



Research Brief

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CJA is a not-for-profit corporation that provides a variety of criminal justice services under a contract with the City of New York.

CJA staff interview defendants arrested in New York City, make recommendations for pretrial release, and notify released defendants of upcoming court dates. CJA also operates a supervised release program for nonviolent felony clients in Queens.

The Research Department conducts studies addressing a broad array of criminal justice policy concerns. The Research Brief series summarizes the results of some of these studies.

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POST-DISPOSITION RE-ARRESTS OF JUVENILE OFFENDERS

By Marian J. Gewirtz

In accordance with New York State’s Juvenile Offender (JO) Law, youths under age 16 who face serious violent felony charges are brought directly to the adult rather than the juvenile court for prosecution. Most of these youths are charged with robbery in the first or second degree, but the list of eligible charges also includes murder, manslaughter, rape, burglary, and weapons offenses. Previous research conducted by CJA documents extremely high rates of recidivism among the youths processed as JOs.

The current research follows up on an earlier study summarized in *Research Brief #38*. That study examined pretrial and post-disposition re-arrests. Here we focus only on post-disposition re-arrests.

We examine re-arrest rates as well as the severity and timing of the re-arrest, and whether the re-arrest led to a conviction.

For JOs who recidivate, what are the characteristics of the re-arrest?

We also explore the hypothesis that conviction increases the risk of re-arrest.

Are youths convicted in JO cases at greater risk of re-arrest than their counterparts who were not convicted?

Multivariate analyses were used to identify predictors of re-arrest, and to assess whether the outcome of the original JO case affected the likelihood of recidivism.

This *Research Brief* is adapted from *Post-Disposition Re-Arrests Of Juvenile Offenders (2016)* by Marian J. Gewirtz

The full report is available on CJA’s web site: www.nycja.org/library.php

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New York: New York City Criminal Justice Agency, Inc.

The mission of the New York City Criminal Justice Agency, Inc., is to assist the courts and the City in reducing unnecessary pretrial detention.

Who is a Juvenile Offender (JO)?

In New York City, if a person is arrested for any one of sixteen serious offenses and is 13, 14 or 15 years old at the time of the offense (13 only if charged with murder), the case is sent for review to the District Attorney’s office in the borough in which the incident occurred. The prosecutor decides if there is sufficient evidence to support the filing of JO charges, and if there is adequate evidence, the juvenile is processed in the adult court. The JO offenses are enumerated in the box below.

It is important to note that convictions for juvenile offenders cannot take place in the Criminal Court, which in New York is the misdemeanor court, because juveniles can be held criminally responsible only for one of the felony offenses covered under the JO law. Felonies must be adjudicated in the Supreme Court, or removed to the Family Court. The cases cannot be disposed by conviction at the misdemeanor level in Criminal Court because juveniles in these cases would no longer be JOs and therefore would not be subject to adult prosecution. The only final dispositions in Criminal Court for JO cases are dismissal or transfer to Family Court. The JO case may be transferred to the Family Court for prosecution at any point in case processing, but most transfers are from the Criminal Court. Similarly, any case can be dismissed from either the Criminal Court or Supreme Court, but most JO cases that are dismissed are dismissed in the Criminal Court.

**Felony Offenses
Covered Under the JO Law**

- Aggravated sexual abuse in the first degree
- Arson in the first degree
- Arson in the second degree
- Assault in the first degree
- Burglary in the first degree
- Burglary in the second degree
- Criminal sexual act in the first degree
- Kidnapping in the first degree
- Attempted kidnapping in the first degree
- Possession of a weapon in the second degree
- Manslaughter in the first degree
- Murder in the second degree
- Attempted murder in the second degree
- Rape in the first degree
- Robbery in the first degree
- Robbery in the second degree

The Research File and Analytic Procedures

The research was conducted on a defendant-based file containing 2,841 juveniles who were arraigned in the Criminal Court between January 2007 and December 2014, whose cases reached final disposition in the adult court as of December 2014, and who were at risk post-disposition. (See “Calculating Time At Risk” below.) In the event that a juvenile had more than one JO case arraigned during that period, only the earliest case was selected for inclusion.

This report describes the timing and severity of re-arrests after disposition. We also present data examining possible correlations between re-arrest and ethnicity, and between re-arrest and prior arrest history. The focus is on assessing whether re-arrest rates vary by the type of outcome for the initial JO case, and for that we used Cox multivariate proportional hazards analyses to examine the predictors of re-arrest, controlling for a variety of other relevant factors.

Calculating Time At Risk

Time at risk is calculated from the date of disposition for cases that were dismissed, acquitted or transferred to the Family Court. Among juveniles who were convicted, the at-risk date is the first date after disposition that the juvenile was at risk. That date may be the date of release at disposition, between disposition and sentencing, at sentencing or after sentencing.

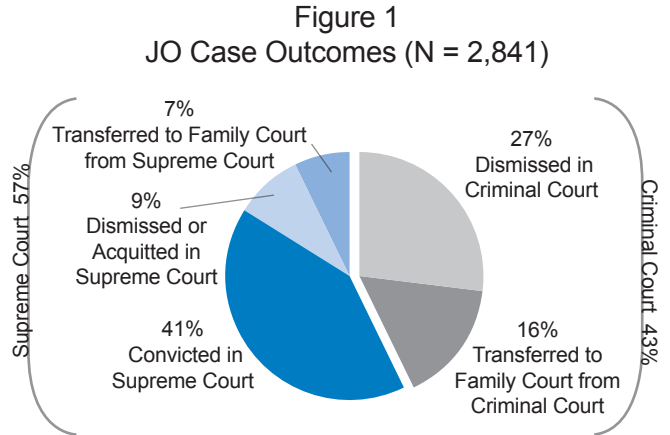
Juveniles who were sentenced to probation, conditional discharge, or time served prior to sentencing were considered at risk as of the date of sentencing if they were not already released prior to sentencing. For juveniles who were sentenced to imprisonment, we estimated the date of release. The estimate, based on the length of sentence (adjusted for time in detention prior to sentencing), seems reliable when the juvenile was given a maximum of one year. We excluded 270 juveniles who were not released prior to sentencing who received longer sentences or sentences that ranged from a minimum to a maximum because we could not reliably estimate their time at risk.

More than nine of every ten juveniles in this research were at risk as of the disposition of the initial JO case and the remaining youths were at risk after conviction, sentencing, or serving a sentence of up to one year. Time at risk ranged from just a few days to nearly eight years.

CASE OUTCOMES OF THE INITIAL JO CASE

Most of the JO cases were disposed in the Supreme Court (57%, Figure 1). The most common disposition was conviction, by plea or at trial, in the Supreme Court (41%), although trials are rare in NYC. Transfers to the Family Court (7%) and dismissals (9%) were uncommon in the Supreme Court. Sixteen cases resulted in acquittal after trial (not shown).

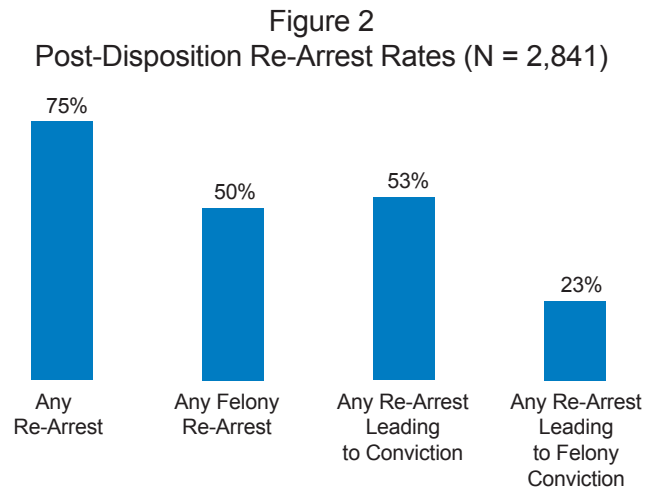
The remaining 43% of the JO cases reached their final adult-court disposition in the Criminal Court. More than a quarter were dismissed and 16% were transferred to the Family Court from the Criminal Court.



OVERVIEW OF POST-DISPOSITION RE-ARREST RATES

Re-arrest is defined here as an arrest in NYC for an offense committed after the initial JO case reached disposition. An arrest during the time the juvenile was in custody and not at risk is not considered a re-arrest. The re-arrest may be prosecuted in the adult court or the Family Court.

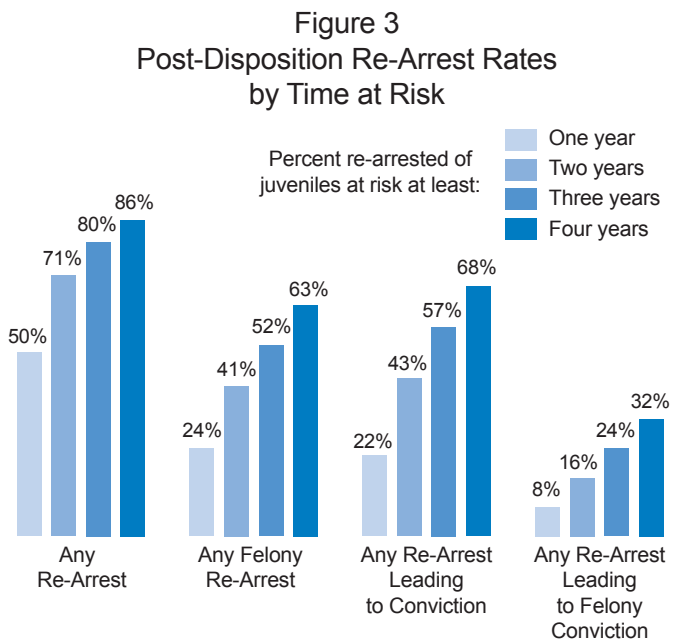
Three quarters of the juveniles were re-arrested and half of the juveniles were re-arrested for a felony offense after their initial JO case reached final disposition in the adult court (Figure 2). More than half (53%) of the juveniles who were at risk for re-arrest were convicted in at least one of the re-arrests after disposition and nearly a quarter (23%) were convicted of a felony in at least one of the re-arrests.



POST-DISPOSITION RE-ARREST RATES BY TIME AT RISK

The re-arrest rates presented in Figure 3 control for the varying amounts of time juveniles were at risk. Nearly all of the 2,841 juveniles in the research were at risk for re-arrest for a year after disposition of their initial JO case, or were re-arrested within the year (2,677, or 94%; not shown). The 2,677 base for the one-year re-arrest rate is comprised of the 1,339 juveniles re-arrested within one year and the 1,338 who were at risk at least one year but not re-arrested that quickly. The one year re-arrest rate is 50% of the 2,677 who were either re-arrested within one year or were at risk at least that long.

Within one year at risk after disposition, 24% were re-arrested for a felony-level offense, 22% were re-arrested for any offense that resulted in conviction, and 8% were re-arrested for an offense that resulted in a felony conviction. The four-year re-arrest rates were 86%, 63%, 68%, and 32% respectively.



RE-ARREST CHARGE & SEVERITY

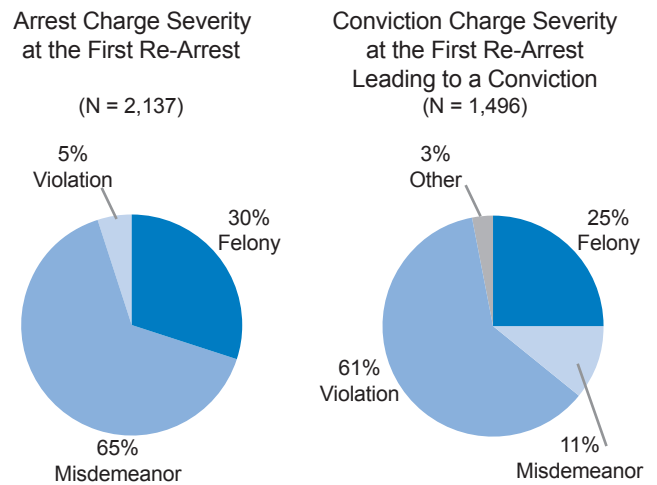
Most of the charges at the first re-arrest were misdemeanors (65%, Figure 4), although the first re-arrest was a felony for three of every ten JOs who were re-arrested.

Nearly one in five of the first re-arrests was for theft of services (PL 165.15), commonly turnstile jumping, and 14% were marijuana offenses including 11% for possession of marijuana (PL 221.10, data not shown).

Most of the first re-arrests that led to conviction were convictions at the violation level, predominantly disorderly conduct (PL 240.20), which is not a criminal offense. A quarter of the first re-arrests that led to conviction were felony convictions and 11% were misdemeanor convictions.

Robbery charges were the most common charge at the first felony arrest (39%) and at the first re-arrest leading to a felony conviction (52%, data not shown).

Figure 4
Charge Severity for Re-Arrests



DAYS TO RE-ARREST BY OUTCOME OF THE INITIAL JO CASE

Some juveniles were re-arrested very quickly. Nine juveniles were re-arrested within a day of their release after the disposition of their JO case, five of them for a felony. Nearly 2% (35 juveniles) were re-arrested within a week, including 13 re-arrested for a felony (data not shown).

The median number of days at risk to the first re-arrest was 257, compared to a median of 414 days to the first felony re-arrest, 482 days to the first re-arrest leading to a conviction and 624 days to the first re-arrest that resulted in a felony conviction (Figure 5).

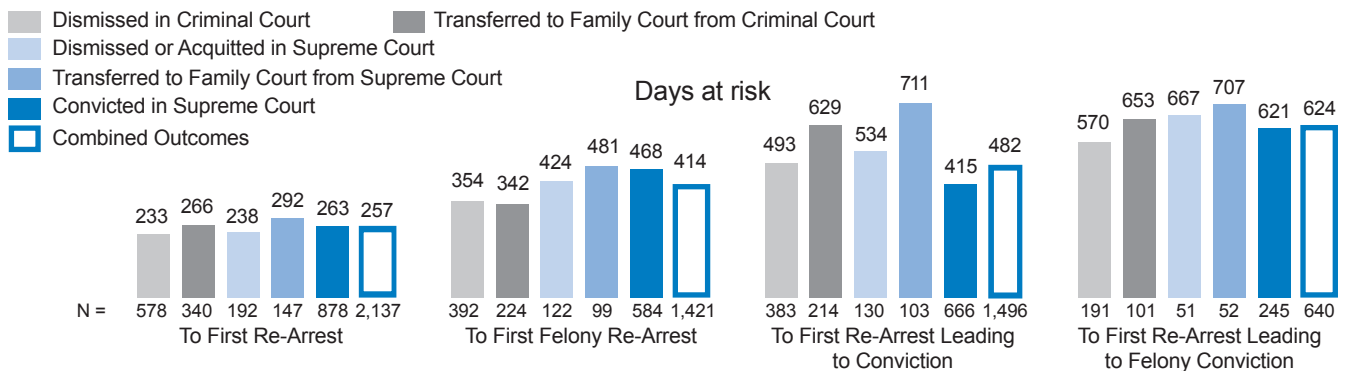
The median number of days at risk to the first re-arrest was lowest for the juveniles whose cases were dismissed in the Criminal Court (233) or the Supreme Court (238) and longest for those whose

cases were transferred to the Family Court from the Supreme Court (292). It is likely that some of the youths whose cases were transferred to the Family Court were not actually at risk as of their date of disposition but were detained as juvenile delinquents for some time pending the outcome of their cases in the Family Court, so the time at risk for these cases may be somewhat overstated.

Of the outcomes presented in Figure 5, the median time at risk to re-arrest was longest for the juveniles whose cases were transferred to the Family Court from the Supreme Court for all four types of re-arrest.

On the other hand, the juveniles whose cases were dismissed in the Criminal Court showed the shortest or second shortest time to re-arrest.

Figure 5
Median Number of Days At Risk Post Disposition to Re-Arrest by Outcome of the Initial JO Case



RE-ARREST BY SELECTED DEFENDANT AND CASE CHARACTERISTICS

Figure 6 presents re-arrest rates by defendant demographics, criminal history, and case characteristics. The re-arrest rates presented here are for re-arrest leading to conviction. Results were similar for the other three re-arrest types analyzed in this research (data not shown).

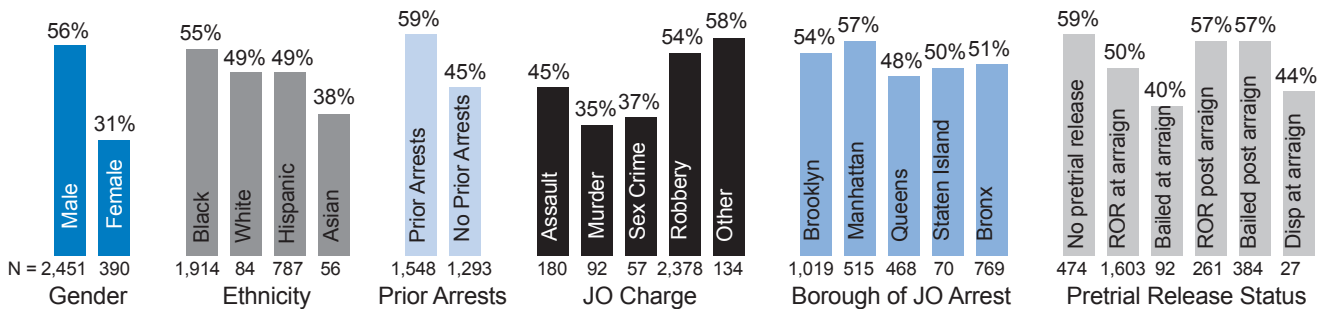
Re-arrest rates were higher among males (56%), blacks (55%), and juveniles with prior arrests (59%).

Re-arrest rates also varied by the initial JO arrest charge. Re-arrest was less common among the juveniles who faced murder charges (35%) or sex offenses (37%), more common among those charged with assault (45%), and most common among those charged with robbery (54%) or other JO offenses (58%).

The borough of the initial arrest had no consistent effect on re-arrest. Manhattan had the highest rate of re-arrest leading to conviction (57%), but the ranking of the boroughs varied by the type of re-arrest.

Re-arrest rates varied widely by the pretrial release status of the juveniles in the initial JO case. The small group who posted bail at arraignment had the lowest re-arrest rate (40%), and those who were not released prior to disposition had the highest (59%). The largest category, juveniles who were released on their own recognizance at arraignment, had a below average re-arrest rate (50%), while those who were released on recognizance after arraignment had an above average re-arrest rate (57%). (The average, 53%, is shown in Figure 2.)

Figure 6 Rate of Re-Arrest Leading to Conviction by Selected Defendant and Case Characteristics



RE-ARREST POST DISPOSITION BY OUTCOME OF THE INITIAL JO CASE

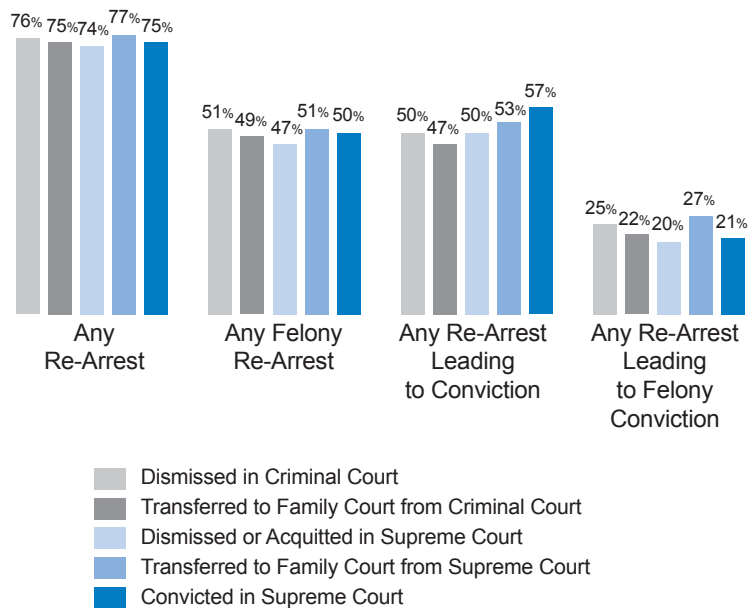
Re-arrest rates generally varied little by the outcome of the initial JO case, although there are some exceptions (Figure 7). The proportion re-arrested within each outcome group was within two percentage points of the 75% combined rate for any re-arrest.

The felony re-arrest rates were all within a few percentage points of the 50% combined rate for those with any felony re-arrest.

The rate of re-arrest leading to a conviction showed the widest range, from 47% among juveniles whose cases were transferred to Family Court from the Criminal Court to 57% among those who were convicted.

Finally, the rate of re-arrest that resulted in a felony-level conviction ranged from 20% among juveniles whose initial JO case resulted in dismissal or acquittal in Supreme Court to a high of 27% among the juveniles whose initial JO case was transferred to the Family Court from the Supreme Court.

Figure 7 Re-Arrest Post Disposition by Outcome of the Initial JO Case



SUMMARY OF MULTIVARIATE ANALYSES OF RE-ARREST

Using Cox regression analyses, we created four multivariate models predicting the hazard of re-arrest, one for each measure of re-arrest. The models estimate the hazard of re-arrest for juveniles whose initial JO arrest ended in conviction, compared to other outcomes, controlling for the effects of demographics, criminal history, and case-related factors.

Figure 8 presents the model predicting the time to the first re-arrest leading to a conviction. Results for the other three models were similar (not shown).

Bars represent hazard ratios, which express the relative odds of a juvenile in a group being re-arrested more quickly than a juvenile in the reference group. A hazard ratio of 1.000 is assigned to the reference group (gray bars): longer bars indicate a greater hazard, compared to the reference group; shorter bars indicate a reduced hazard. All the hazard ratios presented in this model were statistically significant.

The findings indicate that ju-

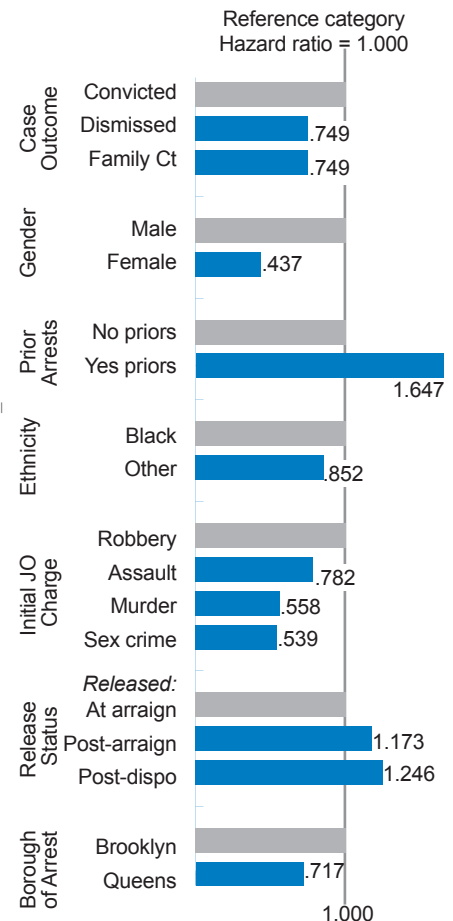
veniles whose cases were dismissed or transferred to the Family Court (combining the outcomes across the Criminal and Supreme Courts) were at an equally reduced hazard of re-arrest leading to conviction compared to their counterparts who were convicted in their initial JO case.

This finding was not uniform in all the models: the outcome of the JO case was not a statistically significant predictor of the hazard of either the first re-arrest or the first felony re-arrest; and transfer to Family Court was associated with greater hazard of re-arrest in the model predicting re-arrest leading to a felony conviction (not shown).

Other factors associated with a reduced hazard of re-arrest leading to conviction were being female, non-black, being charged with certain crimes other than robbery, and being prosecuted in Queens.

Factors associated with a greater hazard of re-arrest leading to conviction were a prior arrest and being detained at arraignment.

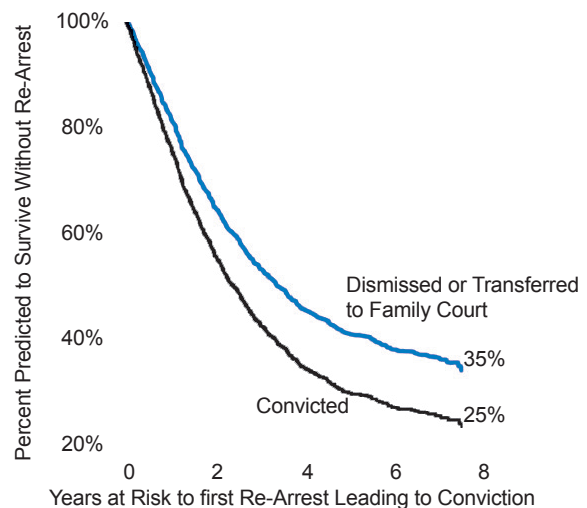
Figure 8
Cox Regression Model
Predicting Time to First
Re-Arrest Leading to Conviction



The survival curves displayed in Figure 9 graphically illustrate the probability of the juveniles in the study surviving without failure (re-arrest) by the number of years at risk, separately by case outcome. The impact of all of the variables entered in the model is reflected in the survival curves.

At time equal to zero, 100% of all the juveniles survived, that is, had yet to be re-arrested for a case that resulted in a conviction. As time at risk elapsed, the predicted probability of surviving without re-arrest declined to 25% for juveniles who had already been convicted (lower line) and to 35% for those who had not been convicted. Those whose cases were dismissed and those whose cases were transferred to the Family Court are represented by the same curve (upper line) because, as we have seen, the hazard ratios for these two groups were identical. Their probability of survival was significantly higher than for the convicted group.

Figure 9
Probability of Surviving Without Re-Arrest Leading to Conviction, by JO Case Outcome



SUMMARY AND CONCLUSIONS

Juveniles who were convicted in their initial JO case had the highest hazard of re-arrest leading to conviction but the hazard ratio for convicted youths was not significantly different from the hazard ratio for other youths in the models predicting the time to the first re-arrest or the first felony re-arrest. In the model predicting re-arrest leading to a felony conviction, the hazard ratio was highest for juveniles whose cases were transferred to Family Court.

We can only speculate why case outcome has no effect in the re-arrest and felony re-arrest models or why the effect of the disposition is so different in the conviction and felony-conviction models. Perhaps re-arrest is so common among youths already processed in the adult court for a serious felony that the initial disposition makes no difference and the distinction between any re-arrest and a felony-level re-arrest is not an important difference.

On the other hand, the greater hazard of re-arrest leading to re-conviction among those already convicted may reflect the ways in which those who are convicted continue criminal behavior patterns, patterns that may have already contributed to their initial conviction. The finding that juveniles who were convicted were more likely to be re-arrested and re-convicted, and more likely to be re-arrested quickly, may indicate that conviction in a JO case reflects serious criminal behaviors that persist beyond the initial conviction. Re-arrest leading to re-

conviction may also reflect policing policies such as “stop and frisk.” However, it is not clear why youths whose cases are transferred to Family Court have a higher probability of re-arrest leading to felony conviction compared to those who were already convicted. We don’t know enough about processing and outcomes in Family Court for cases that began in the adult court.

We have seen that the first re-arrest leading to a conviction was likely to be a conviction for a relatively minor offense at the violation level. Perhaps the finding that conviction in the initial JO case is associated with a higher hazard of re-arrest leading to a conviction, although statistically significant at the highest level, is not very important, since most of the first convictions after disposition were not for very serious offenses.

The multivariate recidivism models may not be the most salient product of this research. This project found a high rate of re-arrest leading to conviction (53%) and, even more importantly, an extremely high rate of re-arrest leading to conviction at the felony level (23%). Furthermore, these measures of recidivism are underestimated since so many of the juveniles in recent JO cases had less than the maximum number of years at risk. If all of the juveniles had the maximum time at risk after disposition, it is likely that re-arrest rates would be higher, as would rates of re-arrest that resulted in conviction and in felony-level conviction.

POLICY IMPLICATIONS

The findings of this research suggest three kinds of policy implications.

The first is the need to learn more about case processing in the Family Court and why the Family Court cases showed such a high hazard of the most serious recidivism, re-arrest leading to a felony conviction.

The second concerns the need to reconsider the use of re-arrest as a criterion of success or failure in criminal justice program evaluations. Many re-arrests do not result in conviction, and those that do, often end with a conviction for a violation or infraction, which are not “criminal” convictions. Furthermore, some re-arrests reflect policing policies as much as youth misbehavior.

The third kind of policy implication is one that has persisted across the findings of all of the research conducted at CJA on recidivism among youths processed as juvenile offenders. Specifically, these youths who are already charged with serious violent offenses under the age of 16 are at a high risk for re-arrest and for felony-level re-arrest. While re-arrest may reflect over-policing, the current research documents extremely high rates of re-arrest that result in convictions and especially in felony convictions, and conviction at the felony level reflects serious criminal behavior. These youths warrant concerted attention from the NYC criminal justice and child welfare communities to address their recidivism.

No. 41 (September 2016)
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TO:

No. 41 (September 2016)
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Forthcoming: Reducing Unnecessary Pretrial Detention: CJA's Manhattan Supervised Release Program
No. 42 (January 2017)
by Freda F. Solomon, Ph.D. and Russell F. Ferri, Ph.D.

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- No. 39 (February 2016) *Re-Arrests of Homeless Defendants in NYC* (Peterson)
- No. 38 (October 2015) *Juvenile Offenders: Re-Arrest and Court Outcomes* (Gewirtz)
- No. 37 (May 2015) *Arrested and Homeless in NYC* (Peterson)
- No. 36 (January 2015) *Impact of the Queens Supervised Release Program on Legal Outcomes* (Solomon)
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- No. 32 (May 2013) *Queens Supervised Release: A Brief Program Description* (Curbelo et al.)