

RIKERS 6-A EARLY RELEASE PROGRAM Results After One Month of Operations

Briefing Note
April 30, 2020

Overview

On March 21, 2020, the Mayor’s Office of Criminal Justice (MOCJ) approached New York City’s Supervised Release providers with an urgent request: Would they assist the Department of Correction and other partners in supporting the safe release of individuals serving a jail sentence of less than one year? The reason was simple. City officials were concerned about an outbreak of COVID-19 within the jail population. Since that time, the Board of Correction reports that more than 1,200 COVID-19 cases have been confirmed in the jails, including 373 people held and 877 Department of Correction employees as of April 23.¹

Article 6-A of New York Correction Law authorizes the Department of Correction to permit sentenced individuals to be released early and serve the remainder of their sentence at home. The Commissioner moved quickly to review individual cases and released 312 people who had been sentenced to jail, with the requirement that the Supervised Release providers monitor their case.

Although the city’s Supervised Release providers agreed to step in, the resulting program is *not* Supervised Release. The 6-A Early Release Program is intended, not for individuals released before trial, but as an alternative to incarceration for people who have been sentenced. As such, the program is an intensive intervention, pairing daily remote check-ins (including weekends) with swift and comprehensive reporting on participant compliance with case manager contact to the Department of Correction.

Results to Date

- **Public Safety:** As of April 22 and after one month of operations, only 7 of the 312 released individuals—2.2 percent—have been re-arrested while in the program. Of these, 4 were for alleged misdemeanor offenses.²
- **Compliance with Case Manager Contact:** Of the 246 participants who have not completed the program to date (by reaching the end of their sentence), 227 (92.3 percent) are in full compliance with case manager contact.
- **Return to Jail:** Only one individual under the active supervision of the program has been arrested and returned to jail.

¹ In addition to confirmed cases of COVID-19, there have been three deaths while in custody. See daily updates at: <https://www1.nyc.gov/site/boc/covid-19.page>.

² A handful of other arrests took place for alleged crimes that occurred before the individual was released to the program or after they reached the end date of their sentence. In one instance of an in-program felony re-arrest, the District Attorney declined to prosecute the case, although this arrest is included in the cited total of 7.

Background: The Successful Supervised Release Model

The 6-A Early Release Program is modeled after Supervised Release, an initiative launched by MOCJ in 2009 as an alternative to pretrial detention, primarily instead of cash bail. Supervised Release has led to a significant reduction in the city's jail population and use of cash bail—with no corresponding increase in crime.

About the program. With Supervised Release, a judge can release individuals to the community whose cases are pending and who are otherwise at risk of pretrial detention. Participants are then assigned to a pretrial supervision regimen, involving regular in-person or phone check-ins at a frequency and intensity that reflect both the seriousness of the alleged crime and the individual's likelihood of missing court dates absent the program's involvement. (The New York City Criminal Justice Agency administers a release assessment that classifies each individual's likelihood of court attendance.³)

Additionally, immediately upon enrollment, Supervised Release participants are linked to a social worker, who conducts a thorough assessment and provides voluntary referrals to social services like drug treatment, employment counseling, and mental health services. Supervised Release providers also employ peers (people with previous experience in the criminal justice system) to escort participants to appointments to re-establish benefits and access services.⁴

Supervised Release staff provide the courts with regular reports on compliance with case manager contact, and judges can modify securing orders in response to noncompliance, including upping reporting requirements or setting money bail on the case (where bail remains legally permissible).

A brief history. Prior to the Early Release Program, Supervised Release has had three major phases.

- **Borough-Based Launch:** Supervised Release was launched in Queens in 2009 and in Manhattan and Brooklyn in 2013.
- **Citywide Expansion:** MOCJ expanded and unified the program under a citywide model in 2016, with CASES running the program in Manhattan; the Center for Court Innovation in the Bronx, Brooklyn, and Staten Island; and the New York City Criminal Justice Agency in Queens. The program mostly served misdemeanor and nonviolent felony defendants.
- **Bail Reform Implementation:** In anticipation of imminent changes in the state's bail statute removing judicial discretion to set monetary bail in all but a small number of arraigned cases, in December 2019 MOCJ made Supervised Release eligible for everyone, including individuals arraigned on all felony offenses.

³ See <https://www.nycja.org/release-assessment> for more information.

⁴ An article in the [Gothamist](https://gothamist.com/news/bail-reform-explained-nyc) summarizes the work of peers in Supervised Release: <https://gothamist.com/news/bail-reform-explained-nyc>.

Positive results. Program outcomes, which are carefully tracked, are clear: Through mid-March 2020, just under 20,000 cases have been sent to Supervised Release since the program went citywide in 2016. Participants have attended 95 percent of all required court dates, with 87 percent of participants attending every single one of their court dates without exception. Only 8 percent of participants have been re-arrested for a new felony crime while on pretrial supervision, and the program has contributed to dramatic declines in the city's jail population.⁵

Supervised Release has established itself as a critical alternative to pretrial detention in New York City in a short period of time and has contributed to a significant reduction in the use of cash bail. In March 2020, before the shutdown of court operations, approximately 20 percent of individuals released pretrial were being assigned to the program, up from 4 percent in previous years, a process largely driven by the expansion of eligibility criteria in conjunction with the implementation of bail reform.

Moreover, demonstrating widespread confidence in the program model, from December 2019 to March 2020, since eligibility expanded to all cases, judges in the Bronx, Brooklyn and Staten Island alone sent over 500 individuals to Supervised Release in cases where bail reform still allowed judges the option to set bail; in other words, backed by the above-noted evidence, court players trust that supervision from trained social workers is an effective approach, worth relying on even when bail remains an option.

In 2018, Supervised Release was a finalist for the prestigious Innovations in American Government Award from Harvard University's Kennedy School of Government.⁶

The 6-A Early Release Program: Challenges and Responses

On March 21, 2020, MOCJ approached Supervised Release providers and asked if they would be willing to assist the Department of Correction (DOC) in supervising individuals serving a sentence in a city facility, who DOC determined could be safely released from Rikers Island.

At the direction of MOCJ, DOC and other critical stakeholders, the providers established strict programmatic requirements, including daily check-ins with case managers for all participants during the pendency of their remaining sentence. This is in contrast to the existing Supervised Release program, which requires at most one weekly meeting.

For Supervised Release providers, the Early Release Program presented several unique operational challenges. The Supervised Release providers had not worked with DOC before (participants in the traditional Supervised Release Program are released from court); the pandemic made face-to-face engagement with case managers impossible; individuals could be released from Rikers Island and expected to make their initial call to the provider at any time, including on weekends or during weekdays at 2 a.m. or 3 a.m. in the morning; and in order to meet program requirements and maintain their relationships with participants, case managers would have to be available to speak with them seven days a week.

⁵ See the New York City Mayor's Office of Criminal Justice's website for a series of scorecards on program performance: <https://criminaljustice.cityofnewyork.us/briefs/#supervised-release-scorecards>.

⁶ See <https://www.innovations.harvard.edu/supervised-release>.

In the early days of the Early Release Program, providers, working under the leadership of MOCJ and other partners, addressed a series of critical implementation challenges:

Obtaining contact information. Given the urgency of releasing individuals from Rikers Island and the fact that Supervised Release had not partnered with DOC in the past, a threshold challenge faced by providers was ensuring that there was a means of reaching individuals released to the program. Providers worked with MOCJ and DOC to create a protocol for obtaining and communicating contact information; activated and distributed cellphones to participants who had no other means of communicating with the program; and shared ancillary contact information obtained by other means, such as through pretrial interviews conducted by the New York City Criminal Justice Agency or through prior contact with a program provider.

Establishing contact. As mentioned above, Supervised Release case managers have worked seven days a week to answer phone calls from participants being released from Rikers and provide ongoing case management, often in the middle of the night. Providers have also been vigilant about proactively reaching out to individuals and to people close to them (such as family members or friends) multiple times to establish contact and reiterate program requirements. CJA, which reminds defendants of their upcoming court dates, has been sending daily texts reminding individuals of program requirements and to call their case managers. As a result and as mentioned above, in its first month of operations, the Early Release Program established a 92 percent rate of compliance with case manager contact and a re-arrest rate of 2 percent. All told, nearly 6,000 successful remote check-ins have been completed since the program's inception.

Keeping contact. Without the ability for face-to-face meetings, case managers have pioneered new ways of working with participants. For instance, nearly 100 ready-to-use cell phones have been distributed to participants to ensure daily engagement with their case managers. In some cases, program staff brought phones to shelters/hotels where participants are staying; set participants up on online video platforms; and provided referrals (more than 250 to date) for participants to receive other community-based services, including help obtaining government benefits, referrals to housing services, as well as health, mental health and employment services. Case managers have also disseminated information about COVID-19, to help make sure that participants are self-quarantined when necessary and everyone is following city guidelines about social distancing. Providers are also working in partnership with nonprofit organizations providing re-entry services to this population through the Jails to Jobs program.

Providing accountability. Providers have worked with MOCJ and other project partners on consequences for noncompliance with case manager contact. Providers send daily reports with detailed notes summarizing outreach efforts for noncompliant participants. For noncompliant individuals, providers are completing a "Report and Notice of Violation" for DOC review that allows for modification of program requirements or revocation and return to jail. In addition, providers are sending registered letters to home addresses and to participants' defense attorneys informing them if participants are not in compliance with case manager contact.

Maintaining the current Supervised Release Program. Finally, providers retain responsibility for managing the pre-pandemic caseload of Supervised Release participants. There are approximately 3,000 Supervised Release participants with an open court case, meaning they are still being supervised by case managers awaiting the resumption of their court appearance dates. Providers have pioneered innovative ways to keep in touch with this population while their court dates have been postponed until further notice.

Case Studies

What follows are some examples of case studies from the program:

Resolving logistical challenges. *After making initial contact and several check-ins with his social worker, one Early Release Program participant stopped calling when his phone ran out of minutes. Unable to make his daily phone check-ins, he fell out of compliance with contacting his case manager. Our staff personally delivered a phone to his residence, enabling him to get back in touch and stay connected with his social worker. The participant expressed his gratitude for the program and reflected that it will allow him to attend his daughter's (remote) high school graduation. He has remained in compliance with case manager contact, and his social worker continues to link him with services to help him navigate the pandemic and stay on a productive path.*

Addressing homelessness. *A homeless participant was given temporary housing in a hotel to allow him to self-quarantine after being released from Rikers. He arrived hungry, exhausted, and emotionally drained. His case manager arranged for him to get a meal at the late hour while helping him search for stable housing. Working with the Fortune Society, the Supervised Release provider found an opening in a brand-new housing unit being opened, and helped the participant complete the application process, get approved to move in and settle into his new home. He has remained in compliance with case manager contact.*

Building trust. *A participant with food insecurity issues didn't know how to get food after being released from Rikers. His case manager gave him options of places to go, but followed up by sending an order of groceries to his home. This gesture helped the program build rapport without the ability to meet in person with the participant. It helps show that the program is here to help and not just be a voice on the phone. The more this particular participant trusts the program, the more he is likely to accept help and continue to be compliant.*

Power of persistence. *Using emergency contact information collected by the New York City Criminal Justice Agency in a pre-arraignment interview, an Early Release Program case manager called a participant's Aunt to connect with a participant who had not made the initial call to connect with the program as instructed by DOC. The participant said that he was living in a shelter and did not have a phone; the case manager gave him information about how to pick up a free cellphone, but he was not able to do so. The case manager reached out to a social worker employed by a defense agency that had represented the participant and sent a certified letter to his last known address notifying him of the potential consequences of non-compliance with case manager contact. The participant got back in touch with his case manager and informed her that he was participating in a job training program run by the Doe Fund; he said he understood the importance of staying in touch and began calling from a free Link phone provided by New*

York City. The case manager is coordinating a phone drop off at the facility where the participant is living to facilitate more regular communication.

Compared to What?

While the COVID-19 pandemic is an unprecedented public health emergency for New York City, the city has in the past been compelled to quickly release individuals from Rikers Island. In 1983, federal judge Morris Lasker issued a series of court orders compelling the release of 611 individuals in response to concerns about jail overcrowding issues, including 473 released on partially secured bail (in other words, they paid 10 percent of their bail amount) and the remaining 138 released on recognizance.

The city reluctantly obeyed Judge Lasker’s ruling after a prolonged and angry back and forth that played out in the city’s tabloid press and in the courtroom. Unlike the procedures introduced for Early Release Program cases, no community ties information was collected pre-release, no needs assessments were conducted with program participants prior to release, nor were they asked to provide an address where they might receive court date notifications. Perhaps as a result, program outcomes were dismal: Forty percent of released individuals missed at least one court hearing that resulted in the issuance of a bench warrant, and one-third of court-ordered releases were re-arrested pretrial.⁷

In its early days, the results achieved by the Early Release Program stand in starkly positive contrast to the 1983 large-scale release. This undscores the critical leadership provided by city officials, including the Department of Correction and the Mayor’s Office of Criminal Justice.

Supervised Release providers have sought to play a supporting role in helping to make the Early Release Program as effective as possible. Writing in the New York Daily News, Judge Jonathan Lippman and Tyler Nims noted the contribution of Supervised Release to reductions in the city’s jail population. They write, “Mayor de Blasio smartly developed a supervised release program for people who were sentenced to city jail time.” Referring to Supervised Release as well as a broader set of supports provided by nonprofit partners, they add “New York City’s strong network of nonprofit service providers are our secret weapon. They are working tirelessly to provide supervision and support for people who have been released.”⁸

⁷ See “Court Ordered Releases – November 1983,” a report issued by the New York City Criminal Justice Agency and available upon request. A short summary of the report is available on the CJA website at <https://www.nycja.org/justice-in-practice/from-the-archives-court-ordered-release>

⁸ See <https://www.nydailynews.com/opinion/ny-oped-let-more-people-out-of-rikers-20200418-cafitdk7sjamljylgskfts73se-story.html>.