Race and Prosecution in Manhattan

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FROM VERA'S PRESIDENT

On any given day, one in every 10 black males in their 30s is in prison or jail. One in three black males born today will serve time behind bars; one in six Latino males. The lifetime likelihood of ending up behind bars for white men is one in 17.

Vera's prosecution and racial justice work began almost 10 years ago. We premised our efforts on the sort of leadership shown by New York County District Attorney Cyrus R. Vance, Jr.

By inviting Vera to partner on the research described here, he took a step that few others in his position have. He shared data freely and asked for a total accounting of how prosecutorial decision making might lead to disparate outcomes. And he did this so that his office could consider changes if findings warranted them.

The findings outlined in these pages reflect that work. I hope other chief prosecutors across the country will take heed and follow.

Nicholas Turner,
President, Vera Institute

Introduction

Disparate racial and ethnic outcomes in the criminal justice system have long been the subject of wide public interest, research, and advocacy. Significant research and attention have focused on law enforcement practices, from traffic stops to stop-and-frisk. Scholars and advocates also have studied disparate outcomes in judicial decision making for decades, leading to early proposals for sentencing guidelines. The role of prosecutors, however, including their potential contributions to racial and ethnic disparity, has received relatively limited attention, especially around plea bargaining.[1]

This is surprising, for prosecutors have broad discretion that allows them to exercise influence over numerous stages in any criminal case. This discretion may extend from initial screening, charging, bail and pretrial detention recommendations, through diversion, plea bargaining, and sentencing. Prosecutors also have the power to decline to prosecute cases, to reduce arrest charges, and to recommend dismissal of cases, either in the interest of justice or when a defendant's guilt cannot be proven beyond a reasonable doubt. While prosecutorial discretion is often guided by internal policies, external regulation or oversight of this discretion is quite limited.

Increasingly, prosecutors are beginning to examine how they might contribute to the disparate impact along racial and ethnic lines of the criminal justice system. Some national prosecutors' organizations encourage their members to use data analysis and evidence-based practices to promote greater equity. This is occurring within a broader national context of attention to racial justice. In 2013, our nation's top prosecutor, Attorney General Eric H. Holder, Jr., referred to "an unjust and unsustainable status quo" as he launched new measures to address over-incarceration, including charging a group of U.S. attorneys with examining sentencing disparities and developing recommendations to address them.[2]

Partnering for change

Since 2005, the Vera Institute of Justice (Vera) has worked with chief prosecutors from Charlotte, North Carolina; Milwaukee; San Diego; San Francisco; and Lincoln, Nebraska—at their invitation—to analyze how and if discretionary decision making in their offices contributes to disparate outcomes.

Cyrus R. Vance, Jr., who became the New York County District Attorney in 2010, said before taking office, "The shame is not in finding that we have unconscious biases or that our current policies have a disproportionate racial impact—the shame lies in refusing to ask the questions and correct the problems." Upon

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taking office, DA Vance invited Vera to partner on a two-year National Institute of Justice study aimed at identifying how the exercise of discretion by prosecutors at key points in the life of a case can contribute to racially and ethnically disparate outcomes. Starting in 2012, the New York County District Attorney's Office (DANY) made numerous records available to Vera. The research described in this brief is the result. It is the first study to look into as many prosecutorial discretionary points and include four racial and ethnic groups and, given the national prominence of DANY, has broad national significance.

This research assessed many points at which prosecutors exercise discretion, some of which are fully under prosecutors' control, some guided by statute or internal guidelines, and still others that fall under the courts' purview but to which prosecutors contribute to the final case outcome. Vera researchers worked in close partnership with DANY prosecutors for two years, collecting and analyzing a wide range of data to examine case outcomes occurring along a continuum of discretionary points for different racial and ethnic groups. A technical report providing the study findings in detail is available on Vera's website at **http://www.vera.org/race-and-prosecution-manhattan-technical-report**.

PORTRAIT OF DANY (DISTRICT ATTORNEY OF NEW YORK)

DANY investigates and prosecutes almost all crimes in the borough of Manhattan in New York City. Led by Cyrus R. Vance, Jr., elected in 2009, DANY is one of the largest and busiest district attorney's offices in the country, with more than 500 assistant district attorneys and 700 support staff members handling roughly 100,000 cases annually. DANY is a leader in the field of criminal prosecution. But smarter prosecutions are not the only way to reduce cime and increase fairness. In addition to the work described in this report, DA Vance and his office have developed a range of effective crime-prevention strategies and community engagement programs, created specialized courts that are designed to streamline the prosecution of certain crimes and address the specific needs of certain defendants, and publicly called for decriminalizing certain low-level possession of marijuana offenses, so that existing law enforcement time and resources are not spent prosecuting the groups of individuals disproportionately affected by these charges, primarily, black and Latino youth.

These efforts include a variety of unique court parts—or initiatives—to ensure more effective, long-term resolutions and to lower recidivism, thereby freeing up prosecutors to focus on more serious, violent crime. Among them are the Quality of Life Court Part, which handles thousands of nonviolent defendants charged with low-level misdemeanors and violations; the Mental Health Court, which connects eligible defendants with serious and continuing mental illness to treatment, services, and housing providers aimed at addressing the underlying illnesses that caused or contributed to the arrests; and the Human Trafficking Intervention Court Part, which handles every prostitution-related case and is supervised by a prosecutor specially trained in identifying the signs of human trafficking. DA Vance has also recommended raising the age of criminal responsibility from 16 to 18 years old for nonviolent offenders. To that end, he partnered with the Office of Court Administration and the Center for Court Innovation to create the Adolescent Diversion Court Part in January 2012. The part handles misdemeanors and violations involving 16 and 17 year olds, aims to resolve cases so youth do not have a criminal record, and mandates interventions that address the underlying needs of youth and seek to curb future criminal activity. Also aimed at youth, DANY's Saturday Night Lights program—in partnership with the Police Athletic League and other law enforcement agencies—opens gyms at the times and in the places where kids most need alternatives to criminal activity, and has served more than 3,500 young people, ages 11 to 18, in its three years. The complementary Advocate to Graduate academic support program seeks to ensure that middle and high school athletes are succeeding academically as well by providing access to tutoring, a safe place to study, and other resources.

The remaining pages describe Vera's research: the study methodology as well as limitations, key findings in each of the discretionary points examined, and the resulting implications.

Findings and implications: general observations

This study represents an important effort to look into many prosecutorial discretion points—from case acceptance for prosecution, to dismissals, pretrial detention, plea bargaining, and sentencing recommendations. The large dataset permitted various analyses and enabled researchers to examine outcomes for white, black, Latino, and Asian defendants. Overall, factors most directly relevant to the legal aspects of a case—such as charge seriousness, prior record, and offense type—were those that best predicted case outcomes. Nonetheless, race remained a statistically significant independent factor in most of the discretion points that were examined as part of the research.

Throughout this report, comparisons in outcomes for blacks, Latinos, and Asians are made to "similarly situated whites." This simply means the comparison has used statistical methods to account for the influence of other factors—including legal factors, such as type of counsel, charge seriousness, prior record, and offense type—to determine the independent effect of race on decision making. Put another way, statistical methods were used so that the comparison is "apples to apples." (Limitations in the data, including factors that could not be controlled for, are described further in the box "Interpreting the Findings: Limitations of the Research" on page 8.)

The study found that DANY prosecutes nearly all cases brought by the police, with no noticeable racial or ethnic differences at case screening. For subsequent decisions, disparities varied by discretionary point and offense category. For all offenses combined, compared to similarly situated white defendants, black and Latino defendants were more likely to be detained at arraignment (remanded or have bail set, but not met), to receive a custodial sentence offer as a result of the plea bargaining process, and to be incarcerated, but they were also more likely to have their cases dismissed.

IN TERMS OF OFFENSE CATEGORIES, COMPARED TO SIMILARLY SITUATED WHITE DEFENDANTS:

> Blacks and Latinos charged with misdemeanor drug offenses were more likely to have their cases dismissed.

> Blacks and Latinos charged with misdemeanor person offenses or misdemeanor drug offenses were more likely to be detained at arraignment.

> Blacks and Latinos charged with drug offenses were more likely to receive more punitive plea offers and custodial sentences.

> Asian defendants had the most favorable outcomes across all discretionary points, as they were less likely to be detained, receive custodial offers, and be incarcerated. Asian defendants received particularly favorable outcomes for misdemeanor property offenses (such as larceny and criminal trespass).

"The shame is not in finding that we have unconscious biases or that our current policies have a disproportionate racial impact—the shame lies in refusing to ask the questions and correct the problems."

—Cyrus R. Vance, Jr. Manhattan District Attorney

More details about each of the discretion points studied follows.

The role of prosecutors, including their potential contributions to racial and ethnic disparity, has received relatively limited attention.

Case acceptance

Prosecutorial involvement with a criminal case in DANY begins when the police file an arrest report. At this point, the prosecutor reviews the available evidence and decides to charge the case (as a felony, misdemeanor, or violation) or decline to prosecute it. Vera found that DANY prosecutes nearly all cases brought by the police, including 94 percent of felonies, 96 percent of misdemeanors, and 89 percent of violations. There were no noticeable racial or ethnic differences at this discretionary point.

Vera concludes that conducting more thorough case screening and eliminating cases that are likely to be dismissed at later stages may help the office and the court system save resources required for handling these cases and minimize the possibility of unnecessary pretrial detention of defendants involved. However, identifying such cases at initial screening is challenging, especially with legal and other pressures to screen cases quickly, such as the constitutional requirement that a defendant be arraigned within 24 hours of arrest.

STUDY METHODOLOGY

To facilitate the examination of prosecutorial decision making and racial and ethnic justice, DANY provided Vera with information about 222,542 cases that were resolved—or "disposed of"—in 2010-2011. The dataset included all misdemeanors, violations, infractions, and a selection of felonies pertaining to drug offenses, weapons offenses, domestic violence, burglaries, and robberies. Drug offenses were a focus due to changes in the Rockefeller Drug Laws in 2009, previous research, and DANY's particular interest in this offense category. Due to time and budget constraints, other felonies were excluded. The majority of this information was gathered by DANY via an electronic database, but a selection of cases were chosen randomly from a review of DANY's paper case files to gather additional information not available electronically.

Vera also interviewed 16 assistant district attorneys (ADAs) to learn about case processing. These ADAs had varied levels of experience and came from different units—known as trial bureaus—within DANY. The interviews with ADAs also provided an opportunity to talk about the study and its possible implications for DANY's policies and practices.

The dataset provided by DANY did not include data on charge bargaining—a prosecutor's decision whether to allow the defendant to plead to a less serious charge, which, because of its dynamic nature, is usually only stored in paper files—or defendants' socioeconomic characteristics, because that data was not available. To amplify the dataset, Vera collected additional information from 2,409 randomly selected paper files, including 1,246 misdemeanor marijuana cases and 1,153 felony non-marijuana drug cases. This information was collected from case summary narratives initially written by prosecutors reviewing a case.

The analysis corrected for other factors that might explain racial differences, such as prior arrest and charge seriousness. Finally, Vera split the analysis into person, property, and drug offenses to examine racial differences across these offense categories.

Case dismissal

Cases can be dismissed at any point between screening and sentencing. Previous research has yielded mixed results on the influence of race on case dismissals.[3] Vera found that blacks and Latinos were 9 percent and Asians 2 percent more likely to have their cases (whether felony or misdemeanor) dismissed compared to similarly situated whites. While consistent with some prior research, this finding was unexpected; further research that examines dismissals by specific offense categories and case processing stage would be beneficial.

Vera suggests these findings could be interpreted in two ways. They raise the question of whether having higher dismissal rates for defendants of color is an indicator of leniency or whether they might simply serve as a mechanism for declining to prosecute cases whose viability is in doubt or that could have been rejected at screening.

Pretrial Detention

The purpose of bail is to ensure that a criminal defendant will return to court for all appearances.[4] In New York, the decision to set bail is made by judges who are required to apply nine factors and criteria that are set forth in Criminal Procedure Law § 510.30. The decision to set bail, and, if so, in what amount, is significant not only because pretrial detention is itself a form of punishment to those who cannot make or are denied bail, but also because research shows it affects the likelihood of pleading guilty and the final sentences that are imposed.[5] The role of assistant district attorneys in pretrial detention is limited to making bail and pretrial detention recommendations to the judges.

Previous research has examined extensively the racial and ethnic disparity in pretrial detention decisions.[6] Vera found that several factors—including the seriousness of the charges, whether the defendant had an outstanding bench warrant, whether the defendant had a prison record, the type of offense with which the defendant was charged, whether the defendant had a private attorney or one who was court-appointed, and the defendant's gender—are all better predictors of pretrial detention or release decisions at arraignment.[7] Nonetheless, race and ethnicity were factors. Specifically, blacks were 10 percent more likely, Latinos 3 percent more likely, and Asians 21 percent less likely to be detained when compared to similarly situated white defendants. Racial disparities in pretrial detention were particularly large for misdemeanor person offenses, where blacks were 20 percent more likely than whites to be detained, and for misdemeanor property offenses, where Asians were 33 percent less likely than whites to be detained.

Plea Bargaining

A plea bargain is an agreement between a prosecutor and defendant in which the defendant agrees to plead guilty in return for some concession from the prosecutor. The prosecutor makes what are called "plea offers," which must be approved by the judge. Prosecutors can make plea offers at any point before a trial verdict, but in New York County the most favorable misdemeanor plea offers are generally made at arraignment, with offers typically becoming less favorable with subsequent adjournments.

Increasingly, prosecutors are beginning to examine how they might contribute to the disparate impact along racial and ethnic lines of the criminal justice system.

While ultimate sentencing outcomes are within the courts' purview, the influence of prosecutors' decisions and recommendations is significant. Given the criminal justice system's heavy reliance on plea bargains (it is estimated that more than 90 percent of criminal cases nationwide are disposed of through guilty pleas), many prosecutors' offices have developed oral or written guidelines to ensure that similarly situated defendants receive similar plea offers.[8] At DANY, guidelines exist for plea offers made to defendants who are charged with misdemeanors and who have no more than one prior arrest.[9]

Plea offers at DANY stem from bargaining over both charges and sentences. In charge bargaining, a prosecutor makes a plea offer to a less serious charge, which, if accepted, would typically lead to a less severe punishment. Sentence bargaining may include recommendations for terms of incarceration in jail or prison, or for less punitive sentences such as community service, probation, a program, or a fine.

PLEA BARGAINING – CHARGE OFFERS

Charge offers were evaluated only for felony and misdemeanor drug samples for which Vera collected both electronic data and data from paper files.[10] Overall, the strongest predictors of charge offers were change in plea offer, whether the defendant had served a prior prison sentence, whether currency was recovered from the defendant at the time of arrest, whether the defendant had any convictions for violent felonies, and the charge.

With respect to felony drug offenses, Vera considered a sample of 1,148 felony non-marijuana cases and found that the defendant's race and ethnicity made no statistically significant difference to the charge offer. For misdemeanor marijuana offenses, Vera considered a sample of 1,246 cases. Although some evidence emerged that black defendants were less likely to receive an offer of a lower charge than were similarly situated white defendants, this difference was not statistically significant due to a relatively small sample size. Additional research is needed to fully explore this discretion point.

PLEA BARGAINING – SENTENCE OFFERS

Vera separately analyzed DANY's sentence offers for the following four datasets: all misdemeanors in the dataset provided by DANY, including misdemeanor drug offenses; misdemeanor drug offenses only; the random sample of misdemeanor marijuana cases; and the same random sample of felony non-marijuana drug cases. Overall, Vera found that black and Latino defendants in these cases were more likely than similarly situated white or Asian defendants to receive a sentence offer including a jail or prison term as opposed to non-custodial offers such as community service, probation, or fines.

> Analysis of the **total misdemeanor dataset** found that blacks were 13 percent more likely and Latinos 5 percent more likely than similarly situated white defendants to receive custodial sentence offers. Asians, however, were 25 percent less likely. Factors that were stronger predictors of sentence offers were prior arrest, offense type, prior prison sentence, defense counsel type, and charge seriousness. Racial disparities were particularly large for misdemeanor drug offenses followed by misdemeanor person offenses, and least pronounced for misdemeanor property offenses.

> Analysis of all **misdemeanor drug offenses** found that black defendants were 27 percent and Latino defendants 18 percent more likely to receive a custodial sentence offer (which included time served in pretrial detention as an offer), as compared to similarly situated white defendants. When "time served" was excluded from custodial sentence offers, the racial differences reported above increased marginally.

> For **misdemeanor marijuana cases**, black defendants were 19 percent more likely to receive a custodial sentence offer, while differences between whites and Latinos and between whites and Asians were not statistically significant. Prior arrest influenced sentence offers more than prior prison sentences in misdemeanor marijuana offenses. Again, charge type and change in plea offer type were better predictors than race.

The significant influence of prior arrest on sentence offers is consistent with the DANY Misdemeanor Plea Offer Guidelines, which recommend harsher plea offers for defendants with prior arrest history. Courts have acknowledged that a defendant's arrest record may be a factor in sentencing decisions. Nonetheless, the finding suggests that if these guidelines were based on prior sentences, as opposed to prior arrest, much of the difference between black and white, as well as between Latino and white, defendants would have disappeared, at least in misdemeanor marijuana cases.

> For **felony non-marijuana drug cases**, the difference between whites and blacks was not statistically significant. However—though factors such as whether one was detained after arraignment, whether drugs were recovered via search or non-search, plea offer change, video/audio recordings, and the sex of the defendant were important predictors—Latinos were 14 percent more likely to receive a custodial sentence offer than whites.

Incarceration Sentence

After a defendant is found guilty of a crime, a judge determines the sentence, which may include a term of incarceration in jail or prison or a non-incarceration sentence such as community service, probation, program, or fine. As with bail, the ADA's role is limited to recommending a sentence.

Vera's research found that, compared to similarly situated white defendants, blacks were 5 percent more likely and Asians 19 percent less likely to be sentenced to imprisonment. No statistically significant difference in sentences imposed was found between whites and Latinos. However, racial disparities in sentences imposed were not as large as in the sentence offers described previously, nor was race the strongest predictor of a custodial sentence. Other factors, such as prior record, offense type, defense counsel type, and charge seriousness were better predictors. Data limitations as described in the box on the following page should be considered when interpreting these findings.

THE ROLE OF DEFENSE COUNSEL

This study also yielded significant information about how criminal justice practitioners' characteristics influence case outcomes—findings that may have racial implications. Blacks and Latinos were much less likely to be represented by private counsel and much more likely to be represented by court-assigned defense attorneys (commonly known as 18(b) counsel), with the former showing the most favorable and the latter the least favorable outcomes for defendants. Moreover, defense attorney type trumped race as a predictive factor in pretrial detention, sentence offers, and sentence outcomes. These findings suggest a need for additional research that looks at the quality of legal representation.

When broken down by offense categories, racial differences in sentences imposed between whites and blacks were greatest for:

> misdemeanor person offenses (blacks 15 percent more likely to be imprisoned);

> misdemeanor drug offenses (blacks 15 percent more likely to be imprisoned); and

> felony drug offenses (blacks 14 percent more likely to be imprisoned).

Asians received better sentence outcomes for property offenses, whether for misdemeanors (31 percent less likely than whites) or felonies (19 percent less likely than whites). Differences between whites and Latinos were relatively small, although Latinos were still more likely to be sentenced to imprisonment than similarly situated whites, especially for felony drug offenses (10 percent more likely) and felony property offenses (5 percent more likely).

Of note, when looking at misdemeanor marijuana and felony drug cases—for which black defendants were more likely to receive custodial sentence offers compared to white defendants—prior arrest influenced sentence offers more than prior prison sentence. Guidelines based on prior sentences in certain, specifically designated instances, as opposed to prior arrest, would diminish the difference between black and white, and Latino and white.

INTERPRETING THE FINDINGS: LIMITATIONS OF THE RESEARCH

When considering the implications to draw from these findings, it is important to note that the data for this study came from DANY's case management system. This system was not designed for research purposes and therefore lacked some information that is important from a research perspective. For example:

> The data did not capture the race of victims, which may be important because there might be differences between intra- versus inter-racial victim-offender categories.

> Similarly, defendants' socioeconomic characteristics—employment, community ties, marital status, or education—could have explained some of the differences reported here. For example, defendants' community ties could influence pretrial detention decisions. While Vera used the proxies of median household income in the neighborhood where defendants were arrested (or, in the two drug subsamples, where the defendants resided) and defense counsel type (with a private lawyer as an indicator for a higher income, for example), the absence of more robust measures of socioeconomic characteristics is a clear limitation of the study.

> Vera also used only four racial categories in this study: black, Latino, Asian, and white, a limitation in a racially and ethnically diverse population such as Manhattan. This study does not capture important differences that may exist within these broad categories, such as country of origin, skin tone, language proficiency, citizenship status, or other elements of racial and ethnic identity. These types of refinements hold the potential to make important contributions in future work.

> In terms of the generalizability of the findings, New York County's unique diversity limits the degree to which the study's results can be applied to more racially and ethnically homogenous jurisdictions. Additionally, the study analyzes only five types of felonies, making it difficult to gauge the exercise of prosecutorial discretion for other felony offenses.

National Implications

Racial disparity is a widespread problem within our nation's myriad institutions, including its criminal justice system. The causes of the problem are complex, with historical underpinnings as deep as our nation's history is long. They include policies that are neutral on their faces, but produce unfair racial impacts. Other causes of societal disparity include individual behavior reflecting bias, implicit or otherwise, and the practices and decisions of many actors, including prosecutors. Vera's research indicates that prosecutors who acknowledge their share of the problem and engage in rigorous self-examination stand to play a key role in leading an emerging effort to reshape criminal justice outcomes and the labyrinth of collateral consequences they produce. DANY has expressed interest in better understanding how this might occur and is committing resources to preventative strategies, such as implicit bias training.

Prosecutors, as powerful actors in the criminal justice system, are empowered to adopt measures that promise to significantly promote equity for all people throughout all stages of the criminal justice continuum. Doing so will require a commitment to accountability and transparency. The good news is that a new generation of leaders understands the role of research and policy in advancing public safety and promoting racial fairness. Initiatives such as the one undertaken here hold great promise, not just for the borough of Manhattan, but for other jurisdictions seeking to protect the public while adhering to the highest standards of fairness.

ENDNOTES

1   Besiki Kutateladze, Vanessa Lynn and Edward Liang, *Do Race and Ethnicity Matter in Prosecution? A Review of Empirical Studies*. Vera Institute of Justice, 2012.

2   See, United States Department of Justice, Justice News, August 12, 2013, *Attorney General Eric Holder Delivers Remarks at the Annual Meeting of the American Bar Association's House of Delegates,* http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-130812.html.

3   Joan Petersilia, *Racial Disparities In the Criminal Justice System* (Santa Monica, CA: Rand Corporation, 1983).

4   N.Y. Penal Law § 500.10.

5   Marvin D. Free Jr., "Race and Presentencing Decisions In the United States: A Summary and Critique of the Research," *Criminal Justice Review* 27 no. 2 (2002): 203-232; E. Britt Patterson and Michael J. Lynch. "Bias In Formalized Bail Procedures." In *Race and Criminal Justice*, edited by Michael J. Lynch & E. Britt Patterson (New York: Harrow and Heston, 1991); and Cassia Spohn and David Holleran, "The Effect of Imprisonment On Recidivism Rates of Felony Offenders: A Focus on Drug Offenders," *Criminology* 40 no. 2 (2006): 329-358.

6   This report draws on the following research on racial and ethnic disparity in pretrial detention decisions: Theodore G. Chiricos and William D. Bales, "Race, Racial Threat, and Sentencing of Habitual Offenders," in *Criminology* 29, no. 4 (1991): 701-724; Stephen Demuth, "Racial and Ethnic Differences in Pretrial Release Decisions and Outcomes: A Comparison of Hispanic, Black, and White Felony Arrestees," in *Criminology* 41 (2003): 873-908; Ilene H. Nagel, "The Legal/Extra-Legal Controversy: Judicial Decisions in Pretrial Release," in *Law and Society Review* 17 (1982): 481-515; Traci Schlesinger, "Racial and Ethnic Disparity in Pretrial Criminal Processing," in *Justice Quarterly* 22, no. 2 (2005): 170-192; Cassia Spohn, "Law, Reparations and Racial Disparities: Criminal Justice and Racial Disparities: Race, Sex, and Pretrial Detention in Federal Court: Indirect Effects and Cumulative Disadvantage," in *Kansas Law Review* 57 (2009): 879-901; and John Wooldredge, "Distinguish-

ing Race Effects on Pre-Trial Release and Sentencing Decisions," in *Justice Quarterly* 29, no. 1 (2012): 41-75.

7   The technical report's initial regression model did not take the defendant's bench warrant history and prior arrests into account. Later regression models accommodated those variables, and showed that they were highly predictive of pretrial detention.

8   Lindsey Devers, *Plea and Charge Bargaining: Research Summary* (Arlington, VA: Bureau of Justice Assistance, 2001): 1.

9   DANY's guidelines do not apply to certain misdemeanor offenses, such as offenses involving domestic violence.

10 At the time of data collection, DANY did not record electronically reduced charge offers, which necessitated recording this information from paper files for the sample of felony and misdemeanor cases. Since 2012, DANY started collecting this information which makes it possible to conduct a more thorough analysis of this important discretionary point in the future.

> For More Information

The Vera Institute of Justice combines expertise in research, demonstration projects, and technical assistance to help leaders in government and civil society improve the systems people rely on for justice and safety.

For more information, please contact Communications Director Mary Crowley at (212) 376-3172 or mcrowley@vera.org. This research summary can be accessed at http://www.vera.org/race-and-prosecution-manhattan-research-summary.

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