.458	15.968	85.564	19.683	86.310	14.453	97.591	12.801	61.369
		Standard error	0.959	1.294	1.287	1.875	0.820	3.613	1.122	4.805	1.139	5.214	1.707	8.592
		Significance	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
		Unstandardized B Coefficient	0.086	0.103	0.057	0.115	0.054	0.246	0.057	0.323	0.033	0.154	0.107	0.234
		Standard error	0.013	0.018	0.018	0.026	0.011	0.050	0.016	0.066	0.016	0.072	0.024	0.119
		Significance	<.001	<.001	0.002	<.001	<.001	<.001	<.001	<.001	0.04	0.035	<.001	0.051
		R-square	0.253	0.212	0.076	0.137	0.156	0.164	0.098	0.160	0.034	0.035	0.143	0.030
		F	41.992	33.358	10.171	19.691	22.853	24.337	13.467	23.586	4.312	4.549	20.709	3.884
		F-test significance	<.001	<.001	0.002	<.001	<.001	<.001	<.001	<.001	0.040	0.035	<.001	0.051[a]
Paired Samples t-test (Post-implementation)	Observed	M	78.334	86.588	70.419	87.665	53.331	171.702	60.858	180.308	45.105	161.845	66.143	183.195
		SD	46.451	49.714	43.966	60.494	33.997	69.353	36.762	72.699	31.720	79.141	49.908	96.159
	Predicted	M	38.941	44.037	35.771	37.248	23.852	121.480	28.005	133.468	9.635	120.075	28.423	95.533
		SD	1.030	1.234	0.683	1.378	0.647	2.947	0.683	3.869	0.395	1.845	1.282	2.803
		t	5.531	5.596	5.109	5.428	5.635	4.794	5.809	4.297	7.096	3.433	4.925	5.954
		df	40.000	40.000	40.000	40.000	40.000	40.000	40.000	40.000	40.000	40.000	40.000	40.000
		Significance (2-tailed)	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	0.001	<.001	<.001
	Difference	M	39.393	42.551	34.648	50.417	29.479	50.222	32.853	46.840	35.470	41.770	37.720	87.662
		SD	45.601	48.686	43.424	59.472	33.497	67.076	36.211	69.797	32.005	77.902	49.042	94.268
		Cohen's d	0.864	0.874	0.798	0.848	0.880	0.749	0.907	0.671	1.108	0.536	0.769	0.930

[a] Note that this regression was only marginally significant.

Appendix B. Time Series Evaluation for Rate of Detention at Arraignment

			Overall	Black	Latinx	White	Misd.	NVFO	Black Misd.	Black NVFO	Latinx Misd.	Latinx NVFO	White Misd.	White NVFO
Independent Samples t-test	Pre-implementation	M	221.402	251.718	214.504	179.274	120.558	411.232	140.295	430.965	112.183	413.443	105.030	390.460
		SD	32.108	36.700	34.990	35.264	24.753	49.548	29.785	59.328	26.216	63.770	27.672	78.384
	Post-implementation	M	161.477	186.107	152.400	129.723	78.390	261.239	92.241	269.313	70.234	265.131	74.938	250.894
		SD	34.050	38.920	36.334	40.577	21.131	86.920	25.943	92.275	22.110	100.952	29.536	105.040
		t	10.227	9.797	9.779	7.525	9.803	10.508	9.248	10.531	9.228	8.850	5.949	7.828
		df	165.000	165.000	165.000	165.000	165.000	48.732	165.000	51.188	165.000	50.788	165.000	55.229
		Significance (2-tailed)	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
Linear Regression		Constant Coefficient	267.172	304.064	259.941	212.463	156.887	477.669	183.591	504.319	146.770	483.737	131.315	434.572
		Standard error	3.160	3.607	4.053	5.238	2.264	5.476	2.796	7.295	2.970	8.675	4.093	13.164
		Significance	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
		Unstandardized B Coefficient	-0.732	-0.838	-0.727	-0.531	-0.581	-1.063	-0.693	-1.174	-0.553	-1.125	-0.421	-0.706
		Standard error	0.044	0.050	0.056	0.072	0.031	0.076	0.039	0.101	0.041	0.120	0.057	0.182
		Significance	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
		R-square	0.694	0.695	0.576	0.302	0.735	0.614	0.721	0.522	0.771	0.415	0.308	0.108
		F	280.808	281.925	168.215	53.755	344.553	197.030	320.929	135.345	181.554	87.894	55.196	15.032
		F-test significance	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
Paired Samples t-test (Post-implementation)	Observed	M	161.477	186.107	152.400	129.723	78.390	261.239	92.241	269.313	70.234	265.131	74.938	250.894
		SD	34.050	38.920	36.334	40.577	21.131	86.920	25.943	92.275	22.110	100.952	29.536	105.040
	Predicted	M	160.300	181.716	153.799	134.937	72.061	322.471	82.413	332.915	66.032	319.487	69.849	331.496
		SD	8.769	10.039	8.709	6.361	6.960	12.734	8.302	14.064	6.624	13.477	5.043	8.457
		t	0.280	0.900	-0.299	-0.915	2.591	-5.190	3.181	-5.054	1.496	-3.856	1.226	-5.196
		df	40.000	40.000	40.000	40.000	40.000	40.000	40.000	40.000	40.000	40.000	40.000	40.000
		Significance (2-tailed)	0.781	0.373	0.766	0.366	0.013	<.001	0.003	<.001	0.143	<.001	0.227	<.001
	Difference	M	1.177	4.391	-1.399	-5.214	6.329	-61.232	9.828	-63.602	4.202	-54.356	5.089	-80.602
		SD	26.883	31.230	29.951	36.501	15.642	75.539	19.780	80.583	17.990	90.270	26.571	99.327
		Cohen's d	0.044	0.141	-0.047	-0.143	0.405	-0.811	0.497	-0.789	0.234	-0.602	0.192	-0.811

SAFETY+JUSTICE
CHALLENGE

Supported by the John D. and Catherine T. MacArthur Foundation