

Justice Brief

Jail: City Sentences (Including Alternatives to Incarceration)



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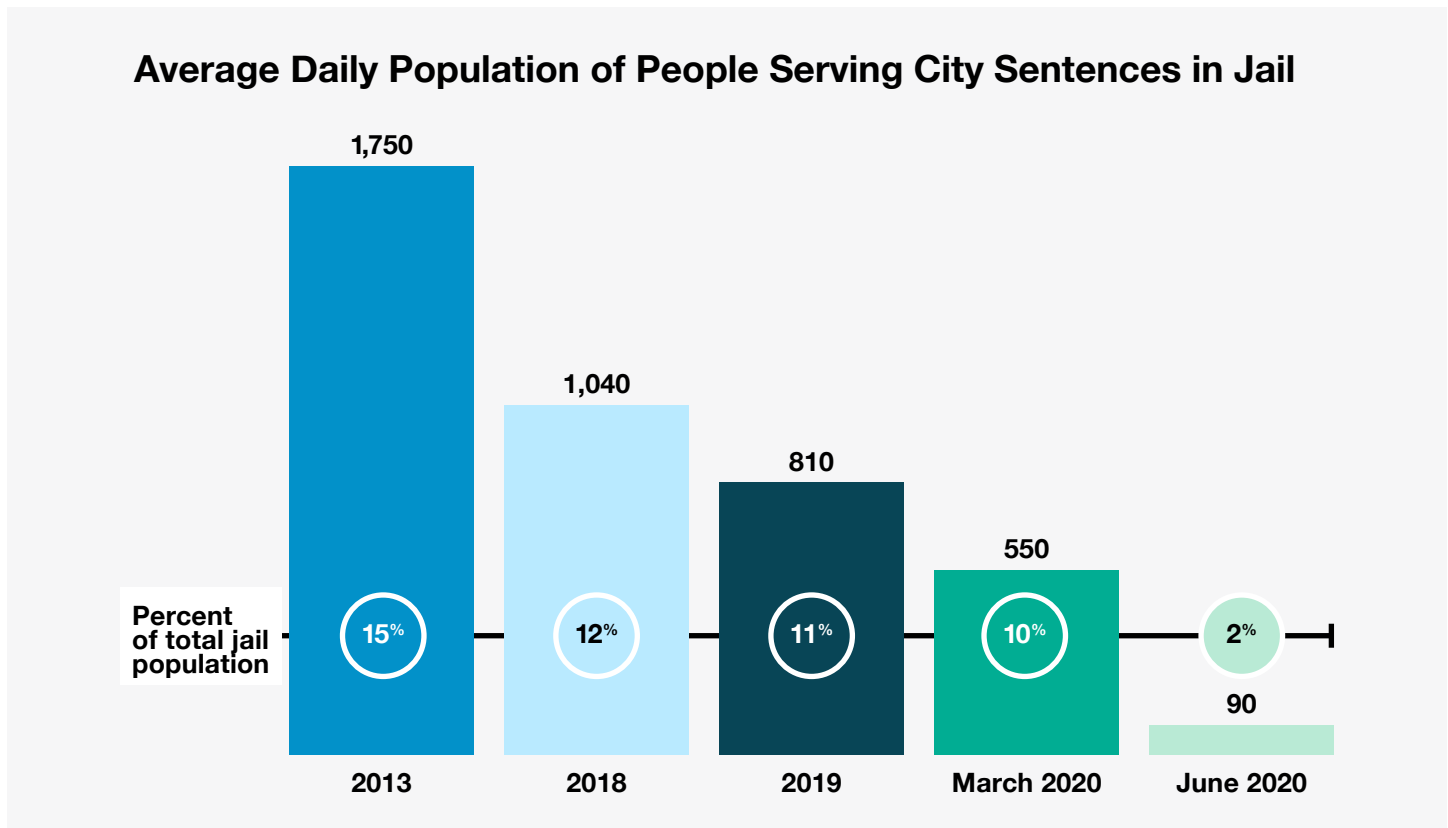
Justice Brief: City Sentences

In New York City, **people whom judges have sentenced to a year or less serve their time in City jail or are ordered into an alternative to incarceration program.** The majority are sentenced on a conviction for misdemeanor or nonviolent felony offenses.

Today, approximately 2% of the jail population is serving a city sentence, down from 11% last year. This reduction, while accelerated by COVID-related factors, reflects an intentional effort over the last seven years to reduce the footprint of the criminal justice system while increasing safety. These efforts have included investments in diversion programs and supportive housing, among others.

2013-2020: 95% reduction in people jailed for city sentences

Declines in the city sentenced population were driven by increasing options for judges to release people to programs instead of jail.



Between March and June 2020, the number of people serving a city sentence on any given day dropped to 90 from 550. This significant drop resulted from two COVID-related factors that played out between March 16 and April 30. First, after weighing the risks related to release against the risk of contagion in jail, criminal justice decision makers released approximately 1,000 people, of whom approximately 300 were city sentenced. Second, with the reductions in arrests, arraignments and sentencings during the COVID period, fewer people entered jail to serve a city sentence or started a city sentence while already in jail pretrial.

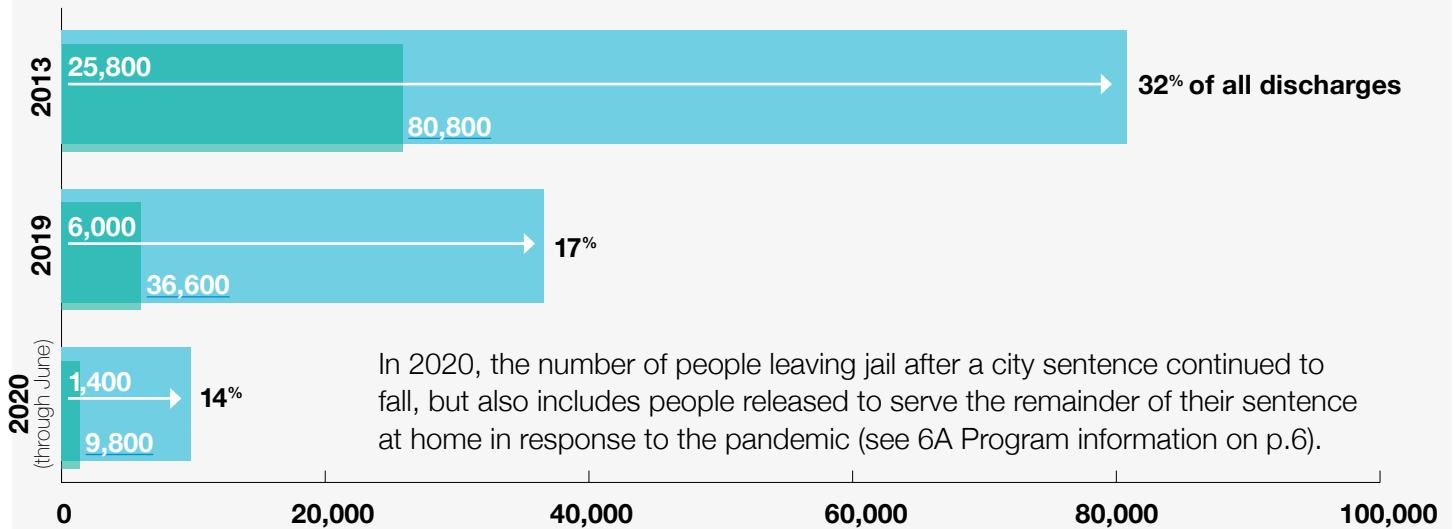
Note: City jails hold people detained pretrial, those alleged to have violated conditions of their state parole supervision, and those convicted of a crime and sentenced to one year or less of incarceration (city jail sentence). People who are convicted and sentenced to more than one year of incarceration serve their sentence in a state correctional facility.

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Proportion of city sentenced departing jail

■ City Sentenced ■ Other

The number of people leaving jail after having served a city sentence fell by nearly 80% (2013 to 2019)



Alternatives to Incarceration

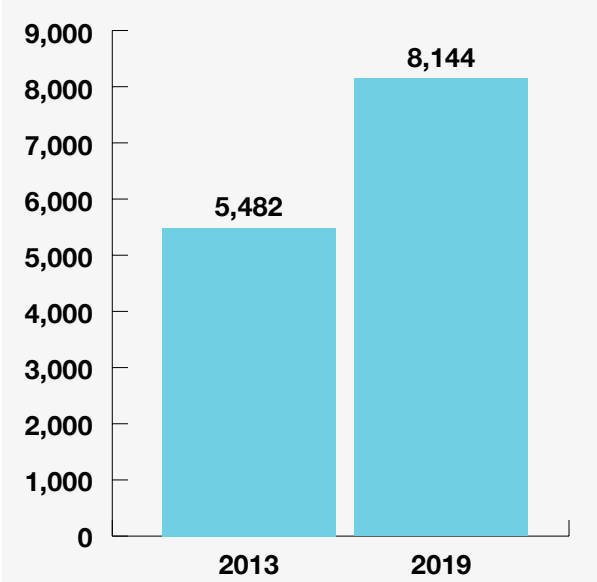
Alternative to incarceration (ATI) programs are options available to judges to sentence people to programs rather than jail time. These ATI programs focus on ways to safely reduce the jail population by providing community-based supportive services. The Mayor’s Office of Criminal Justice (MOCJ) currently funds 15 non-profit organizations to run 24 ATI programs throughout NYC. Depending on need, services can include case management, community supervision, assistance with housing and benefits enrollments, education support, job training and placement, substance use services, and mental, physical, and behavioral health treatment. One measure of success is the jail readmission rates of ATI participants, compared to those who served a city jail sentence. As ATI programs become more tailored to individuals’ risks and needs, success rates are likely to rise, further reducing readmissions to jail.

The number of people served by MOCJ-funded ATIs increased by 48% from 2013-2019.

ATI participants are readmitted to jail at lower rates than those who served city jail sentences.

READMITTED TO JAIL
ATI participants: 40% | Non-participants: 53%
 11,250/28,000 | 37,400/71,000

MOCJ-funded ATI Intakes



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Sentences increasingly reserved for more serious offenses.

The criminal justice system continues to shift away from the use of jail and towards community-based alternatives like ATIs. This means city sentences (one year or less) are being used more for serious offenses (even though the majority of city sentences are still for misdemeanor charges).

8,300

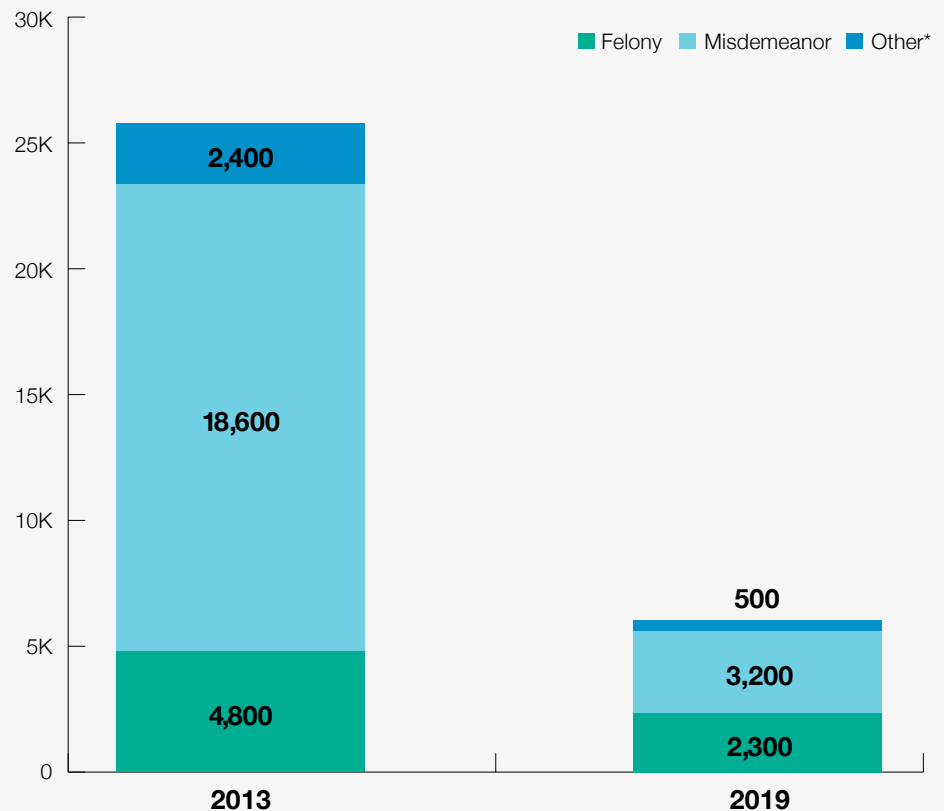
Out of 25,800 people city sentenced in 2013, 8,300 were sentenced for minor theft and drug possession (both misdemeanors)

6,000

In 2019, 6,000 people IN TOTAL received a city jail sentence.

In 2013, more people were sentenced to city jail time for the misdemeanors of minor theft and drug possession than were city sentenced in total for 2019.

Charge Level of City Sentences



Shift in most common charges for people serving city jail sentences:

2013:

Misdemeanor minor theft (4,300)
Misdemeanor drug possession (4,000)
Theft of services (1,500)
Disorderly conduct (1,400)
Misdemeanor (1,280)

2019:

Misdemeanor minor theft (1,150)
Misdemeanor assault (400)
Misdemeanor drug possession (400)
Misdemeanor criminal contempt (230)
Felony assault (220)

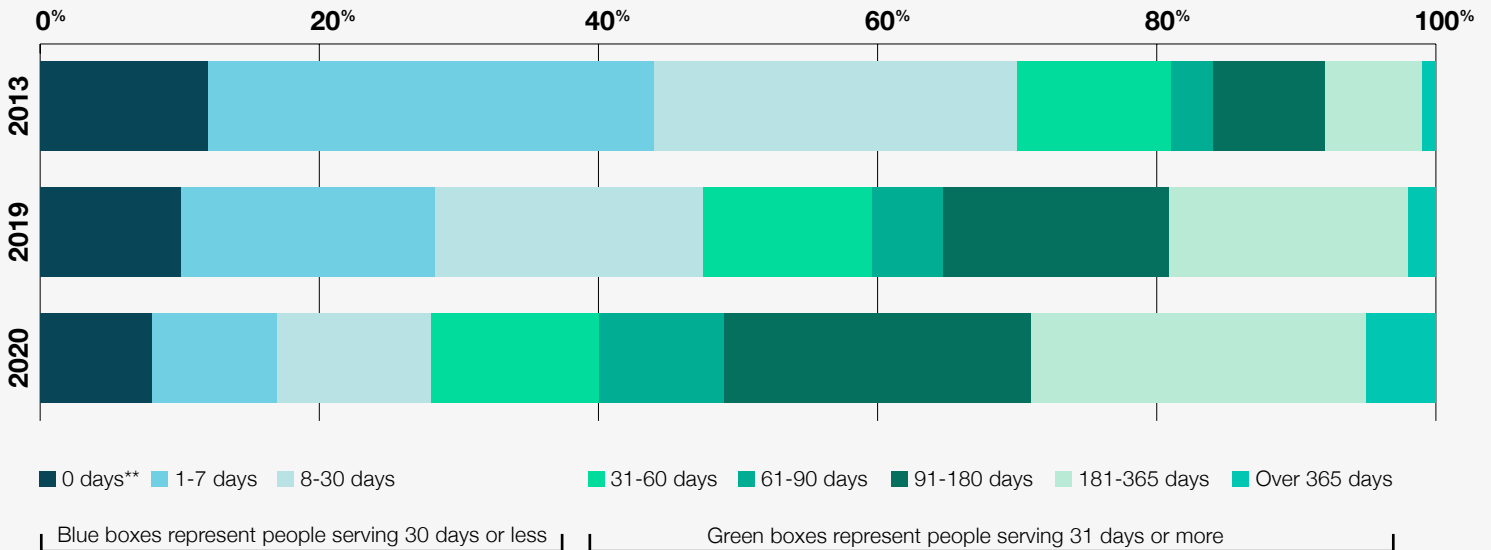
*Disorderly conduct, a violation, comprises the 'other' category

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More serious charges have resulted in longer jail stays for people sentenced to city jail time.

Total Length of Jail Stay for People who are City Sentenced

(includes time spent in jail pretrial—before conviction and sentencing)



Those serving 30 days or fewer (2019):

- 55% received a city sentence while already in jail pretrial
- Most likely charged with a misdemeanor offense (minor theft and drug possession are the most common)
- 47% spent 30 days or fewer in custody (down from 70% in 2013)

Those serving more than 30 days (2019):

- 79% received a city sentence while already in jail pretrial
- Most likely charged with a felony offense (assault, theft, and domestic violence charges are the most common)
- 33% spent 61 to 365 days in custody (up from 15% in 2013)

** Sometimes, the judge may credit the time in holding after an arrest and sentence the individual to “time served.” In the case of “0 day” sentences, the person was booked into DOC custody but released the same day.

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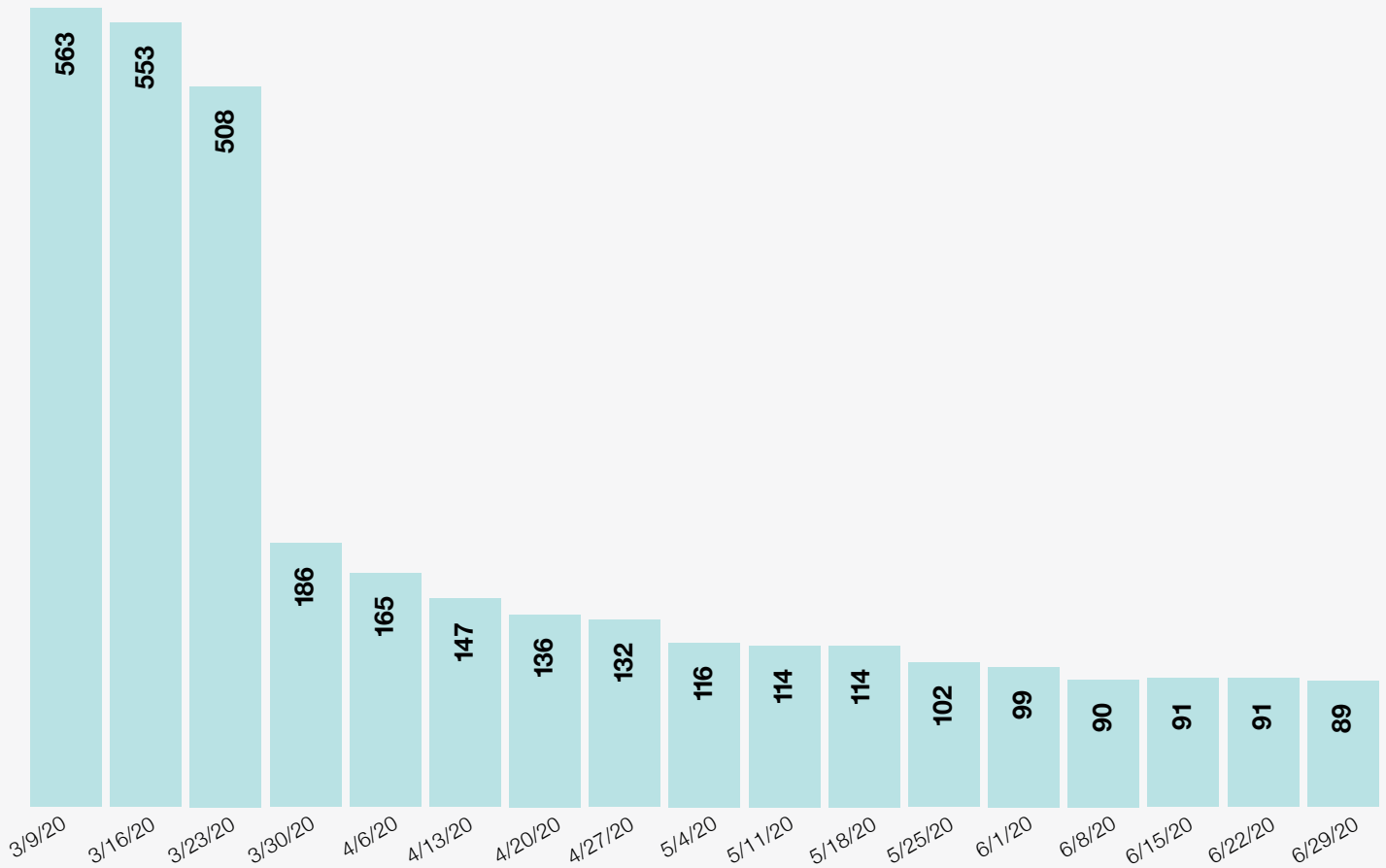
2020: COVID-19 response accelerated city sentenced releases, without increasing re-arrests.

Beginning in mid-March, the City implemented a number of public health measures designed to reduce the spread of COVID-19, and along with criminal justice decision makers took steps to release approximately 1,000 people from jail ([see COVID fact sheet](#)). Part of these reductions were accomplished through the creation of the 6A Program for individuals serving city sentences.

- 6A Program for city sentenced individuals:
 - When there is “some compelling reason consistent with the public interest,” Article 6-A of the State Correction Law authorizes the Commissioner of the NYC Department of Correction to exercise discretion to permit people sentenced to less than a year to serve the remainder of their sentence at home.
 - Beginning March 22, 2020, the DOC Commissioner took this action and released nearly 300 people to the 6A Program.

The City’s Supervised Release providers, a group of non-profits contracted to supervise people pretrial in a court-ordered program, started also supervising city sentenced individuals in this 6A program. They provide daily virtual case management and report to DOC on participants’ compliance.

City jail sentence population during COVID-19



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6A Program participants were more likely to be sentenced on misdemeanors and nonviolent felonies than the overall 2019-2020 city sentenced population.

2019-2020 Overall Population Original City Sentence Charge:

53% misdemeanor
29% nonviolent felony
13% violent felony
5% other

6A Population Original City Sentence Charge:

46% misdemeanor
51% nonviolent felony
3% violent felony*

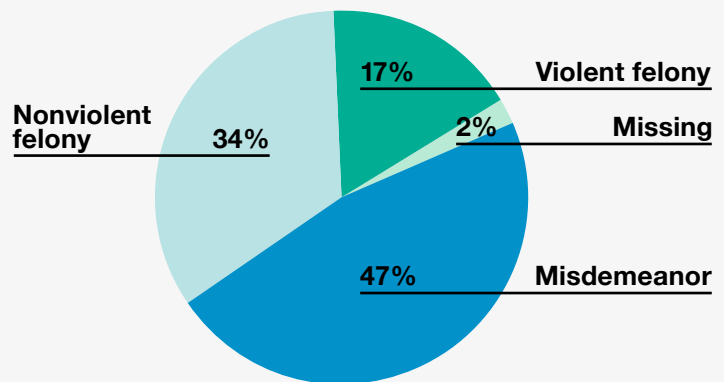
See the [Supervised Release Scorecard](#) for additional information on the 6A program

Average re-arrest rate for city sentenced releases during COVID-19 has been under 20%, compared to 26% for all people released from jail during the same time period.

- Of the 485 people** released following a city sentence between March 16 and April 30, 86 people (including 6A participants) have been re-arrested a total of 178 times.
- 91% of participants in the 6A program have not been re-arrested while in the program; 82% of participants have not been re-arrested since their city sentence and participation in the 6A program ended.
- Of the 86 people re-arrested since their release, nearly half have been for misdemeanor offenses. An additional 1/3 have been for nonviolent felonies. Most VFO re-arrests have been for robbery and assault.

New Arrest Charges for City Sentence Releases

(For individuals released between March 16- April 30, rearrests were tracked through the end of September)



* Fewer than 10 people released to 6A were serving a city sentence of one year or less for assault, a violent felony

** In addition to the nearly 300 released to the 6A program, approximately 185 people serving a city sentence were released during this time after they completed their sentence.

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Strategies to reduce the number of people serving city sentences in jail

The significant reduction in people serving a city sentence, along with the lower rearrest rate for this group, raises the question whether jail is the most effective means to reduce offending and improve the lives and safety of all New Yorkers. The ATI programs have focused on providing judges options other than jail for sentencing, and providing individuals support for successful completion of their sentences while in the community. This framework has been tested during the ongoing COVID-19 period. What has emerged is a picture of a group of people who, as we know from other research, are afflicted by an array of [social and economic inequalities](#) and [behavioral health and substance use issues](#) that is often reflected in repeated criminal histories of low-level drug and theft offenses. Jail may interrupt that cycle for brief periods but does not end it. [Evidence](#) shows that an approach outside the justice and jail system, grounded in providing supports to address individuals' unique needs and interests has a better chance of stabilizing lives and reducing crime, thus protecting us all.

Below are the guiding principles the City is using to advance this approach.

Promoting programs to reduce the use of city jail

The 6A program has demonstrated that people can serve sentences in home confinement with less risk to public safety than had they served a sentence in jail. Participants in MOCJ-funded ATIs have better long-term outcomes than non-participants. These programs, and providing other resources such as supportive housing, offer less punitive and less harmful alternatives.

Ensuring all programs are designed to meet the risk and need profiles of those receiving city sentences

Starting this year, the City is expanding funding and refining ATI programming to increase the number of people served.

ATI capacity has now been expanded for felony cases using evidence-based programming that is more intensive and lasts longer.

The additional funding and resources will:

- Provide increased capacity for felony cases (including VFOs)
- Serve clients in voluntary services that require additional support following the completion of their court-mandated program
- Provide additional substance use, mental health, and physical health services
- Provide dedicated ATI services in Queens and Staten Island (as well as an expansion overall citywide)
- Provide additional youth-specific programs
- Provide additional women-specific programs