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# MODELS FOR INNOVATION

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THE MANHATTAN DISTRICT ATTORNEY'S OFFICE

JUNE 2019

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## Letter from DA Vance

I am proud to be releasing the second edition my Office's Models for Innovation Report, which highlights efforts to modernize our practice and implement reforms that reduce unnecessary incarceration and reshape the justice system.

The Manhattan District Attorney's Office has a legacy of innovation, dating back to efforts from my predecessor, Robert M. Morgenthau, who helped drive crime across the borough to historic lows. I was committed to driving these crime rates even lower while at the same time reducing the criminal justice footprint that has historically had disparate effects on low-income New Yorkers and men and women of color.

We implemented data-driven approaches that allow us to focus our time, resources and expertise on the most serious crimes and bolster efforts to prevent crime—while we expanded alternatives to incarceration, instituted new bail reform policies, and used greater prosecutorial discretion to decline to prosecute low-level offenses.

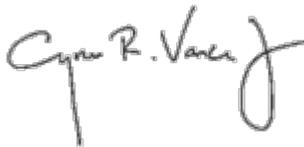
In 2018, we took these reforms even further by:

- Ending the prosecution of crimes of poverty, including turnstile jumping, unlicensed vending and nonpayment of fines.
- Ending the prosecution of marijuana smoking and possession cases.
- Expanding the continuum of pre-arraignment diversion programs for low-level offenses such as drug possession, trespassing and theft.
- Reducing the reliance on monetary bail for most low-level offenses.

And we're starting to see an impact. We have cut in *half* the number of cases that are handled by our prosecutors—from over 100,000 when I first came into office in 2010 to 52,000 cases last year. This incredible decline in heavy-handed justice has also coincided with the safest year on record in New York City.

We continue to look ahead toward new solutions and even broader reform. There is still a wealth of opportunity for prosecutors to spur innovation and to join the conversation on restructuring the criminal justice system.

Sincerely,

A handwritten signature in black ink that reads "Cyrus R. Vance, Jr." The signature is written in a cursive, slightly stylized font.

Cyrus R. Vance, Jr.,  
Manhattan District Attorney

## Overview: Reforms Under DA Vance

When Manhattan District Attorney Cyrus R. Vance, Jr. first took office in 2010, he began to reimagine the role that a prosecutor's office could play in modernizing and reforming the criminal justice system. Protecting public safety would, of course, remain the Manhattan District Attorney's chief concern. But systemic issues, such as unnecessary incarceration and courtroom inefficiencies, compelled the Office to examine whether there were alternative, more effective ways to reduce crime.

Under District Attorney Vance, the Office has embraced a new mission of criminal justice reform alongside its centuries-old founding mission of enhancing public safety. The goal: to create a fairer justice system by employing a community-based justice model and engaging in proactive crime prevention informed by data and enhanced by 21st-century technology. The Office's innovations include:

- Creating pre-arraignment diversion programs to lessen the burden on Manhattan Criminal Court and provide proportionate, community-based responses to low-level crimes;
- Declining to prosecute certain non-violent misdemeanor offenses, such as subway fare evasion and marijuana possession, except when the defendant poses a demonstrated risk to public safety;
- Ending the criminal prosecution of tens of thousands of violations and infractions, such as public consumption of alcohol and taking up two seats on the subway, each year;
- Creating opportunities for individuals to clear outstanding summons warrants, and dismissing decades-old summons cases en masse;
- Creating an Alternatives to Incarceration Unit and bolstering specialized courts to deliver targeted services that reduce recidivism by addressing the root causes of an individual's criminal behavior;
- Ending requests for bail in most misdemeanor and violation cases, and developing alternatives to cash bail; and
- Establishing dedicated bureaus, units, and positions to harness the collective resources of the office to tackle 21st-century crimes, improve the handling of specialized crimes, integrate data-informed approaches, and establish best practices for working with victims.

This report examines how the Office's new policies increase court efficiency, reduce unnecessary incarceration, and better account for the potential collateral consequences of criminal justice involvement. These policies leverage partnerships within the law enforcement community, with

other city and state agencies, and with community-based organizations and service providers to increase fairness in the justice system without sacrificing public safety. This report highlights each of these initiatives, beginning with an overview of the challenges facing Manhattan Criminal Court, a description of the steps the Office has taken to address these challenges, and an outlook toward future initiatives and reforms.

## Background

In 2009, when DA Vance took office, Manhattan Criminal Court arraigned more than 100,000 cases each year, including approximately 76,000 misdemeanors, 12,000 violations/infractions, and 12,000 felonies. Though the Manhattan District Attorney's Office employed more than 500 legal staff and 900 support staff, this caseload overwhelmed the Office and presented operational challenges for prosecutors, judges, and defense attorneys alike.

Each first-year Assistant District Attorney (ADA) handled a caseload of roughly 265 cases at any given time, many of which were violations, infractions, or low-level misdemeanor offenses – such as subway fare evasion (also known as “turnstile jumping”), marijuana possession, and disorderly conduct. Many of these defendants had little or no criminal record, and were not a threat to public safety. These cases would enter a misdemeanor court system so overburdened that 60% of its cases had to be immediately resolved at arraignment, and often, the defendant received no meaningful outcome: no rehabilitative services, no punishment, no drug treatment. Without appropriate alternatives to incarceration, only harsh justice responses – such as jail or probation – remained.

Junior ADAs spent much of their time assigned to the Office's Early Case Assessment Bureau (ECAB), where they would investigate and draft complaints within 24 hours of a new arrest, and stand up on cases in Criminal Court Arraignment Parts. The typical ADA was in ECAB or stationed in arraignments for four or five days per week in seven to eight hour shifts, including on weekends and holidays. These assignments placed significant time constraints on staff, making it difficult to contact victims, interview witnesses, investigate cases, and prepare for trial. As a result, more serious cases took precedence, leading to increased dismissals, particularly speedy trial dismissals, for low-level crimes.

## Data-Informed Decision-Making

### Internal Data Analysis

Confronted with these challenges, DA Vance sought to alleviate the burden on Manhattan Criminal Court, increase efficiency, and create proportionate responses to non-violent misdemeanor crimes. As a first step, the Office began integrating data-informed approaches into its prosecutorial decision-making. Immediately upon taking office, DA Vance and the executive staff bolstered the Planning and Management Bureau to create an in-house data analytics and policy unit; Planning and Management is now known as the Strategic Planning and Policy Unit.

Some of this unit's earliest data projects included caseload activity reports, felony statistic summaries, court part readiness analysis (which enabled the Office to advocate for more judges, court officers, and court clerks), and a review of the Early Case Assessment Bureau (ECAB). Analysts conducted numerous comprehensive studies to improve ECAB's efficiency, including the development of a database to track event timestamps. This analysis was instrumental in modernizing the Complaint Room and integrating real-time ECAB processing data into the Office's internal system.

Most significantly, by the end of 2010, Planning and Management created a comprehensive report that tracks the volume of arraignments, indictments, dispositions, pleas, trials, and dismissals. The initial report corroborated what the Office knew anecdotally about the 100,000 cases it handled each year: dismissals were high, trials were few, and oft-adjourned cases were more likely to be dismissed.

In addition to yearly statistical reports, Planning and Management created interactive "dashboards" that provide real-time information on all aspects of case processing. Such comprehensive analysis of the Office's practice better informs prosecutorial decision-making at the top management level and creates a baseline against which to compare future performance metrics.

### Prosecutorial Discretion

In 2012, the Office partnered with the Vera Institute of Justice (Vera) to examine 220,000 criminal cases disposed of in 2010 and 2011, with an eye towards evaluating discretionary decisions and racial disparities in case processing. Vera released its final report to the public in 2014.<sup>1</sup> The study compared black, Latino, Asian, and white defendants who were "similarly situated" – while also accounting for other factors, such as defense counsel, seriousness of charges, prior criminal record, and type of offense.

The report found that the best predictors of case outcomes were factors that directly pertained to legal aspects of a case – including the seriousness of the charge, the defendant's prior record, and the offense type. But Vera's research, likewise, indicated that race remained a factor in case outcomes: the report found that black and Latino defendants were more likely to be detained pre-trial, particularly for misdemeanor "person crimes" (such as assaults); receive a custodial plea offer; and receive more punitive sentences. The report also indicated that these defendants were more likely to have their cases dismissed, particularly for misdemeanor drug offenses.

District Attorney Vance began addressing these disparities by: 1) exercising prosecutorial discretion to end the criminal prosecution of low-level offenses that do not compromise public safety – and by virtue of such policy– end the perpetuation of racial disparities underlying those arrests; 2) taking steps within the Office to confront implicit biases head-on; and 3) developing alternatives to cash bail and pretrial detention. These policies, as well as others, are discussed in detail below.

## Reforming Court Practice

DA Vance identified diversion—using community-based interventions in lieu of conventional case processing—as an effective means for reducing racial disparities in case outcomes, reducing intake and case backlog, and in many cases, as an effective alternative to incarceration. The Office likewise examined its bail practices, establishing alternatives to detention for those awaiting trial, and changed its handling of low-level cases by removing tens of thousands of violations and misdemeanors from Manhattan Criminal Court. The collective results of the Office’s diversion and Criminal Court initiatives are detailed below.

- In 2009, the Manhattan District Attorney’s Office arraigned 101,552 cases, including 76,330 misdemeanors, 12,259 violations/ infractions, and 12,213 felonies; in 2018, the Office arraigned 52,224 cases, including 41,411 misdemeanors, 874 violations/ infractions, and 9,380 felonies, a 49% decrease since 2009.
- In 2009, first-year ADAs had an average pending caseload of 265 cases; in 2018, average caseload was 88 cases, a 67% decrease.
- In 2009, the Office’s dismissal rate, excluding dismissals following a six-month period of being arrest-free (an Adjournment in Contemplation of Dismissal or ACD), was 21%; in 2018, the comparable dismissal rate was 33%. In 2009, 46% of dismissals involved an ACD; in 2018, 37% of dismissals involved an ACD.
- In 2009, there were 160 Criminal Court Trials, with 68 Bench Trials; in 2018 there were 185 Criminal Court Trials, with 97 Bench Trials, a 14% and 30% increase in trials respectively.

### Criminal Court Diversion

#### *Project Reset*

In 2015, the Office developed Project Reset in partnership with the Center for Court Innovation (CCI), which operates community- and problem-solving courts, and the NYPD. Project Reset’s initial focus population included 16- and 17-year-olds charged with low-level misdemeanors, such as petit larceny, marijuana possession, and trespassing.

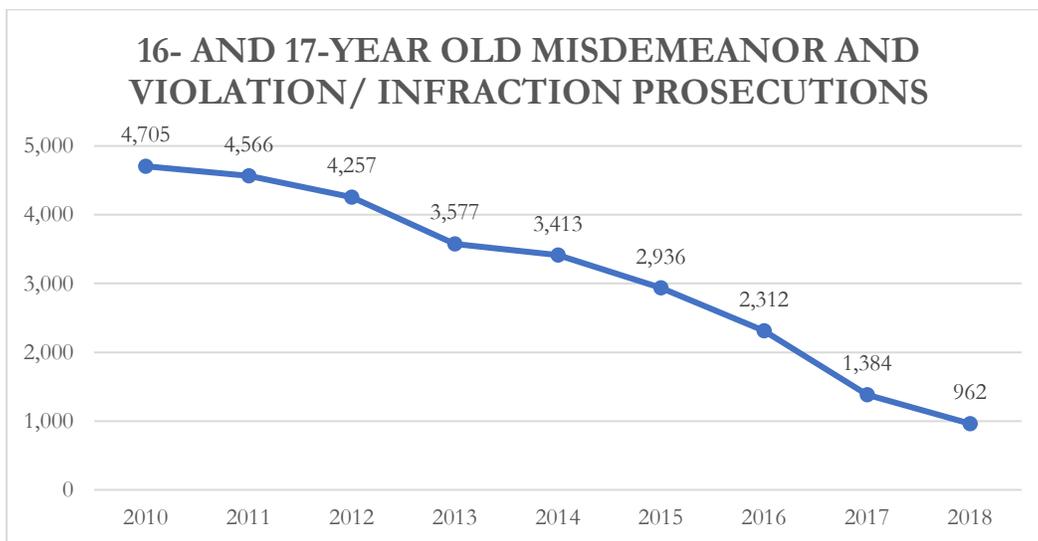
At the time of an arrest, the arresting officer informs eligible individuals about available programming and issues a Desk Appearance Ticket (DAT), an official order issued by the NYPD instructing an individual to appear in Criminal Court at a future date (typically eight weeks) to have his or her case arraigned. The Office’s Quality of Life Unit, described in detail below, reviews each case, and contacts eligible individuals, as well as their defense attorneys and CCI, which connects

these individuals to two days of age-specific programming (such as youth counseling and restorative justice activities). Upon completion, participants have their cases dismissed before ever entering a courtroom or acquiring a criminal record.

Rather than suppressing enforcement efforts, Project Reset seeks to modulate the system’s response, adhering to the principles of procedural justice, by creating a more constructive resolution to offending that does not rely on incarceration.

As of February 2019, 1,040 16- and 17-year-olds have participated in Project Reset, representing an 83% enrollment rate of eligible cases. Of those enrolled, 987 successfully completed the program – meaning 987 fewer cases were prosecuted in Criminal Court.

Programs like Project Reset and initiatives to remove low-level cases from the criminal justice system, discussed in-depth below, have led to an 80% decrease in the number of 16- and 17-year-olds arraigned on misdemeanors, violations, or infractions in Criminal Court between 2010 and 2018.<sup>1</sup>



Given the program’s success, the Office expanded Project Reset to adults of all ages: effective February 2018, the Office refers eligible people charged with non-violent misdemeanors to Project Reset. As of February 2019, 1,030 adults have participated in Project Reset, representing a 59% enrollment rate of eligible adults. Of those enrolled, 821 have successfully completed the program.

Project Reset service providers offer diversion workshops on topics such as building social resilience, restorative justice, naloxone training and participate in community benefits projects. These organizations also offer counseling services, introduce trauma-coping interventions, link

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<sup>1</sup> Effective October 2019, all 16-and-17-year-olds charged with a misdemeanor or non-violent felony are transferred to Family Court as a part of New York State’s Raise the Age law.

individuals to community-based wraparound services, and, for young adults arrested in Lower Manhattan, deliver arts-based restorative justice interventions.

### *Manhattan Hope Program*

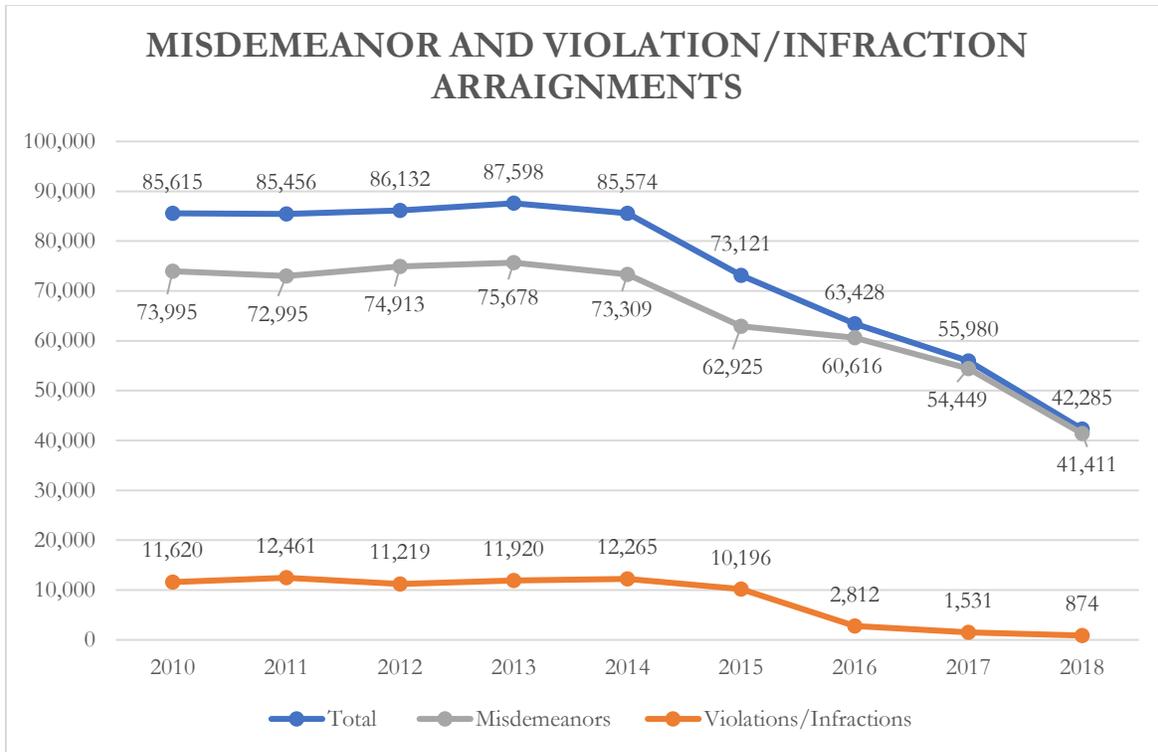
The national opioid epidemic is compelling law enforcement and public health agencies to implement innovative solutions to combat the number of overdose deaths that are plaguing communities. In September 2018, the Office implemented the Manhattan HOPE (Heroin, Overdose, Prevention and Education) program, aimed at diverting cases for those charged with misdemeanor drug possession and connecting people to services through harm reduction and rapid engagement.<sup>ii</sup> Manhattan HOPE., based on a similar pre-arraignment diversion program developed by Staten Island District Attorney Michael McMahon, pairs high-need individuals with peer navigators at the point of arrest to better facilitate access to services and other prosocial activities. Upon successful completion of the program, the Manhattan District Attorney's Office declines to prosecute the criminal case. In the first six months of implementation, 80 people have enrolled in the program – gaining access to life-saving services – and 22 have completed it and had their cases declined to be prosecuted.

### *Project Green Light*

Beginning April 1, 2018, the Office implemented Project Green Light to offer diversion options for those charged with failure to answer a summons or pay a fine under VTL §511 (Unlicensed Operation of a Motor Vehicle in the Third Degree). This program identifies drivers who have outstanding tickets and gives them time to clear their license with the Department of Motor Vehicles by paying their summonses. Project Green Light excludes individuals who pose a risk to public safety, such as individuals whose licenses are suspended due to driving while intoxicated. Between April and December 2018, there have been 1,990 cases eligible for Project Green Light, of which the Office declined to prosecute 569 cases and dismissed another 261 cases.

## Ending the Criminal Prosecution of Low-Level Offenses

Since 2014, the Office's efforts to divert low-level offenders from Criminal Court has decreased the number of misdemeanor arraignments by 44%, and violation or infraction cases by 93%. In 2010, the Office charged more than 85,000 misdemeanor, violation, and infraction cases – in 2018, that number dropped to roughly 42,000. In 2019, these numbers will decline even further as the Office's policies to end the prosecution of certain misdemeanors, violations, and infractions are fully operationalized.



*Turnstile Jumping and Unlicensed General Vending*

In its continued effort to steer individuals away from the criminal justice system and toward other, less harsh sanctions, the Office has ended the criminal prosecution of certain misdemeanor offenses, unless there is a demonstrated public safety reason to do so. The Office believes removing these low-level cases from Criminal Court will not prevent enforcement of such matters.

Historically, the criminal prosecution of turnstile jumping led to unnecessary incarceration and case backlog, disproportionately affecting vulnerable New Yorkers without positively impacting public safety. Two-thirds of the people arrested in Manhattan for fare evasion had no prior New York State convictions, and judges imposed virtually no criminal sanctions on those people who pleaded guilty to the offense.

Several existing methods of farebeating enforcement available to the NYPD do not leave individuals with a lifelong criminal record, and do not unduly tax judicial resources. Three out of every four people stopped by police for turnstile-jumping in Manhattan are already given a Transit Adjudication Bureau (TAB) summons, which is essentially a ticket returnable to a civil court. It is also within the NYPD’s discretion to issue a criminal summons, or “c-summons,” returnable to a Criminal Summons Court at a later date. Both options are significantly less costly and a more appropriate and proportionate response to subway fare evasion.

Accordingly, as of February 2018, the Office declines to prosecute all PL §165.13(3) (Theft of Services) cases, more commonly known as “turnstile jumping,” absent the following public safety exemptions:

- Individuals with prior violent felony or A-I (non-drug) convictions, unless the sentence was completed more than 10 years ago;
- Individuals with any prior sex crimes conviction (felony or misdemeanor);
- If there is information indicating the individual is a priority offender.

This policy has reduced the number of fare evasion cases by 93%. Between February and December 2018, the Office prosecuted 436 PL §165.13(3) cases. In this same time period in 2017, the Office prosecuted 6,702 cases.

Similarly, the Office ended the prosecution of Unlicensed General Vendors and Food Vendors (§§ 20-453, 20-461, 17-307(a)(1), 24 RCNY § 89.06(a)). These cases involve individuals who sell merchandise or food without a license or permit, or those who do not display their licenses or permits.

The issuance of vending licenses and permits is extremely restricted in New York City, and most of those who illegally vend may never earn a lawful permit. These individuals, often immigrant New Yorkers, pose no public safety risk. Currently, most of the individuals who commit these low-level crimes are issued summonses returnable to the Summons Court, but hundreds of individuals are still arrested each year.

Now, the Office declines to prosecute all unlicensed general vending cases and food vending cases unless the defendant is charged with additional crimes or poses a public safety risk. In 2018, the Office arraigned 16 unlicensed general vendor cases, compared to 506 cases in 2017, a 97% decrease.

### *Violations and Infractions*

In 2016, the Office operationalized numerous initiatives to end the criminal prosecution of approximately 10,000 low-level, non-violent offenses below the misdemeanor level. The Office no longer prosecutes most violations or infractions, and the NYPD no longer arrests individuals who commit these offenses – such as public consumption of alcohol or taking up two seats on the subway – unless there is a demonstrated public safety reason to do so.

These individuals are now diverted to a Summons (SAP) Court where they are issued summonses in lieu of arrest. This initiative enables the NYPD to devote its resources to investigating serious offenders, while further reducing the backlog of cases in Manhattan Criminal Court.

The Office does, however, continue to prosecute certain violations that affect public safety; for example, driving while impaired, possession of illegal knives, possession of synthetic cannabinoids, and penal law violations such as harassment.

This policy has diverted thousands of individuals from the courtroom and significantly decreased the number of violation and infraction prosecutions. While the Office arraigned approximately 12,000 violations/ infractions in 2010, that number dropped to 874 in 2018. Manhattan achieved a 92% reduction in violation and infraction arraignments since 2010 without impacting public safety. In fact, 2018 was the safest year in New York City in seven decades.<sup>iii</sup>

### *Marijuana Prosecutions*

Early in his tenure, DA Vance lobbied the state legislature to decriminalize marijuana possession offenses. In 2012, in the absence of legislative changes, the Office partnered with the NYPD and the Mayor's Office to lessen the impact of being charged with low-level marijuana possession. DA Vance will continue to advocate for legalization of marijuana and expungement of previous marijuana convictions. In the meantime, the Office has enacted new policies to significantly decrease the number of individuals arrested and charged for this low-level offense.

To reduce the number of marijuana prosecutions, DA Vance announced a new policy to summarily decline to prosecute marijuana possession and smoking cases. Since going into effect on August 1, 2018, criminal prosecutions of misdemeanor marijuana possession (PL §221.10) cases has decreased by 94% compared to the same period in 2017.

Following the implementation of this policy, DA Vance dismissed 3,042 marijuana smoking and possession cases in September 2018, thereby preventing unnecessary future contacts with the criminal justice system, eliminating the collateral consequences associated with having an open marijuana case, and empowering New Yorkers to interact with law enforcement without fear of arrest or deportation. Of the individuals whose cases were dismissed, 79% are New Yorkers of color. 46% were 25 years of age or younger at the time of their arrest.

Such policies enhance fairness in the prosecution of marijuana cases. It has been well-documented that cases of marijuana possession weigh heavily and disproportionately on communities of color.<sup>iv</sup> By reducing criminal liability for low-level marijuana possession, the Office has taken steps to address these concerns.

### *“Clean Slate” and the Administrative Clearing of Summons Cases*

Recognizing the impact that outstanding warrants can have on an individual's participation in his or her community, DA Vance, working with the Office of Court Administration (OCA) and public defender services, hosted three “Clean Slate” events to resolve outstanding warrants for low-level summonses.

When individuals are stopped for minor offenses, such as disorderly conduct and certain marijuana offenses, they are often issued a criminal summons, a ticket that sets a specific date when the individual must go to court to resolve their case. If he or she does not go to court on the specified date, the Court may issue a bench warrant, an order by a judge authorizing the arrest and detention of the individual. Though the original charge may be minor, an outstanding warrant can have severe

collateral consequences. An outstanding summons warrant can impact a person's ability to go about their daily life as there is an active warrant out for their arrest.

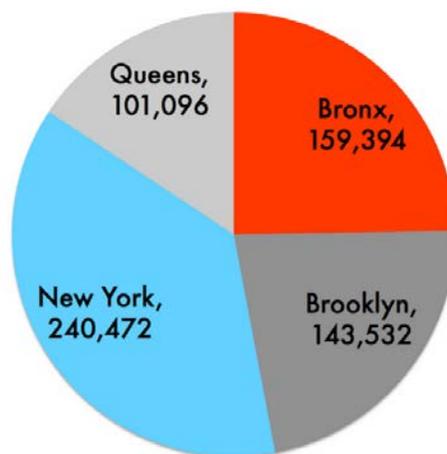
For instance, when an individual with an outstanding warrant is arrested for a relatively minor crime, the bench warrant often forces defendants to be held in jail pre-arraignment, rather than being released from the precinct and given a Desk Appearance Ticket directing them to appear at arraignment at a future date. Outstanding summonses can thus increase incarceration and result in more frequent criminal records. Individuals with outstanding summonses may also hesitate to report crimes to law enforcement when they themselves are victims. Spending even one night in jail can cost someone their job, their housing, their immigration status, and their confidence in the criminal justice system. By giving those with old open summons warrants a fresh start, the Clean Slate initiative has helped reduce these harmful collateral consequences.

Clean Slate events do not take place in the courthouse, but rather engage individuals in a community setting. Public defenders provide free legal advice and, working alongside judges, court officers, and ADAs, collaboratively assist in vacating warrants and disposing outstanding cases. Clean Slate events also feature resource fairs where individuals are connected to additional social services, such as job training opportunities, healthcare information, and referral services. On-site interpreters provide translation services for non-English speakers.

The first Clean Slate (November 2015) worked with 700 people to help resolve their summons warrants, the second Clean Slate (April 2016) helped 460 people, the third Clean Slate (June 2017) assisted an additional 380 people, and the fourth Clean (April 2018) served 200 people.

In addition to the three Clean Slate events, in August 2017, the DA announced the administrative clearing of 240,472 summons warrants ten years old or older, eliminating the collateral consequences of years-old warrants for hundreds of thousands of New Yorkers and enabling them to collaborate more fully in their communities without fear of arrest. DA Vance personally moved to vacate the summons warrants in Manhattan Criminal Court and then dismissed the 240,472 cases themselves. In total, approximately 644,500 summons cases were dismissed simultaneously in counties across New York City, including Manhattan, Queens, Brooklyn, and the Bronx.<sup>v</sup> In March 2019, DA Vance committed to an additional mass clearing of low-level summons warrants and will work with law enforcement partners to determine next steps.

**644,494 Summons Cases Dismissed  
in NYC on August 9th, 2017**



### Alternatives to Detention

District Attorney Vance recognizes that a systemic reliance on cash bail for low-level offenses is out of step with a reformed, 21st-century justice system. This antiquated approach to bail and pre-trial detention is not only fundamentally unfair, it does not make New York safer. The Office has worked to expand the use of effective alternatives to pre-trial detention now available to the courts.

#### *Supervised Release*

In 2016, the Manhattan District Attorney's Office worked with the Mayor's Office of Criminal Justice and local service providers to fund and operationalize the citywide Supervised Release program. The program permits judges to release defendants to a supervisory program that allows these individuals to remain at liberty while awaiting trial. Supervised Release expands judges' options beyond setting monetary bail or releasing defendants on their own recognizance with no system in place to ensure their return to court, and provides intensive monitoring, frequent face-to-face and telephone contact with program staff, and referrals to outside agencies for additional services.

In 2018, 1,040 individuals were granted Supervised Release in Manhattan and, as of February 2019, a total of 3,375 individuals arraigned in Manhattan have been granted Supervised Release since the start of the program. The Office has requested that the Mayor's Office of Criminal Justice expand the Supervised Release eligibility requirements so that more individuals can participate per year.

#### *Misdemeanor Bail Reform*

On January 9, 2018, the Office adopted a new policy on bail requests; there is now a presumption that bail should not be requested in misdemeanor and violation cases absent certain limited

exceptions. Prosecutors are, however, instructed that bail may be appropriate in the following misdemeanor cases:

- Misdemeanor cases where a jail sentence of 30 days or more is being sought.
- Cases involving a victim (e.g., domestic violence, sex crimes, child abuse, assault cases, subway sexual assaults, etc.).
- Cases where the defendant injures a police officer, firefighter, EMT or other such public servant, or violently resists arrest.
- Cases where the defendant has a prior violent felony conviction in the past 10 years, or a prior serious, non-violent felony conviction (e.g., A-I or A-II offenses, Sex Trafficking, Robbery in the Third Degree, Conspiracy to commit a violent felony) in the past 10 years.
- Cases where the defendant has a prior (felony or misdemeanor) sex crime conviction.
- Cases where the defendant has a pending felony case, or multiple pending misdemeanor cases.
- Cases where the defendant is on parole, probation, or supervised release.
- Cases where the defendant is a priority offender.
- Cases where the defendant has an extensive criminal history, or a history of failing to appear in court where supervised release is not appropriate.

Since this policy went into effect, misdemeanor bail requests decreased by 28% compared to 2017.

## Specialized Courts

Working with the Office of Court Administration and other partners, the Manhattan District Attorney's Office likewise created multiple problem-solving court parts tailored to defendants' needs. These specialized courts deliver targeted interventions, provide alternatives to incarceration, and help reduce recidivism by creating more effective interactions with the justice system.

- Manhattan Mental Health Court (MMHC) provides comprehensive oversight and mental health treatment to eligible defendants charged with felony offenses. Through a system of intensive judicial monitoring and a network of supportive services, MMHC works to ensure that offenders have the resources available to facilitate successful engagement in mental health programs while maintaining compliance with court mandates. As of February 2019, there are roughly 60 MMHC participants, each carefully selected by the Office and court officials.
- Manhattan Drug Court (MDC) handles felony cases with defendants whose criminal activity is motivated by a substance use disorder. MDC connects participants to treatment, breaking the cycle of drug abuse, addiction, and incarceration. Since its inception in 2009, MDC has completed approximately 3,300 referrals. As of February 2019, there are approximately 320 active participants enrolled in the court.

- The Human Trafficking Intervention Court (HTIC) works with individuals who are charged with prostitution-related misdemeanors and violations. In New York, human trafficking largely involves the commercial sex trade, and prostituted individuals are often victims of coercion and abuse.<sup>vi</sup> HTIC connects these individuals to necessary support services in the community.

In 2012, the Office created an Adolescent Youth court part for 16- and 17-year-old defendants, which prioritizes rehabilitation over punishment. Participants receive youth assessments and are connected to supportive services to divert them from the criminal justice system. Cases, often for low-level crimes, are typically resolved with an ACD and youth counseling sessions. Similarly, the Office created a Young Adult court part in Criminal Court for 18- to 20-year-old defendants.

- In April 2016, the Office and OCA started a Veterans' Treatment Court in Manhattan Supreme Court, offering customized services to address legal and mental health needs of veterans whose criminal behavior may be linked to their military service. There have been approximately 70 referrals to date.
- Beginning in the fall of 2018, the Office and OCA began planning the nation's first Alternative to Incarceration (ATI) Court. This Court, which will go into effect in the summer of 2019, is designed to consolidate and increase the utilization of felony-level ATI dispositions before one judge. Specially trained clinicians will assess defendant's needs and provide case management and other support to ensure compliance with court mandates. Unlike other problem-solving courts, the ATI Court does not have a specific target population.

## Internal/Structural Reforms

In addition to extensive diversion initiatives and court-based reforms, DA Vance implemented numerous internal and systematic changes to modernize the Office's practices and ensure all individuals who come into contact with the justice system are treated efficiently and fairly. Some of these reforms include expanding victim services and making resources more accessible, such as creating specialized hotlines for individuals to securely report crimes, and bolstering the resources of the Witness Aid Services Unit. The Office also enhanced training for legal and support staff on implicit bias and alternatives to incarceration, implemented yearly reviews of plea and sentencing guidelines, and created and restructured numerous units and bureaus.

## Implicit Racial Bias Analysis and Training

Immediately following the Vera study (see p. 3), the Office took several steps to promote an organizational structure that embraces diversity. Among the most significant changes was the appointment of a Chief Diversity Officer. Since her appointment in 2014, the Chief Diversity Officer has spearheaded numerous training opportunities for staff, bringing in respected outside

experts, such as Bryan Stevenson from the Equal Justice Initiative, Adam Foss from Prosecutor Impact, and Jeffrey Robinson from the American Civil Liberties Union, to help set best practices.

The Manhattan DA's Office is the first prosecutor's office in the United States – state or federal – to institute mandatory, comprehensive implicit bias training for everyone: every ADA and every member of our staff. DANY worked with the Vernā Myers Consulting Group to conduct focus groups with both legal and non-legal staff members in order to identify implicit bias and points where it can be interrupted in the Office's work, and to develop a training specific to our work and office culture. Harvard psychology professor Mahzarin Banaji conducted mandatory, two-part trainings for all legal and non-legal staff on recognizing and interrupting implicit bias. There was a third training on cultural competency by Adam Foss of Prosecutor Impact. All of these trainings were overseen by our Chief Diversity Officer.

### The Conviction Integrity Program

In 2010, DA Vance created New York City's first Conviction Integrity Program to: 1) reduce incidents of wrongful conviction, and 2) review prior convictions – some years, or even decades old – to address claims of actual innocence. The Program is comprised of a Conviction Integrity Committee, a Conviction Integrity Chief, and an outside Conviction Integrity Advisory Panel.

Ten senior ADAs staff the Conviction Integrity Committee, which reviews practices and policies related to training, case assessment, investigation, and disclosure obligations, with a focus on potential errors such as eyewitness misidentifications and false confessions. The Conviction Integrity Policy Advisory Panel is comprised of leading criminal justice experts, including legal scholars and former prosecutors, who advise the Office on national best practices and evolving issues in the area of wrongful convictions.

The Program helped establish detailed procedures and protocols designed to bring to bear the most thoughtful practices in the investigation and prosecution of every case, and created required integrity training sessions for all legal staff.

When the Office receives a post-conviction claim of innocence – whether in the form of a post-conviction motion to vacate, or in the form of a simple letter from a defendant or an attorney – it goes directly to the Conviction Integrity Unit. If the Conviction Integrity Chief determines that a case should be reinvestigated, it is assigned to a different ADA than the one who originally prosecuted the case. The new assistant will then reinvestigate the case, and report back to the Chief – and ultimately to the DA – with his or her conclusions and recommendations.

Since its creation in 2010, the Program has received approximately 246 claims of innocence and conducted approximately 42 reinvestigations. As a result of those reinvestigations, this Office has consented to vacate convictions for 9 defendants. The Pre-Trial Exoneration Review Committee has likewise reviewed approximately 48 cases.

## The Alternatives to Incarceration Unit

The Alternatives to Incarceration (ATI) Unit, created in 2016, serves as a resource for the entire Office, identifies treatment and other programs that could be effective diversion options, and helps identify defendants who can benefit from these programs without compromising public safety.

The ATI Unit consolidates program-based dispositions under one umbrella. Until now, diversion dispositions have largely been driven by defense attorneys selecting program placement; there was no internal or systematic process for assessing the risk and criminogenic needs of the defendant and matching that person to the right intervention. The ATI Unit has enhanced the Office's institutional capacity to evaluate programs, encourage their utilization, and monitor their effectiveness.

The Unit's legal staff includes the ATI Unit Chief, the ADA in Charge of Drug Court, and three line ADAs. These individuals receive training on risk-need-responsivity principles (a framework for recidivism reduction), and are responsible for dispositions involving programming and rehabilitation. When a programming disposition is appropriate, prosecutors assigned to the ATI Unit prepare the written plea agreement, review treatment updates, arrange for case advancements, and, when necessary, stand in court.

In addition to cases in the problem-solving courts, the ATI Unit is currently supervising roughly 300 cases in Manhattan Criminal and Supreme Court.

## Collateral Consequences Counsel

In 2017, the Office created a new, first-of-its-kind position to assess the collateral consequences of criminal convictions on a case-by-case basis. Working alongside other Assistant District Attorneys and city agencies, the Collateral Consequences Counsel assesses the immigration – as well as housing and employment – consequences of the Office's plea and charging decisions, and advises on available dispositions which reduce or eliminate an individual's risk of deportation. As such, the Counsel assists ADAs handling immigration-related post-conviction motions, pre-trial requests from defense counsel seeking to structure alternate pleas, and applications to civilly seal prior convictions.

This role centralizes the Office's longstanding practice of working with defendants and their attorneys case-by-case to reach dispositions that hold defendants accountable while avoiding unnecessary immigration consequences, including, for example, offering pleas to alternative, non-deportable charges, and sealing cases early.

## The Special Victims Bureau and the Witness Aid Services Unit

In September 2010, DA Vance consolidated the Office's Sex Crimes Unit, Family Violence and Child Abuse Bureau, Domestic Violence Unit, and Elder Abuse Unit to create the Special Victims Bureau (SVB). Combining these Units has coordinated resources, best practices, legislative reform efforts, and investigative tools to better serve the Office's special victims. Later, in 2014, the Human

Trafficking Response Unit joined SVB, allowing the Unit to leverage SVB's resources to investigate and prosecute cases of sex and labor trafficking.

In 2018, DA Vance announced the creation of the Work-Related Sexual Violence Team, a group dedicated to survivors of work-related sexual violence. The team deploys specially trained sex crime prosecutors to swiftly investigate complaints. A supervising attorney of the Sex Crimes Unit, 15 ADAs, and a social worker staff the Work-Related Sexual Violence Team.

The Office recently hired a full-time social worker to engage with victims and families who interact with the Special Victims Bureau. These victims, as well as victims from across the Office, can access services through the Witness Aid Services Unit (WASU). Under DA Vance's leadership, the Office greatly expanded WASU's capacity. WASU is now comprised of four main departments, the Victim Assistance Center, the Counseling Department, the Social Services Department, and the Notification Department.

The Unit offers a variety of specialized services which aid victims in overcoming psychological trauma, and is designed to assist individuals through the entire prosecutorial process. Services include crisis intervention and support, referrals to shelters, accompaniment to court, notification of sentencing and victims' rights information, advocacy for governmental entitlements, and individual and group counseling.

### The Hate Crimes Unit

Also in 2010, DA Vance created the Hate Crimes Unit to build the Office's capacity to handle hate and bias crimes and to unify resources under one unit. Working in close collaboration with law enforcement and community partners, the Hate Crimes Unit aggressively prosecutes crimes that target victims based on actual or perceived race, national origin, gender, religion, age, disability, or sexual orientation. The Unit also trains and designates Hate Crimes ADAs and investigators to swiftly and effectively bring offenders to justice.

In addition, the Hate Crimes Unit maintains an active community presence. Hate Crimes ADAs present to community groups and civic organizations across Manhattan, making themselves available as community resources and educating residents on issues of bias-related crimes. The Hate Crimes Unit also maintains a hotline, where victims can anonymously submit complaints directly to the Unit.

### The Cybercrime and Identity Theft Bureau

By 2010, nearly every crime in Manhattan included some digital component. Whether it was information stored on electronic devices, shared on social media, or exchanged through digital networks, it had become clear that the Office would need to adopt a 21st-century approach. In response to this fundamental shift in crime trends, DA Vance created the Cybercrime and Identity Theft Bureau (CITB) to refocus, enhance, and expand the Office's capacity to prosecute high-tech crime. The bureau, staffed by ADAs as well as cyber analysts and digital evidence specialists, serves as an Office-wide resource to advance the use of technology in prosecution.

In 2017, DA Vance announced the opening of the Office’s Cyber Lab, a 17,000 square-foot, state-of-the-art facility with 75 full-time staff members—the first of its kind within a local prosecutor’s office in the United States. The lab, equipped with a radio frequency-shielded room and designed to process biohazardous materials, enables prosecutors, investigators, and analysts to co-locate within a single facility and process a greater volume of data and devices more efficiently.

Since 2010, the Office has also taken several significant steps to combat malicious cyber activity outside of the Office, like the release of open-source risk reduction tools and legislative advocacy to take cybercriminals and identity thieves off-line. In 2015, DA Vance, together with the City of London Police and the Center for Internet Security, announced the creation of the Global Cyber Alliance (GCA), a non-profit, multi-sector coalition focused on addressing cyber vulnerability. GCA reaches across industry sectors to significantly reduce cyber risks through the exchange of threat data and the development of open-source solutions. As of February 2018, GCA has more than 150 global partners, representing 18 different countries, and 21 areas of industry, government, and law enforcement.<sup>vii</sup>

### The Crime Strategies Unit

When DA Vance took office, overall crime rates in Manhattan had dipped toward historic lows. Yet violence in certain neighborhoods persisted. To address these pockets of high-crime, DA Vance created the Crime Strategies Unit (CSU), modernizing the Office’s approach to crime reduction and implementing DA Vance’s vision of community-based justice.

Using a method called intelligence-driven prosecution (IDP),<sup>viii</sup> CSU leverages crime data, information collected through sophisticated tools that monitor and link phone and computer-based communications, and deep community ties to develop a clear understanding of both the nature of criminal activity and the individuals committing these offenses.

CSU makes use of positive community relations to complete its work. Prosecutors in CSU are assigned to designated areas and partner with investigators, community affairs liaisons, and intelligence analysts to develop targeted crime strategies.

Currently, more than 17 jurisdictions in 13 states are replicating the Office’s CSU and IDP models, including neighboring jurisdictions across New York City.

### The Community Partnership Unit

The Community Partnerships Unit (CPU) advances the Office’s goal to serve and protect the people of Manhattan, by fostering trust between the community and the Office, increasing access to resources, raising awareness of crime issues, and creating partnerships that prevent crime and increase public safety. The CPU team is made up of Community Engagement Coordinators, assigned geographically to serve all Manhattan communities, Youth and Education Coordinators, who work closely with Assistant District Attorneys to create and offer effective presentations that

raise awareness about the criminal justice system and current crime concerns, and Reentry Coordinators who create partnerships and coordinate efforts to assist formerly incarcerated individuals in their transition back from jail or prison and improve the Reentry process.

This reentry initiative includes monthly Reentry Forums done in partnership with the Department of Corrections and Community Supervision (Parole), the NYPD and many Community Based Organizations. CPU is particularly focused on serving New York's younger communities. Among other things, this includes the Gun Violence Prevention Fellowship and oversight of the Saturday Night Lights (SNL) initiative. SNL activates spaces on Saturday (and Friday) nights all over Manhattan to ensure young people have a safe space that offers high quality sports and fitness opportunities. Since inception in the Fall of 2011, the Saturday Night Lights program as served over 5,000 youth. The CPU team attended over 1,900 community events in 2018 alone.

### The Violent Criminal Enterprises Unit

Despite a sharp decline in the borough-wide homicide rate, gang violence—often concentrated in and around New York City Housing Authority (NYCHA) developments—remains a challenge for law enforcement. To address this issue, the Office's Violent Criminal Enterprises Unit (VCEU), investigates and prosecutes violent gangs and spearheads significant efforts to curtail firearms trafficking. VCEU ADAs conduct long-term, multi-defendant investigations, employing sophisticated tools to monitor phone and computer-based communications and analyze social media sites before bringing their indictments.

Since its formation, VCEU has brought 35 indictments against 83 gun traffickers and conducted investigations that have led to the removal of more than 1,800 illegal firearms from the streets of New York City.

### The Immigrant Affairs Unit

The Office is committed to protecting immigrant New Yorkers, whether they are documented or undocumented. Too often, members of immigrant groups fall victim to theft, fraud, and other acts at the hands of criminals. These individuals target those seeking residency, citizenship, or legal services, and offer assistance in exchange for large sums of money or personal identifying information, sometimes without providing promised services at all.

In 2007, DA Morgenthau created the Immigrant Affairs Program to investigate and prosecute fraud committed against immigrants, and to educate the public about immigration fraud and related issues through fraud prevention workshops and seminars. DA Vance took this program one step further and established the Immigrant Affairs Unit, which is housed within the Financial Frauds Bureau. This Unit prosecutes cases involving scams and fraud affecting New York's diverse immigrant communities, and manages an Immigrant Affairs Hotline where victims can safely and anonymously report these crimes.

## The Quality of Life Unit

DA Vance collaborated with the Office of Court Administration to help create the Quality of Life court part (QOL), which handles non-violent quality-of-life offenses, such as shoplifting, marijuana possession, trespassing, and low-level drug possession. QOL is staffed by student attorneys from two local law schools, with ADA supervision, and has a Judicial Hearing Officer (JHO) presiding over the part, as opposed to a judge, allowing the Office and the court system to devote limited resources to more serious crimes. This Unit helps to ensure judicial fairness and consistency across cases and expedites dispositions for low-level offenses. Quality of Life ADAs likewise oversee the Office's pre-arraignment diversion programming, as described above.

QOL has handled nearly 26,000 cases since its inception. However, as the Office explores additional Criminal Court diversion activities, the QOL caseload is expected to drop considerably. This dwindling caseload may open additional opportunities for the QOL court part, including the designation of new categories of cases to be handled by the Unit.

## Next Steps

While DA Vance has enacted significant reforms to increase courtroom efficiency, expand alternatives to incarceration, and promote fairness in the criminal justice system, the Office continues to seek out opportunities to advance these goals. The Office has already begun this work, outlining the following priorities:

- Working with state and local policymakers to implement comprehensive bail and discovery reform as outlined in the New York State budget for Fiscal Year 2020.
- Tailoring age appropriate court responses to young adults that are consistent with national best practices and research on brain science.
- Expanding the use of alternatives to incarceration by centralizing cases within a single ATI problem-solving court part that incorporates clinical assessments of defendants' needs and specially trained judges and court stakeholders.
- Developing restorative justice interventions in lieu of conventional case processing.
- Working on reentry strategies to help those coming out of the criminal justice system safely return to their communities.
- Reassessing the extent to which racial disparities are present in prosecutorial decision-making.
- Enhancing transparency in the Office's practices by releasing select data through an open-source platform.

## Conclusion

As the Office explores additional opportunities to promote fairness and efficiency in the court system, DA Vance will continue to leverage strategic partnerships with law enforcement agencies, non-profit and community-based organizations, think-tanks, and the private and philanthropic

sectors to spur innovation and reform. Through these measures, the Office hopes to remain at the cutting-edge of 21st-century prosecution and serve as a model for jurisdictions across the nation.

It is the Manhattan District Attorney's Office's hope that this report provides the law enforcement and prosecution community with ideas, innovations, and reforms that can be replicated across the country.

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<sup>i</sup> Kutateladze, Besiki Luka and Andiloro, Nancy R. 2014. "Prosecution and Racial Justice in New York County- Technical Report." The Vera Institute of Justice. Available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/247227.pdf>

<sup>ii</sup> This program will be operationalized in the summer of 2018.

<sup>iii</sup> See: <https://www1.nyc.gov/site/nypd/news/p0103a/new-york-city-achieves-record-breaking-low-crime-2018#/0>

<sup>iv</sup> Chauhan, P., Tomascak, S., Cuevas, C., Hood, Q. O., & Lu, O. 2018. "Trends in Arrests for Misdemeanor Charges in New York City, 1993-2016". New York: New York. Available at: [http://misdemeanorjustice.org/wp-content/uploads/2018/01/2018\\_01\\_24\\_MJP.Charges.FINAL\\_.pdf](http://misdemeanorjustice.org/wp-content/uploads/2018/01/2018_01_24_MJP.Charges.FINAL_.pdf)

<sup>v</sup> See: <https://www1.nyc.gov/assets/criminaljustice/downloads/pdfs/warrants-sheet-v5.pdf>

<sup>vi</sup> The Center for Court Innovation. 2013. "Announcement of New York's Human Trafficking Intervention Initiative." Available at: <https://www.courtinnovation.org/articles/announcement-new-yorks-human-trafficking-intervention-initiative>

<sup>vii</sup> For more information on the Global Cyber Alliance, please see: <https://www.globalcyberalliance.org/index.html>

<sup>viii</sup> Talon, Jennifer A., Kralstein, Dana, Farley, Erin J. and Rempel, Michael. 2016. "The Intelligence-Driven Prosecution Model: A Case Study in the New York County District Attorney's Office." The Center for Court Innovation. Available at: [http://www.courtinnovation.org/sites/default/files/documents/IDPM\\_Research\\_Report\\_FINAL.PDF](http://www.courtinnovation.org/sites/default/files/documents/IDPM_Research_Report_FINAL.PDF)