

## Case 29

### Vera Institute of Justice: Manhattan Bail Project

*Ford Foundation, 1962*

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*Background.* The Vera Foundation began in late 1960 with a small experiment run by Herbert Sturz, a young journalist, and funded by Louis Schweitzer, a wealthy New York businessman. Introduced by a mutual friend, the “unlikely pair” shared one important belief: that the criminal justice system was not living up to the promise of the U.S. Constitution. A visit to a Manhattan prison had convinced the pair that far too many men and women were being locked up before their trials, simply because they could not afford bail. Pondering a system that claims to presume innocence until guilt is proven, they found this unacceptable.

Soon after their initial conversation, Schweitzer offered Sturz a one year salary to focus full-time on researching this issue and seeking a remedy for it. Sturz agreed, and set out to learn more. Interviews with judges and lawyers led Sturz first to support the idea of a charitable bail fund, and then to a revelation: why not simply release more of these “presumed innocent” defendants without any bail at all?

*Strategy.* By the summer of 1961, Sturz was ready to suggest a concrete plan of action to Schweitzer, who, in turn, took the idea directly to New York’s mayor, Robert Wagner. Mayor Wagner liked the idea and arranged for Sturz to be given an office in the criminal court building. Still funded by Schweitzer, the Vera Foundation had begun its first program: the Manhattan Bail Project. The Project was to run for three years. Schweitzer contributed \$95,000 in the first year and \$25,000 in each of the subsequent two. In 1962, almost a year into the project, the Ford Foundation awarded Vera \$115,000 for the program.

Sturz and his staff employed a simple strategy. They conducted objective inquiries into the backgrounds of thousand of defendants to assess whether the accused could be trusted to return for his or her trial without being required to purchase a bail bond. Factors such as employment history, local family ties, and prior criminal record were considered in determining the flight risk posed by each defendant. Whenever Vera staff determined (based on a points system of risk factors) that a defendant was not likely to skip or flee his or her court date, a recommendation was made to the presiding judge to release that defendant on his own recognizance. Vera staffers also made an effort to follow up on their recommendations, calling defendants to remind them of an impending court date, and, in some cases, even bringing them by taxi to the courthouse.

To measure precisely the program’s impact, Vera conducted a controlled experiment in the project’s first year. Accused persons considered eligible for a recommendation of release on recognizance were divided into two groups, an experimental and a control. Vera made recommendations for no bail for the experimental group, but let the judges decide, absent any Vera recommendation, what to do with the defendants in the control group.

*Outcomes.* Over the project’s three years, 3,505 accused persons were released without any requirement of bail as a result of Vera recommendations. Only 1.6 percent of them failed to show up for their trials for reasons within their control.<sup>47</sup> The results of the randomized experiment were especially striking: 60 percent of the experimental group was released without bail, while only 14 percent of the control group was. Data also showed that those released before trial were 250 percent more likely to be acquitted in court.<sup>48</sup>

As the project progressed, Vera staffers became increasingly confident in their predictions, leading to more and more recommendations for no bail. And judges, seeing the high rate of accuracy of Vera recommendations, came to trust Vera more and more. When the program started, Vera

recommendations were upheld about 55 percent of the time. By three years later, judges agreed to release 70 percent of those recommended for no bail by Vera.

By the end of 1963, the program's outstanding results had convinced the presiding justices of the first and second appellate departments that bail reform along the lines of the Vera project should be undertaken by the city and spread throughout the five boroughs of New York. Concerned about overcrowding in the city's jails, the Mayor agreed, and the Bail Project became a function of the probation department. And by 1964, the Manhattan Bail Project had attracted enough national attention that the U.S. Department of Justice organized, along with the Vera Foundation, a National Conference on Bail and Criminal Justice. In 1966, President Johnson signed the national Bail Reform Act. When he did, the President credited the Vera Foundation as the source of the legislation,<sup>439</sup> which assured that no defendant, rich or poor, would be "needlessly detained pending [his or her] appearance in court."<sup>440</sup> By 1970, bail reform had also been instituted by nearly every state, and in "scores of cities."<sup>441</sup>

*Impact.* The Ford Foundation provided critical early support of Vera's work. Its \$115,000 grant was the first major outside support Vera received, and it gave the nascent organization legitimacy in seeking to persuade government agencies of the need for change.<sup>442</sup> Ford's continuing support enabled Vera to serve as a "national clearinghouse for information on the subject."<sup>443</sup>

In addition, the Foundation continued to fund other innovative programs undertaken by Vera, and, in 1966, McGeorge Bundy, the new president of the Ford Foundation, approved a five-year, \$1.1 million grant to turn the Vera Foundation into the Vera Institute for Justice, a nonprofit institution that "works closely with leaders in government and civil society to improve the services people rely on for safety and justice."<sup>444</sup> The Vera Institute was no longer reliant on the largesse of one man: Louis Schweitzer, and was able to leverage Ford's commitment many times over in support from city and state agencies, and from the federal government.<sup>445</sup>

The Vera Foundation's Manhattan Bail Project pioneered the bail reform movement, proving, with convincing data, that thousands of people in Manhattan alone were spending unnecessary, unjustified weeks and months in jail. And over the years, the Vera Institute has dramatically expanded its operations. It now operates on a national scale, and has tested numerous other experiments. Some have been successful; some have not, but all have been instructive. The Institute now receives funding from a wide range of sources, including a modest endowment donated by Ford. It has had a tremendous impact through its many projects, not least of all from its very first.

## Notes

437. This figure is an improvement over the 3 percent of defendants who have paid bail yet intentionally miss their trial dates.

438. This may be because free men are better able to mount a defense, but it probably stems in large part from the simple fact that the same factors leading to a positive Vera recommendation correlate strongly to a high probability of innocence.

439. Patricia M Wald, "To Feel the Great Forces: The Times of Burke Marshall," *Yale Law Journal*, Vol. 105, Issue 3 (1995).

440. Available from <http://www.presidency.ucsb.edu/ws/index.php?pid=27931&st=bail+reform&st1=johnson>.

441. Jon O. Newman, "The Art of the Practical: An Evaluation of the Vera Institute of Justice," Robert B. Goldman, ed., available from <http://www.vera.org>.

442. Herbert Sturz, interview with Joel L. Fleishman, 9/6/2004.

443. Newman, "The Art of the Practical."

444. Available from [http://www.vera.org/about/about\\_2.asp](http://www.vera.org/about/about_2.asp).

445. Richard Magat, *The Ford Foundation at Work: Philanthropic Choices, Methods, and Styles* (New York: Plenum Press, 1979).

