Access to Justice Lab | Center on the Legal Profession

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RE: Ayres CE, Rankin A, Sturz H. 1963. The Manhattan Bail Project: an interim report on the use of pretrial parole. *N.Y. Univ. Law Rev. 38:67*
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Abstract

Despite multiple attempts at examining the bail system in the United States, there had been little change in the way it operated such as providing information other than the charge of a defendant at arraignment. In the Manhattan Bail Project, researchers randomly assigned defendants to the experimental condition in which they would make a recommendation to the court to release the defendant on bail after verifying background information, or to the control condition in which they made no recommendation. The study was ongoing at the time of publication, so there were no statistically significant results.

I. Policy Issue

The American bail system was based on the presumption that defendants were innocent until proven guilty and should have an opportunity to prepare for their case. However, it has transformed into a system that the magistrates used to punish defendants or protect the public from them before convicting them of a crime. Based on two studies in 1960 and 1956 which examined the Manhattan bail system, data indicated that there was a

significant difference between the sentences of those in detention and those at liberty in the following charges: assault in the third degree ($p < 0.001$), grand larceny ($p < 0.001$), petit larceny ($p < 0.001$), or possession of dangerous weapons ($p < 0.05$). This pattern of results led to an attempt by the Manhattan Bail Project to increase the number of defendants released on bail by providing verified background information at arraignment. Did the verification process and recommendation based on verified information increased the number of defendants granted bail?

II. Context of Evaluation

The study took place in Part 1A of the Criminal Court of the Borough of Manhattan. The location might be better than other courts at releasing defendants on bail because of the presence of lawyers from the Legal Aid Society. The defendants charged with, or have a previous record of, narcotics offenses, homicide, forcible rape, sodomy involving a minor, corruption the morals of a child, carnal abuse, and assault on a police officer were ineligible for the study. Defendants that failed to meet at least two of the following requirements were ineligible for the study: present or recent residence at the same address for 6 months or more; current employment or recent employment for six months or more; relatives in New York City with whom he is in contact; no previous conviction of a crime; and residence in New York City for 10 years or more.

III. Details

The researchers interviewed defendants in a cell and used a 4-page questionnaire to elicit information regarding their residency, employment history, community ties, and previous convictions. The interview lasted 15 minutes and the researchers verified the information provided through phone calls, in-person interviews with family members, or field observations. The researchers then made the recommendation for release based on employment, family, residence, references, current charge, previous record, and other factors. Once the researcher made their recommendation, they sent the questionnaire's number to another researchers who checked the questionnaire number with a random number chart to assign the participant to control or experimental. For those in the experimental group, the researcher entered a recommendation to the magistrate. For those in the control group, the researcher made no recommendation.

IV. Results and Policy Lessons

The researchers measured the percent paroled, whether or not the court found the defendant guilty, and differences in detention rates among those released on bail compared to those in detention. Because none of these results were analyzed for statistical significance, it is impossible to determine whether they are a result of chance or not.

V. Quality of the Study

Because the study was still on-going at the time of publication, the researchers did not calculate statistical significance. The study did not report what percentage of defendants were ineligible so one could not determine whether a statistically significant result would

have any real-world implication for the bail system. Another concern was whether the absence of a recommendation from the researchers could have driven the differences found. Because the judges and magistrates were aware of the study since the researchers were making recommendations, when a defendant did not receive a recommendation for bail and release on parole, the court might infer that the defendant did not receive a recommendation because the researchers chose not to recommend them instead of the defendant being placed in the control condition. Therefore, the presence of the researchers might have increased the likelihood of defendants being released on bail based on their recommendation because they have also increased the likelihood of defendants being denied bail due to the lack of a recommendation. Finally, the authors provided very little information on how the Manhattan Court compared to other courts, so it was unclear whether the findings could be generalized or the intervention could be applied to other courts.