

CRIMINAL LAW REVISION COMMISSION

Criminal Procedure Reference Paper

BAIL PROJECTS

May 1972

SUBJECT: Manhattan and San Francisco Bail Projects

I. MANHATTAN BAIL PROJECT

A. SUMMARY:

The Manhattan Bail Project works like this. When a prisoner is brought to the detention pen prior to his first court appearance, a law student checks his previous record and current charge with the arresting officer to see if he is bailable in the Criminal Court. The law student also determines whether he has been charged with one of certain offenses - homicide, most narcotics offenses, and certain sex crimes - excluded from the experiment because of the special problems they present. If the prisoner is eligible, he is interviewed to determine whether he has roots in the community. He is asked whether he is working, how long he has held his job, whether he supports his family, whether he has contact with relatives in the city, whether he received unemployment insurance or welfare relief, etc.

After the interview the defendant is scored according to a point-weighting system. If the interview indicates that the accused would be a good r.o.r. risk, the interviewer obtains written permission from the prisoner to get in touch with a friend, relative, or employer for the purpose of verifying the information. Verification is done either by telephone

or in the visitors' section of the courtroom. An interview generally takes about ten minutes and verification less than an hour.

If the case is still considered a good risk after verification, a summary of the information is sent to the arraignment court. Copies of the recommendation and supporting information are given to the judge, the district attorney, and counsel for the accused. Sturz, National Bail Conference 44 (1964).

B. COST: The figures on cost of the Manhattan Bail Project are not found in the law reviews and bail conference reports. The only mention of finance is a Ford Foundation grant, Vera Institute grant, and aid from the Institute of Judicial Administration which is connected with the New York University Law School.

C. STAFF: The staff was apparently composed of an executive director, Herbert Sturz, and law students from the New York University.

D. FACTORS: Following is a list of objective criterion used by the project which contains these items: present or recent residence at the same address for six months or more; employment for six months or more; relatives in New York; no previous conviction of crime, resident of New York, 10 years.

To be recommended a defendant needs:

1. An area address where he can be reached, AND
2. A total of five points from the following categories:

| *Int | Ver | |
|------|-----|--|
| | | <u>PRIOR RECORD</u> |
| 2 | 2 | No convictions |
| 1 | 1 | One misdemeanor conviction |
| 0 | 0 | Two misdemeanor convictions or one felony conviction |
| -1 | -1 | Three or more misdemeanor convictions or two or more felony convictions |
| | | <u>FAMILY TIES</u> |
| 3 | 3 | Lives with family AND has weekly contact with other family members |
| 2 | 2 | Lives with family OR has weekly contact with family |
| 1 | 1 | Lives with nonfamily person |
| | | <u>EMPLOYMENT</u> |
| 3 | 3 | Present job one year or more |
| 2 | 2 | Present job 4 months OR present and prior job 6 months |
| 1 | 1 | Current job OR receiving unemployment compensation or welfare, OR supported by family or savings |
| | | <u>RESIDENCE</u> (In area; not on and off) |
| 3 | 3 | Present residence one year or more |
| 2 | 2 | Present residence 6 months OR present and prior 1 year |
| 1 | 1 | Present residence 4 months OR present and prior 6 months |
| | | <u>TIME IN AREA</u> |
| 1 | 1 | ten years or more |

DISCRETION

| | | |
|---|---|--|
| 1 | 1 | Pregnancy, old age, poor health, or attending school |
|---|---|--|

TOTAL INTERVIEW POINTS

| | |
|-----|----|
| — | — |
| **R | NR |

TOTAL VERIFIED POINTS

| | |
|---|----|
| — | — |
| R | NR |

*Interview, Verification
**Recommended, Not recommended

Further citations: Ares, Rankin, Sturz, "Manhattan Bail Project,"
38 NYUL Rev 67 (1963).

Botein, "Manhattan Bail Project," 43 Tex L Rev
319 (1965).

II. SAN FRANCISCO BAIL PROJECT

SUMMARY

A bail project was initiated in 1964 by the San Francisco Bar Association with an initial funding of \$16,000 from volunteer contributions. Later the Office of Economic Opportunity made four grants totaling \$136,000 with a fifth grant approved for 1969.

The project is under supervision of a director (social worker) with three other full time staff members (lawyer, sociologist, secretary). There are 20 volunteer interviewers composed of 12 VISTA volunteers, six law students and two Youth Corps trainees.

The office of the project is in the San Francisco Hall of Justice where the prison is located. Working hours are from 6:30 a.m. until 10 p.m. with the volunteers interviewing the newly arrested persons between 6:30 a.m.-8:30 a.m. and 5 p.m.-6:30 p.m. each day. The accused persons are asked to provide the names of three local references which are verified later. Also, the arrest record is checked by the staff. Sometimes home visits will be made with the persons given as references.

When the investigation is complete, an evaluation is made using an objective rating scale. If the case is considered appropriate for recommendation that the accused person should be released on his own recognizance (ROR) it is presented to the judge hearing such matters. Approximately 85% of the staff's recommendations have been followed by the judges. The standards for release are at present among the most liberal in the country, and the crimes considered are all bailable (noncapital) offenses. Approximately 70 percent of the persons released are those charged with felonies.

The San Francisco Bail Project follows the objective criteria that is similar to that used in the Manhattan Bail Project. Generally, the San Francisco Bail Project determines the number and extent of community ties (residence, employment, family) and verifies this information over the telephone. Also, the criminal record of the accused is considered. Summary from Levin, "San Francisco Bail Project", 55 ABAJ 135 (1969).