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RESEARCH

The Criminal Justice Response to 16- and 17-Year-Old Defendants in New York

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Executive Summary

New York is one of two states, along with North Carolina, that defines 16- and 17-year-old defendants as criminally responsible adults. New York's policy exposes these young defendants to lasting collateral consequences, including the possibility of a criminal conviction, incarceration, and lifetime reductions in employment prospects and earnings. In the fall of 2011, New York State's Chief Judge, Jonathan Lippman, proposed legislation promoting a more age-appropriate approach to these defendants. In April 2014, Governor Andrew Cuomo appointed a Commission on Youth, Public Safety, and Justice that will study different options and submit statewide policy recommendations by the end of the year.

Chief Judge Lippman also created the Adolescent Diversion Program (ADP) in 2012, an initiative put into effect in nine of New York's 62 counties, which seeks to adopt an age-appropriate approach within the legal confines of the adult criminal court system. With funding from the New York Community Trust, a previous research report described the policies of all nine ADP sites and tested the effects of ADP participation on case dispositions, sentences, and re-arrests over a six-month tracking period (Rempel, Lambson, Cadoret, and Franklin 2013).

The current study extends the re-arrest tracking period for Year One ADP participants to at least one year; provides a new analysis of the impact of the ADP initiative among those enrolled in Year Two; and examines 16- and 17-year-old defendant characteristics, case dispositions, sentences, and risk factors for re-arrest across the entire state. The goal of the research is to help inform deliberations as the judicial, legislative, and executive branches seek to improve justice for adolescents in New York State.

Statewide Findings

These findings document standard practice across all 62 counties of New York State. The findings are based on a sample composed of all 16- and 17-year-old defendants statewide who were arrested on felony or misdemeanor charges in 2011.

Defendant Background Characteristics

- Demographics: A majority of the defendants were male (77%), 17 years of age (55%), and arrested in New York City (60%). While racial/ethnic composition varied by region, 48% of defendants statewide were black, 26% were Hispanic, 23% were white, and 3% were from other racial/ethnic backgrounds.

- Criminal Involvement: Most defendants were arrested on misdemeanor charges (76%), with 12% arrested on a nonviolent felony and 12% on a violent felony. Four in ten had a prior arrest, 19% had a prior felony arrest, and 6% had a prior criminal conviction or youthful offender (YO) finding. (A YO finding enables 16- or 17-year-old defendants who have pled guilty to avoid a permanent criminal record.) A small proportion (15%) of defendants had a warrant issued for failure to appear on a scheduled court date.

Use of Criminal Penalties

- Criminal Conviction: Eight percent of cases ended in a criminal conviction and permanent record (5% in New York City, 9% in the suburbs, and 14% in upstate).

- Pled Guilty Outcomes: When combining criminal convictions with YO findings and non-criminal violation-level convictions, 42% of cases pled guilty or were convicted of some charge (34% in New York City and more than half in both the suburbs and upstate).

- Use of Incarceration: Nine percent of cases were sentenced to jail or prison (6% in New York City and just over 10% in all other regions).

- County Differences: Whereas case outcomes varied relatively little amongst the five boroughs of New York City, across the 57 other counties of the state, the results point to significant county-to-county variations (detailed in the body of this report).

- Background Factors Predicting More Severe Penalties: The severity of the charge substantially increased the likelihood of a conviction and of a jail sentence. For example, 4% of misdemeanor cases compared to 16% of nonviolent felonies and 19% of violent felonies ended in a criminal conviction and permanent record. In addition, those with a *prior* conviction or YO finding were also especially likely to receive a permanent criminal conviction, reflecting the impact of current state laws, which restrict the use of a YO in lieu of a criminal conviction in many cases when the defendant had already received a YO on a prior case. Prior arrests and male sex were also significantly associated with a receiving more severe criminal penalties on the current case. Black or Hispanic race/ethnicity was significantly associated with receiving a jail or prison sentence, after controlling for other known background characteristics.

Risk Factors for Re-Arrest

- Primary Risk Factors: The defendant characteristics that were most predictive of re-arrest over a two-year tracking period were: (1) the number of prior arrests (0, 1, or 2 or more); (2) male sex; and (3) having a warrant issued for failing to show at a scheduled court date. For example, defendants who lacked priors, were female, and did not warrant had a two-year re-arrest rate of 13% (with only 2% re-arrested for a violent felony); on the other end of the spectrum, defendants who had two or more priors, were male, and warranted had a re-arrest rate of 88% (with 37% re-arrested for a violent felony). These differences illustrate that risk of re-offense can be predicted based on a small number of static background factors.

- Other Key Risk Factors: Other significant, though less powerful, factors associated with re-arrest included: felony arrest charge on the current case; charges other than petit larceny (which is a particularly low-risk charge); and a black or Hispanic race/ethnicity.

- Predicting Violent Felony Re-Arrest: For the most part, the same factors that influenced the likelihood of *any* re-arrest also influenced the likelihood of a *violent felony* re-arrest. Two key exceptions: Although they significantly predicted both outcomes, male sex and black/African-American race/ethnicity were *especially* powerful predictors of a violent felony re-arrest. Also, having a violent felony charge on the current case was *not* more strongly associated with a violent felony re-arrest than having a nonviolent felony charge on the current case—and in general, charge severity was a weaker predictor of future violence than, for example, the number of priors at *any* charge level or male sex.

- Impact of Conviction and Incarceration: Convicting 16- or 17-year-old defendants of a crime or sentencing them to jail or prison did not deter future re-arrest; to the contrary, sentencing them to jail or prison modestly *increased* the likelihood of subsequent re-arrest for a violent felony. This latter finding should be interpreted with caution, given limitations in available data. At a minimum, however, the data suggests that sentencing 16- and 17-year-old defendants to jail or prison may not be helpful from a public safety standpoint.

The Adolescent Diversion Program

The Adolescent Diversion Program (ADP) was implemented in nine counties: the five boroughs of New York City, Nassau, Westchester, Onondaga, and Erie. In the latter three counties, the initiative was limited to the Mount Vernon, Syracuse, and Buffalo City Courts respectively. Program impacts were studied for two waves of participants in those sites with sufficient volume to support a rigorous analysis. Wave One included participants enrolled January to June 2012 in six sites (Bronx, Brooklyn, Manhattan, Queens, Nassau, and Erie). Wave Two included participants enrolled January to June 2013 in nearly the same sites (with Queens removed and Onondaga added). Participants in each wave were propensity score matched to separate comparison samples, each drawn from similar cases arraigned prior to implementation (January to June 2011). The available recidivism timeframe was at least one year for Wave One and at least six months for Wave Two. The current study compared case dispositions only for Wave Two, since the prior evaluation had analyzed Wave One dispositions (Rempel et al. 2013).

Program Policies

- Eligibility: Misdemeanors are ADP-eligible in all nine counties. Some felonies are eligible in Nassau and Erie; and non-criminal violations are eligible in Nassau, Erie, and Onondaga. Across all nine counties combined, most eligible cases (85% in Year One) do *not* participate, whether because the criminal case is disposed forthwith at arraignment; the prosecutor or judge apply case-by-case discretion to rule out participation; the defendants and their attorneys decline to participate (which is their option); or other reasons. However, in Nassau and Erie Counties, more than six in ten eligible cases in fact become ADP participants. Contributing to its comparatively high rate of ADP enrollment, Nassau implemented an evidence-based universal screening protocol with all 16- and 17-year-old defendants, excepting only those facing violent felony charges.

- Diversion: All nine sites link participants to age-appropriate services. Seven of the nine sites divert at least some participants to services *prior* to a guilty plea or other disposition, and all sites ensure that those who complete services avoid a criminal conviction.

Case Volume

- Total Participation: Through June 30, 2013 (over the first 18 months of implementation), 4,401 cases became ADP participants. Nearly two-thirds of these participants (64%) came from three counties: Nassau (1,286), Erie (806), and the Bronx (724).

- Trends: Total enrollment was almost identical when comparing the first six months of 2012 (1,531) to the first six months of 2013 (1,522). Some sites, however, saw significant changes, with enrollment increasing by more than a third in the Bronx, Manhattan, and Onondaga and decreasing by more than a third in Queens and Staten Island.

Impact on Criminal Penalties

- Criminal Convictions: Primarily because most counties limit ADP participation to misdemeanants, only 3% of both ADP participants and matched comparison defendants received a criminal conviction and permanent criminal record.

- Guilty Pleas or Convictions: ADP participants were significantly less likely than the comparison group to plead guilty (29% v. 34%). This category encompasses criminal convictions, YO findings, and violation convictions. ADP participation significantly reduced guilty pleas in Nassau (10% v. 34%).

- Jail Sentences: Rates of jail were low for both samples. ADP participants were jailed more often than comparison defendants, approaching statistical significance (5% v. 3%); but this was due entirely to the use of jail in Erie County. When Erie County was removed from the analysis, ADP participation significantly *reduced* the use of a jail or prison sentence (1% v. 3%). Among other specific sites, the Nassau and Bronx ADP initiatives both significantly *reduced* the rate of jail sentences.

Impact on Recidivism

- Impact on Re-Arrest: The ADP initiative did not jeopardize public safety. For Wave One, the one-year re-arrest rate was statistically identical between ADP and comparison cases (33% v. 34%), and the number of crime-free days was statistically identical over a longer tracking period, extending to 18.9 months. For Wave Two, over a shorter six-month timeframe, there was also no statistically significant difference in re-arrest rates.

- Impact on Felony and Violent Felony Re-Arrest: The samples also did not differ on other re-arrest measures, with one exception: In Wave Two, ADP participants were significantly less likely than comparisons to have a felony re-arrest (7% v. 9%) and a violent felony re-arrest (3% v. 5%) over six months. The Bronx ADP site consistently reduced both felony and violent felony re-arrests over multiple timeframes.

- Effect of Defendant Risk Level: Among the *highest-risk* defendants—those who were especially predisposed to re-offend at baseline—ADP participants in Wave One were re-arrested significantly *less* than comparisons after one year (52% v. 61%). Conversely, among the *lowest-risk* defendants, ADP participants were re-arrested more than comparisons, approaching statistical significance (14% v. 9%). The net ADP-driven reduction in violent felony re-arrests resulted exclusively from reducing such re-arrests among the highest-risk defendants. Among the seven sites studied, the Bronx, Brooklyn, and Queens served the highest-risk populations; and indeed, although not all effects were statistically significant, the results in those three sites generally tended to be the most favorable. These findings all support the Risk Principle, which is based on prior research and holds that criminal interventions work best with high-risk individuals and can have counter-productive effects with low-risk individuals (Andrews and Bonta 2010; Lowenkamp and Latessa 2004; Lowenkamp, Latessa, and Holsinger 2006).

Conclusion and Policy Implications

In 2011, 8% of New York's criminal cases involving 16- and 17-year-old defendants ended in a criminal conviction, and an overlapping 9% ended in a jail or prison sentence. When translated into real numbers, more than 3,100 cases statewide ended with a permanent criminal record and more than 3,500 with an incarceration sentence. These penalties were far more common among felony than misdemeanor cases; and they varied significantly by region and county. Policymakers will have to weigh multiple considerations when developing legislative proposals, but the evidence points to potential benefits of a new approach, particularly for high-risk defendants. Possible implications suggested by this research include:

- Extend Reforms to Felony Defendants: Limiting reforms to misdemeanor defendants will have a minimal effect on reducing criminal conviction and incarceration rates, since the statewide analysis demonstrated that only 4% of misdemeanor defendants receive a criminal conviction and only 4% receive a jail or prison sentence. If the goal is to reduce the long-term harms to employment prospects and other life outcomes that result from a criminal record, reform should include felony defendants.

- Assess Defendant Risk: This study was able to construct a powerful statistical model for predicting each defendant's risk of re-offending. Moreover, validated screening and assessment tools are now widely available to practitioners. They are, for example, currently integrated into the Nassau ADP, whose approach could serve as a model for other counties. Use of screening and assessment tools can indicate who is at high- and low-risk for re-offense as well as the specific service needs of both groups.

- Focus on High-Risk Defendants: Diversion to services is particularly effective for high-risk youth, whereas diversion may be counter-productive for low-risk youth. The case for linking high-risk youth to services in lieu of traditional penalties is strengthened by the statewide analysis, which indicates that convicting 16- and 17-year-old defendants, or sentencing them to jail or prison, does *not* deter future crime.

- Avoid Over-Programming Youth: It is particularly important to minimize the use of intensive interventions with low-risk youth. Consistent with prior criminal justice research, this study did not find that intensive services reduced re-offending amongst low-risk youth and, in fact, the results pointed to somewhat increased re-offending among low-risk youth who were ordered to diversion services.

- Local Discretion: Current case dispositions and sentences vary a great deal across state regions and counties. Policy reforms that allow for high levels of local discretion may yield different results at the local level. Local discretion may be helpful—indeed, the ADP experience shows that some local counties will identify and test model practices. Yet, the benefits of local experimentation and adaptation must be weighed against the benefits of statewide uniformity. Without a uniform approach, the current situation is likely to continue: disparate outcomes for comparable cases depending on where a young person lives.

Chapter 1
Introduction

Since the Family Court Act passed in 1962, New York State has set the age of adult criminal responsibility at 16 years. Along with North Carolina, New York is one of only two states in the country that handles 16- and 17-year-old defendants in adult criminal courts rather than within the juvenile justice system. Accordingly, in the fall of 2011, Chief Judge Jonathan Lippman called on New York policymakers to pass reform legislation. In January 2014, Governor Andrew Cuomo followed suit and announced plans to appoint a Commission on Youth, Public Safety, and Justice. The Commission would study different policy options and, by the end of 2014, submit a proposal for changing how 16- and 17-year-old defendants are handled. Possible options include moving some or all of these defendants to the juvenile justice system or creating new, age-appropriate diversionary procedures in the adult system.

While awaiting legislative action, Chief Judge Lippman also created the Adolescent Diversion Program (ADP), a pilot initiative operating in nine of New York's 62 counties. The initiative seeks to handle 16- and 17-year-old defendants in age-appropriate ways within the legal confines of the current adult criminal court system. The ADP initiative opened on January 17, 2012 in the five boroughs of New York City, the suburban counties of Nassau and Westchester, and the western New York counties of Erie and Onondaga. With specific eligibility criteria varying by county, the program is generally available to defendants facing misdemeanor charges. It is purely voluntary, with eligible youth able to decline participation if they so choose. Most of the sites operate county-wide, although the Westchester, Erie, and Onondaga sites operate only in the respective city courts located in Mount Vernon, Buffalo, and Syracuse.

With funding from the New York Community Trust, the Center for Court Innovation evaluated ADP policies and early program impacts over the first six months of operations, for cases enrolling from inception through June 30, 2012. The major findings were that 15% of technically eligible 16- and 17-year-old cases actually became ADP participants; more than four in five of these participants were arraigned on misdemeanor charges; ADP participation did not significantly change the likelihood of a guilty plea or jail sentence relative to a matched comparison group; and ADP participation did not change the likelihood of re-arrest on any charge but significantly reduced the likelihood of felony or violent felony re-arrest over six months. In addition, ADP participation was particularly beneficial in reducing the re-arrest rates of defendants who posed a high risk of re-arrest at baseline; ADP participation increased re-arrest rates for low-risk defendants (details in Rempel et al. 2013).

The current research extends the prior recidivism analysis to a one-year tracking period; includes a new impact analysis drawing on an ADP sample enrolled in Year Two of the initiative; and presents a statewide analysis of 16- and 17-year-old defendant characteristics, case dispositions, sentences, and re-arrest rates over two years. The statewide analysis is not limited to the nine sites involved in the ADP initiative. The purpose of this research project is to help inform legislative proposals.

Research Questions

The current research seeks to answer the following research questions with respect to 16- and 17-year-old defendants in New York State.

1. Statewide Findings: What is the distribution of defendant background characteristics (demographics, charges, and criminal history), case dispositions, and sentences statewide and by region? Which defendant characteristics are associated with a greater or lesser likelihood of a severe criminal penalty (e.g., criminal conviction or incarceration)? Which characteristics comprise significant risk factors for re-arrest?

2. Impact of the ADP Initiative on Criminal Penalties: Does the ADP initiative reduce the percentage of defendants who receive a criminal conviction; are otherwise adjudicated as guilty (via a youthful offender finding or violation conviction); or are sentenced to jail?

3. Impact of the ADP Initiative on Recidivism: Does the ADP initiative jeopardize public safety by increasing re-arrest rates for any crime, felony crime, or violent felony crime?

4. Moderating Effect of Defendant Risk Level on Program Impact: Does the relative impact of ADP participation on recidivism vary for high-risk youth—those who are predisposed to re-offend in the first place—as opposed to low-risk youth?

Answers to these questions are produced through three research strategies, respectively reported in Chapters 2, 3, and 4. First, we examine defendant characteristics, case outcomes, and risk factors for re-arrest among 16- and 17-year-old defendants arraigned in 2011 statewide, including all 62 counties. Second, concerning the ADP initiative, we extend the re-arrest tracking period to at least one year for all defendants whose re-arrest outcomes had been tracked over six months in the previously published ADP evaluation. Third, we analyze impacts among ADP participants who enrolled in Year Two of the initiative to determine whether recent changes in program policies may have led the nature of ADP impacts to change as well.

Background: The Prosecution of Defendants Ages 16 and 17 in New York

Each year in New York State (NYS), 40,000 to 50,000 16- and 17-year-olds are arrested and prosecuted as adults. By comparison, youth ages 15 and younger are handled in the juvenile justice system. Through a diversion mechanism known as "adjustment," many of these younger defendants avoid formal prosecution and court involvement. When these youth are prosecuted in court, the juvenile justice system is statutorily required to make decisions in the "best interests of the child," which can involve the use of age-appropriate services as well as explicit consideration of the deleterious effects that sentences such as juvenile imprisonment might have on youth development.

Of additional importance, juvenile cases cannot result in a permanent criminal record, even when the youth is adjudicated as responsible for a delinquent act. By contrast, because they are processed as adults, some 16- and 17-year-olds are exposed to permanent collateral consequences, adversely affecting employment, earnings, and other lifetime outcomes. However,

perhaps less widely known is that not *all* 16- and 17-year-old defendants are exposed to such collateral consequences. Even when they plead guilty, most receive a youthful offender (YO) finding (that is subsequently sealed) or have their charges reduced to a non-criminal violation. Although a permanent record is not automatic, the adult system still poses the possibility of such an outcome, whereas the juvenile system does not. In addition, as a result of their adult criminal processing, most 16- and 17-year-old defendants face pre-arraignment detention in holding cells for an average of approximately 24 hours and may face longer periods of pretrial detention if bail is set at arraignment (but is unaffordable) or if the defendants are detained without bail.

Previous research by the New York State Division of Criminal Justice Services (DCJS) has already provided a general portrait of the charges, case dispositions, and sentences faced by 16- and 17-year-old defendants statewide. DCJS found that in 2010, 46,128 of these defendants were processed, 75% on misdemeanor charges, 12% on nonviolent felony charges, and 13% on violent felony charges. DCJS found that 45% of these cases ended in a guilty adjudication—although only 5% received a permanent criminal conviction. The current study will extend these research efforts, focusing on a 2011 case sample.[1]

Overview of the Adolescent Diversion Program

Program policies in the nine ADP sites were fully described in a previous report (Rempel et al. 2013). Based on a recent policy survey sent to each of the ADP sites in the fall of 2013, few policies appear to have substantially changed since that report was issued.[2] As a summary reference, Table 1.1 indicates each site's eligibility criteria and core program framework.

Misdemeanors are technically eligible in all nine sites. In Nassau and Erie, nonviolent felonies and non-criminal violations are also eligible; and in Erie County only, select violent felonies are eligible. In addition, enrollment in all sites depends in part on discretionary decisions by the court and prosecutor as well as on whether the defense attorney and defendant agree to enroll.

The Nassau site is particularly notable for implementing a universal post-arraignment screening and assessment protocol, involving the Youth Assessment and Screening Instrument (YASI). The YASI tool classifies each youth as low-risk, medium-risk, and high-risk, and an analysis by DCJS indicates that these classifications generally conform to actual re-arrest rates (Lovett 2013). Specifically, the DCJS analysis found that 5.7% of those classified as low-risk, as compared to 23.4% of those classified as medium-risk and 26.8% of those classified as high-risk, were in fact re-arrested within six months. Based on YASI classifications, high-risk and medium-risk cases are mostly recommended for ADP services, whereas many low-risk cases (close to half) are deemed appropriate for immediate case dismissal; in these latter instances, the cases are still considered Nassau ADP participants, since their dismissal resulted from the screening and assessment process that was created as part of the ADP initiative.

[1] The DCJS findings were provided to the authors of this report and have also been shared with administrators at the New York State Unified Court System and other state policymakers.

[2] Since opening, Manhattan expanded eligibility from a select subset of misdemeanor charges to all misdemeanors. Brooklyn opened the program to select defendants ages 18-21—although the present research focuses solely on the 16- and 17-year-old population. Brooklyn also implemented several new screening tools, including the GAIN-Short Screener and the TCU Trauma Screener. Queens developed a more formal screening process over time, involving social workers from Queens Law Associates, one of the two public defender agencies in Queens. (The Queens Legal Aid Society does not participate in the ADP program, and its attorneys rarely refer cases.)

Table 1.1. Core Eligibility and Diversion Policies in Each Adolescent Diversion Program Site (X = Applicable)

ADP Site	Bronx	Brooklyn	Manhat-tan	Queens	Staten Island	Nassau	West-chester	Erie	Onondaga
CHARGE ELIGIBILITY									
Violent felonies								X	
Nonviolent felonies						X		X	
Misdemeanors	X	X	X	X	X	X	X	X	X
Violations						X		X	X
Special exclusions from eligibility	X[1]				X[2]			X[3]	
CASE PROCESS ELIGIBILITY									
Disposed at arraignment	X	X[4]	X		X				X
Disposed after arraignment	X	X	X	X	X		X	X	X
Universal Screening and Assessment						X			
JURISDICTIONAL ELIGIBILITY									
Eligibility limited to one city court							Mt. Vernon	Buffalo	Syracuse
SPECIALIZED COURT PARTS									
Specialized ADP court part		X	X	X	X	X	X	X	X
Community court	X	X	X						
DIVERSION									
Diverts pre-plea cases	X	X		X		X	X	X	X

[1] The Bronx excludes all domestic violence cases, which are handled in a specialized domestic violence court regardless of the age of the defendant.

[2] In January-June 2012, the court typically did not classify 16-17-year-old defendants who were ordered to a preexisting youth court (involving an ACD disposition) as ADP participants, even though they did participate in a diversion alternative. More recently, the court has tended to view youth court cases under the ADP umbrella, although data entered by court clerks still does not always reflect this understanding. Our analysis included all youth court cases as ADP participants wherever youth court participation status could be determined. (In an unknown but believed-to-be small number of instances, a case was ordered to participate in youth court, but because the youth did not appear for youth court intake, there is neither a record of the court's mandate to youth court nor of the youth's noncompliance with that order.)

[3] Erie County excludes gun-related misdemeanor cases.

[4] In Brooklyn, the Red Hook Community Justice Center enrolls ADP participants either at or after arraignment, but cases are only ADP-eligible in the downtown criminal courts if they survive arraignment.

Besides Nassau, most of the other ADP sites have a less formalized screening and assessment protocol. Nassau and Erie both enroll more than six in ten eligible cases in the ADP initiative. By contrast, in all nine sites combined, research reported in the previous study found that only 15% of technically eligible cases and only 9% of all 16- and 17-year-old cases ended up participating (Rempel et al. 2013). Such a finding points to the potential importance of future legislation in mandating a new approach for a broader pool of 16- and 17-year-old defendants. Such a finding also points to the potential importance of utilizing a systematic screening, assessment, and risk-need sorting protocol, such as Nassau County has piloted through its use of the YASI tool.

All nine sites divert participants to services, ranging from several sessions of community service, counseling, family mediation, or employment readiness to three to six months of drug or mental health treatment. In at least some cases, seven of the nine sites (except Manhattan and Staten Island) allow service participation to occur prior to a guilty plea or other case disposition. Even when requiring an up-front disposition, however, all nine sites allow those who complete their assigned services to avoid a criminal conviction. Moreover, the previous study found that the completion rate exceeded 70% in all four sites examined for this outcome (the Bronx, Brooklyn, Manhattan, and Nassau), with an average completion rate of 80% across the four sites.

As shown in Table 1.2, of cases arraigned through June 2013 (over 18 months of operations), 4,401 became ADP participants. Of these, more than 60% of cases participated in Nassau (29%), Buffalo (18%), or the Bronx (16%). Based on separate analyses (results not shown), enrollment rates have not significantly changed when comparing the first six months of 2012 (1,531) to the first six months of 2013 (1,522). Some of the individual sites have seen changes, however, with the enrollment rate increasing by more than a third in the Bronx, Manhattan, and Onondaga and decreasing by more than a third in Queens and Staten Island. (Queens saw zero participants in the first six months of 2013 and has since taken steps intended to rekindle the program.)

Table 1.2. ADP Volume, January 2012 through June 2013

ADP Site	Number of ADP Participants	Percent of All ADP Participants
TOTAL PARTICIPANTS	4,401	100%
PARTICIPANTS BY SITE		
Bronx	724	16.4%
Brooklyn	478	10.9%
Manhattan	481	10.9%
Queens	104	2.4%
Staten Island	149	3.4%
Nassau	1,286	29.2%
Westchester (Mt. Vernon)	64	1.5%
Erie (Buffalo)	806	18.3%
Onondaga (Syracuse)	309	7.0%

Chapter 2
Statewide Prosecution and Recidivism Outcomes

This chapter examines the background characteristics, dispositions, and sentences received by 16- and 17-year-old defendants statewide. The analysis also identifies which characteristics are respectively associated with receiving a more severe criminal penalty (such as a criminal conviction or jail time) and with subsequent re-arrest.

Methodology

Sampling Frame and Measures

Data was obtained from the New York State Division of Criminal Justice Services (DCJS) for all 16- and 17-year-old defendants statewide who were arraigned in 2011. The selection of 2011 as the sample year enabled the preexisting status quo to be analyzed—before the ADP initiative commenced in January 2012—and allowed for a sufficient follow-up period to track re-arrests over one year for all and over two years for most defendants.

- Region: For analytic purposes, cases were divided into up to four regions: New York City, suburbs (Nassau, Suffolk, Westchester, and Rockland), upstate mid-sized cities (the four counties that respectively house the cities of Albany, Buffalo, Rochester, and Syracuse); and upstate rural/semi-rural areas (the remaining 49 counties in upstate New York).

- Demographics: Data included defendant age (16 or 17), sex, and race/ethnicity (black/African-American, Hispanic/Latino, white, and Asian or other racial/ethnic groupings).

- Criminal History: We created multiple criminal history measures, including any prior felony, misdemeanor, or drug arrest, as well as any prior conviction or YO finding.

- Current Charge: We classified the top arrest charge into three severity categories (misdemeanor, nonviolent felony, and violent felony) and into different charge type categories, for instance including assault, petit larceny, and marijuana charges. Violation-level arrest charges were not included in the DCJS data. However, the data included cases whose charges were later reduced to a violation-level charge at the time of plea.

- Case Disposition: We classified final dispositions as pled guilty or dismissed. Cases classified as pled guilty were sub-divided into those ending in a criminal conviction, YO finding, or a conviction on non-criminal violation charges. Cases classified as dismissed were sub-divided into straight dismissals, adjournments in contemplation of dismissal (ACD), declined to prosecute, and a tiny number of "other" dispositions. (In New York State, ACDs are dismissed six or 12 months later depending on the charges, except in rare instances when the prosecutor moves to re-open the case prior to the dismissal.)

- Sentence Type: We classified sentences as prison, jail, probation, jail/probation split, time served, fine, conditional discharge, unconditional discharge/other and convicted with no sentence. For some purposes, these sentence types were collapsed into fewer categories.

- Length of Incarceration and Community Supervision: Measures were created for the number of months defendants were respectively sentenced to prison, jail, and probation.

- Re-arrests: Re-arrest measures were created for any re-arrest, any felony re-arrest, and any violent felony re-arrest over (1) a two-year tracking period following the initial arrest date; and (2) a two-year tracking period following the initial disposition date. Separate one-year measures were also created. In general, the re-arrest data slightly underestimated the incidence of re-arrest across all measures. This is because whenever the initial case ended in a disposition other than a criminal conviction or YO finding, the case would eventually be sealed. Although bureaucratic delays are common in practice, at least in theory, straight dismissals would be sealed promptly, ACDs would be sealed after they changed to dismissals (six or 12 months later), and violation convictions would be sealed after the sentence was served (e.g., typically after the expiration of a one-year conditional discharge). Once sealing occurred, unless the defendant had a prior case that remained unsealed, the New York State Identification (NYSID) number associated with the defendant would also be sealed. This number provides the basis for linking the defendant to recidivist arrests, so where the NYSID is sealed, re-arrests of the same individual cannot be properly linked, absent extensive name search protocols that were not available for the current study. DCJS research staff investigated this problem using a 2001 dataset and informed the study authors that, absent extensive name search review, due to the NYSID sealing process, approximately 4% of re-arrested 16- and 17-year-old defendants would be missed over a one-year tracking period, and approximately 8% would be missed over a two-year tracking period. It should be noted that this limitation applies only to the statewide analyses and not the ADP analyses (Chapters 3 and 4).

Analytic Plan

The analytic plan was designed to achieve three research objectives:

1. Examine the distribution of defendant characteristics, case dispositions, and sentences at the statewide, regional, and county levels;
2. Determine which static characteristics (i.e., demographics, criminal history, charges, etc.) are associated with more or less severe case dispositions and sentencing outcomes; and
3. Determine which static characteristics predict—and are therefore risk factors for—re-arrest over a two-year tracking period following the initial arrest.

To address the first objective, simple descriptive analyses were conducted. Concerning the second and third objectives, some of the analyses involved multiple regression methods. For these analyses, we began with the assumption that outcomes might significantly vary across the 62 counties of New York State—an assumption that our results subsequently confirmed. Therefore, using HLM 6.08 software, all regression analyses were performed in a hierarchical modeling framework (Raudenbush and Bryk 2002). Hierarchical modeling addresses the

problem created by the clustering of outcomes at the site level (in this study, the county level). In an HLM framework, the parameter estimates and statistical significance of each parameter (i.e., the reported effect of each background characteristic) are based not merely on the many thousands of defendants in the sample but on the much smaller number of counties (N = 62) within which defendant outcomes tend to be clustered. In short, an HLM framework can take into account between-county variations in outcomes as well as variations that derive from individual-level attributes, such as sex, age, race/ethnicity, charges, and criminal history.

Since all regression analyses used dichotomous outcome measures (e.g., convicted or not; re-arrested or not), we used a logistic specification in HLM 6.08. In all analyses, region (NYC, suburban, mid-sized city, or rural/semi-rural) was treated as a characteristic of counties, not of individuals (i.e., a "Level 2" characteristic). In addition, several individual-level characteristics were analyzed as random effects—meaning that, based on test analyses, we determined that their effects varied between counties and took such variations into account statistically.[3]

Defendant Baseline Characteristics

Table 2.1 reveals that a majority of defendants statewide were 17 years of age (55%), male (77%), and arrested in New York City (60%). In addition, 48% of the statewide population was black/African-American, 26% were Hispanic/Latino, 23% were white, and 3% came from additional racial or ethnic backgrounds. The results also show that 40% had at least one prior arrest, 19% had a prior felony arrest, 12% had a prior violent felony arrest, and 6% had a prior conviction or youthful offender finding.

Regarding charges, 76% were arrested for a misdemeanor, 12% for a non-violent felony, and 13% for a violent felony. The specific types of charges varied, with the most common charges including assault (10%), other crimes against person (18%), marijuana possession or sales (14%), petit larceny (16%), and criminal mischief, theft of services and other nonviolent property offenses (29%). Fifteen percent of cases involved issuance of a warrant at some point, typically for a failure to appear on a scheduled court date. Also, 10% were disposed at arraignment, and the average time from arrest to disposition was 149 days. The cases were most commonly disposed in a lower criminal court (68%), including city and district courts.

A breakdown by region reveals that males were much more common than female defendants in all four state regions. However, the regions varied in their racial/ethnic composition. Also, defendants in New York City were more likely to have criminal histories than elsewhere. Whereas over 70% of youth in all four regions were charged with a misdemeanor, the specific types of charges varied (details in Table 2.1). New York City defendants had higher percentages than elsewhere of warranting (18%) and having the case disposed of at arraignment (20%). New York City also averaged the shortest processing time from arrest to disposition (137 days), whereas the suburban region averaged the longest processing time (225 days).

[3] The parameters and results reported in the bottom sections of Table 2.5 and Table 2.7 below make clear which variables were analyzed in a random effects framework for each multiple regression model. Any parameters that were *not* analyzed in a random effects framework in a given model did not have a statistically significant random effect in test models, whose results are not displayed.

Table 2.1. Baseline Characteristics of 16 and 17 Year-Old Defendants Arrested in 2011

	Sig.	New York City	New York City Suburban	County with Mid-Sized City	Upstate Rural/Semi-Rural	Total
Sample Size		**N = 25,413**	**N= 3,779**	**N = 4,973**	**N = 8,248**	**N = 42,413**
Percent of Total Sample		**60%**	**9%**	**12%**	**19%**	**100%**
DEMOGRAPHICS						
Age	***					
16 years		46%	40%	46%	43%	45%
17 years		54%	60%	54%	57%	55%
Female	***	20%	24%	31%	28%	23%
Race/ethnicity	***					
Black		55%	37%	53%	24%	48%
Hispanic		35%	18%	9%	11%	26%
White		7%	39%	37%	64%	23%
Asian or other race/ethnic groups		3%	5%	2%	2%	3%
CRIMINAL HISTORY						
Average Number of Prior Arrests	***	1.18	0.49	0.65	0.49	0.95
Any Prior Arrest	***	46%	25%	32%	30%	40%
Prior Felony Arrest	***	23%	12%	16%	10%	19%
Prior Violent Felony Arrest	***	15%	6%	10%	5%	12%
Prior Misdemeanor Arrest	***	40%	19%	25%	22%	33%
Prior Drug Arrest	***	20%	7%	6%	3%	15%
Prior Weapons Arrest	***	12%	4%	6%	4%	9%
Prior Criminal Conviction or YO	***	5%	4%	9%	7%	6%
Arrest Charge Severity	***					
Misdemeanor		77%	74%	72%	76%	76%
Non-Violent Felony		10%	13%	14%	16%	12%
Violent Felony		13%	13%	14%	8%	12%
Arrest Charge Type	***					
Assault		11%	10%	8%	10%	10%
Other Crime Against Person		17%	17%	19%	17%	17%
Petit Larceny		10%	25%	30%	25%	16%
Criminal Mischief		4%	8%	9%	13%	6%
Theft of Services		12%	0%[b]	1%	0%[b]	8%
Other Nonviolent Property		15%	14%	15%	15%	15%
Drug		3%	4%	4%	4%	3%
Marijuana		20%	8%	2%	2%	14%
Other		9%	13%	12%	14%	10%
Domestic Violence Related	***	3%	10%	8%	9%	5%
CASE PROCESSING						
Warrant on Instant Case	***	17%	12%	15%	9%	15%
Disposed at Arraignment	***	20%	2%	3%	2%	13%
Average Days, Arrest to Disposition	***	137.41	225.06	159.79	161.41	151.17
DISPOSITION COURT	***					
Lower Criminal Courts[a]		83%	71%	40%	28%	69%
Supreme Court		8%	11%	12%	11%	9%
Town & Village Courts		0%	19%	48%	61%	17%
Grand Jury		0%[b]	0%[b]	1%	0%	0%[b]
Prosecutor (Declined to Prosecute)		9%	0%[b]	0%	0%[b]	6%

+p<.10,* p<.05, ** p<.01, ***p<.001

[a] NYC Criminal Court or district courts or city courts.

[b] The actual percentage was less than one-half of one percent.

Case Dispositions and Sentences

Table 2.2 displays case dispositions. The results indicate that 42% of the youth pled guilty or were convicted on the case—with 8% receiving a criminal conviction, 14% receiving a youthful offender (YO) finding, and 21% receiving a non-criminal violation conviction. Importantly, only a criminal conviction (on felony or misdemeanor charges) creates a permanent criminal record. In addition, of the total sample of 39,357 youth, 9% received a jail or prison sentence, and another 8% received a probation sentence.

Table 2.2 also points to significant variations by region. In particular, 63% of defendants in the rural/semi-rural region pled guilty to some charge, followed by 53% in the suburbs, 49% in the upstate city region, and 34% in New York City (NYC). Both criminal convictions and YO findings were more common outside NYC, whereas in NYC, those youth who did plead guilty were particularly likely to receive a violation-level conviction. Distinguishing NYC as well was a lesser use of incarceration and probation; for example, whereas 6% of NYC youth were sentenced to jail or prison, more than 10% of youth received a jail or prison sentence in each of the other regions.

Among cases ending in a conviction or YO finding, Table 2.3 displays the resulting sentences. The data indicate that nearly half of all sentenced defendants (45%) received a conditional discharge, followed by straight probation (16%), jail or jail/probation split sentence (15%), time served (9%), and prison (5%). Average sentence length was 36.2 months for those sentenced to prison, 2.4 months for those sentenced to jail, and 45.7 months for those sentenced to probation. Concerning regional differences, besides the lesser use of jail, the single most dramatic difference is actually the far lesser use of probation in New York City (9% received straight probation or a jail/probation split) than in the other regions (more than 30% in each other region received straight probation or a split sentence).

Table 2.2. Disposition Outcomes

	Sig.	New York City	New York City Suburban	County with Mid-Sized City	Upstate Rural/Semi-Rural	Total
Sample Size		**N = 24,932**	**N = 3,660**	**N = 4,807**	**N = 5,958**	**N = 39,357**
DISPOSITION TYPE	***					
Pled Guilty/Convicted		**34%**	**53%**	**48%**	**63%**	**42%**
Felony or Misdemeanor		5%	9%	14%	14%	8%
YO Finding		8%	23%	18%	31%	14%
Violation Conviction		22%	21%	17%	18%	21%
Dismissed		**66%**	**47%**	**52%**	**37%**	**58%**
Dismissed		13%	7%	13%	8%	12%
ACD		41%	40%	39%	29%	39%
Declined to Prosecute		13%	1%	0%[a]	0%[a]	8%
Other Disposition		0%[a]	0%[a]	0%[a]	0%[a]	0%[a]
USE OF INCARCERATION AND PROBATION[b]						
Sentenced to Prison or Jail	***	6%	11%	14%	15%	9%
Sentenced to Probation	***	3%	16%	15%	20%	8%

[a] The actual percentage was less than one-half of one percent.

[b] Jail/probation split sentences are included in both prison/jail and probation percentages.

Table 2.3. Sentence Outcomes *(Only of Cases Ending in Guilty Plea/Conviction)*

	Sig.	New York City	New York City Suburban	County with Mid-Sized City	Upstate Rural/Semi-Rural	Total
Sample Size		**N = 8,444**	**N = 1,923**	**N = 2,288**	**N = 3,718**	**N = 16,373**
SENTENCE TYPE	***					
Prison		5%	3%	8%	4%	5%
Jail		10%	11%	14%	12%	11%
Jail/Probation Split		1%	8%	8%	7%	4%
Straight Probation		8%	23%	24%	25%	16%
Time Served		14%	4%	6%	3%	9%
Fine		4%	12%	5%	10%	6%
Conditional Discharge		53%	36%	34%	38%	45%
Unconditional Discharge		0%[a]	1%	1%	1%	1%
Other: no Incarceration		0%[a]	0%[a]	0%[a]	1%	0%[a]
Convicted: No Sentence		3%	3%	0%[a]	0%[a]	2%
DAYS OF INCARCERATION AND SUPERVISION						
Average Prison Months (Min.)[b]		34.97	28.59	38.13	41.05	36.24
Average Jail Months[c]	***	1.98	3.48	2.70	3.01	2.40
Average Probation Months[d,e]	***	53.58	43.47	43.35	42.15	45.71

Note: Percentages may not add up to 100% due to rounding.

[a] The actual percentage was less than one-half of one percent.

[b] Sample includes only prison sentences (NYC, N = 417; NYC suburban, N = 44; Upstate City, N = 142; Upstate Rural/Semi-Rural, N = 124).

[c] Sample includes only jail sentences (NYC, N = 2,254; NYC suburban, N = 370; Upstate City, N = 505; Upstate Rural/Semi-Rural, N = 646).

[d] Eleven percent (n=358) of sample was excluded due to values of 0.

[e] Sample includes only valid probation sentences (NYC, N = 793; NYC suburban, N =535; Upstate City, N = 588; Upstate Rural/Semi-Rural, N = 1,023).

Table 2.4 (on the following page) provides the percentages of cases in all 62 NYS counties that respectively received a criminal conviction, pled guilty to any charge (including felony, misdemeanor, or violation levels), and received a jail or prison sentence. Visual inspection suggests that the five boroughs of New York City handle cases similarly to each other. These boroughs are each less likely than nearly all 57 other counties to dispose of 16- and 17-year-olds with a permanent criminal conviction, for example. Although their outcomes generally tended to be more severe than in New York City, the data in Table 2.4 also reveal substantial variations amongst the 57 other counties that span the suburban, mid-sized city, and upstate regions.

Factors Associated with Variations in Criminal Penalties

The observed regional and county differences in criminal penalties may stem from variations in court cultures, prosecutorial practices, defense practices, or other community characteristics. Alternatively, these differences may simply correspond to differences in the underlying background of the 16- and 17-year-old defendant populations. For example, if defendants in one county are more likely to be arrested for serious felony crimes than in a second county, the use of more severe penalties in the first county may partly reflect a difference in the underlying defendant characteristics, rather than a difference in each county's criminal justice response.

Table 2.4. Disposition Outcomes by County

		Case Outcome		
Jurisdiction	**Sample Size[a]**	**Felony or Misdemeanor Conviction**	**Any Conviction or YO Finding (Fel., Misd., or Violation)**	**Sentenced to Jail or Prison**
Statewide	**39,357**	**8%**	**42%**	**9%**
New York City	**24,932**	**5%**	**34%**	**6%**
Bronx	7,014	4%	33%	5%
Brooklyn	7,241	5%	33%	6%
Manhattan	5,152	5%	36%	6%
Queens	4,606	5%	35%	7%
Richmond	919	4%	41%	4%
NYC Suburban	**3,660**	**9%**	**53%**	**11%**
Nassau	1,012	5%	43%	12%
Rockland	253	14%	36%	9%
Suffolk	1,287	9%	50%	11%
Westchester	1,108	11%	69%	12%
Upstate New York	**10,765**	**14%**	**56%**	**14%**
Albany*	552	15%	58%	11%
Allegany	65	28%	65%	19%
Broome	306	21%	61%	12%
Cattaraugus	106	8%	61%	12%
Cayuga	96	15%	50%	15%
Chautauqua	230	11%	66%	18%
Chemung	168	8%	67%	18%
Chenango	61	23%	61%	7%
Clinton	107	14%	69%	12%
Columbia	75	27%	72%	33%
Cortland	76	15%	84%	1%
Delaware	39	10%	77%	18%
Dutchess	304	13%	58%	13%
Erie*	2,021	9%	39%	10%
Essex	34	24%	82%	0%
Franklin	48	33%	77%	19%
Fulton	69	15%	88%	28%
Genesee	60	25%	75%	32%
Greene	57	23%	77%	14%
Dutchess	304	13%	58%	13%
Erie*	2,021	9%	39%	10%
Essex	34	24%	82%	0%
Franklin	48	33%	77%	19%
Fulton	69	15%	88%	28%

Table 2.4. Disposition Outcomes by County *(Continued)*

		Case Outcome		
Jurisdiction	Sample Size	Felony or Misdemeanor Conviction	Any Conviction or YO Finding (Fel., Misd., or Violation)	Sentenced to Jail or Prison
Genesee	60	25%	75%	32%
Greene	57	23%	77%	14%
Hamilton	1	0%	100%	100%
Herkimer	62	21%	81%	15%
Jefferson	193	9%	73%	14%
Lewis	41	17%	66%	7%
Livingston	56	16%	86%	34%
Madison	53	25%	74%	23%
Monroe*	1,348	16%	51%	20%
Montgomery	70	7%	93%	13%
Niagara	273	11%	51%	13%
Oneida	359	10%	57%	21%
Onondaga*	886	10%	60%	14%
Ontario	176	9%	75%	13%
Orange	565	12%	49%	10%
Orleans	81	16%	59%	20%
Oswego	180	16%	68%	23%
Otsego	56	9%	89%	4%
Putnam	66	8%	47%	5%
Rensselaer	171	16%	64%	9%
St. Lawrence	96	18%	62%	8%
Saratoga	240	9%	53%	13%
Schenectady	278	17%	62%	19%
Schoharie	22	18%	68%	5%
Schuyler	9	33%	89%	0%
Seneca	39	18%	62%	10%
Steuben	95	8%	56%	5%
Sullivan	102	12%	67%	11%
Tioga	38	8%	87%	8%
Tompkins	104	21%	71%	17%
Ulster	234	15%	57%	12%
Warren	124	11%	56%	10%
Washington	67	24%	67%	15%
Wayne	136	17%	54%	20%
Wyoming	34	6%	77%	9%
Yates	29	24%	86%	35%

[a] Sample size represents the number of dispositions of 16 and 17 year-old cases arrested in 2011.

* The county is one of the four mid-size cities in upstate, New York. (Albany is in Albany County, Buffalo is in Erie County, Rochester is in Monroe Country, and Syracuse is in Onondaga County.)

To distinguish how region, county, and individual characteristics influence case outcomes, analyses were conducted predicting three core outcomes of interest: (1) criminal conviction; (2) any guilty plea (i.e., *any* criminal or violation-level conviction or YO finding); and (3) jail or prison sentence. Regression results are in Table 2.5. To provide a more accessible illustration of the most striking findings, Table 2.6 then presents simple percentage outcomes for select defendant subgroups. (The results in Table 2.6, while more intuitively accessible than those in Table 2.5, do not control simultaneously for other factors.)

Impact of Region and County

The results confirmed that even after controlling for defendant background, significant regional variations persisted, with New York City averaging significantly lighter criminal penalties than elsewhere and, conversely, with the semi-rural/rural region averaging the most severe penalties. The results also confirmed that significant variations exist at the county level. (See the comparatively high chi-squared statistics for the random effects intercepts in Table 2.5—essentially signifying that average criminal penalties vary substantially from county-to-county, even after controlling for region and for all of the other factors shown in the table.)

Impact of Demographic Background

Males faced more significantly more severe criminal penalties than females across all three outcome measures. Age, however, had barely any effect.[4] Finally, after controlling for other characteristics, black/African-American and Hispanic defendants faced significantly more severe penalties than white defendants or defendants from other racial/ethnic subgroups. The effect of race was weakest in predicting the likelihood of a criminal conviction (and not significant for Hispanics) and was strongest in predicting a jail or prison sentence. Interestingly, absent a multiple regression framework, the independent effect of race/ethnicity is masked. This is because New York City tends to use jail or prison *less* than elsewhere and also tends to be home to more black and Hispanic defendants than elsewhere. Therefore, even in Table 2.6, results by race/ethnicity are provided separately for New York City and the rest of the state. They indicate that the likelihood of a jail or prison sentence is more than twice as high for black as for white defendants both inside NYC (7% v. 2%) and outside NYC (19% v. 9%), with Hispanics in the middle but closer to black defendants in these outcomes.

Impact of Criminal History

Not surprisingly, multiple criminal history measures (number of arrests, prior felony arrest, and prior conviction or YO) were all associated with more severe penalties across all three outcomes. Having a prior conviction or YO finding was a particularly powerful factor exposing defendants to a far greater likelihood of a criminal conviction. This relationship in part stemmed from the details of current New York State law, which in some cases restricts the use of a YO, in lieu of a criminal conviction, when a defendant has already received a YO on a prior case. As shown in Table 2.6, whereas 4% of 16- or 17-year-old defendants without any prior arrests received a criminal conviction on the current case, 13% of defendants with a prior arrest and 31% with a prior conviction or YO received a criminal conviction.

[4] Technically, the results show that 17-year-olds were significantly more likely to plead guilty but less likely to receive jail than 16-year-olds, although both of those effects were of an extremely modest magnitude.

Table 2.5. Regressions of Region and Individual Characteristics on Case Outcomes

	Outcome Measure		
	Criminal Conviction	**Any Guilty Plea (Conviction or YO)**	**Sentenced to Jail or Prison**
Number of Defendants	**38,887**	**38,887**	**38,804**
Number of Sites	**62**	**62**	**62**
Fixed Effects			
Intercept	.138***	1.392***	.093***
Region (Ref. = Rural/semi-rural region)			
New York City	.222***	.132***	.266***
New York City suburban region	.706**	.629*	.306***
Mid-sized city region	.790**	.384***	.568***
Sex: Male	1.437***	1.267***	1.307***
Age: 17 years (vs. 16 years)	.958	1.059*	.870**
Race/ethnicity (Ref. = Additional groups)			
Black/African-American	1.116**	1.231***	1.654***
Hispanic/Latino	1.030	1.109**	1.565***
Prior Criminal History			
Prior arrests (coded 0, 1, and 2 or more)	1.422***	1.450***	1.449***
Prior felony arrest	1.316***	.948	1.473***
Prior criminal conviction or YO finding	2.240***	1.170*	1.604***
Arrest Charge Severity (Ref. = Misdemeanor)			
Nonviolent felony	1.808***	2.930***	2.419***
Violent felony	2.851***	2.852***	4.696***
Arrest Charge Type (Ref. = Additional charges)			
Assault	.617***	1.099^{+}	.997
Other crime against person	.864**	1.355***	1.243***
Petit larceny	.667***	.410***	.694***
Marijuana-related	.721***	.617***	.696***
Warranted/Failure to appear on current case	1.250***	2.600***	1.724***
Random Effects			
Intercept	134.860 (.331)***	242.083 (.306)***	217.330 (.480)***
Sex: Male		64.593 (.035)*	114.141 (.247)***
Age: 17 years	83.430 (.108)**		67.318 (.058)*
Race/ethnicity: Black/African-American		89.703 (.048)***	
Criminal History: Prior arrests	94.817 (.015)***	81.849 (.009)***	111.309 (.024)***
Criminal History: Prior conviction or YO	96.653 (.221)***	72.397 (.283)**	
Top Charge: Assault	90.626 (.195)***	93.040 (.376)***	
Top Charge: Crime against person	64.421 (.119)*	65.045 (.276)*	
Top Charge: Petit larceny	83.767 (.317)**	386.464 (.352)***	115.658 (.583)***
Top Charge: Marijuana-related		142.748 (.667)***	
Arrest Severity: Nonviolent felony	241.278 (.415)***	120.217 (.259)***	68.080 (.045)*
Arrest Severity: Violent felony	116.385 (.297)***	180.409 (.422)***	
Warranted on current case	88.877 (.111)***	201.879 (.267)***	102.378 (.183)***

+p<.10,* p<.05, ** p<.01, ***p<.001

Note: Logistic regressions were conducted in HLM 6.04. Fixed effects coefficients are odds ratios, and random effects coefficients are chi-square statistics (variance in parentheses). The random effects coefficients were based on those counties (of 62 total) for which data was sufficient: 48 for criminal conviction, 42 for any guilty plea, and 50 for jail or prison sentence.

Table 2.6. Case Outcomes by Key Baseline Characteristics

	Criminal Conviction	Any Guilty Plea (Conviction or YO)	Sentenced to Jail or Prison
Sample Size	**39,346**	**39,346**	**39,263**
Statewide Average	8%	42%	9%
Sex			
Female	4%	32%	4%
Male	9%	45%	10%
Race/Ethnicity			
New York City			
Black	5%	36%	7%
Hispanic	4%	33%	5%
White or additional race/ethnic groups	3%	28%	2%
Outside New York City			
Black	16%	60%	19%
Hispanic	12%	59%	16%
White or additional race/ethnic groups	11%	52%	9%
Prior Criminal History			
No Prior Arrest	4%	32%	6%
Prior Arrest	13%	56%	15%
Prior Felony Arrest	17%	58%	20%
Prior Conviction or YO Finding	32%	69%	31%
Charge Severity			
Misdemeanor	4%	34%	4%
Nonviolent Felony	16%	68%	18%
Violent Felony Offense	19%	67%	29%

Impact of Charge Severity and Type

Across all three outcome measures, felony arrests ended in significantly more severe penalties than misdemeanors—and *violent* felonies had an especially high likelihood of both a criminal conviction and a jail or prison sentence. In fact, from inspecting the odds ratios in Table 2.5, charge severity appears to be the most consistently powerful predictor of criminal penalties. Few charge type findings were noteworthy, except that petit larceny and marijuana cases faced particularly *light* penalties, even after controlling for the fact that these cases are misdemeanors.

Impact of Warranting

Having a warrant issued on the current case, generally due to a failure to appear for a scheduled court date, led to significantly more severe criminal penalties across all three outcome measures.

Risk Factors for Re-Arrest

Table 2.7 displays the results of regression analyses predicting any re-arrest and any violent felony re-arrest within two years of the initial arrest.[5] Although many effects were statistically significant, three risk factors dwarfed the others in magnitude (see Table 2.7, odds ratios):

- More prior arrests (zero, one, or two or more);
- Warranted on the current case; and
- Male sex.

The results in Table 2.8 provide a more accessible illustration. For example, defendants who lacked priors, did not warrant, and were female had a two-year re-arrest rate of 13% and a violent felony re-arrest rate of 2%. At the other extreme, defendants who had two or more priors, warranted, and were male had a two-year re-arrest rate of 88% and a violent felony re-arrest rate of 37%. Given that a mere three factors created such dramatic differences, it appears wholly feasible to construct a powerful statistical model, based on static background characteristics, to predict both recidivism and violent felony recidivism among 16- and 17-year-old defendants.

Regarding other risk factors, the effect of a prior *felony* arrest did not significantly predict re-arrest and was significant but at a comparatively modest magnitude in predicting violent felony re-arrest. Similarly notable, the effect of a prior criminal conviction or YO did not reach statistical significance for either outcome. These findings demonstrate the primacy of the *number of prior arrests* of any charge and the lesser influence of finer criminal history distinctions (the specific charge severity or whether a conviction resulted on prior cases).

Although their effects were not as powerful as the three leading risk factors, defendants identified as black/African-American or Hispanic, age of 16, and felony charges on the *current* case also significantly predicted re-arrest. Several specific charges were also associated with re-arrest, of which the strongest effect was that those initially arrested on petit larceny charges were particularly *unlikely* to be re-arrested, even after controlling for charge severity and other factors.

Of final importance, as shown through visual inspection of the odds ratios in Table 2.7, there were mostly minor, but some major, differences in the magnitude with which each risk factor predicted re-arrest on any charge and violent felony re-arrest. Although male sex was a powerful risk factor for both outcomes, males were especially more likely than females to be re-arrested for a violent felony (odds ratio = 3.484). Black/African-American and Hispanic defendants were also especially more likely than other groups to be re-arrested for a violent felony. In fact, a black/African-American race/ethnicity served as a quite powerful indicator of an increased likelihood of violent felony re-arrest (odds ratio = 2.634), with only the number of priors and male sex showing stronger relationships (based on the odds ratios). While it is beyond the scope of this report to explore the underlying reasons for this race effect; it is important to briefly consider the contextual factors. For example, in addition to the possibility that predominantly

[5] Test analyses were conducted with a measure of any felony re-arrest, but the findings were indistinguishable from those obtained for re-arrest on any charge (misdemeanor or felony). Test analyses were also conducted with all of the same outcome measures but over a one-year tracking period. In these analyses, the only notable difference was that a New York City (NYC) location significantly predicted a greater likelihood of re-arrest within one year; yet, the odds ratio of 1.185 conveyed that the magnitude of the NYC effect remained exceptionally modest.

black/African-American neighborhoods are subject to differential police practices, residents of these neighborhoods may also be disproportionately exposed to adverse social, economic, familial, and educational pressures. More specifically, research has found that minorities are overrepresented in distressed communities, which are characterized by high rates of poverty, single-parent households, unemployment, residential instability, as well as inadequate educational and economic opportunities (e.g., Kubrin, Squires, and Stewart 2007; Sampson and Groves 1989; Sampson, Morenoff, and Raudenbush 2005). It is these same neighborhoods and communities that are characterized by high rates of crime and delinquency. Again, while this study does not examine contextual factors, like neighborhood disorganization, it is important to emphasize how measures like this can provide a fuller perspective when considering the influential role of race in predicting recidivism.

Table 2.7. Risk Factors for Re-Arrest and Violent Felony Re-Arrest (Two Years)

	Outcome Measure	
	Any Re-Arrest within Two Years	**Violent Felony Re-Arrest within Two Years**
Number of Defendants	**20,770**	**20,770**
Number of Sites	**61**[a]	**61**[a]
Fixed Effects		
Intercept	.365***	.049***
Region (Ref. = Rural/semi-rural region)		
New York City	.978	.935
New York City suburban region	.783**	.870*
Mid-sized city region	.798***	1.015
Sex: Male	2.016***	3.484***
Age: 17 years (vs. 16 years)	.903**	.802***
Race/ethnicity (Ref. = Additional groups)		
Black/African-American	1.581***	2.634***
Hispanic/Latino	1.179*	1.650***
Prior Criminal History		
Prior arrests (coded 0, 1, and 2 or more)	2.701***	1.895***
Prior felony arrest	1.103	1.358***
Prior criminal conviction or YO finding	1.013	1.113
Arrest Charge Severity (Ref. = Misdemeanor)		
Nonviolent felony	1.188*	1.390***
Violent felony	1.537***	1.244**
Arrest Charge Type (Ref. = Additional charges)		
Assault	.770**	1.086
Other crime against person	.806**	1.280***
Petit larceny	.664***	.622***
Marijuana-related	1.245^{+}	1.150*
Warranted/Failure to appear on current case	2.435***	1.923***
Random Effects		
Intercept	84.181 (.102)***	60.902 (.019)$^{+}$
Age: 17 years		65.650 (.001)*
Race/ethnicity: Black/African-American	51.981 (.052)*	70.957 (.037)*
Race/ethnicity: Hispanic/Latino	57.544 (.072)**	
Criminal History: Prior conviction or YO		65.035 (.136)$^{+}$
Top Charge: Assault	57.897 (.130)**	
Top Charge: Crime against person	77.395 (.095)***	
Top Charge: Marijuana-related	99.472 (.221)***	
Arrest Severity: Nonviolent felony	61.467 (.118)**	
Warranted on current case	72.675 (.072)***	

+p<.10,* p<.05, ** p<.01, ***p<.001

Note: Logistic regressions were conducted in HLM 6.04. Fixed effects coefficients are odds ratios, and random effects coefficients are chi-square statistics (variance in parentheses). The random effects coefficients were based on those counties (of 61 total) for which data was sufficient: 34 for any re-arrest within two years and 49 for any violent felony re-arrest within two years.

[a] Computations were not possible for one New York county (Hamilton), since only one defendant was available for the analysis.

Table 2.8. Re-Arrest Outcomes by Key Risk Factors

	Any Re-Arrest within Two Years	Violent Felony Re-Arrest within Two Years
Sample Size	**21,075**	**21,075**
Statewide Average	38%	11%
Zero Prior Arrests		
Did not warrant on current case		
Female	13%	2%
Male	28%	4%
Warranted on current case		
Female	38%	7%
Male	56%	18%
One Prior Arrest		
Did not warrant on current case		
Female	39%	5%
Male	62%	10%
Warranted on current case		
Female	60%	18%
Male	79%	29%
Two or More Prior Arrests		
Did not warrant on current case		
Female	61%	11%
Male	76%	26%
Warranted on current case		
Female	79%	30%
Male	88%	37%

Effect of Region and County on Re-Arrest

Although defendants in the suburbs and upstate city regions were significantly more likely than those in New York City and the rural/semi-rural regions to be re-arrested, regional differences were relatively modest after controlling for individual background—and even less notable when predicting violent felony re-arrest as distinguished from *any* re-arrest (see odds ratios in Table 2.7). This lies in stark contrast to the prior analysis of criminal penalties, which detected powerful variations by region in the use of convictions, guilty pleas, and jail or prison sentences. The results also point to significant differences in re-arrest outcomes amongst the state's 62 individual counties—although, again, the random effects coefficients suggest that between-county variations were more modest in predicting re-arrest than criminal penalty outcomes.

Effect of Criminal Penalties on Subsequent Re-Arrest

Whereas the previous results link static background factors—region, county, and personal background—to re-arrest, another policy question is whether the *criminal justice system* influences re-arrest outcomes through its dispositional and sentencing practices. Specifically, does the use of more severe criminal penalties on the initial case deter re-arrest? Or, conversely, does the use of adult criminal penalties with 16- and 17-year-olds have counter-productive effects by, for example, exposing youth to traumatizing jail stays or negative peer influences in jail that could increase re-arrest rates? (The more long-term negative effects of using adult criminal penalties, particularly the lifelong collateral consequences of conviction, have been well documented by others and are not the focus of this study.)

The results in Table 2.9 concerned re-arrests over a two-year period beginning on the initial *disposition date*. The analysis looked at whether a criminal conviction or a jail or prison sentence on the initial case influenced subsequent re-arrest, felony re-arrest, and violent felony re-arrest, after controlling for other factors.[6]

The results indicate that neither a criminal conviction nor jail/prison sentence on the initial case significantly influenced re-arrest on any charge. However, a jail or prison sentence on the initial case predicted an *increased* likelihood of a felony re-arrest (approaching significance, $p < .10$) and *significantly increased* the likelihood of a violent felony re-arrest. These findings point to the potential iatrogenic effects of a jail/prison stay in producing an increased propensity for future violence.[7] It is also possible that the kinds of individuals who were initially sentenced to jail or prison had more pro-violent predispositions than others at baseline, detected by the prosecutor or judge in the initial case but not measurable in our data, which led them to be sentenced to jail or prison in the first place. Nonetheless, the nature and direction of the observed relationships, at a minimum, does *not* suggest that sentencing 16- and 17-year-old defendants to jail or prison could be helpful from a public safety standpoint—and that harm is plausible.

[6] Initial cases that ended in straight dismissal (i.e., lack of any further penalty) were excluded. The analysis controlled for nearly all of the same independent control variables as in Table 2.7, but to avoid repetition, those results were not displayed.

[7] It is especially notable that a jail or prison sentence on the initial case was associated with an *increased* likelihood of re-arrest, because the analysis did *not* control for time at risk. Hence, without subtracting from the tracking period the time that incarcerated defendants were unavailable to commit crimes (due to their confinement), these defendants still had enough time to be re-arrested at a higher rate than those who were out in the community for more time. Inevitably, had a time at risk control been introduced, it would have only magnified the apparent effect.

Table 2.9. Impact of Adult Criminal Penalties on Re-Arrest (Two Years)

	Outcome Measure within Two Years Post-Disposition		
	Any Re-Arrest	**Felony Re-Arrest**	**Violent Felony Re-Arrest**
Number of Defendants	**7,534**	**7,534**	**7,534**
Number of Sites	**61**[a]	**61**[a]	**61**[a]
Fixed Effects[b]			
Intercept	.293***	.105***	.036***
Permanent Criminal Conviction on the Initial Case	1.033	1.016	.844
Jail or Prison Sentence on the Initial Case	1.136	1.282+	1.370**
Random Effects[c]			
Intercept	54.532 (.022)*	39.938 (.027)	41.569 (.003)
Permanent Criminal Conviction on the Initial Case	68.153 (.403)**	72.432 (.639)**	

+p<.10,* p<.05, ** p<.01, ***p<.001

Note: Logistic regressions were conducted in HLM 6.04. Fixed effects coefficients are odds ratios, and random effects coefficients are chi-square statistics (variance in parentheses). The random effects coefficients were based on those counties (of 61 total) for which data was sufficient: 40 for any re-arrest, 44 for any felony re-arrest, and 41 for any violent felony re-arrest. The analysis excluded defendants whose initial case was dismissed, since those cases did not face the prospect of *any* penalty.

[a] Computations were not possible for one New York county (Hamilton), since only one defendant was available for the analysis.

[b] The only fixed effect coefficients shown are for the impact of adult criminal penalties. The model also included, as control variables, fixed effects for all variables with significant effects in Table 2.7 (i.e., all fixed effects displayed in that table except for (1) New York City location; and (2) prior criminal conviction or YO finding.

[c] Besides those shown, top charge of assault ($p < .10$) and nonviolent felony arrest severity ($p < .01$) were also entered as random effects for any re-arrest; black/African-American race/ethnicity ($p < .01$) was entered as a random effect for any felony re-arrest; and violent felony arrest severity ($p < .10$) was entered as a random effect for violent felony re-arrest.

Summary

A majority of 16- and 17-year-old defendants arrested in 2011 were male, faced misdemeanor charges, and were arrested in New York City. A relatively small percentage of cases ended with a criminal conviction (8%) or sentence to jail or prison (9%), although just over four in ten pled guilty or were convicted of some charge, often involving a YO finding or reduction to a violation-level conviction. In general, case outcomes were *less* severe in New York City than in other regions; and also, there was also significant variation among the 57 individual counties outside New York City. Not surprisingly, charge severity was a particularly strong predictor of case outcomes, with felony cases—and especially violent felony cases—tending to receive more severe criminal penalties than misdemeanors. In addition, more severe penalties were generally imposed on defendants who had priors, were male, and were black/African-American or Hispanic/Latino, with minority defendants especially likely to be sentenced to jail or prison, after controlling for the other individual background characteristics that were available in the data.

An analysis of risk factors for two-year re-arrest demonstrates that it is possible to produce a powerful statistical model that explains much of the variation in the likelihood that different

defendants will be re-arrested, either for any charge or for a violent felony charge. The most powerful risk factors were the number of prior arrests (regardless of prior charge severity); male sex; and warranting on the initial criminal case. Interestingly, while felony as opposed to misdemeanor charges on the initial case were associated with an increased likelihood of re-arrest, charge severity was a less powerful predictor of re-arrest than it was of criminal penalty that was imposed on the initial case. Also interestingly, risk factors for re-arrest on any charge and violent felony re-arrest were generally similar—except that male sex and black/African-American race/ethnicity had an especially strong association with a future violent felony re-arrest. Criminal penalties themselves did not appear to influence future criminal behavior, except that those initially sentenced to jail or prison were especially likely to be re-arrested afterwards.

Chapter 3
Adolescent Diversion Program, Year One: Recidivism Impacts

This chapter examines the impact of ADP participation on recidivism. A previous report examined ADP impacts over a relatively short six-month timeframe (Rempel et al. 2013). Utilizing the same matched samples, this chapter extends the tracking period to a minimum of one year—with some sample members tracked for as long as 18 months. The sampling frame includes ADP participants enrolled in the first six months after program inception (January 17 to June 30, 2012) and a matched comparison group composed of similar 16- and 17-year-olds who were arraigned in the first six months of the previous year (January 17 to June 30, 2011). The analysis was conducted in six of the nine ADP sites, where ADP case volume in the first six months of program operations was sufficient for a rigorous impact analysis.

Methodology

Recidivism data for sample members was obtained from the New York State Unified Court System for a maximum tracking period of 575 days (18.9 months) from the arraignment date. Data included days to re-arrest and arrest charge, which was re-coded into charge type (e.g., property crime) and charge severity (misdemeanor or felony). Staten Island, Westchester, and Onondaga Counties were excluded because their ADP sample sizes were too small (less than 40) to permit meaningful statistical comparisons. For four sites (the Bronx, Brooklyn, Manhattan, and Queens), two comparison participants were matched to each ADP participant from the same site on the basis of their propensity scores (matching on these scores ensures that the groups are statistically equivalent). In Nassau and Erie, however, one comparison participant was propensity-score matched to every two ADP participants because there were an insufficient number of comparison cases with approximately equal propensity scores to ADP participants to support a 2-to-1 ratio, as was the case in the other four sites. The same matched samples from the previous study were utilized in the present analysis, which extended the recidivism follow-up period. (For detailed descriptions of data sources, measures, and propensity score procedures, see Rempel et al. 2013).

Results

Were ADP Participants Re-arrested More or Less Frequently than Comparisons?

Table 3.1 shows that the ADP program did not, as a whole, improve one-year re-arrest outcomes relative to the comparison sample, with virtually identical rates of 33% (ADP) and 34% (comparison). Two exceptions to this conclusion were found in the Bronx and Queens, which produced a statistically significant seven and 13 percentage point reduction, respectively, in the rate of felony re-arrests. Yet, Erie County reported a marginally significant *increase* of eight percentage points in the rate of felony re-arrests ($p < .10$).

Table 3.1. Impact on Re-Arrest Over One Year

ADP Site	Bronx		Brooklyn		Manhattan		Queens	
Sample	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**
Number of Cases	256	128	540	270	316	158	144	72
RE-ARREST IN ONE YEAR								
Number of re-arrests	.67	.53[a]	.86	.89	.33	.28	1.05	.89
Any re-arrest	37%	33%	43%	44%	16%	16%	47%	47%
Any felony re-arrest	9%	2%**	18%	18%	4%	7%	24%	11%*
Any violent felony re-arrest	3%	1%	12%	13%	4%	3%	10%	6%

ADP Site	Nassau		Erie		Total	
Sample	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**
Number of Cases	151	301	132	263	1,539	1,192
RE-ARREST IN ONE YEAR						
Number of re-arrests	.30	.29	.50	.86	.65	.61[b]
Any re-arrest	20%	21%	37%	42%	34%	33%
Any felony re-arrest	12%	11%	16%	24%+	14%	14%
Any violent felony re-arrest	7%	5%	11%	14%	8%	8%

+p<.10, * p<.05, ** p<.01.

[a] n=125.

[b] n=1192.

For Whom was ADP Most Effective in Reducing Recidivism?

Risk-needs-responsivity (RNR) theory (Andrews et al. 1990; Andrews and Bonta 2010; Lowenkamp and Latessa 2004; Lowenkamp, Latessa, and Holsinger 2006) would predict that the ADP would be differentially effective for 16- and 17-year-olds at high-risk and low-risk of re-offense—a pattern that might be obscured by the simple analysis shown above. Specifically, RNR theory would anticipate that ADP service linkages might prove especially beneficial with high-risk youth, while exerting potentially counter-productive effects with low-risk youth, for instance interfering with their ability to attend school or placing them in group sessions alongside their high-risk counterparts, who may then exert negative peer influences. To investigate these expectations, we divided the sample into quintiles based on risk level. Following Rempel et al. (2013), the first step was to construct a risk score for the comparison group, defined as the probability of re-arrest at one year as a function of demographic and criminal history variables. Table 3.2 shows the results of the logistic regression from which each comparison group participant's predicted probability of re-arrest—his or her risk—was calculated. Results show that 16-year-olds, males, those with a prior non-felony arrest, and/or those arraigned on something other than a property crime were most likely to be re-arrested within one year. The regression function was then used to calculate predicted probabilities for the ADP sample.

The next step was to test for moderation effects: that is, to determine whether ADP was differentially effective for 16- and 17-year-olds at different levels of risk. Table 3.3, Model 1, shows a significant moderation effect, such that ADP participation was more likely to reduce the relative likelihood of re-arrest as the predicted risk of re-arrest increased. Model 2 probed this interaction to reveal that the effect of ADP for reducing re-arrest was significantly better for the highest risk youth (strata 4 and 5, highest 40%) than for the lowest risk youth (strata 1, lowest 20%).

Figure 3.1 illustrates the moderation effect more clearly by plotting the percent of youth re-arrested in the ADP and comparison groups for each risk quintile. Consistent with RNR theory predictions, the ADP intervention produced a significantly lower re-arrest rate for the highest-risk youth but a *higher* re-arrest rate for the lowest-risk youth. This is largely consistent with Rempel et al.'s (2013) results, and in fact accentuates the effect of ADP at the highest risk level.

Table 3.2. Risk Score Computation: Predicting One-Year Re-Arrest

Model	
Sampling Frame	**Comparison Sample**[a]
Number of Comparison Cases	1,539
Number of Comparison Cases Re-Arrested	519 (34%)
Parameter Estimates:	
Female sex (vs. male sex)	-.916***
Age 17 (vs. 16)	-.677***
Any prior arrest	1.433***
Any prior felony arrest	.502*
Any prior violent felony arrest	-.426+
Arraignment charge severity (ref = violation)	
Felony	-.054
Misdemeanor	.048
Arraignment charge type (ref = other)	
Crime against person	-.125
Property crime	-.382*
Drug crime (not marijuana)	.596
Marijuana possession, 5th degree or less	-.198
Constant	10.103
Chi squared	282.787
Nagelkerke R^2	0.233

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

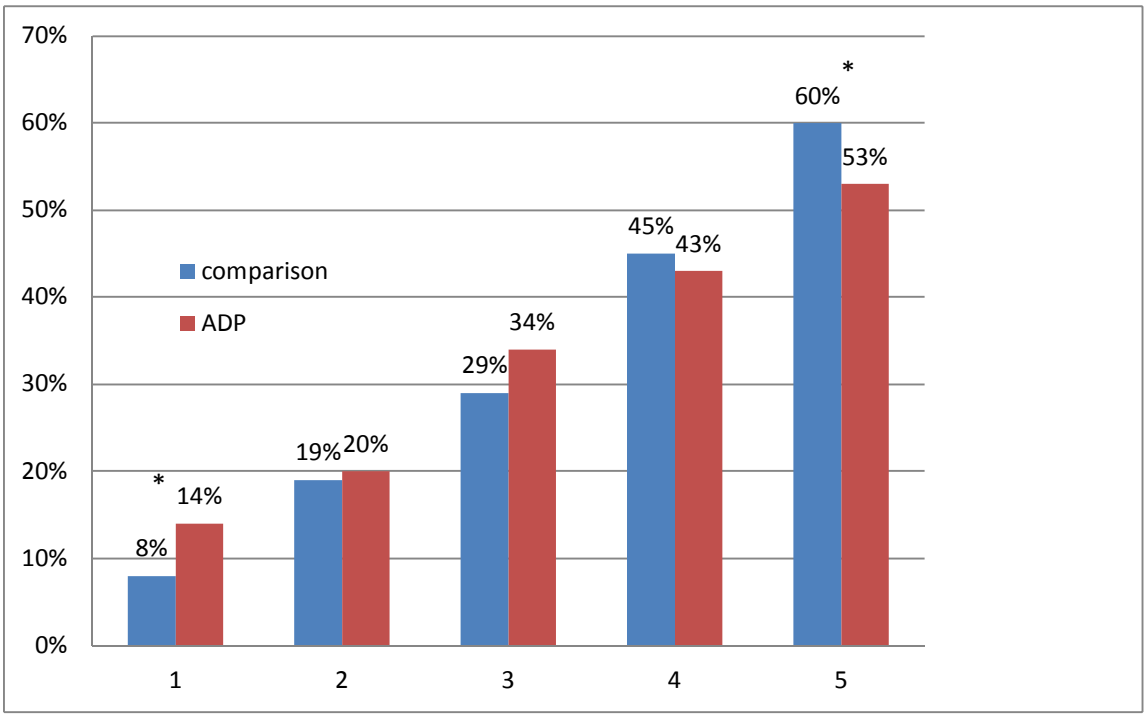
[a]Risk score computed for the comparison sample then imputed to the ADP sample.

Table 3.3. Moderating Effect of Defendant Risk Level on Re-Arrest Within One Year: Results for the Six Impact Study Sites

Model	Model 1	Model 2
Number of Cases	2,728	2,728
Number of Cases Re-Arrested	912 (33%)	912 (33%)
Parameter Estimates:		
ADP sample (vs. comparison sample)	.507**	.578*
Predicted risk of re-arrest	4.763***	
ADP sample*predicted risk of re-arrest	-1.296**	
Risk strata (reference category = strata 1)		
Risk strata 2		.662**
Risk strata 3		1.220***
Risk strata 4		1.930***
Risk strata 5		2.539***
ADP sample*risk strata interactions		
Sample*risk strata 2		-.500
Sample*risk strata 3		-.346
Sample*risk strata 4		-.647*
Sample*risk strata 5		-.874**
Constant	-2.401	-2.131
Chi squared	383.374	361.060
Nagelkerke R^2	.182	.168

+p<.10, * p<.05, ** p<.01, ***p<.001.

Figure 3.1. Percent Re-Arrested at One Year, by Risk Quintile

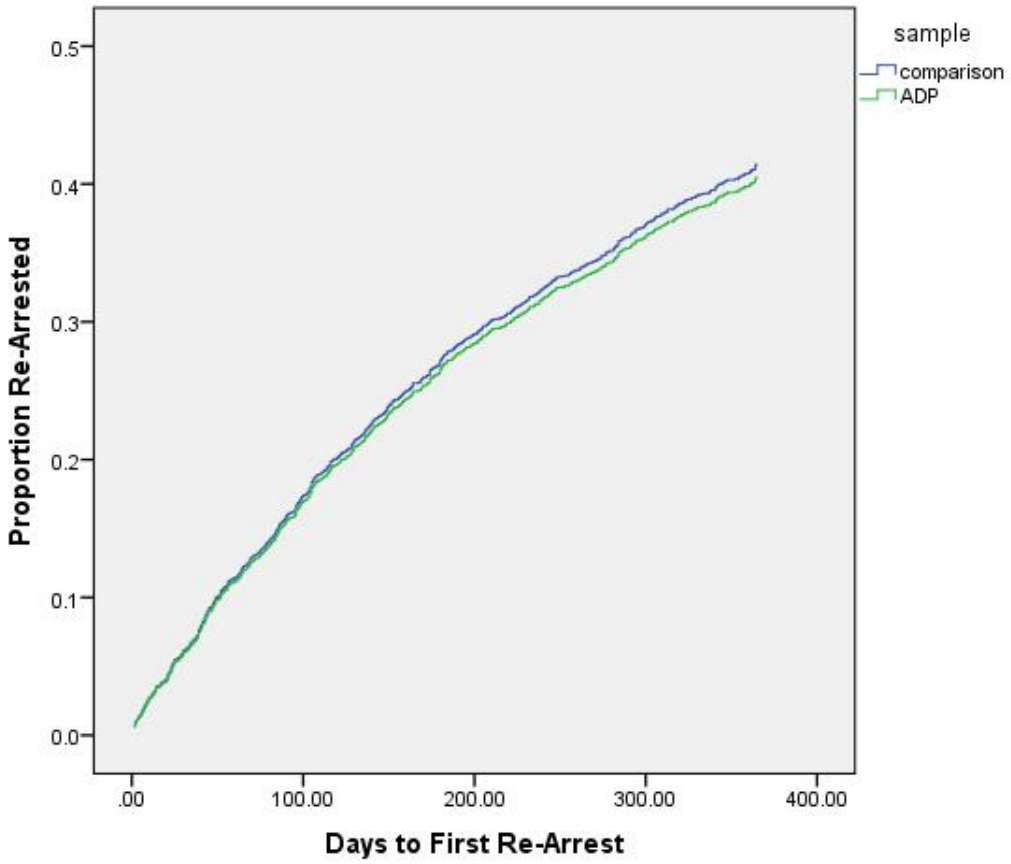


+p<.10, * p<.05

Did ADP Participants Remain Arrest-Free for a Longer Period than Comparison Youth?
Figure 3.2 shows the result of a survival analysis (Cox regression) for up to a 575-day tracking period. A simple visual inspection revealed that, as with Rempel et al. (2013), the ADP and comparison groups did not differ appreciably in the number of days to post-arraignment re-arrest (p = .73).

In analyses not shown, we then tracked survival separately for each county. While there were no statistical differences between the ADP and comparison groups for any county, the survival plots suggested that for Erie and Nassau counties, the ADP group trended toward worse outcomes than the comparison group, yet in the Bronx, the ADP group showed a non-significant trend toward a greater number of days to first re-arrest. Notably, a one-way analysis of variance (ANOVA) with Tukey's post-hoc test revealed that the risk score (predicted probability of re-arrest) was significantly higher for the Bronx than for Erie or Nassau participants—in fact, each county was significantly different from each other county. In light of the previously reported findings regarding the moderating effect of risk level on ADP program impacts, the fact that the Bronx ADP serves a particularly high-risk target population may explain why the Bronx seems particularly effective, relative to other sites, in delaying the onset of re-arrest.

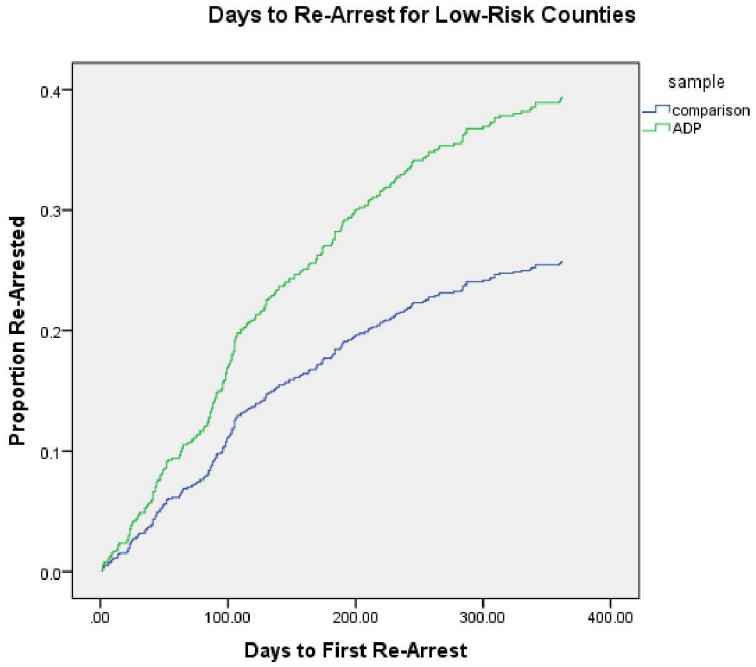
Figure 3.2. Days to Re-Arrest (Maximum Tracking Period = 575 Days)

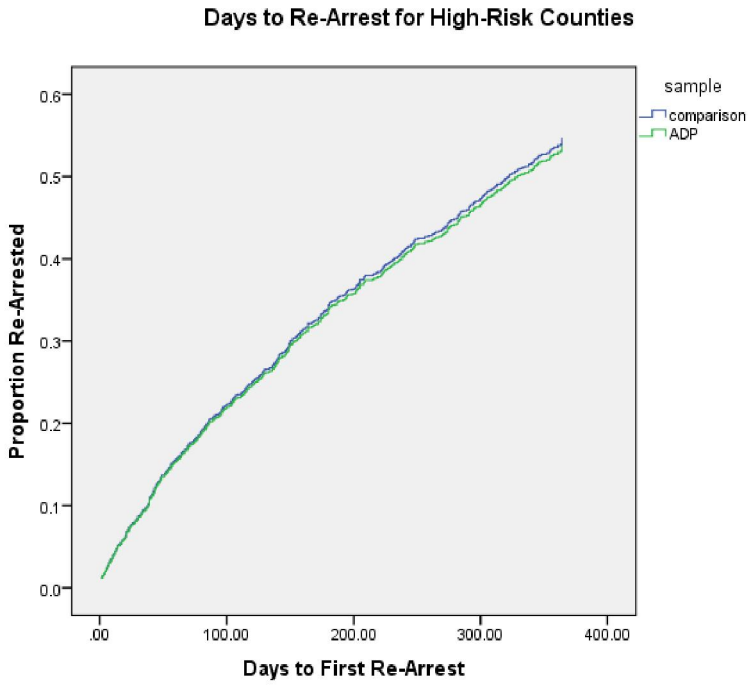


In a follow-up analysis, we split the sample into two groups: high-risk counties (the Bronx, Brooklyn, and Queens, n = 1410) and low-risk counties (Manhattan and Erie, n = 941).[8] A Cox regression analysis revealed a significant sample by risk group interaction, b = .44, $p < .01$. The survival plots for the two groups, shown in Figure 3.3, indicate that the ADP program led to earlier re-arrest in low-risk counties ($p < .01$), but to an approximately equal outcome in high-risk counties ($p = .86$).

[8] Nassau was excluded from this particular analysis. Although, overall, ADP participants in Nassau are relatively low-risk, the Nassau ADP model builds in an attempt to adjust the intensity of the intervention to the participant's risk level, a factor that could confound the findings shown in Figure 3.3. Including Nassau in the analysis did not substantially change the result, interaction b = .30 including Nassau, b = .44 without Nassau. Either way, in low-risk counties the ADP group demonstrated fewer days to re-arrest than the comparison group.

Figure 3.3. Days to Re-Arrest in Low- and High-Risk Counties





Summary

The results reported in this chapter are generally in line with Rempel et al.'s (2013) analysis of six-month recidivism. In one notable exception, the earlier analysis found that over a six-month period, ADP participation reduced the likelihood of felony and of violent felony re-arrest, but over the longer tracking period in the current study, that effect disappeared for the entire six-county sample. No *overall* effect of the ADP was found for any outcome measure, but a finer-grained analysis revealed that ADP was indeed effective in reducing the rate of re-arrest (but not time to re-arrest) among youth whose demographic and criminal history profiles signaled a very high recidivism risk at baseline. Yet, ADP is a double-edged sword: among youth actuarially least likely to recidivate, ADP diversion increased the likelihood of re-arrest (and resulted in *fewer* days to re-arrest in the survival analysis).

Chapter 4
Year Two ADP Cohort: Impact on Case Outcomes and Re-Arrest

This chapter examines case outcomes and re-arrests for 16- and 17-year-old defendants who were enrolled in the second year of the Adolescent Diversion Program (ADP) from January 1, 2013 to June 30, 2013. A matched comparison group was composed of 16- and 17-year-olds who were arraigned in the study sites before the ADP was instituted, between January 1, 2011 and June 30, 2011. The study was conducted in six of the nine ADP sites where ADP case volume was sufficient for rigorous impact analysis (the same sites as in the previous chapter, but with the addition of Onondaga and removal of Queens due to changes in Year Two case volume).

Design and Methodology

Case outcome and six-month recidivism data for sample members was obtained from the New York State Unified Court System for a minimum tracking period of 208 days and a maximum tracking period of 392 days from the arraignment date. (Cases that were arraigned relatively earlier could be tracked for relatively longer.) Case outcome data included case disposition and sentence. Recidivism data included days to re-arrest and re-arrest charge type (e.g., felony).

A final comparison group was constructed separately for each site using propensity score matching techniques. Specifically, for each county, simple correlations were computed between ADP sample (vs. non-ADP) and each of the demographic, criminal history, and arraignment charge variables. All variables with $p < .50$ were then entered into a logistic regression predicting membership in the ADP group. The propensity score was the predicted probability of being an ADP case on the basis of this regression function (or for those with incomplete data, on the basis of a similar regression that excluded variables for which data was missing for some cases).

Having generated propensity scores, the next step was to select final comparison cases. We ignored comparisons whose disposition status was still pending and selected those whose propensity score most closely approximated each respective ADP case (the exception was to select pending comparison cases for the few ADP cases that were also pending). For four sites (the Bronx, Brooklyn, Manhattan, and Onondaga), two comparison cases were matched to each ADP participant (matching the two comparison cases with the nearest propensity score, of those not already selected, to each respective ADP case). In Erie, only one comparison case was matched to each ADP case, and in Nassau, one comparison case was matched to every two ADP cases, because in both counties there was not a sufficient number of ADP or comparison cases with approximately equal propensity scores to support a 2-to-1 ratio.

Table 4.1 shows that the propensity score matching process was successful in equalizing the ADP and comparison groups, in that the significant pre-selection differences were nearly all eliminated in the matching process. In the final sample, by far the most common arraignment charge was an A misdemeanor, typically a petit larceny or other property offense, although consistent with their more inclusive eligibility criteria, the Nassau and Erie samples showed the greatest range of charge severities.

Table 4.1. Baseline Characteristics of ADP and Comparison Cases

ADP Site	Bronx				Brooklyn				Onondaga			
Sample	**All cases**		**Selected for Analysis**		**All cases**		**Selected for Analysis**		**All cases**		**Selected for Analysis**	
	Comp	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**
Number of Cases	2,639	331	592	296	1,356	158	316	158	146	86 [2]	60	30
DEMOGRAPHICS												
Age 16	46%	49%	52%	52%	47%	50%	46%	50%	42%	57%*	57%	50%
Age 17	54%	51%	48%	48%	53%	50%	54%	50%	58%	43%	43%	50%
Sex: Percent female	20%	22%	22%	21%	24%	23%	25%	23%	44%	31%+	43%	40%
Race: Black/African-American	66%	67%	65%	66%	75%	61%**	60%	61%	68%	84%*	73%	75%
CRIMINAL HISTORY												
Age at first arrest	16.33	16.10*	16.16	16.17	16.26	16.22	16.26	16.20	16.41	16.31	16.43	16.50
Number of prior arrests	1.24	1.75**	1.51	1.48	1.30	1.23	1.10	1.23	0.51	0.36	0.02	0.07
Number of prior felony arrests	0.28	0.34+	0.29	0.31	0.34	0.31	0.29	0.31	0.21	0.03**	0.02	0.07
Number of prior violent arrests	0.18	0.22	0.18	0.20	0.20	0.16	0.16	0.16	0.10	0.01*	0.00	0.00
Number of prior convictions	0.24	0.27*	0.31	0.27	0.19	0.23	0.15	0.23	0.00	0.27**	0.00	0.00
Number of prior felony convictions	0.05	0.08+	0.06	0.06	0.04	0.01	0.02	0.01	0.00	0.00	0.00	0.00
Any prior arrest	50%	61%**	57%	56%	50%	48%	49%	48%	25%	26%	2%	7%
Any prior felony arrest	20%	25%+	21%	22%	24%	23%	22%	23%	15%	4%**	2%	7%
Any prior violent felony arrest	14%	19%*	16%	16%	16%	14%	13%	14%	8%	1%*	0%	0%
Any prior conviction	14%	21%**	17%	17%	13%	13%	10%	13%	0%	21%**	0%	0%
Any prior felony conviction/guilty plea	5%	7%+	6%	5%	4%	1%	2%	1%	0%	0%	0%	0%
Any prior violent conviction/guilty plea	4%	5%	5%	4%	2%	0%+	0%	0%	0%	0%	0%	0%
CURRENT CHARGES												
Arraignment Charge Severity		***				**				***		
Nonviolent felony	0%	0%	0%	0%	0%	0%	0%	0%	0%	1%	2%	4%
Violent felony	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
A misdemeanor	62%	87%	85%	86%	77%	83%	85%	83%	84%	57%	93%	90%
B or U misdemeanor	38%	13%	15%	14%	23%	17%	14%	17%	14%	7%	3%	3%
Violation	0%	0%	0%	0%	0%	0%	0%	0%	1%	35%	2%	3%
Top Arraignment Charge Type		***				*				***		
Crime against person	10%	12%	15%	13%	31%	24%	27%	24%	14%	2%	13%	3%
Property offense (not VFO)	16%	35%	28%	30%	11%	20%	20%	20%	4%	2%	7%	7%
Marijuana pos., 5th degr. or less	16%	6%	7%	7%	8%	10%	8%	10%	1%	8%	2%	0%
Drug & other marijuana charges	6%	5%	6%	5%	2%	3%	3%	2%	4%	2%	2%	0%
Criminal trespass	17%	8%	9%	8%	9%	10%	10%	10%	7%	4%	3%	0%
Petit larceny	5%	10%	10%	11%	8%	8%	8%	7%	38%	23%	40%	33%
Criminal mischief	2%	4%	2%	4%	5%	8%	4%	8%	7%	14%	11%	23%
Other	30%	20%	24%	21%	27%	19%	20%	20%	25%	44%	22%	33%

Table 4.1. Baseline Characteristics of ADP and Comparison Case (*Continued)*

ADP Site	Manhattan				Erie				Nassau				All Sites			
Sample	All cases		Selected for Analysis		All cases		Selected for Analysis		All cases		Selected for Analysis		All cases		Selected for Analysis	
	Comp	ADP	Comp	ADP	Comp	ADP	Comp	ADP	Comp	ADP	Comp	ADP	Comp	ADP	Comp	ADP
Number of Cases	1,291	204 [1]	402	201	487	201	176	176	657	392	189	378	6,576	1,372	1,735	1,239
DEMOGRAPHICS																
Age 16	42%	48%	46%	48%	43%	46%	44%	47%	43%	44%	47%	45%	45%	48%+	48%	48%
Age 17	58%	52%	54%	51%	57%	54%	56%	53%	57%	56%	53%	55%	55%	52%	52%	52%
Sex: Percent female	30%	42%**	43%	42%	20%	24%	24%	24%	31%	27%	29%	27%	24%	27%*	29%	27%
Race: Black/African-American	67%	56%**	55%	56%	78%	77%	79%	77%	45%	47%	43%	46%	68%	63%**	62%	61%
CRIMINAL HISTORY																
Age at first arrest	16.35	16.42+	16.47	16.43	16.24	16.25	16.32	16.33	16.50	16.46	16.42	16.46	16.33	16.30+	16.31	16.32
Number of prior arrests	1.22	.24***	0.14	0.23+	1.14	0.97	0.82	0.88	0.22	.31*	0.19	0.25	1.12	.85***	0.85	.75+
Number of prior felony arrests	0.28	.03***	0.01	0.02	0.49	0.33*	0.32	0.30	0.07	.11+	0.08	0.10	0.28	.20***	0.20	0.19
Number of prior violent arrests	0.14	.01***	0.01	0.01	0.31	0.20+	0.19	0.19	0.03	0.05	0.05	0.04	0.17	.12***	0.12	0.11
Number of prior convictions	0.26	.03***	0.00	0.03	0.20	0.10*	0.12	0.10	0.06	0.09	0.06	0.06	0.21	.18***	0.15	0.13
Number of prior felony convictions	0.05	0***	0.00	0.00	0.10	0.05*	0.05	0.05	0.02	0.02	0.02	0.01	0.05	0.03*	0.03	0.03
Any prior arrest	45%	16%**	12%	15%	51%	43%+	39%	43%	15%	21%*	15%	19%	45%	37%**	37%	34%
Any prior felony arrest	21%	3%***	1%	3%	28%	21%+	21%	20%	6%	10%*	7%	9%	20%	15%**	14%	14%
Any prior violent felony arrest	11%	2%***	1%	1%	20%	16%	13%	15%	3%	4%	5%	4%	13%	10%**	10%	9%
Any prior conviction	16%	1%***	0%	1%	15%	10%+	11%	10%	6%	8%+	6%	6%	13%	12%	9%	9%
Any prior felony conviction/guilty plea	5%	0%***	0%	0%	9%	5%	5%	5%	1%	2%	2%	1%	4%	3%*	3%	3%
Any prior violent conviction/guilty plea	3%	0%*	0%	0%	7%	5%	5%	5%	1%	2%+	2%	1%	3%	3%	2%	2%
CURRENT CHARGES																
Arraignment Charge Severity		***				***				***				***		***
Nonviolent felony	0%	0%	0%	0%	43%	21%	19%	17%	7%	15%	14%	13%	5%	8%	4%	6%
Violent felony	0%	0%	0%	0%	27%	2%	1%	3%	0%	0%	0%	0%	2%	0%	0%	0%
A misdemeanor	84%	94%	90%	94%	41%	54%	54%	55%	54%	57%	56%	57%	68%	72%	80%	74%
B or U misdemeanor	16%	6%	10%	6%	8%	10%	10%	10%	13%	18%	18%	19%	24%	13%	13%	14%
Violation	0%	0%	0%	0%	8%	15%	15%	16%	25%	10%	12%	11%	3%	7%	3%	6%
Top Arraignment Charge Type		***		***		***				***		+		***		***
Crime against person	18%	0%			39%	17%	17%	18%	8%	12%	11%	12%	18%	12%	14%	12%
Property offense (not VFO)	13%	28%	19%	26%	14%	13%	18%	12%	5%	9%	6%	8%	13%	20%	20%	18%
Marijuana pos., 5th degr. or less	5%	5%	5%	6%	4%	10%	5%	9%	13%	16%	12%	17%	10%	10%	7%	10%
Drug & other marijuana charges	2%	3%	0%	4%	6%	10%	7%	10%	3%	9%	4%	9%	3%	6%	3%	7%
Criminal trespass	9%	4%	4%	5%	2%	4%	4%	5%	7%	7%	9%	7%	12%	6%	7%	7%
Petit larceny	28%	58%	62%	59%	8%	10%	10%	10%	30%	24%	25%	24%	14%	22%	24%	23%
Criminal mischief	3%	0%	1%	0%	6%	6%	5%	6%	7%	6%	11%	6%	3%	5%	4%	5%
Other	23%	1%	9%	2%	21%	26%	34%	31%	27%	17%	23%	17%	27%	19%	21%	18%

* $p < .05$, ** $p < .01$

[1] Statistics in this column reflect all New York County cases. Prior to matching, all cases with a crime against person arraignment charge were deleted because none were in the ADP group.

[2] Statistics in this column reflect all Onondaga County cases. Prior to matching, all cases with a violation arrest charge were deleted because 97% (32 of 33) were in the ADP group.

ADP Impact on Case Outcomes

Case outcomes were computed for those with a non-pending disposition (N = 2,804, 94% of all cases). Table 4.2 shows the impact of ADP on final case disposition and sentence by county and for the sample as a whole. The rightmost columns indicate that the ADP group had more dismissals and fewer pled guilty pleas or convictions than the comparison group. This finding indicates that at least some of those who would have otherwise pled guilty instead had their cases dismissed by virtue of their participation in ADP. There was, however, sizable variation across sites. The Nassau ADP, for instance, had a particularly large impact effect on case outcomes, with the percentage of convictions or guilty pleas reduced from 34% in the comparison group to 10% among ADP participants. A similar effect was achieved in Onondaga, though not reaching statistical significance, likely due to low sample size. On the other hand, the Erie ADP actually showed an increase in pled guilty/conviction outcomes (a focused test revealed that the difference between 39% and 49% approached significance at $p < .10$).

Breaking out guilty pleas/convictions by subtype revealed another layer of inter-site variability. The rate of criminal convictions was virtually identical for the ADP and comparison groups overall, each at 3%. The Bronx ADP demonstrated a significant decrease in criminal convictions (as did Onondaga, though not significantly); yet Brooklyn's ADP showed a significant increase in criminal convictions.

ADP led to an *increase* in jail sentences that approached statistical significance (5% v. 3%, $p < .10$), though there was no difference in the number of days sentenced to jail. There was substantial variability across sites, however. The Nassau and Bronx ADPs significantly reduced the rate of jail sentences, yet Erie showed a substantial increase that apparently accounted for much of the effect for the entire sample. In fact, ADP cases were significantly *less* likely than comparison cases to receive a jail sentence (1% v. 3%, $p < .01$) once Erie was removed from the analysis.

Among those cases with a sentence imposed, the trend for ADP was generally in the direction of fewer jail sentences. This effect was particularly strong in Nassau County (of those sentenced, 0% ADP v. 16% comparisons received a jail sentence) and in the Bronx (3% v. 8%); whereas in Erie County, the use of jail significantly increased among those sentenced (55% v. 27%).

Table 4.2. Impact on Case Outcomes

ADP Site	Bronx		Brooklyn		Onondaga	
Sample	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**
Total Number of Cases	592	296	316	158	60	30
Total Number of Non-Pending Cases	584	286	290	147	59	17
Number With Sentence Imposed[1]	280	144	74	47	20	2
CASE DISPOSITION (all non-pending cases)		***		+		+
Dismissed	24%	5%	33%	37%	10%	29%
ACD	28%	44%	42%	31%	56%	59%
Pled guilty/convicted	48%	50%	26%	32%	34%	12%
Of all non-pending cases						
Criminal Conviction[2]	*3%*	*0%**	*0%*	*5%****	*19%*	*12%*
YO Finding	*3%*	*3%*	*0%*	*0%*	*0%*	*0%*
Violation (Non-Criminal) Conviction	*43%*	*47%*	*26%*	*27%*	*15%*	*0%*
USE OF JAIL (all non-pending cases)						
Jail sentence	4%	1%*	4%	2%	3%	0%
Average days sentenced to jail	1.42	0.12	0.12	0.27	5.59	0.00
		***		***		*
SENTENCE (if sentence imposed)	n=280	n=144	n=74	n=47	n=20	n=2
Jail	8%	3%	4%	6%	10%	0%
Straight probation	1%	0%	0%	0%	25%	50%
Other sentence	91%	97%	96%	94%	65%	50%

Table 4.2. Impact on Case Outcomes (*Continued*)

ADP Site	Manhattan		Erie		Nassau		All Sites	
Sample	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**
Total Number of Cases	402	201	176	176	189	378	1,735	1,239
Total Number of Non-Pending Cases	370	201	170	164	185	331	1,658	1,146
Number With Sentence Imposed[1]	65	23	67	80	62	34	568	330
CASE DISPOSITION (non-pending cases)		***				***		***
Dismissed	13%	2%	23%	21%	20%	57%	22%	26%
ACD	70%	87%	38%	30%	47%	33%	44%	45%
Pled guilty/convicted	18%	11%	39%	49%	34%	10%	34%	29%
Of all non-pending cases								
Criminal Conviction[2]	*1%*	*1%*	*3%*	*5%*	*4%*	*2%*	*3%*	*3%*
YO Finding	*0%*	*0%*	*4%*	*4%*	*1%*	*1%*	*1%*	*2%*
Violation (Non-Criminal) Conviction	*17%*	*11%*	*32%*	*40%*	*29%*	*7%*	*31%*	*25%*
USE OF JAIL (all non-pending cases)								
Jail sentence	1%	1%	10%	29%***	3%	0%***	3%	5%+
Average days sentenced to jail	0.05	0.05	5.90	9.70	2.92	.57+	1.67	1.63
		**		***		***		***
SENTENCE (if sentence imposed)	n=65	n=23	n=67	n=80	n=62	n=34	n=568	n=330
Jail	2%	4%	27%[3]	55%	16%[3]	0%	10%	16%
Straight probation	0%	0%	5%	5%	2%	0%	2%	2%
Other sentence	98%	96%	68%	40%	82%	100%	88%	82%

+p<.10,* p<.05, ** p<.01, ***p<.001

Note: Due to rounding not all sets of percentages add up to 100%.

[1] Sample sizes for sentenced cases were slightly smaller than for all cases with a pled guilty disposition. A small number of convicted cases had not yet been sentenced when this court data was obtained.

[2] Non-YO convictions include cases convicted and sentenced on a felony or misdemeanor and not designated as a Youthful Offender (YO). (Non-YO cases typically have a prior felony conviction or felony YO on their record.)

[3] Includes one case with a jail/probation split sentence.

ADP Impact on Re-Arrest

Table 4.3 shows that ADP participation significantly improved six-month re-arrest outcomes relative to the comparison sample only for felony charges, which were reduced from 9% to 7%, and violent felony charges, which were cut from 5% to 3%. The most pronounced reductions in violent felony re-arrest were found in the Bronx and Erie Counties. Onondaga's ADP showed the reverse trend—a significant increase in felony and violent felony re-arrests—but due to its small sample size this site had relatively little influence on the entire sample. The rates of all other re-arrest categories (e.g., any misdemeanor re-arrest) were nearly identical for the ADP and comparison samples.

Table 4.3. Impact on Re-Arrest at Six Months

ADP Site	Bronx		Brooklyn		Manhattan		Onondaga	
Sample	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**
Number of Cases	592	296	316	158	402	201	60	30
Re-arrest in six months								
Any re-arrest	28%	26%	30%	39%+	9%	9%	17%	27%
Any criminal re-arrest	25%	24%	29%	34%	9%	8%	17%	27%
Any felony re-arrest	**11%**	**7%+**	11%	9%	3%	2%	**5%**	**20%***
Any violent felony re-arrest	**7%**	**3%****	6%	5%	1%	1%	**0%**	**13%****
Any misdemeanor re-arrest	19%	21%	21%	27%	8%	7%	15%	10%
Number of re-arrests	0.51	0.49	0.45	0.58+	0.13	0.11	0.20	0.37
Number of criminal re-arrests	0.38	0.42	0.41	0.48	0.13	0.11	0.20	0.37
Number of felony re-arrests	0.14	0.10	0.15	0.11	0.03	0.01	**0.05**	**0.23***
Number of violent felony re-arrests	**0.08**	**0.04+**	0.07	0.06	0.01	0.01	**0.00**	**0.13***
Number of misdemeanor re-arrests	0.25	0.32	0.27	0.37+	0.10	0.09	0.15	0.13

ADP Site	Erie		Nassau		All sites	
Sample	**Comp**	**ADP**	**Comp**	**ADP**	**Comp**	**ADP**
Number of Cases	176	176	189	378	1735	1239
Re-arrest in six months						
Any re-arrest	27%	32%	14%	11%	22%	21%
Any criminal re-arrest	27%	32%	11%	7%	21%	20%
Any felony re-arrest	18%	14%	5%	4%	**9%**	**7%***
Any violent felony re-arrest	**11%**	**3%***	4%	2%	**5%**	**3%*****
Any misdemeanor re-arrest	16%	24%	8%	7%	15%	16%
Number of re-arrests	0.45	0.50	0.17	0.13	0.36	0.33
Number of criminal re-arrests	0.43	0.48	0.15	0.13	0.30	0.30
Number of felony re-arrests	0.24	0.16	0.06	0.04	**0.11**	**0.08***
Number of violent felony re-arrests	**0.13**	**0.03****	**0.05**	**0.02***	**0.06**	**0.03****
Number of misdemeanor re-arrests	0.19	0.31*	0.08	0.08	0.19	0.21

+ p < .10, * p < .05, ** p < .01, *** p < .001

The Moderating Effect of Baseline Risk of Re-Arrest

As in Chapter 3, and consistent with RNR theory (Andrews and Bonta 2010), we classified all cases by their predicted risk of re-arrest to distinguish high-risk from low-risk offenders. Demonstrating that ADP is most effective for high-risk cases (and least effective, if not iatrogenic, for low-risk cases) would confirm RNR theory and our findings reported in Chapter 3, which documented such an effect for the Year One ADP cohort. If ADP is indeed differentially effective for 16- and 17-year-olds at low risk than for those at high risk, then the simple comparison between groups shown in Table 4.3 would mask its true impact.

To investigate this question we created a six-month re-arrest risk score for the comparison group in the following way. First, simple correlations were computed between six-month re-arrest and all demographic, criminal history, and current case variables. Next, all variables with $p < .10$ were entered into a logistic regression predicting six-month re-arrest. Table 4.4 shows the results of the logistic regression from which each comparison group defendant's predicted probability of re-arrest—his or her risk—was calculated. Results show that being male, African-American, having a prior arrest or conviction, and/or being arraigned on a property charge predicted re-arrest. This regression function was then used to calculate predicted probabilities of re-arrest—i.e., risk scores—for the ADP cases as well.

Table 4.4. Risk Score Computation: Predicting Re-Arrest at Six-Months

Model	
Sampling Frame	**Comparison Sample**[a]
Number of Comparison Cases	1735[b]
Number of Comparison Cases Re-Arrested	383 (22%)
Parameter Estimates:	
Male sex (vs. female)	.670***
Age 17 (vs. 16)	-.143
Black/African American	.371**
Any prior arrest	1.613***
Any prior felony arrest	-0.136
Any prior violent felony arrest	0.200
Any prior conviction	.628**
Property arraignment charge type (ref = other)	.363**
Constant	0.062
Chi squared	262.639
Nagelkerke R^2	0.252

+p<.10, * p<.05, ** p<.01, ***p<.001

[a]Risk score computed for the comparison sample was then imputed to the 1156 cases in the ADP sample.

[b]Parameters below were estimated for the 1610 (93%) comparison cases with complete data. Estimates for the remaining 125 cases were derived from a logistic regression that did not include sex and race.

Table 4.5. Moderating Effect of Defendant Risk Level on Re-Arrest at Six-Months

Type of re-arrest	Any	Felony	Violent Felony
Number of cases	2,974	2,974	2,974
Number of cases re-arrested	645 (22%)	237 (8%)	126 (4%)
Parameter Estimates:			
ADP sample (vs. comparison sample)	.029	.023	.066
Predicted risk of re-arrest	5.543***	5.239***	6.001***
ADP sample*predicted risk of re-arrest	-.101	-.424	-1.114*
Constant	-2.746	-3.891	-4.775
Chi-squared	488.066	193.145	142.369
Nagelkerke R^2	.234	.151	.158

+p<.10, * p<.05, ** p<.01, ***p<.001

Note. N = 2974.

The next step was to test for moderation effects, that is, to determine whether ADP was differentially effective for low- and high-risk cases. We tested this moderation for six-month re-arrest (any charge) and for felony and violent felony re-arrest. Table 4.5 shows a significant moderation effect only for violent felony re-arrest, such that ADP participation was particularly likely to *reduce* the incidence of violent felony re-arrest among defendants with a higher baseline risk level (consistent with what the Risk Principle would hypothesize).

The regression shown in Table 4.6 probed this interaction further to reveal that the effect of ADP participation for reducing violent felony re-arrest was significantly better for the highest-risk youth (strata 5, highest 20%, and to a lesser extent, strata 4, next highest 20%) than for the lowest risk youth (strata 1, lowest 20%). This trend is graphically illustrated in Figure 4.1.

Impact of ADP Participation on Days to Re-Arrest

We then conducted a survival analysis (Cox regression) for up to a 392-day tracking period. As in Chapter 3, the ADP and comparison groups were virtually identical in the number of days to post-arraignment re-arrest ($p = .796$). ADP did, however, lead to *fewer* days to felony re-arrest (b = -.83, $p < .001$). The hazard plot is shown in Figure 4.2.

Table 4.6. Moderating Effect of Defendant Risk Level on Violent Felony Re-Arrest at Six-Months

Number of Cases	2,956
Number of Cases Re-Arrested	130 (4%)
Parameter Estimates:	
ADP sample (vs. comparison sample)	.386
Risk strata (reference category = strata 1)	
Risk strata 2	-.464
Risk strata 3	1.403*
Risk strata 4	2.020**
Risk strata 5	3.241***
ADP sample*risk strata interactions	
Sample*risk strata 2	-.038
Sample*risk strata 3	-.695
Sample*risk strata 4	-.817+
Sample*risk strata 5	-.891*
Constant	-4.801
Chi squared	150.447
Nagelkerke R^2	.164

+p<.10, * p<.05, ** p<.01, ***p<.001

Figure 4.1. Re-Arrest for a Violent Felony at Six Months, by Risk Quintile

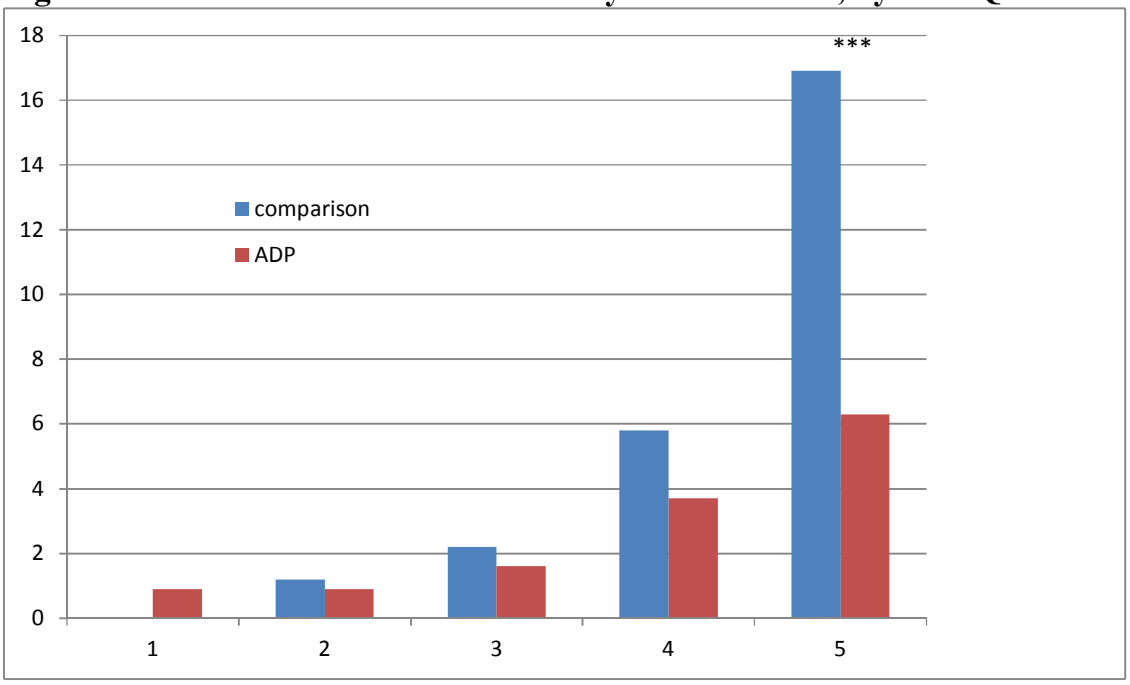
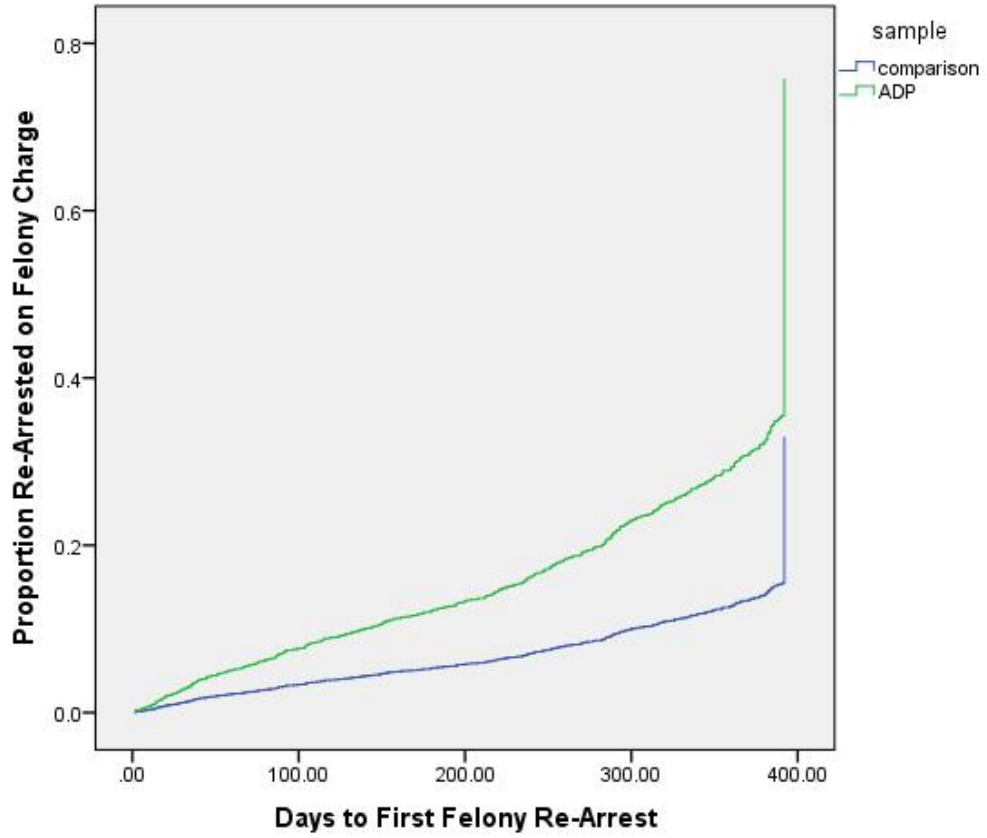


Figure 4.2. Days to Felony Re-Arrest (Maximum Tracking Period = 392 Days)



In a follow-up analysis parallel to the one reported in Chapter 3 we split the sample into two groups: high-risk counties (Bronx, Brooklyn, and Erie, N = 1714) and low-risk counties (Onondaga and Manhattan, N = 693).[9] (This is somewhat different from Chapter 3, in which Erie County had been placed in the low-risk category.[10]) A Cox regression analysis predicting felony re-arrest did not reveal a significant sample by risk interaction, however (p = .40).

[9] As in Chapter 3, Nassau was excluded from this particular analysis. Although, overall, ADP participants in Nassau are relatively low-risk, The Nassau ADP model builds in an attempt to adjust the intensity of the intervention to the participant's risk level. The interaction (moderation) term remained non-significant after including Nassau, b = -.07, p = .69.

[10] In the first (one-year) re-arrest analysis presented in Chapter 3, Erie was the fourth-highest risk county, behind Queens, the Bronx, and Brooklyn. Only Queens and the Bronx were identified as high-risk because they were markedly different from the other counties. In the second (six-month) re-arrest analysis presented here, Erie was the third-highest risk county, behind Bronx and Brooklyn. (Queens was not included in this analysis.) The Bronx, Brooklyn, and Erie were identified as high-risk because they were markedly different from the other counties.

Summary: Year Two ADP Cohort

Results for the Year Two ADP cohort demonstrated that ADP participation significantly reduced guilty pleas at any charge level (including youthful offender findings). However, there was no overall impact on *criminal* convictions (that become a part of the defendant's permanent criminal record) or jail sentences. The results also point to marked variation between several of the sites on these case outcome-related measures.

ADP was indeed effective in reducing the rate of six-month re-arrest for felonies and violent felonies (although ADP participants were re-arrested sooner than comparisons on felony charges). The moderation analyses in the present chapter extend Rempel et al.'s (2013) finding for six-month re-arrest, and Chapter 3's findings for one-year re-arrest, in the first ADP cohort. That is, ADP was especially effective in reducing violent felony re-arrests among youth with high-risk demographic and criminal history profiles. Yet, among low-risk youth, ADP diversion did not have an impact on violent felony re-arrest. Thus, the present analyses generally support the conclusion of Chapter 3, specifically that ADP is most effective for young offenders actuarially at the highest risk for recidivism. It also adds an important caveat: ADP helps to prevent re-arrest of high-risk offenders only for the most serious crimes.

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