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Between December 1st, and December 29, 1975, the Pretrial Services Agency of the Vera Institute of Justice in cooperation with START, a volunteer services program which has been working on Rikers Island for the past 15 years, conducted a crash bail re-evaluation project for inmates lodged in detention institutions on Rikers Island. The project was conducted at the request of the Commissioner of Correction of the City of New York, in an effort to reduce the number of persons lodged in the house of Detention for Men and the Adolescent Reception and Detention Center.

During the past year, the New York City Department of Correction has been forced to contend with the serious consequences attached to the growing overcrowding and understaffing problems at these institutions. Both the overcrowding and understaffing are traceable to two factors; the City's serious financial crisis and intervention by Federal Courts in the Departments procedures.

As an economy move, two detention facilities, the Branch Queens House of Detention and the Adolescent Detention Center were closed. A third, the Manhattan House of Detention (the Tombs) was declared unsafe for inmate habitation by a Federal Judge, unless it was repaired and upgraded. The City could not afford its renovation and the institution was also closed. The closing of these facilities, accompanied by the layoff of several hundred correction officers, drastically affected the Department of Correction's ability to safely detain defendants awaiting or undergoing trial. While

the number of available cells in October, 1974 was 9,766, by June of 1975, the number had dropped to 7,529. By October, 1975, the number was further reduced to 7,464, for a total reduction in cell capacity of 24 percent over a one year period. Inmate population however, remained relatively stable throughout the period at approximately 7,100. The occupancy rate therefore rose from 74 percent to near 95 percent of capacity.

These figures do not however, present the full scope of the situation. Each correction facility has, at all times, a number of cells under repair or otherwise not available for occupancy. In addition, some cell blocks must be reserved for specially segregated defendants, normally resulting in less than 100 percent occupancy in these blocks. The capacity figures cited above are based on the assumption that every cell is operative or otherwise usable. As the number of available cells is lower due to the above factors, actual occupancy rates exceed 100 percent of capacity.

The overcrowding conditions were felt most dramatically at the House of Detention for Men (HDM) and the Adolescent Reception and Detention Center (ARDC). Each institution now receives defendants who, prior to the closings, would have been housed elsewhere. As a result, the occupancy rate of the HDM was listed at 114% on October 20, 1975, and the rate for the ARDC was listed at 102% on the same date. As both institutions contain unusable cells, the true occupancy rates are higher than stated.

A second factor which provided motivation for the project came from the Federal Judiciary. A federal District Court Judge

issued a ruling stating that inmates' constitutional rights were abridged if two are housed in one-man cells. Almost one-third of EDM's and ARDC's population were housed in this manner in late November, 1975, when the decision was officially rendered.

As a result of these factors, in late October, 1975, the Commissioner of Correction requested that the Pretrial Services Agency, a Vera Institute of Justice demonstration project developing bail reform techniques, assist by implementing a Crash Bail Re-evaluation Project targeted for inmates housed in ARDC and HDM. In making this request, the Commissioner was relying on the experience gained from other crash bail re-evaluation programs conducted during the past 15 years. While written reports concerning these previous efforts are apparently not available, there is widespread belief that they resulted in removing hundreds of persons from the detention population. As a result of those projects, there is also widespread belief that there is a large number of persons being held in low bail who can safely be released to the community while awaiting trial. Accepting that hypothesis as valid, the Pretrial Services Agency joined with the Department of Correction in planning a Crash Bail Re-Evaluation project.

Bail Re-Evaluation Defined

It should be noted at this point exactly what the Pretrial Services Agency agreed to in entering into this project. PTSA's normal operating procedures seek to effect releases in one of four (4) ways:

A. Initial R.O.R. - PTSA employees interview each defendant to be arraigned in court in Brooklyn, the Bronx and Staten Island. Attempts are made to verify the information, and a report is made to the judge at the time of arraignment. This report contains one of 4 PTSA Recommendation Stamps:

(1) "Recommended" - this stamp indicates that the defendant meets the PTSA criteria for recommendation for release on recognizance, and the information has been verified.

(2) "Qualified" - this stamp indicates that the defendant meets the PTSA criteria for recommendation for release on recognizance, but the information has not been verified. Qualified recommendations generally result because of the relatively short time available to the agency for verification.

(3) "PTSA Makes No Recommendation" - this stamp essentially indicates that the defendant has failed to demonstrate sufficient community ties to qualify for a recommendation for release.

(4) "Other" - the final category of stamp used on PTSA reports is essentially a miscellaneous category which contains cases in which PTSA cannot make a recommendation. This includes defendants who are wanted on warrants, defendants who have refused to be interviewed, or whose criminal record history report is not available.

B. Written Re-Argument: For defendants who were initially "Recommended" but not released at arraignment, and for defendants who were initially "Qualified", but not released and for whom verification can be favorably completed upgrading their recommendation to "Recommended", PTSA presents a written re-argument to the judge at the defendant's first post-arraignment court appearance.

C. Third Party Release: In an effort to secure further releases, PTSA attempts to locate individuals who will appear in court and agree to work with the defendant and insure his continued appearance. These persons may be relatives, friends, employers or social agency representatives.

D. Supervised Release: PTSA's most expensive operation, Supervised Release seeks to secure the release of defendants who have been indicted and are awaiting trial in the Supreme Court. Such defendants represent those persons who will spend the longest periods of time in pretrial detention if not released. To secure their release, counselors employed by the Agency tailor a release package to the individual defendant, placing him under the direct supervision of one or more social agencies. Extensive release applications are prepared for the court, analyzing the defendant's previous criminal record and detailing the program or programs in which he will be placed if released. While the actual supervision over the released defendants is performed by the service organization concerned, the judges normally release the defendant directly to PTSA. As a result PTSA assumes the responsibility of maintaining contact with the defendant and programs concerned, making notifica-

tions as to court appearance dates, and providing the court with progress reports on the defendant.

In agreeing to operate the Crash Bail Re-Evaluation Project, PTSA agreed to combine its first two programs, ROR and Written Re-Argument. PTSA would interview each defendant, attempt to verify the information received. If the defendant met the PTSA criteria for a positive recommendation, a written report would be prepared and presented to the appropriate judge. Because the staff necessary to conduct the project would be drawn from the Agency's Brooklyn and Bronx staffs, it was felt that the Agency could not go further in this limited effort without jeopardizing the existing programs in the other boroughs. Therefore, no attempts would be made to secure Third Party or Supervised Releases during the Crash Project.

Project Design

In analyzing the detention population in the two target institutions, it was determined that the greatest potential impact could be achieved if the project concentrated on Manhattan cases. Several factors were considered in arriving at this decision:

A. The majority of the defendants in the HDM were Manhattan cases.

B. While some defendants in HDM and in ARDC were pending trial in other counties, the Pretrial Services Agency, which then operated programs in Brooklyn and the Bronx had already considered the defendants from those boroughs for one of several post-arraignment release programs.

In selecting a target population for the project, an arbitrary decision was made to consider only those defendants held on bails of \$2,500.00 or less. It was believed that if prior experience was repeated, this group would hold the greatest potential for releases. To identify the affected defendants, the Department of Correction Inmate Information System produced a computer print-out of those defendants lodged in HDM or ARDC who were pending trial in Manhattan and who were held in bail amounts of \$2,500.00 or less. This initial print-out produced a total of 444 names, 330 in the HDM and 114 in the ARDC. These figures represented 17% of the population of HDM and 9% of the population of ARDC.

The following procedures were agreed upon for the conduct of the project.

A. The Department of Correction would provide an updated bail list on the initial day of operations, and would provide an update list each morning of new admissions.

B. PTSA employees, using the computer list as a guide, would examine the case papers on each defendant on file in the Criminal Court Building at 100 Centre Street. This prescreening operation was designed to accomplish several purposes. It would identify those defendants who were being held on warrants on other holds and who could not be considered for bail re-evaluation. It would also permit the PTSA interviewer the opportunity of examining the defendants prior criminal record and complete that portion of the PTSA interview form which provides the judge with a summary count of felony and misdemeanor convictions. Additionally, the

C. Initial Screening: The initial screening phase consisted of searching relevant court papers. As these are filed in the clerk's office of the individual court part to which the case is assigned, it was a time consuming operation. Nevertheless, it served to eliminate the greatest number of cases with the least expenditure of resources. This screening eliminated a total of 365 cases from further consideration, 283 in HDM and 82 in ARDC. Table I, attached, presents the reasons for these rejects. The table groups the reasons into four categories, as follows:

(1) Cases Already Out of Pretrial Status. A total of 231 cases were found to be already out of pretrial status, that is, they had already been disposed of in court, and many were no longer in the institution. The fact that these persons names appeared on the computer print-out appears to indicate that the Department of Correction's information system is not up to date on inmate transactions, and cannot differentiate between persons in pretrial and presentence statuses. Regardless, significant staff time was spent researching these cases.

(2) An additional 105 cases were found to be ineligible for bail re-evaluation for one or more precluding factors. These included 56 cases in which the defendant was awaiting trial on other open cases, and 13 cases in which the defendant was incarcerated for violation of

Parole or Probation.

(3) Twenty-seven other cases were eliminated due to individual factors pertaining to the defendant. Of these, 17 were defendants with extensive previous criminal records, and 10 were defendants currently awaiting trial on bail jumping charges.

D. Rikers Island Operations: The 89 cases which survived the initial screening effort were forwarded to the Interview staff at Rikers Island. Before reporting on what happened to the 89 cases, it may be useful to describe some of the problems encountered by the PTSA and START staff in attempting to perform their functions. First it must be stated that all members of the Department of Correction were extremely cooperative and helpful in this venture. However, it must also be noted that immediately prior to beginning the project on December 1st, the Department of Correction experienced several days of disturbances. On one occasion, inmates had seized control of a portion of the HDM and held five hostages for a period of 17 hours. Given this situation, coupled with the already depleted cadre of correction officers available, it was difficult for the Department of Correction to assign as many personnel to the program as would have been desired from an operational point of view. Correction personnel were required to locate inmates, bring them to the interview area, and return them to their cell blocks when completed. Additionally, the Department of Correction often could not locate an individual defendant at a particular time. While

review of the NYSID report would provide the interviewer with a list of open cases on the defendant (arrests for which the NYSID report failed to show a disposition) which could be researched for a disposition or other status prior to presentation to the judge.

As the target cases were pending in all post-arraignment parts of the criminal and supreme courts, it would be necessary for the PTSA researchers to visit each individual part's clerk's office where the case papers were filed.

C. Interview forms on those cases which survived this initial screening (were not rejected due to warrants, etc.) would be forwarded daily to Rikers Island, where PTSA and START personnel would conduct personal interviews of the defendants.

D. Completed interview forms would be returned to 100 Centre Street for verification and court presentation. A third staff of PTSA employees would contact family, friends and lawyers of interviewed defendants in an effort to establish his roots in the community. Court presentation reports would be prepared on those defendants who met PTSA's criteria for ROR recommendation.

E. By agreement with the New York City Administrative Judge, presentations would be made in the court in which the case was pending. Cases pending in Criminal Court would be presented to Criminal Court Supervising Judge then sitting in Jury Part I. Cases pending in the Supreme Court would be presented to the Acting Supreme Court Justice then sitting in Part 30 of the Supreme Court.

F. Notice would be given twenty-four hours prior to presentation, to the Court, District Attorney and Defense Counsel concerned. This permitted each to locate the appropriate case papers and review the case.

G. Released defendants would be notified of subsequent court appearance dates by the Department of Correction's Manhattan Bail Re-evaluation Program staff until final disposition was attained.

Operation of the Project

A. Staffing: Twelve full-time members of the PTSA staff were assigned to the project's operation, assisted by the four members of START. In addition, one part-time PTSA staff member was used on a full-time basis. The staff was comprised of interviewers and supervised release counselors drawn from the staff of PTSA's Brooklyn and Bronx operations. All of the personnel used were highly experienced and hand-picked from among the Agency's best workers. Project operations were directed by PTSA's Training Officer and court presentations were made by PTSA's Director of Supervised Release. The staff was divided into three distinct operations - records research - interviewing - verification and case preparation.

B. Case Selection: The Department of Correction provided an initial computer print-out of defendants and updated it daily with a list of new admissions. All lists provided during the course of the project contained a total of 454 defendants, 314 in HDM and 140 in ARDC.

they ultimately were able to produce the defendant, it was often hours or days after initially requested. This posed a major problem for the operation in terms of effective utilization of staff. For example, on the first scheduled day for interviews, 15 inmates were requested, with the request roster being given to correction 24 hours in advance. On that day, they could only produce 7 of those requested. The physical facilities made available were adequate for the task, however due to the extremely overburdened telephone system on the Island, no additional telephones could be provided and the project only had the use of one telephone.

Following are the dispositions of the 89 cases referred to the Rikers Island staff:

(1) Nineteen (19) cases were referred for interview, but no interview was conducted. Eleven (11) of these defendants had either secured their release or passed out of Pretrial status between the time the court papers were searched and the time the interview form was delivered to the staff at Rikers Island. (This phenomenon is repeated at various stages in the process. Many of the defendants selected for Bail Re-evaluation consideration were also making their previously scheduled court appearances, and in some instances, never returned to the institution, their case having been terminated by the court. One defendant was found

not to be a resident of the state and seven defendants were not interviewed because the Department of Correction could not locate them during the period of the project. (See Table 2)

(2) Five (5) defendants (all in ARDC) were interviewed, but rejected prior to termination. In 3 cases the defendant's pretrial status changed before interview could be accomplished, in one case an outstanding warrant was discovered (It is not unusual for the Department of Corrections inmate files to contain information on warrants and other holds which does not appear on the NYSID Sheet filed in the court papers. This primarily results from the receipt of out-of-state warrants received after arraignment as a result of the submission of fingerprints to the FBI), and one defendant was found to have a history of Bail Jumping. (See Table 3)

(3) An additional 58 defendants were interviewed and verified. However no recommendation for release could be made and their cases were not presented in court. Of these, 11 had already secured release, and one had left pretrial status. Fifteen could not be recommended because of precluding factors, such as outstanding warrants,

other cases pending, charged with Bail Jumping, etc. Thirty-one (31) did not meet PTSA's criteria for a positive recommendation. (See Table 4)

In summary, the court records search and the interview and verification process, resulted in eliminating 447 of the original 454 defendants considered. Court presentations were made on the remaining 7 defendants.

E. Court Presentations: A total of 7 presentations were made for Bail re-evaluation. All concerned defendants lodged in ARDC, and all were made in the Supreme Court. Four of these defendants were granted Release on Recognizance, and 3 were granted reduced bail.

Special Court on Riker's Island

The operations described to this point took place between December 1 and December 22, 1975. On that date, a special court part was opened on Rikers Island for the purpose of reviewing bail conditions of HDM and ARDC inmates who had total bail/cash alternatives of \$2,500.00 or less. From that date onward, PTSA discontinued the operations previously described and served as an aide to the court. Instead of interviewing defendants based on a computer list, PTSA maintained a staff in the courtroom which, when requested by the judge, would interview and verify information taken from the defendant present in the courtroom and report the finding verbally on the record. In addition, information on previously interviewed defendants was given the judge upon request. This court sat for 5 working days, ending on

December 29, 1975. During these 5 days, PTSA conducted 12 additional investigations at the request of the judge. Of these, the Agency recommended 6 defendants for release. The court released 3 of these and lowered bail on the remaining 3.

Bronx and Brooklyn Cases

The original agreement between PTSA and the Department of Corrections, was limited to a crash bail re-evaluation project for Manhattan cases. However, due to the disturbances in late November, it was decided to expand the effort to Bronx and Brooklyn cases as well, that is, to defendants lodged in HDM and ARDC whose cases were pending in Brooklyn and the Bronx. As PTSA had previously interviewed each of these defendants, and had their interviews on file, it was not necessary to conduct a new interview. However, as many of the cases were weeks or months old, re-verification was necessary. In pursuing these cases, it was not anticipated that many releases would be obtained, because each defendant had previously been considered under each of PTSA's 4 release programs.

In both boroughs, approximately 210 cases were considered. Out of these, 7 releases were obtained.

Findings:

As the stated goal of the project was to secure releases and thereby reduce the detention populations in HDM and ARDC, the effort must be deemed a failure. In considering over 650 cases, only 10 releases were obtained. Nevertheless, the Crash Bail Re-Evaluation Project provided valuable information on the operation of the Criminal Justice System in the City of New York.

The first apparent finding of the project is that there are not a large number of persons being held in pretrial detention on low bails who could safely be released to the community. It was the unanimous opinion of the PTSA staff members who were assigned to the project that there were valid reasons why those persons whose cases were reviewed, could not be recommended for release on recognizance.

This finding appears to contradict the findings of previous crash programs, which, as system officials memories recall, succeeded in freeing hundreds of persons. This apparent contradiction may be understood when one considers that there has not been a crash bail re-evaluation effort in New York City since the late 1960's. During the intervening period, the operation of the criminal justice system has changed dramatically. Criminal court backlogs, which in the 1960's numbered in the hundreds-of-thousands, now range below 12 thousand cases. Dispositions at arraignment which in the 1960's were below 20% now exceed 50% on a city-wide basis. Pre-court screening of cases by assistant district attorneys, which was only initiated in 1967, has been developed to the point where Early Case Assessment Bureaus in each D. A.'s office carefully evaluate each case coming into the system as to its true merits. As a result, many fewer cases are filed as felonies, and many more are disposed of rapidly. In the 1960's, the average case took over 9 weeks to be disposed of in criminal court, at the present time the average is three and one-half weeks.

As a result of these factors, the overall pretrial detention population in Department of Correction facilities has been significantly reduced during the past five years. Additionally, the character of the population has changed from one in which as many persons were detained for criminal court as for Supreme court, to one in which the majority of the detainees are now detained for Supreme court. It also must be noted that a significant portion of the detention population are persons who are either being detained on more than one case or for whom open warrants or other holds exist. Given these factors, it is not at all surprising that a Crash Bail Re-evaluation effort falls short of the mark.

This does not mean however, that there is not an opportunity to secure additional releases of defendants currently incarcerated on Manhattan cases. While there is not sufficient evidence to conclude that the judges have exhausted the use of ROR on the current defendant population, it does appear that most defendants who would be eligible for ROR are either initially released in this fashion, or secure their release in a relatively short period of time. This leaves a detention population composed of persons who are either ineligible for ROR or who do not meet the present criteria for such release. Nevertheless, all of the PTSA personnel assigned to the project reported that a significant number of the defendants rejected for ROR would make good candidates for one of the forms of supervised release, Third Party or Full Supervised Release. As the Pretrial Services Agency will begin operations in the Borough of Manhattan on March 1, 1976, it is anticipated that based on experience gained in Brooklyn and the Bronx and the number of

personnel to be assigned to this function in Manhattan, that between 150 and 200 defendants in Manhattan cases, will be released on supervised release status, at any given time, after the first year of borough operation.

While the above represents the major findings of the program, other matters came to light which bear not only on the project itself, but also on the operation of the Criminal Justice System in the City of New York. Many of these matters revolved around Department of Correction operations. It is not the purpose of this report to criticize that department, indeed it appeared to all connected with the project that Correction officials and officers were sincerely interested in the success of the program and did everything possible to achieve its goals. Further, the recent budget cuts in that department have resulted in placing a great burden on its remaining personnel. Nevertheless, there were several aspects of Correction operations which hampered the operation of this project, and probably also affects criminal justice system operations in a day-to-day basis.

Throughout the operation of the project the Department of Correction encountered numerous difficulties in locating inmates for interview. Some of this may be accounted for by the fact that inmates destroyed many files in those locations which they took over during the disturbances. However, Correction personnel reported that even during normal times, it is frequently difficult to locate a particular inmate, even when his cell location is known. It appears that once the inmates are locked-out of their cells, the only method that Correction officers can employ to locate an inmate is to call

out his name and rely upon his answering. For one reason or another, inmates frequently fail to reply and Corrections apparently are thwarted in their efforts to locate him. While this resulted in creating difficulties for the bail project, it would also appear to bear directly on the delivery of defendants to court. If Correction cannot locate them, it cannot deliver them.

The conduct of the Bail Re-Evaluation Project was dependant upon information provided by the Department of Correction Information System. While the Bail lists prepared for the project may not reflect the full capabilities of the system, the following limitations on the usability of the information provided were noted:

(1) The computer system apparently does not differentiate between persons in Pretrial and presentence status. Much time was lost in searching court records on defendants whose cases had already been adjudicated in court.

(2) The computer system does not accurately reflect warrants on other holds on inmates. While some were noted, many others were not despite the fact that they were known to the Department of Correction.

(3) The system does not consistently indentify that defendants are also being held on other cases. While the print-out occasionally indicated other pending cases, numerous instances were found in which other pending cases were not listed.

(4) The system does not consistently reflect cash bail alternatives on defendants. Identifying such cases could have possibly resulted in additional releases. Several judges interviewed during the planning stage of the project stated that when they set a cash bail alternative, it was their intention that the defendant make bail. They stated that if informed that an investigation disclosed that the defendant could not make the amount set, they would reduce it.

(5) There appears to be significant lag time between transactions affecting an inmate and the updating of the computer. The inaccuracy of the lists provided the project demonstrate this point.

Given the experience of this project, it would appear that the days of productive cash bail projects are past. The ROR programs, whether operated by the Pretrial Services Agency or the New York City Department of Probation, would appear to be effective in obtaining the release of the majority of those persons whose cases are not adjudicated at arraignment, and who demonstrate sufficient community ties to be released without bail. What is left in the pretrial detention population are persons pending trial on more serious charges, and whose social histories do not inspire sufficient confidence among the judges to motivate them to release such persons without bail.

What is needed at this time to further reduce detention population, are alternative methods of release, which provide the judiciary with some assurance that someone is working with that defendant and indeed watching him, while he is in the community. Programs such as Supervised Release provides such alternatives, and should be developed as an ongoing function in each borough in the City.

BAIL REEVALUATION - MANHATTAN CASES

Table 1

Cases Rejected Prior to Interview (365)

	<u>HDM</u>	<u>ARDC</u>	<u>Total</u>
I - Already out of Pretrial Status			
a. Plead Guilty/Sentenced	104	41	145
b. Acquitted/Dismissed/Discharged	30	1	31
c. Paroled/Bailed Out	39	11	50
d. Guilty After Trial	1		1
e. Conditional Discharge	4		4
	<u>178</u>	<u>53</u>	<u>231</u>
II - Precluding Factors			
a. Warrants Outstanding	46	10	56
b. Article 730 Ordered	3		3
c. Other Open Cases Pending	11	4	15
d. Family Court Case	5		5
e. Violation of Parole	7	6	13
f. Out of State Resident	1		1
g. Bail over \$ 2500	3	7	10
h. Charged With Bail Jumping	2		2
	<u>78</u>	<u>27</u>	<u>105</u>
III- Individual Factors			
a. Extensive Prior Record	17		17
b. Past History of Bail Jumping	8	2	10
	<u>25</u>	<u>2</u>	<u>27</u>
IV - Other Reasons			
a. Institution Could Not Locate	1		1
b. Defendant in Bronx House	1		1
	<u>2</u>		<u>2</u>
TOTAL	283	82	365

BAIL REEVALUATION - MANHATTAN CASES

Table 2

Cases Referred to Staff at Rikers Island But Not Interviewed (19)

	<u>HDM</u>	<u>ARDC</u>	<u>Total</u>
I - Already Out of Pretrial Status:			
a. Bailed/Paroled	2	5	7
b. Plead Guilty		3	3
c. Case Dismissed		1	1
	<hr/>	<hr/>	<hr/>
	2	9	11
II - Precluding Factors:			
a. Non-Resident of State		1	1
III - Other Reasons:			
a. Institution Could Not Locate		3	3
b. Inmate Not Returned from Court		2	2
c. Housed at Other Facility	2		2
	<hr/>	<hr/>	<hr/>
	2	5	7
TOTAL	4	15	19

Table 3

Interviewed and Rejected Prior to Attempted Verification (5)

(All At ARDC)

Plead Guilty	3
Outstanding Warrant Discovered	1
History of Bail Jumping	1
	<hr/>
	5

BAIL REEVALUATION - MANHATTAN CASPS

Table 4

Interviewed and Verified But Not Presented (58)

	<u>HDM</u>	<u>ARDC</u>	<u>Total</u>
I - Already Out of Pretrial Status			
a. Bailed/Paroled	6	5	11
b. Plead Guilty	1		1
	<hr/>	<hr/>	<hr/>
	7	5	12
II - Precluding Factors			
a. Warrant Outstanding	2		2
b. Out of State Resident	2		2
c. Violation of Parole/Probation		3	3
d. Other Open Cases Pending	2		2
e. Charged with Bail Jumping		2	2
f. Psychiatric Exam Ordered		3	3
g. Bail Over \$ 2500		1	1
	<hr/>	<hr/>	<hr/>
	6	9	15
III - Individual Factors			
a. Extensive Prior Record	3	2	5
b. Lack of Community Roots	10	15	25
c. Prior History of Bail Jumping	1		1
	<hr/>	<hr/>	<hr/>
	14	17	31
Total	27	31	58

Table 5

Presentations Made in Court (All ARDC Cases) (7)

Released on Recognizance	4	4
Bail Lowered	3	3
	<hr/>	<hr/>
	7	7

CRASH BAIL RE-EVALUATION PROJECT

December 1 - December 29, 1975

CRASH BAIL RE-EVALUATION PROJECT

INTRODUCTION

The City of New York Department of Correction has been forced to contend with the serious consequences attached to the growing overcrowding and understaffing problems at the House of Detention for Men and the Adolescent Reception and Detention Center on Rikers Island.

The Department's situation has been affected by two key factors which have emerged in the last 12 months.

The first centers around the city's fiscal crisis.

In an effort to cut Department costs, two facilities, the Branch Queens House of Detention and the Adolescent Detention Center were closed. A third, the Manhattan House of Detention, (Tombs) was declared ^{As} unsafe for inmate habitation unless it was repaired and upgraded. The City could not afford its renovation; therefore the Tombs was also closed.

Closing these three detention facilities, accompanied by the layoff of several hundred correction officers, drastically affected the Department of Correction's capacity to safely detain defendants awaiting or undergoing trial. While the number of available cells in October of 1974 was 9,766, by June of 1975 the number had dropped to 7,529. By October of last year the figure reached 7,464. The closings reduced cell capacity 24%. The inmate

population, however, remained relatively stable throughout at approximately 7,100. The occupancy rate therefore shot from 74% to near 95% capacity.

These figures do not however, present the full scope of the situation. Each correction facility has, at all times, a certain number of cells which are under repair. The capacity figures above are based on the assumption that every cell is operative; the number of usable cells is slightly lower, thus resulting occupancy rates much higher.

The overcrowded conditions were felt most dramatically at the House of Detention for Men (HDM) and the Adolescent Reception and Detention Center (ARDC). Each received prisoners who, in an earlier time, would have been housed elsewhere. The stated occupancy rate exceeded 100% and has continued to exceed 100%.¹

A second key motivating factor came from the judiciary. A Federal District Court judge, Morris E. Lasker, issued a ruling stating that inmates' constitutional rights were abridged if two are housed in one-man cells. Almost 1/3 of HDM and ARDC's prison population were housed in this manner in late November, 1975 when the decision was officially handed down. Judge Lasker earlier ordered the closing of the Manhattan House of Detention until it is improved to meet constitutional standards.

¹ ARDC - 102%; HDM - 114% on October 20, 1975. Since a certain number of cells are unusable, the true occupancy rate is somewhat higher.

The pressure exerted on the Department from both of these forces moved its Commissioner, Benjamin Malcolm, to request that the Pretrial Services Agency (PTSA), a Vera Institute of Justice demonstration project developing bail reform techniques, assist by implementing a Crash Bail Re-Evaluation Project targeted for inmates housed in ARDC and HDM.

PROJECT DESIGN

Procedures

A combined staff from Pretrial Services Agency and the Department of Corrections analyzed the possibility of implementing a crash bail program for inmates housed at HDM and ARDC. The initial target group was to be those inmates who have cases pending in New York County.

Since PTSA has had no previous contact with this defendant population, an arbitrary initial screening criteria was agreed upon. A computer listing of inmates, in both institutions, with total bail bond/cash alternative amounts of \$2,500 or less was made available to the project by the Department of Corrections Inmate Information System.

The number of inmates from New York County at HDM and ARDC who fell into this category and would be considered initially were:

<u>INSTITUTION</u>	² <u>NUMBER</u>	<u>% OF TOTAL POPULATION</u>
House of Detention	330	17
Adolescent Reception and Detention Center	114	9

Additional criteria for release recommendations came from PTSA's system of assessing community ties. Each inmate was interviewed by PTSA staff using a PTSA ROR Interview Form; an attempt was made to verify these responses; If strong ties to the community were verified, defendants were recommended for release or bail reduction. Once released, defendants were notified of subsequent court appearances by the Department of Corrections' Manhattan Bail Re-Evaluation Program until the final disposition of his case.

The project was conducted in 3 steps:

1. After receiving an updated bail list, PTSA employees assigned to the Project took each name and placed it on the heading of an ROR interview form.

The Prior Criminal Record section of the interview sheet was filled out first. In this section, the number of prior Felony and Misdemeanor convictions are tabulated. Also the staff investigated cases listed as open (no final disposition recorded) on the NYSID sheet.

² These figures are based on the analysis of the inmate population housed on October 20, 1975.

This information has a bearing on PTSA's assessment decision; men with lighter records have a better chance for recommendation. Further, PTSA maintains a policy which prohibits the recommendation of any defendant who has an active warrant filed against him for another case. Therefore, the court papers were searched to locate warrants and any other information (called "holds") which would eliminate a case from further consideration.

The prescreening operation took place at 100 Centre Street, New York. Since most defendants were already on trial, their papers could only be found in the Clerk's office of the various adjourned court parts in the Criminal and Supreme Courts. Open case dispositions were found by consulting court records located in the Criminal Court (1st floor) and Supreme Court (10th floor) Docket Rooms.

Those defendants who survive this stage of the operation were interviewed in Rikers Island prisons.

2. A staff of PTSA interviewers, accompanied by volunteers, from S.T.A.R.T., Inc. a services program which has been working in Rikers Island prisons for 15 years, interviewed inmates in both HDM and ARDC.
3. Completed interviews were sent back to 100 Centre Street for verification and court presentations. A

third staff of PTSA employees, supervised by a Supervised Release Counselor, contacted the family, friends and lawyers of interviewed defendants in an effort to establish his roots in the community as well as answering questions a judge may have regarding any prior criminal record.

Presentations were made in special parts of the New York County courts by the decision of New York City Administrative Justice David Ross. All misdemeanors and unindicated felony cases were to be heard by Criminal Court Supervising Judge Leo Molinas in July 1. All felony cases were reviewed by Acting Justice George Roberts in Supreme Court Arraignment, Part 30.

BRONX AND BROOKLYN PTSA OFFICE PARTICIPATION

Original plans for this project limited the service population to New York County cases. However, by late November, the situation in Rikers Island, particularly in HDM, had deteriorated significantly. On November 23, 1975, inmates siezed five hostages for 17 hours. The situation focused the City's attention on the Correctional system. Throughout the negotiation sessions, inmate representatives pressed their demand for reducing the total population.

PTSA responded by expanding the Crash Bail effort to

include those defendants, held in the two institutions with bails of \$2,500 and less, whose cases ^{are} being heard in the Bronx and Brooklyn courts.

Unlike defendants with Manhattan cases, these defendants did have previous contact with PTSA. At their initial arraignment, each was interviewed by PTSA and at that time, an attempt to verify the information had been made. The findings were presented to the court.

Each borough received a listing of the HDM and ARDC inmates who have cases in their jurisdiction.³ PTSA staff, diverted from their regular duties, conducted a computer search to ascertain the arraignment status of each defendant. Those who had received a negative PTSA status (because they had warrants, insufficient community ties, refused to be interviewed, etc.) of "No Recommendation" were dropped from any further consideration as part of this project. Defendants with a "Recommended" or "Qualified"⁴ status were still eligible. Their history of previous consideration by PTSA's post-arraignment units, Written-Re-Argument, Third Party and Supervised Release were reviewed. However, regardless of what was found, representations for ROR release was made for all Rikers Island defendants who had a "Recommended" or "Qualified" status. These presentations were made at each defendant's next court date.

³ Brooklyn received their list November 28th. Bronx received their list December 8th.

⁴ "Recommended" means that a defendant has strong verified ties in the community.

"Qualified" indicates that the defendant's responses indicate sufficient community ties to be recommended but PTSA was not able to verify the information by the arraignment hearing.

UPDATING INCARCERATED DEFENDANTS LISTINGS

While the listings of New York County defendants was updated each morning by the receipt of daily new admissions, the Bronx and Brooklyn PTSA offices received only one bail list and no daily additions.

SPECIAL BAIL COURT ON RIKERS ISLAND

On December 22, 1975, at the order of Justice Ross, a special court part opened on Rikers Island to review bail conditions of HDM and ARDC inmates who had total bail/cash alternatives of \$2,500 or less. The court had special jurisdiction. Justice George Roberts was empowered to hear both Manhattan and Bronx cases. This development occurred while PTSA was involved in its own bail re-evaluation procedures. However, from that date onward, all written court presentations slated for New York and Bronx county courts were brought to Special Part 30A.⁵ Instead of interviewing defendants based on a computer list, PTSA maintained a staff in the courtroom which, at the instigation of the judge, would interview and verify information taken from the defendant present in the courtroom and report the finding verbally on record. In addition, any previously reviewed defendant information was given the judge upon request. The Special Bail court sat for 5 days, ending on Monday, December 29, 1975.

⁵ The appointed justice sat in the First Department (Bronx and Brooklyn) and could not hear Brooklyn cases (Second Department).

MANHATTAN
CRASH BAIL RE-EVALUATION
COMBINED STATISTICS:

Of the two programs, the combined number of defendants whose cases were reviewed was 454. Of this total, 365 cases were rejected prior to screening, representing slightly more than 80% of the total. Those cases are broken down into categories as follows:

<u>STATUS</u>	<u>HDM</u>	<u>ARDC</u>
a) Plead guilty/Sentenced ^{awaiting}	104 ✓	41
b) Extensive prior record	17	
c) Warrants	46	10
d) Acquitted/Dismiss'd/Disch'ged	30 ✓	1
e) Art. 730 ordered	3	
f) Open Cases (other juris.)	11	4
g) Paroled/Bailed Out	39 ✓	11
h) Guilty After Trial	1	
i) Family Court	5	
j) VOP (Violation of Parole)	7	6
k) Institution Cannot Locate	1	
l) Past History of Bail Jumping/ Bench Warrants	7	2
m) Conditional Discharge	4	
n) Out of State Resident	1	
o) Bail over \$2,500	3	7
p) Defendant is mute	1	
q) Defendant charged with Bail jumping	2	
r) Defendant held at Bronx House	<u>1</u>	<u> </u>
Rejected: Before Interviewing:	283 = 62.3%	82 = 18%

The percentages, when viewed by institution are, for HDM's total of 314 cases, 283 cases rejected before interviewing is 90%; for ARDC's 140 cases, 82 rejections represent 59%.

The remaining 89 total cases which were prepared for interviewing have been found to break down in the following manner:

<u>STATUS</u>	<u>HDM</u>	<u>ARDC</u>
a) Bailed out/Paroled	2	5
b) Non-Resident		1
c) Institution Cannot Locate		3
d) Inmate not returned from Court		2
e) Plead Guilty		3
f) Case Dismissed		1
g) Housed at Other Facility	<u>2</u>	<u> </u>
Cases Sent To Rikers but not Interviewed:	4 = 0.9%	15 = 3.3%

These numbers, when viewed by institution, are for HDM: 1.3%;

for ARDC: 10.7%.

The remaining 70 total cases include a category which held true for ARDC, but did not exist for HDM: cases interviewed but rejected prior to the verification process:

<u>STATUS</u>	<u>HDM</u>	<u>ARDC</u>
a) Plead Guilty		3
b) Outstanding Warrant Found		1
c) History of Bail Jumping		<u>1</u>

Cases Interviewed but Rejected Prior to Verification: 5 = 1.1%

These five (5) cases represent 3.6% of ARDC's total.

65 Cases remain of the total 454 cases which was the original combined total from both institutions. These remaining cases are further examined, and the resulting breakdown for cases interviewed and verified is as follows:

<u>STATUS</u>	<u>HDM</u>	<u>ARDC</u>
a) Bailed Out/Paroled	5	5
b) Warrants	2	
c) Open Case (Other Jurisdiction)	2	
d) Extensive Prior Arrest Record (or Predicate Felony)	3	2
e) Lack of Community Roots (or Unable to Verify Information)	10	13
f) History of Bail Jumping	1	
g) Out of State Resident	2	
h) Bail Reduced	1	
i) Plead Guilty	1	
k) Violation of Parole/Probation		3
l) Pending Bail Jump Charges		2
m) Psych. Background/ Supervision Requested		2
n) Bail Raised to Over \$2,500		1
o) Referred to Attorney to pursue		2
p) Presentation Withdrawn: Psych. Evaluation Ordered		<u>1</u>

Cases Rejected for Presentation 27 = 5.9%

31 = 6.8%

Again, these percentages, when viewed by individual institution, are: HDM, 8.6%; ARDC, 22%.

The remaining 7 cases were ARDC presentations. These cases were presented, with the following results: Four (4) cases were ROR'ed: 0.9% of the combined total, or 2.8% of the total for ARDC. Three (3) cases resulted in lowered bail, as requested by the presentation: 0.7% of the combined total, or 2.1% of ARDC's total.

On December 22, a special court part was opened on Rikers Island. PTSA took a staff to Rikers Island, to which the presiding judge re-

ferred cases for verification and recommendation to the Court. These 12 cases were in addition to the original combined total of 454 cases, as broken down above. The results of investigation of these cases are as follows:

Information Given Court:

<u>STATUS</u>	<u>HDM</u>	<u>ARDC</u>
a) Verified	3	3
b) Pending Interview & Verif. for Next Court Date	2	
c) No Recommendation after Investigation	<u>4</u>	<u> </u>
TOTAL INFORMATION GIVEN COURT	9	3

Court Disposition:

<u>STATUS</u>	<u>HDM</u>	<u>ARDC</u>
a) ROR	1	2
b) Bail Lowered	2	1
c) Same Bail Conditions	<u>6</u>	<u> </u>
TOTAL COURT DISPOSITIONS	9	3

Of these additional twelve (12) cases, there was a 25% level of success for ROR's; a 25% level of success for Bail Lowered's.

BROOKLYN
CRASH BAIL RE-EVALUATION
COMBINED STATISTICS:

Of the two programs, the combined number of defendants whose cases were reviewed was 205, (HDM = 44; ARDC = 161). Of this total, all defendants were originally interviewed by PTSA Brooklyn, and 121 of these persons were initially rejected during the Crash Bail Project, in the following manner:

<u>STATUS</u>	<u>HDM</u>	<u>ARDC</u>
a) Rejected at original interview by PTSA	13	40
b) Listed on Corrections Print-out, but not found	9	33
c) Plead Guilty/Sentenced	<u>5</u>	<u>21</u>
TOTAL: Initial Rejections.	27 = 13%	94 = 46%

The percentages, when viewed by institution are, for HDM's total of 44 cases, 27 rejections before interview represents 61.3%; of ARDC's 161 cases, 94 rejections before interview represents 58.4%.

The remaining 84 total cases which were investigated were found to have the following breakdown:

<u>STATUS</u>	<u>HDM</u>	<u>ARDC</u>
a) Released (means undefined) during PTSA investigation	10	42
b) PTSA rejects after investigation	<u>5</u>	<u>-</u>
TOTAL: Rejections During Investigation	15 = 7.3%	42 = 20.5%

These percentages, viewed with regard to individual institution, are / HDM: 34%; ARDC: 26%. The remaining 27 cases include 17 cases whose investigations are currently continuing until their next court dates, and will be treated last. The ten (10) cases which were presented to court, and which were disposed of at that time, break down as follows:

Court Presentations:

<u>STATUS</u>	<u>HDM</u>	<u>ARDC</u>
a) ROR		6
b) Bail Lowered		2
c) Adjourned		1
d) Rejected & Adjourned		<u>1</u>
TOTAL: Presentations		10 = 4.9%

These 10 cases represent 4.9% of the total combined defendants handled by the Brooklyn Crash Bail Project, and 6.2% of the number of defendants handled by Brooklyn in the ARDC.

The 17 remaining cases which are under continued investigation until their next court case break down to 7 in HDM, (3.4% of all cases, 15.9% of HDM's cases), and 10 in ARDC, (4.9% of all cases, 6.2% of ARDC's cases.)

The 44 HDM cases represented 21.5% of the total combined cases handled by Brooklyn's Crash Bail Program.

BRONX
CRASH BAIL RE-EVALUATION
Special Bail Court Referral:
Part 30A, Rikers Island

In the special Bail Court held on Rikers Island, ten (10) Bronx defendants were referred. The breakdowns for these ten defendants are as follows:

Information Given Court:

<u>STATUS</u>	<u>HDM</u>	<u>ARDC</u>
a) Verified		2
b) Verified for Next Court Date	2	5
c) Unknown	—	<u>1</u>
TOTAL: Information Given Court	2 = 20%	8 = 80%

With regards to these above ten (10) cases, the actual case dispositions were:

<u>STATUS</u>	<u>HDM</u>	<u>ARDC</u>
a) ROR		1
b) Bail Lowered		1
c) Plead Guilty		1
d) Same Bail Conditions	2	4
e) Disposition Unknown	—	<u>1</u>
TOTAL: Cases Disposed	2	8