

# EXPANDING ALTERNATIVES TO INCARCERATION IN MANHATTAN



## Manhattan District Attorney's Office

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Data Dashboard Report Series



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# Expanding Alternatives to Incarceration in Manhattan

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Many individuals who come into contact with Manhattan Criminal Court have a range of unmet needs that led to their criminal justice system involvement. These may include unstable housing and employment, unaddressed trauma, substance use disorders, and more.<sup>1</sup> To build stronger, safer, and healthier communities, the criminal justice system must divert people from prison and jail and into programs that address these needs and offer effective, restorative, and community-based alternatives.

The Manhattan D.A.'s Office has greatly expanded its use of programming in the last five years. Since 2017, more than **10,200**<sup>1</sup> cases have been diverted to programs in lieu of incarceration and other punitive sentences.<sup>ii</sup> Thousands more have been referred to services through [pre-arraignment diversion programming](#) and other light-touch interventions.<sup>2</sup> The following brief provides an overview of the sentencing alternatives in Manhattan Criminal and Supreme Court, all of which seek to reduce recidivism, provide meaningful community-based supports, and decrease unnecessary incarceration in Manhattan.

## Alternatives to Incarceration in Supreme Court

Problem-solving courts and alternative to incarceration (“ATI”) programs are designed to address an individual’s needs through tailored services and high-quality supervision<sup>iii</sup>. The Manhattan D.A.’s Office has partnered with the Office of Court Administration (“OCA”) and community-based organizations to develop new programs and operationalize several problem-solving courts, including the Alternatives to Incarceration Court,

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### *What is an Alternative to Incarceration (ATI)?*

**Programming offered in lieu of incarceration. Felony ATIs are typically housed in a problem-solving court with specially trained judges and court staff.**

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<sup>1</sup> The Manhattan D.A.’s Office’s programmatic data collection methods have evolved over time, which may result in inconsistencies and gaps in the data presented in this brief. Given the fluid nature of program placement and completion, the Office cannot capture all program-based dispositions, sentences, and outcomes – these numbers are subject to change as programmatic information is updated. The data in this report is up-to-date as of December 2021, unless otherwise specified.

<sup>2</sup> These light-touch interventions include a suite of sentencing options at Midtown Community Court, a problem-solving court in Midtown Manhattan that presides over select low-level cases. Midtown Community Court diverts hundreds of individuals into programming each year.

Judicial Diversion (also referred to as Manhattan Drug Court), Manhattan Mental Health Court, and Manhattan Veterans Treatment Court.

Since the first felony problem-solving court opened in 2009, more than **2,300** individuals have been referred to and accepted into programming through these specialized courts.

## THE ATI UNIT AND THE ATI COURT

The Manhattan D.A.'s Office created the Alternatives to Incarceration Unit in 2017 to consolidate and expand the use of programming for felony cases. Assistant District Attorneys (“ADAs”) in the ATI Unit oversee the Office’s program-based dispositions, including those described below, and streamline the program referral process in Supreme Court. These ADAs are specially trained in behavioral health best practices, motivational interviewing, procedural justice, and youth brain development.

The Office’s ATI practice seeks to reduce the collateral consequences of criminal justice system involvement, and many individuals, even those indicted on serious felony cases, receive reduced dispositions following program completion. Roughly 80% of program graduates screened by the ATI Unit received a non-criminal disposition or a reduced plea to a misdemeanor.

The ATI Unit is currently screening **135** cases for programming. Since its inception in 2017, roughly:

- **1,430**<sup>3</sup> individuals charged with a felony were referred to the ATI Unit for program screening. Most of these individuals were ineligible for a traditional problem-solving court. Many referred individuals chose not to participate in the ATI process, while a small number were found ineligible.
- **540** people were accepted into programming.
- **360** program participants were indicted and **47%** of these participants were indicted on a violent felony offense.
- **160** individuals are actively participating in programming.

<sup>3</sup> These numbers do not include referrals to Judicial Diversion, Manhattan Mental Health Court, or Manhattan Veterans Treatment Court, which are described below.

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*Do participants plead guilty before entering programming?*

In felony cases, it is common for an individual to plead guilty before starting programming. Upon program completion, individuals often “re-plead” their case to a reduced charge (e.g. a violation or misdemeanor) or have their case dismissed.

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- **210** participants graduated from programming.
- **160** individuals referred were transferred to Judicial Diversion, Manhattan Mental Health Court, or Manhattan Veterans Treatment Court.

After creating this internal infrastructure, the Manhattan D.A.’s Office collaborated with OCA and the Center for Court Innovation, a local community-based organization, to launch the Alternatives to Incarceration Court in 2019. The ATI Court is a groundbreaking, first-of-its-kind, problem-solving court that does not exclude individuals based solely on charge or need. The ATI Court is designed to be nimble, participant-centered, and adaptable — all best practices for working with individuals who present with multifaceted needs or co-occurring disorders (such as substance use and mental health disorders).<sup>iv</sup>

Eligibility for this catch-all court is determined on a case-by-case basis, and treatment is tailored to the specific needs of the participant. The Court connects individuals to a wide range of services, including substance use treatment, mental healthcare, education support, job training, and housing support. The ATI Court, in partnership with Columbia Justice Lab, is launching a new Emerging Adult track to better serve 19-to-24-year-olds who enter the Court.

Administrative Judge Hon. Ellen N. Biben presides over the ATI Court and the Center for Court Innovation provides in-house clinical and case management support to the Court and its participants. ADAs from the ATI Unit identify, screen for eligibility, and personally handle all cases.

Since opening in June 2019, roughly:

- **225** individuals received a clinical assessment for eligibility from the Center for Court Innovation.
- **230** individuals were accepted into programming<sup>4</sup>.

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<sup>4</sup> Select individuals referred to the ATI Court do not receive a clinical assessment or case management support from the Center for Court Innovation.

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### *When are cases referred to an ATI program?*

Felony cases may be referred to programming after their case is indicted or through a Superior Court Information (SCI). See the [Glossary of Key Terms](#) to learn more about SCIs.

Many individuals complete programming before their case is fully disposed of (e.g. a pre-sentence condition), while others are mandated to programming as part of their sentence. The latter is more common in misdemeanor cases.

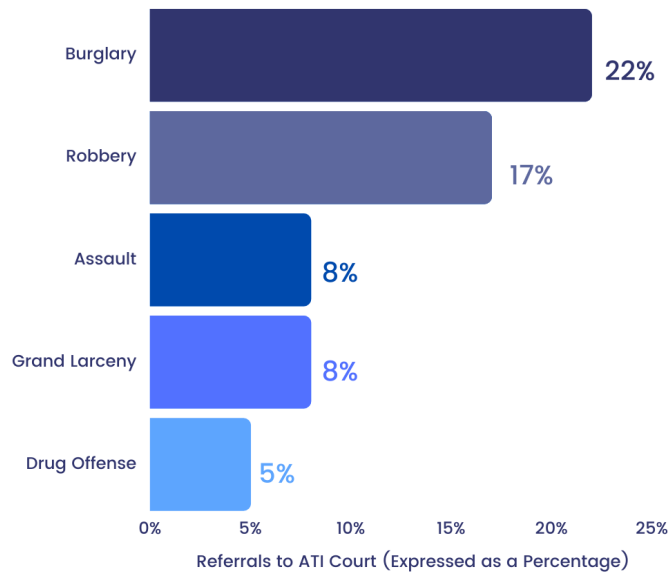
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- **50** participants have graduated.
- **15** participants did not successfully complete their mandate, voluntarily dropped out of the program, or had their case closed for other reasons (e.g. death or serious illness).
- **160** participants are actively participating in programming.

Individuals are referred to the ATI Court on a wide range of charges, including assault, credit card fraud, sex offenses, and more. Roughly half of participants in the ATI Court have been arraigned on violent charges. The top charge categories in the ATI Court are<sup>5</sup>:

### Common Arraignment Charges for ATI Court Referrals

The graph below shows the most common arraignment charges for ATI Court.



The ATI Unit now refers most program-bound felony cases to the ATI Court, unless the individual is eligible for one of the below specialized problem-solving courts.

### JUDICIAL DIVERSION

Judicial Diversion, often referred to as Manhattan Drug Court (“MDC”), was created by the New York State legislature and codified in [Article 216](#) of the Criminal Procedure Law in 2009. Judicial Diversion has set eligibility criteria and accepts individuals charged with certain felony offenses who have an alcohol or substance use dependence. Referred individuals undergo an evaluation to 1) determine if their alcohol or

<sup>5</sup> Top charges for individuals who received a clinical assessment from the Center for Court Innovation.

substance use disorder can be effectively addressed through the Court and 2) provide a recommendation regarding treatment modality and length of care. Hon. Cori Weston presides over the Court and MDC staff monitor participants as they complete programming, provide case management, and make referrals to a wide range of community-based organizations for treatment.

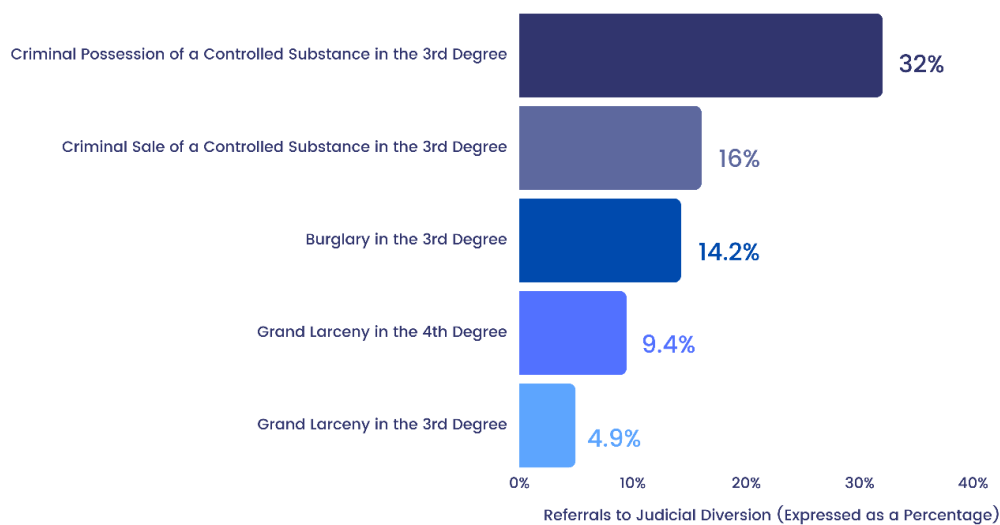
To better serve participants with outstanding mental health needs, the Manhattan D.A.’s Office partnered with OCA, the Center for Court Innovation, and the EAC Network, a local community-based organization with clinical expertise, to create a Mental Health Track within MDC. The Mental Health Track provides mental health assessments, creates treatment plans, and offers intensive case management for up to 40 participants per year who have a co-occurring mental health and addiction disorder.

On average, there are approximately 300 individuals participating in or seeking consideration for treatment through Judicial Diversion at any time. Since opening in 2009, roughly:

- **3,050** individuals were referred to Judicial Diversion.
- **1,900** people were accepted into Judicial Diversion.
- **600** participants have graduated.
- **89%** of graduates had their case dismissed and **9.5%** of graduates plead to a misdemeanor offense.

### Common Charges for Judicial Diversion Referrals

The graph below shows the most common charges for Judicial Diversion.



## MANHATTAN MENTAL HEALTH COURT AND MANHATTAN VETERANS TREATMENT COURT

Manhattan Mental Health Court and Manhattan Veterans Treatment Court both offer targeted and tailored services to participants with unique needs. Hon. Juan Merchan presides over both Courts.

Manhattan Mental Health Court provides oversight and mental health treatment to individuals charged with select felony offenses who have a serious mental health need that led to their criminal justice system involvement. Manhattan Mental Health Court participants must have a diagnosed serious mental illness, such as schizophrenia or bipolar disorder.

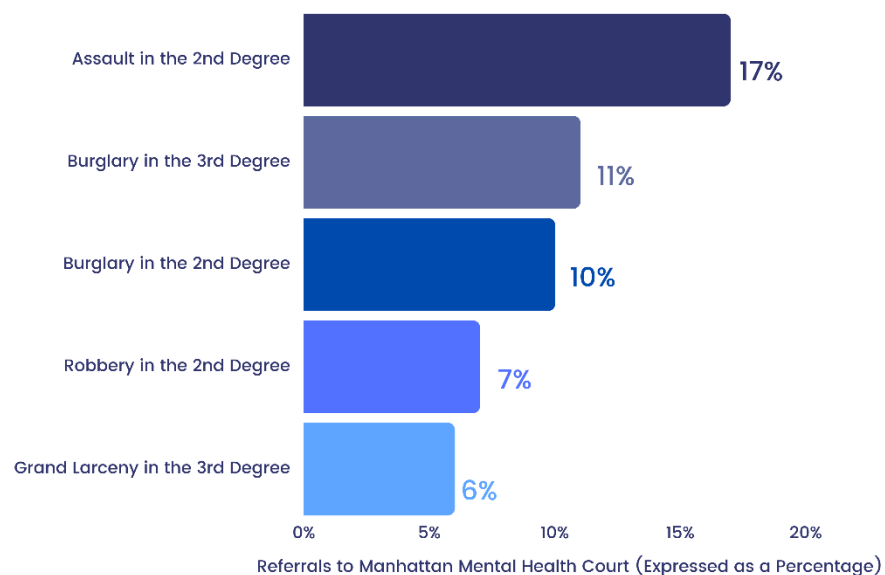
The EAC Network serves as the Court’s clinical provider and offers direct services and case management to participants as they complete programming. Most mandates include medication support, mental health services, and wraparound supports to address other needs. Since 2014, roughly:

- **300** individuals have been referred to Manhattan Mental Health Court.
- **190** people have been accepted into Manhattan Mental Health Court.
- **100** participants have graduated.

The most common arraignment charges for individuals referred to Manhattan Mental Health Court are:

### Common Arraignment Charges for Manhattan Mental Health Court Referrals

The graph below shows the most common arraignment charges for Manhattan Mental Health Court referrals.





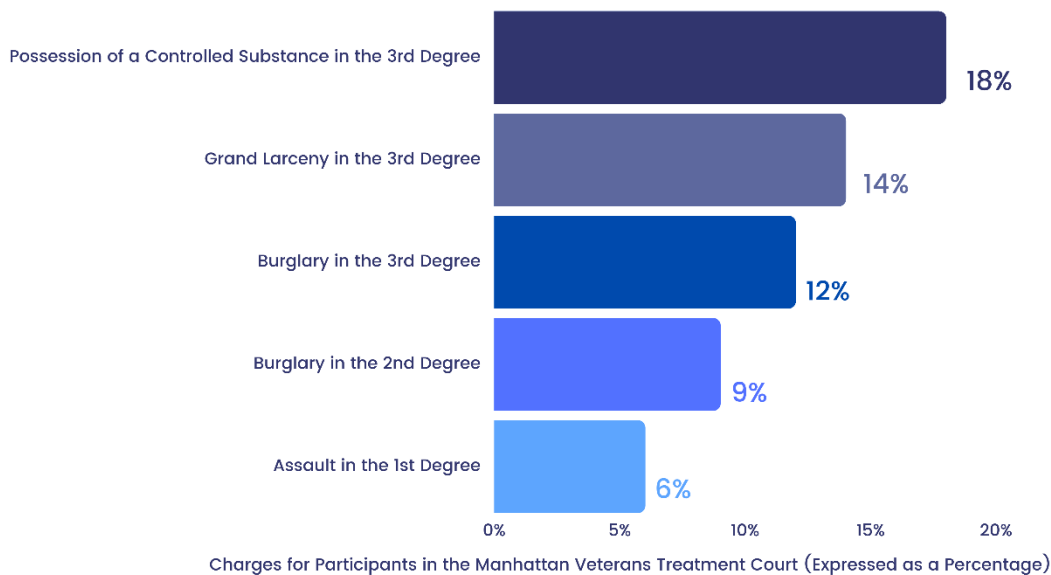
Veterans may return from service with a unique set of challenges, including post-traumatic stress disorder, depression, and traumatic brain injuries.<sup>v</sup> In response, the Manhattan D.A.’s Office and OCA launched the Manhattan Veterans Treatment Court (MVTC) to offer customized services that address the legal and mental health needs of veterans whose justice system involvement may be linked to their military service. In lieu of incarceration, MVTC connects participants to the community-based services they need most, which may include mental healthcare, substance use services, housing and job supports, and more.

Court staff work collaboratively with staff from the U.S. Department of Veterans Affairs to provide ongoing case management to participants.

Since 2017, roughly **200** individuals have been screened for Manhattan Veterans Treatment Court and **65** individuals have participated in the Court. The most common charges are:

### Common Charges for Manhattan Veterans Treatment Court Participants

The graph below shows the most common arraignment charges for participants in the Manhattan Veterans Treatment Court.



### Additional Sentencing Alternatives

Many individuals are diverted to ATI programming without ever entering a problem-solving court, particularly those charged with a misdemeanor offense or an unindicted felony. Some programs are hyper-specialized, such as Abusive Partner Intervention Programs (APIPs), while others are designed to serve a wide range of cases and individuals. Manhattan has numerous ATI program providers that offer holistic, participant-centered services. Below are select examples.

## MANHATTAN JUSTICE OPPORTUNITIES AND CRIMINAL COURT PROGRAMMING

In 2018, the Vera Institute of Justice completed a six-month planning process to create a blueprint for a resource center in Manhattan that provides expedient and meaningful services to court-involved individuals, their families, and others who come into contact with Manhattan Criminal Court. The Manhattan D.A.’s Office then partnered with the Center for Court Innovation to create Manhattan Justice Opportunities (MJO), a resource center inspired by the Vera Institute’s blueprint.

Located next door to Manhattan Criminal Court, MJO provides judges, prosecutors, and defense attorneys in Manhattan with effective and restorative sentencing alternatives that target outstanding needs and offer proportionate responses to crime. Individuals are required to [complete] a certain number of MJO “sessions,” and staff tailor each mandate to the specific needs of the participant. Most individuals complete between one and five MJO sessions, though mandates can be longer when appropriate.

The Center for Court Innovation partnered with the Center for Alternative Sentencing and Employment Services (CASES), the Osborne Association, and the New York City Department of Health and Mental Hygiene (DOHMH) to create a suite of in-house program options. Services include: individual counseling, group-based work (such as a group Driver Accountability Program), case management, workforce development services, Naloxone training, restorative justice programming, civic-centered community service, and referrals to drug treatment programs, physical healthcare, and mental health treatment. Participants can access these services at the MJO or at a community-based program space.

Since opening in February 2020, roughly:

- **3,200** cases were referred to MJO.
- **80%** of cases referred received a non-criminal disposition and an additional **8%** will have their charges reduced or their case dismissed following program completion.
- **2,120** individuals have participated in programming.<sup>6</sup>
- **1,790** participants have completed their mandate.

The Manhattan D.A.’s Office initially envisioned MJO as a light-touch intervention for individuals charged with low-level offenses. During the first quarter of implementation, **85%** of MJO cases were arraigned on non-violent misdemeanor charges. Given the program’s adaptable approach and in response to a case

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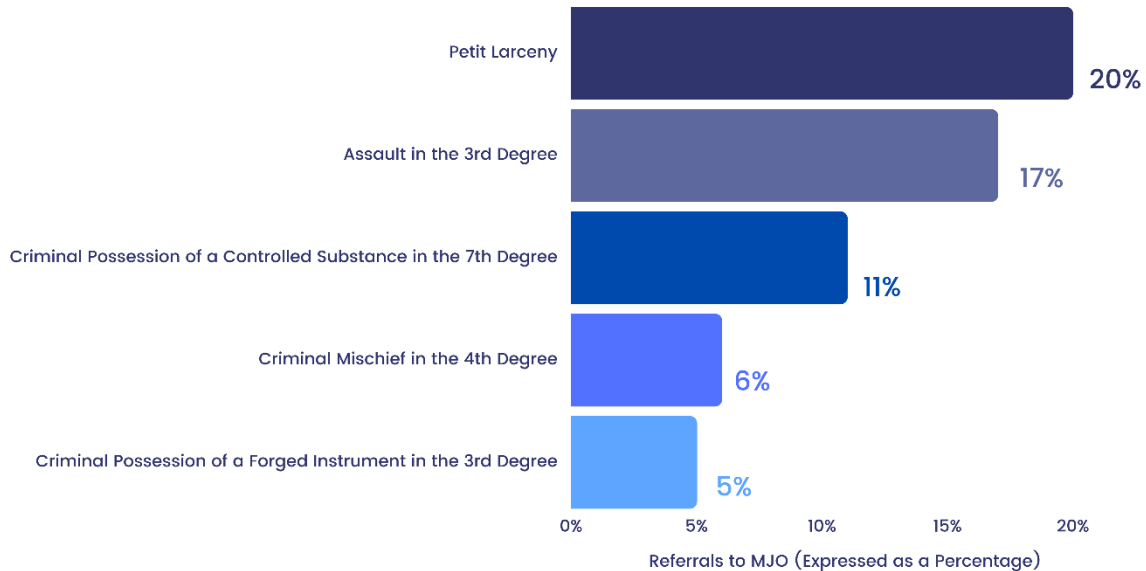
<sup>6</sup> Programmatic data through September 30, 2021.

backlog in Criminal and Supreme Court, the Manhattan D.A.’s Office soon started referring more serious cases to MJO. To-date, roughly **40%** of MJO cases were arraigned on a violent charge or a felony.

The top MJO charges include:

### Common Arraignment Charges for MJO Referrals

The graph below shows the most common arraignment charges for MJO referrals.



MJO’s short-term programming serves individuals who have up to nine prior convictions. Those with ten or more prior convictions are referred to CASES newSTART, a short-term ATI that is designed to support individuals with frequent low-level court involvement. Services include case management, individual and group cognitive behavioral interventions, employment and housing support, and more. CASES and MJO staff coordinate to ensure individuals are referred to the appropriate program. Since 2017, roughly **4,200** cases were referred to CASES programming.

### TRAUMA-INFORMED ABUSIVE PARTNER INTERVENTION PROGRAM

Given the link between traumatic experience and subsequent perpetration of domestic violence<sup>vi</sup>, the Manhattan D.A.’s Office partnered with the Urban Resource Institute to create a trauma-informed abusive partner intervention program ([TI-APIP](#)) in Manhattan that incorporates best and promising practices for working with abusive partners who have experienced trauma.

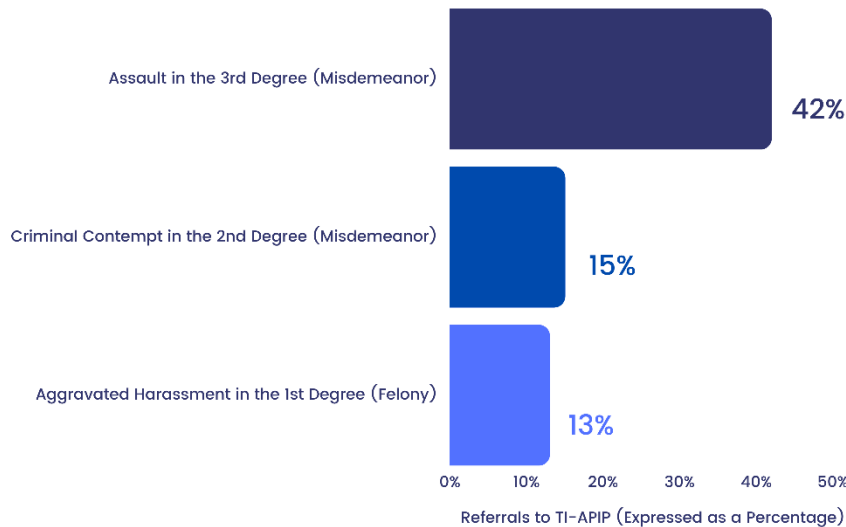
This program serves as a sentencing alternative for individuals charged with an intimate partner violence offense. The TI-APIP includes 26-weeks of mandated group counseling and offers a wide range of free, voluntary wraparound supports, including case management, clinical services (such as individual therapy), and referrals to address housing and employment needs. Almost all participants have accessed these voluntary supports while completing their mandate.

Since July 2019, roughly:

- **120** individuals have been referred to the TI-APIP.
- **85** have been accepted into the program.
- **35** individuals have graduated.

### Common Charges for TI-APIP Referrals

The graph below shows the most common charges for TI-APIP.



Other charges include Coercion in the 1st Degree (felony), Menacing in the 2nd Degree (misdemeanor), and Stalking in the 3rd Degree (misdemeanor).

If you have any questions about this brief or the Data Dashboard, please email us at [datadashboard@dany.nyc.gov](mailto:datadashboard@dany.nyc.gov).

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<sup>i</sup> Alex Harocopos, et al., *The Rikers Island Hot Spotters: Exploring the Needs of the Most Frequently Incarcerated*, 28 *Journal of Health Care for the Poor and Underserved* 4 (Nov. 2017).

<sup>iii</sup> Berman, Greg, and John Feinblatt. *Good courts: The case for problem-solving justice*. Vol. 8. Quid Pro Books, 2015.

<sup>iv</sup> Center for Substance Abuse Treatment. *Substance Abuse Treatment for Persons With Co-Occurring Disorders: Treatment Improvement Protocol (TIP) Series 42*. DHHS Publication No. (SMA) 05-3992. Rockville, MD: Substance Abuse and Mental Health Administration, 2005.

<sup>v</sup> Tanielian, Terri, Lisa H. Jaycox, Terry L. Schell, Grant N. Marshall, M. Audrey Burnam, Christine Eibner, Benjamin Karney, Lisa S. Meredith, Jeanne S. Ringel, and Mary E. Vaiana, *Invisible Wounds: Mental Health and Cognitive Care Needs of America's Returning Veterans*. Santa Monica, CA: RAND Corporation, 2008.  
[https://www.rand.org/pubs/research\\_briefs/RB9336.html](https://www.rand.org/pubs/research_briefs/RB9336.html).

<sup>vi</sup> S.L. Bloom, and B. Farragher, *Restoring Sanctuary: A New Operating System for Trauma-Informed Systems of Care*, OUP USA, 2013; M.E. Harris, and R.D. Fallot, *Using Trauma Theory to Design Service Systems*, San Francisco, CA: Jossey-Bass, 2001.