

Against the Odds: Experimenting with Alternative Forms of Bail in New York City's Criminal Court

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Report Summary

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Statistics show that money bail is unaffordable and out of reach for many New Yorkers. Even though the median bail amount on felony cases in New York City is \$5,000, and even lower, at \$1,000, on misdemeanor cases, over 7,000 people are detained pretrial at Rikers Island and other New York City jails on any given day because they cannot make bail.

Under New York law, the use of bail doesn't have to be this burdensome. In setting bail, judges have nine forms to choose from, including "alternative" forms such as partially secured or unsecured bonds, that require little to no upfront payment to secure a person's pretrial release. The traditional practice in the courts, however, is to impose only the two most onerous forms of bail: cash bail and insurance company bail bond.

The Vera Institute of Justice launched a three-month experiment in the New York City arraignment courts to examine what would happen if alternative forms of bail were used more often.

- > In what kinds of cases might judges be willing to set these forms of bail?
- > In what amounts?
- > What impact would these alternatives have on a person's ability to make bail?
- > What other pretrial outcomes might be expected?

Drawing from a cohort of 99 cases in which an unsecured or partially secured bond was set, these cases were tracked over a nine- to 12-month period to document bail making, court appearance, pretrial re-arrest, and final case disposition. Interviews were conducted with judges, defenders, and court staff to better understand the results and develop recommendations for improving the use of bail in New York City.

The results of the experiment were promising:

- > Sixty-eight percent made bail, and an additional 5 percent were released on recognizance.
- > The use of alternative forms of bail was not limited to low-level offenses or certain types of offenses—approximately 54 percent of cases had a top charge of a felony, and the cohort spanned the gamut from drug possession, larceny, and robbery, to assault, criminal contempt, and weapons possession.
- > Those released had a combined court appearance rate of 88 percent and a rate of pretrial re-arrest for new felony offenses of only 8 percent.
- > When released pretrial, the majority of cases resolved in a disposition less serious than the initial top charge at arraignment, with one-third ending in dismissal and another 20 percent ending in a non-criminal conviction.

Ninety-nine cases out of the thousands where bail is set is a miniscule number in the larger scheme of New York City's bail system, yet the experiment illustrates the possibility of meaningful change in the city's criminal courts. The recommendations in this report offer strategies to increase and ease the use of alternative forms of bail:

- > educate stakeholders to raise awareness of these forms of bail and how to request and grant them;
- > simplify the associated paperwork and procedures to set these forms of bail;
- > require judges to routinely set an alternative form of bail as an option in addition to traditional forms of bail; and
- > when bail is set, require courts to conduct an individualized inquiry into a person's ability to pay.

For more information

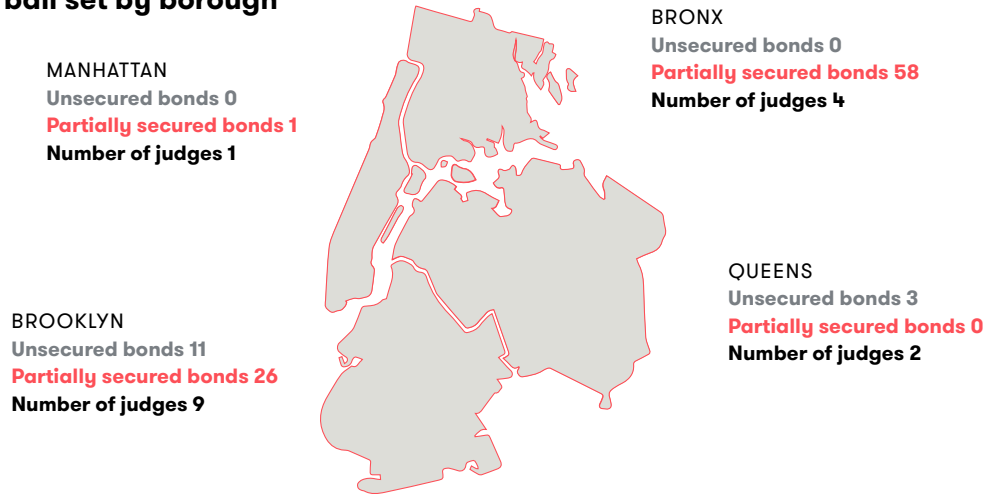
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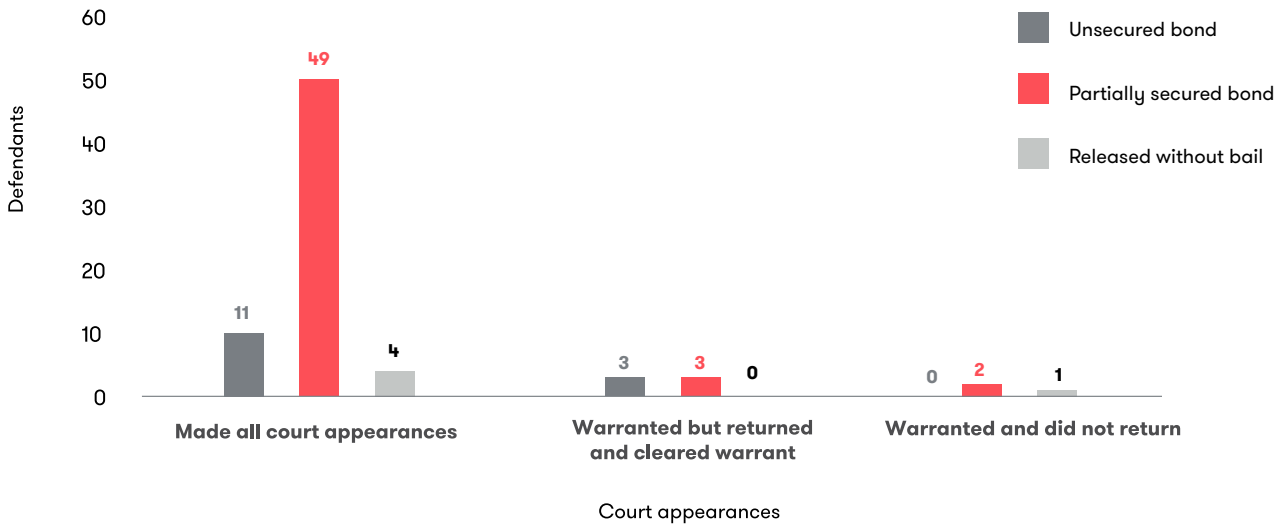
Vera is currently pursuing core priorities of ending the misuse of jails, transforming conditions of confinement, and ensuring that justice systems more effectively serve America's increasingly diverse communities. For more information, visit www.vera.org, or contact Ram Subramanian, editorial director, at rsubramanian@vera.org.

To read the full report, visit www.vera.org/against-the-odds. For more information about Vera's experimentation with alternative forms of bail in New York City's criminal courts, contact Insha Rahman, project director, at irahman@vera.org.

Alternative forms of bail set by borough



Failure to appear at future court dates by type of release



Pretrial re-arrest by type of release

