

REDUCING THE CRIMINAL JUSTICE FOOTPRINT IN MANHATTAN

Declination Policies & Pre-Arraignment Diversion Programs



Manhattan District Attorney's Office

Cyrus R. Vance Jr.

Manhattan District Attorney

July 27, 2021

Data Dashboard Report Series



TABLE OF CONTENTS

INTRODUCTION	3
DECLINING TO PROSECUTE A CASE	4
TIMELINE	5
PRE-ARRAIGNMENT DIVERSION PROGRAMMING OVERVIEW	6
Process Chart	7
Programs.....	8
Data Highlights	9
DECLINATION POLICIES OVERVIEW	10
Data Highlights.....	11
Manhattan Summons Initiative.....	11
Theft of Services.....	12
Marijuana Possession/Smoking	12
CONTINUING TO REDUCE MANHATTAN'S FOOTPRINT.....	13

Reducing the Criminal Justice Footprint in Manhattan

Since taking office, Manhattan District Attorney Cyrus R. Vance, Jr. has implemented numerous policies to end the prosecution of thousands of low-level, nonviolent cases. These signature reforms created off-ramps to divert people from the courtroom and into community-based programming and established internal procedures to systematically decline to prosecute a wide subset of cases *en masse*. In turn, these initiatives altered enforcement of many low-level offenses, including turnstile jumping and marijuana possession, thus significantly reducing the number of arrests and prosecutions for such crimes each year.

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. One of the most pressing recommendations from the Vera Institute was to consider reducing the high rate at which the Office prosecuted cases brought by the police, a leading driver in the racial disparities observed at later stages in the prosecutorial process. D.A. Vance saw this as a crucial opportunity to reduce the number of people – particularly the number of people of color – who were making contact with the justice system and could be otherwise connected to services or not prosecuted altogether.

In 2014, the year before the Office’s signature diversion initiatives went into effect, the Manhattan D.A.’s Office arraigned 96,402 cases, more than 16,000 of which (17%) would have been declined under present-day Office policies. In 2019, just five years later, the Office arraigned only 41,791 cases – a 57% decrease. In 2020, due to disruptions in case processing caused by the impact of COVID-19 on court functions, the number of cases prosecuted fell again to 20,245 – a 79% reduction from 2014.

This brief uses data available on the Manhattan D.A.’s [Data Dashboard](#) to highlight how the Office’s declination policies and pre-arraignement diversion programming reduced Manhattan’s criminal justice footprint over the last 6 years. This brief aims to increase transparency about the Office’s practices and policies, by contextualizing the data within the Dashboard and highlighting various findings represented within the data it contains. Click [here](#) to view this data in depth.

Declining to Prosecute a Case

The Manhattan D.A.'s Office may decline to prosecute a case for many reasons, including insufficient evidence that a crime occurred or because further investigation is needed. Additionally, in its continued efforts to steer individuals away from the criminal justice system without compromising public safety, the Manhattan D.A.'s Office created new policies for declining to prosecute large categories of low-level offenses. First, the Office launched pre-arraignement diversion options that allow people arrested for select low-level crimes the option of participating in community-based programming in lieu of prosecution. Second, the Office introduced a set of declination policies that ended the criminal prosecution of large swaths of low-level misdemeanor offenses, such as turnstile jumping and unlicensed massage.

The Office's first pre-arrainment diversion program, Project Reset, launched in March 2015. In 2016, the Manhattan D.A.'s Office began implementing a series of declination policies to end the criminal prosecution of numerous crimes of poverty.

When does the Manhattan D.A.'s Office decline to prosecute a case?

In most instances, an Assistant D.A. first reviews ("screens") an arrest in the Office's Early Case Assessment Bureau. When appropriate, the Assistant D.A. can decline to prosecute a case (i.e., not charge an arrested individual with a crime) during this initial screening. Click [here to learn more.](#)]

implementing a series of declination

What is a pre-arrainment diversion program?

Programs which provide individuals charged with a low-level offense the opportunity to avoid prosecution. If an individual successfully completes a community-based, light-touch intervention, their case is dismissed before ever entering a courtroom.



DECLINATION POLICY & DIVERSION PROGRAM

TIMELINE

2014

The Manhattan D.A.'s Office establishes the Criminal Justice Investment Initiative (CJII) to invest criminal asset forfeiture funds in transformative projects, including community-based diversionary programs.

2015

March: Project Reset launches, a pre-arraignement diversion pilot program to serve 16-17-year-olds arrested for low-level crime in select Manhattan precincts.

2016

March: The Manhattan D.A.'s Office, in partnership with the Mayor's Office and the New York City Police Department, launches the Manhattan Summons Initiative to end the criminal prosecution of low-level, non-violent violation and infraction offenses.

June: Project Reset expands to serve 16-17-year-olds across Manhattan.

2018

January: Project Reset expands to serve individuals of all ages.

February: The Manhattan D.A.'s Office ends the criminal prosecution of subway theft of service cases and unlicensed vending cases.

2020

June: The Manhattan D.A.'s Office ends the criminal prosecution of protest-related cases, such as unlawful assembly and disorderly conduct.

April: Project Greenlight launches, a pre-arraignement diversion program to clear select driver's license suspensions.

August: The Manhattan D.A.'s Office ends the criminal prosecution of marijuana possession and smoking cases.

September: Manhattan Hope launches, a pre-arraignement diversion program to serve individuals arrested on low-level drug offenses.

2021

New York State legalizes recreational marijuana. And DANY ends prosecution of prostitution and unlicensed massage; mass dismissal of Loitering for the Purpose of Prostitution cases.

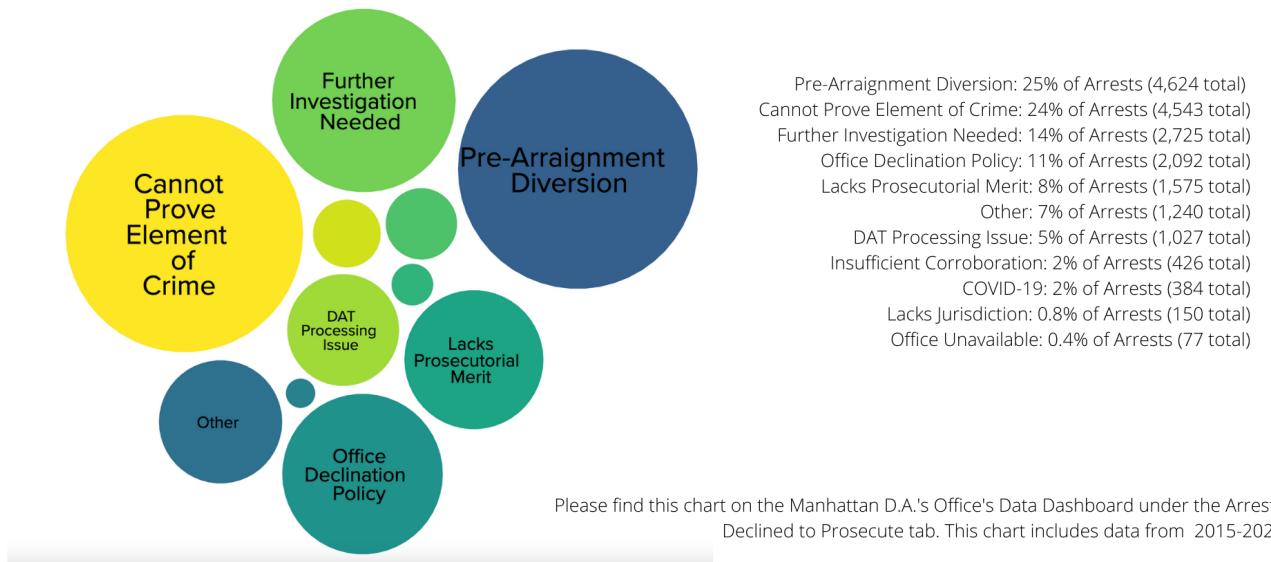


MANHATTAN DISTRICT ATTORNEY'S OFFICE

From 2015, the year these initiatives went into effect, through 2020, the Manhattan D.A.'s Office declined to prosecute 18,862 cases. Of these, 24% were declined following the arrested individual's successful completion of a pre-arraignment diversion program (4,621 cases) and 11% were declined due to the Office's declination policies. Notably, the percent of all cases declined to prosecute rose steadily during this time, from less than 3% of cases declined in 2015 to more than 11% in 2020.

Arrests Screened and Declined to Prosecute by Reason

From 2015 to 2020, the Manhattan District Attorney's Office has declined to prosecute a total of 18,863 cases, of which, 4,624 were due to pre-arraignment diversion programming (25% of the total) and 2,092 were because of the office's declination policy (11% of total).



Pre-Arraignment Diversion Programming Overview

To divert individuals away from the criminal justice system and toward other, more restorative interventions, the Manhattan D.A.'s Office created pre-arraignment diversion programs through its [Criminal Justice Investment Initiative](#). These programs enable thousands of individuals arrested on nonviolent offenses to avoid prosecution and an arrest record, while being held accountable in a community setting. These programs helped reduce Manhattan's caseload significantly and provide a proportionate and effective response to low-level crime.

WHY OFFER PRE-ARRAIGNMENT DIVERSION PROGRAMMING?

Pre-arraignment diversion programming provides New Yorkers accused of low-level offenses with essential resources and community supports. These services help address the underlying needs that may have led to an individual's justice system involvement and can curb the potential long-lasting collateral consequences that often accompany a prosecution.

The chart below provides an overview of the pre-arrainment diversion process in Manhattan.



Manhattan has three signature pre-arrainment diversion programs.

Project Reset: [Project Reset](#) serves individuals who are arrested on a wide-range of low-level offenses, such as shoplifting and criminal trespass, and connects them to light-touch programming that includes, but is not limited to: arts-based interventions for young people, individual and group-based counseling sessions, and restorative justice circles. Three community-based organizations provide these services in Manhattan: The Center for Court Innovation, the Osborne Association, and Young New Yorkers. As of July 2021, 7,168 individuals were referred to Project Reset and 4,078 have participated in the program.

Manhattan Hope: [Manhattan Hope](#) allows individuals arrested for low-level drug offenses to complete a drug treatment program in lieu of further justice system involvement. Programming includes Naloxone trainings, peer navigation and coaching support, and other harm reduction services. Alliance for Positive Change operates this program in Manhattan. As of July 2021, approximately 2,185 individuals were referred to Manhattan Hope, and 700 people have participated in the program.

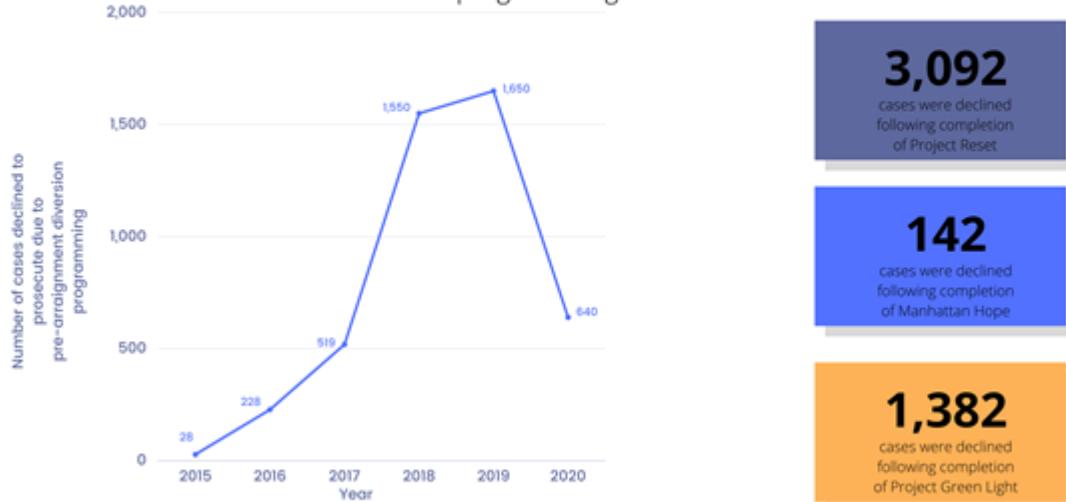
Project Green Light: [Project Green Light](#) serves individuals arrested for failing to answer a summons or pay a fine under VTL §511 (Unlicensed Operation of a Motor Vehicle in the Third Degree). This program identifies drivers who have outstanding tickets and gives them time to clear their licenses with the Department of Motor Vehicles by paying their summonses. As of July 2021, 1,411 individuals have completed Project Green Light, and their cases were declined to prosecute before arraignment.

DATA HIGHLIGHTS

Between 2015 and 2020, the Manhattan D.A.'s Office declined to prosecute 4,615 cases due to pre-arraignement diversion programming.

Declinations Following Successful Pre-Arraignment Diversion Programming

The graph below highlights the number of cases that the Manhattan District Attorney's Office declined to prosecute upon completion of a pre-arrainment program each year between 2015 - 2020. These programs began in 2015.



Participation in and completion of pre-arrainment programs decreased in 2020 due to the COVID-19 pandemic. The data shown in this graph is unavailable on the Data Dashboard, as it originates from the Manhattan D.A.'s Office's pre-arrainment diversion programs.

Eligible individuals who do not participate in a program before their arraignment date are often diverted to other post-arrainment, community-based programs (such as [Manhattan Justice Opportunities](#)) in lieu of traditional case processing.

Declination Policies Overview

Beginning in 2016, the Manhattan D.A.’s Office implemented a series of policies to end the criminal prosecution of certain offenses, including many low-level, non-violent [violation and infraction cases](#), [theft of service cases](#) (subway fare evasion), [marijuana possession and smoking cases](#), unlicensed street vending cases, [protest-related cases](#), and [prostitution and unlicensed massage cases](#). Rather than prosecute individuals arrested on these charges, the Office now systematically declines to prosecute such low-level offenses. Enforcement has followed suit – fewer individuals are arrested on these charges each year.

WHY DECLINE TO PROSECUTE THESE CASES?

Absent a demonstrated public safety risk, criminally prosecuting New Yorkers accused of low-level, nonviolent offenses and crimes of poverty does not make New York City safer. By declining to prosecute these cases, which often result from long-standing racial disparities underlying enforcement, the Manhattan D.A.’s Office seeks to eliminate unnecessary incarceration and reduce the collateral consequences of justice system involvement, including the risk of deportation, loss of housing, and loss of employment.

Below is an overview of the three declination policies that had the greatest impact on Manhattan Criminal Court’s caseload: non-violent violation and infraction cases, turnstile jumping, and marijuana smoking and possession.

What is Theft of Services?

Theft of Services (PL §165.15(3)), also known as “turnstile jumping” or “subway fare evasion,” is a class A misdemeanor. Before the Office’s declination policy went into effect in August 2018, Theft of Services was among the most common charges in Manhattan Criminal Court, with nearly 8,000 cases screened in 2017. The Manhattan D.A.’s declination policy does not extend to other theft of service offenses, such as failure to pay a taxi fare or restaurant bill.

What is Marijuana Possession and Smoking?

Marijuana possession and smoking (PL § 221.10(1) and PL § 221.05) refers to the possession of marijuana and the smoking of marijuana in a public place. On March 31, 2021, New York became the 15th state to legalize recreational marijuana, meaning PL 221.10(1) and PL 221.05, among others, are no longer criminal offenses. Click [here](#) to learn more about the legislation legalizing marijuana.

DATA HIGHLIGHTS

The Manhattan Summons Initiative

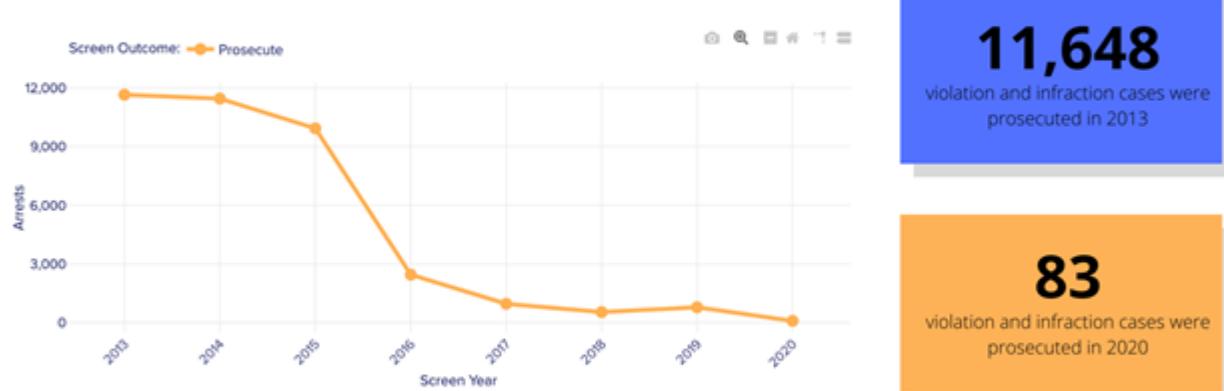
In 2016, the Manhattan D.A.'s Office operationalized numerous initiatives to end the criminal prosecution of approximately 10,000 low-level, non-violent violation and infraction cases annually. The Office no longer prosecutes these cases and the New York City Police Department ("NYPD") no longer arrests individuals who commit these offenses – such as public consumption of alcohol, public urination, or taking up two seats on the subway – unless there is a demonstrated public safety reason to do so. These individuals are now issued summonses (i.e. a ticket) and diverted to a Summons Court in lieu of criminal prosecution.

The Manhattan D.A.'s Office does, however, continue to prosecute certain violations and infractions that affect public safety; for example, driving while impaired, possession of illegal knives, 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. In 2015, the year before these reforms went into effect, the Manhattan D.A.'s Office arraigned 11,648 violation and infraction cases. In 2020, the Office prosecuted only 83 such cases, a 99.3% reduction.

Violation and Infraction Cases Prosecuted

The number of violation and infraction prosecutions declined by 99.3% between 2013 and 2020.



Please find this chart on the Manhattan D.A.'s Office's Data Dashboard under the Arrests Screened tab. It can be found under Arrests Screened by Screen Outcome. This graph was filtered by Arrest Offense Category : Violation / Infraction, Screen Outcome: Prosecute, Screen Years: 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020

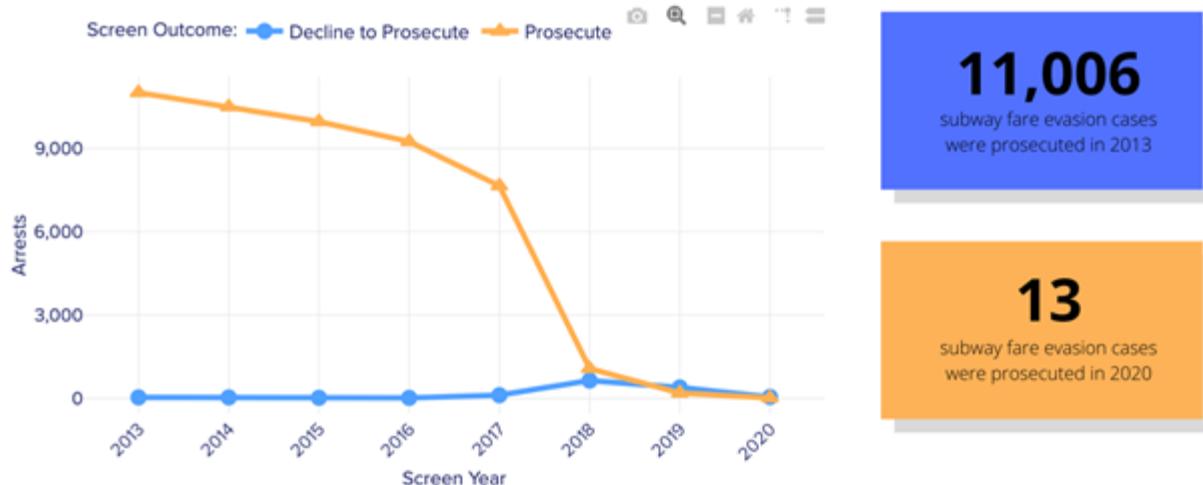
Theft of Services

In the first year of the Manhattan D.A.'s Office's turnstile-jumping declination policy, which went into effect in February 2018, the number of subway fare evasion prosecutions decreased by 95%. Because turnstile jumping was historically one of the most common charges in Manhattan, with 7,648 cases arraigned on this charge in 2017, this policy had an immediate impact on arrest and prosecution numbers in the borough. Prosecutions for subway fare evasion continue to fall: in 2019, the Manhattan D.A.'s Office prosecuted only 187 subway fare evasion cases and in 2020 the Office prosecuted only 13 cases, **a 99.8% reduction since 2017**. Most individuals who are caught jumping a turnstile are now given a ticket (a civil infraction) that is akin to a parking ticket.

Subway Fare Evasion Theft of Services

The number of subway fare evasion prosecutions declined by 99.3% between 2013 and 2020.

The graph below shows arrests where the top charge is subway fare evasion theft of services (PL 165.15(3), PL 140.10(a), or PL 140.10(a)(h)).



Please find this graph on the Manhattan D.A.'s Office's Data Dashboard under the Arrests Declined to Prosecute tab.

Marijuana Possession and/or Smoking

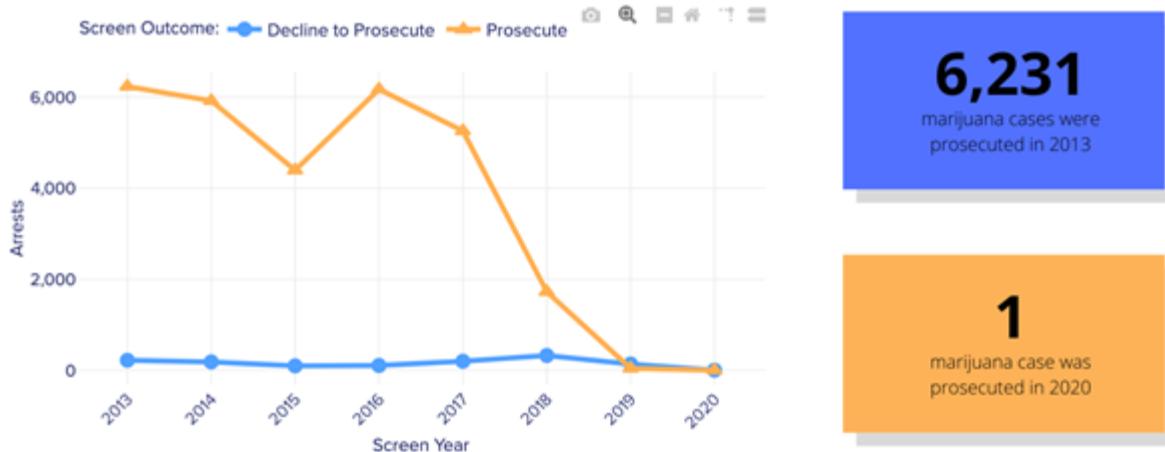
In the first year of the Manhattan D.A.'s Office's marijuana declination policy, which went into effect in August 2018, the number of marijuana possession and smoking cases declined by 98%. The Office arraigned only 86 cases with marijuana possession or smoking as the top charge in 2019 and **prosecuted only 1 marijuana possession and smoking case in 2020** – a 100% reduction compared to the 5,255 prosecutions for such cases in 2017.

With the 2021 legalization of adult use of marijuana, individuals across New York State can no longer be arrested or prosecuted for these offenses. Given the overt racial disparities in marijuana enforcement, the Manhattan D.A.'s Office advocated for the legalization of marijuana for many years [click [here](#) to learn more]. This legislation represents a significant step forward for New York State.

Possession of Marijuana

The number of marijuana and smoking prosecutions declined by 100% between 2013 and 2020.

The graph below shows arrests where the top charge and any underlying charge is marijuana possession and smoking (PL 221.10(1) or PL 221.05). There are exceptions to the marijuana declination policy. The limited number of marijuana possession and smoking cases that fall under an exception are included in the graphs below.



Please find this graph on the Manhattan D.A.'s Office's Data Dashboard under the Arrests Declined to Prosecute tab.

Continuing to Reduce Prosecution

The number of prosecutions in Manhattan has steadily decreased since 2015, with drastic reductions in 2020 and 2021 due to the COVID-19 pandemic and interruptions in court proceedings. To sustain this reduction in prosecutions, it is essential that pre-arraignement diversion programs remain operational in the years to come. The Manhattan D.A.'s Office is likewise committed to using its discretion to end the prosecution of crimes of poverty and will continue to systematically decline to prosecute the many low-level offenses that do not impact public safety.

It is the Manhattan D.A.'s Office's hope that this brief not only provides the public with a deeper understanding of the pre-arrainment process in Manhattan, but likewise offers a roadmap for others to implement similar reforms across the country.

If you have any questions about this brief or the Data Dashboard, please email us at datadashboard@dany.nyc.gov.