

LEARNING CENTER

CRIMINAL DEFENSE / RELEASE / NEW YORK PRACTICE

New York 2020 Bail Reform Explained

Release decisions, bonds, and effective review.

A practical guide to bail eligibility, individualized advocacy, financial alternatives, release implementation, and remedies.

PROGRAM FACULTY

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Contents

About the course	3
Meet the faculty	5
1. The reform and the decision today	9
2. Establishing bail eligibility	12
3. Building the release record	16
4. Bond forms and family exposure	21
5. From an order to actual release	26
6. Nonmonetary conditions and electronic monitoring	31
7. Custody deadlines and alleged violations	35
8. Reviewing an unlawful or excessive order	41
9. The federal comparison	48
10. An integrated release plan	50
11. Related remedies and reentry lessons	54
Review and practice tools	58
Selected authorities	61

About the course

A practical guide to lawful, supported, and usable release decisions.

This coursebook develops the Attorneys with Swag episode New York 2020 Bail Reform Explained into a practical guide to release advocacy. It follows the decision from statutory authority through an individualized application, accessible bond alternatives, actual release, and judicial review.

The title identifies the reform discussed in the recording. The written analysis distinguishes that history from statutes and decisions checked on October 12, 2026, including later appellate rulings. The episode's recording date has not been independently established. Worked clients and model applications are editorial teaching examples, not accounts of faculty cases.

Proposed New York CLE credit: 1.5 Areas of Professional Practice, subject to approval of the final course. This is a written review draft. Publication of this book does not establish accreditation or attendance credit.

The course is intended for attorneys and legal advocates working with New York criminal release issues. It assumes familiarity with criminal-court terminology and supplies a focused federal comparison. It does not replace examination of the current charge, procedural posture, controlling law, and local filing requirements in a live matter.

What you will be able to do

- 01** Distinguish bail eligibility from the individualized decision and build a record supporting the requested order.
- 02** Analyze harm-on-harm allegations, supervision status, changed charges, and statutory exceptions.
- 03** Compare bail forms, calculate deposits and premiums, and explain the full financial exposure to a client or surety.
- 04** Prepare an implementable release plan, review monitoring, and calendar the correct custody safeguards.
- 05** Select a renewed application, superior-court application, or habeas remedy and preserve the necessary record.
- 06** Distinguish New York release rules from federal detention and related administrative or sentencing remedies.

A practical reading path

Read Chapters 1–3 for authority and advocacy; Chapters 4–7 for money, implementation, conditions, and custody; and Chapters 8–11 for review, comparison, and an integrated case. The final practice tools include answered questions, a completed action ledger, and a reusable preparation sheet. Numbered citations link to the authorities at the back.

Attorneys with Swag × Latino Lawyers Association of Queens County. Participant review edition 2.0 • Initial legal review: October 9, 2026. Quality revision Q1: October 12, 2026.

Using the completed practice files

Chapters 3–5 supply Jordan and Morgan’s evidence, release submissions, bond papers and handoffs. Chapters 6–8 complete a monitoring modification, dated custody calculations and an Article 70 packet. Chapter 10 contains a fresh application problem with a reasoned answer. Decide each changed-fact problem before reading its analysis. All invented records and outcomes are labeled teaching examples; no real filing, service or faculty adoption is represented.

Meet the faculty

Eugene D. Toussaint, Esq.



President, Attorneys With Swag Inc.; Staff Attorney, The Legal Aid Society

Eugene D. Toussaint is President of Attorneys with Swag Inc. and a staff attorney in The Legal Aid Society's Criminal Defense Practice in Queens. As a public defender, he represents people facing criminal charges. He founded AWS to make legal knowledge accessible through its podcast, music, and community education programs, and serves as a host and showrunner.

He graduated from Mount Saint Vincent in 2010 after studying history and psychology and earned his J.D. from St. John's University School of Law in 2014. He was admitted to the New York bar in 2015. A Bronx native and first-generation college graduate, he developed his interest in public education and community organizing alongside his legal career.

Education: Mount Saint Vincent, 2010, history and psychology; J.D., St. John's University School of Law, 2014

Admission: New York, 2015

Leadership and practice: President, Attorneys With Swag Inc.; staff attorney, The Legal Aid Society, Queens Criminal Defense Practice; AWS host and showrunner

Meet the faculty continued

Mehdi Essmidi, Esq.



Founder, The Law Offices of Mehdi Essmidi, P.L.L.C.; AWS Co-host

Mehdi Essmidi is a New York criminal-defense and family-law attorney and founder of The Law Offices of Mehdi Essmidi, P.L.L.C. He previously served as a Bronx County assistant district attorney in the Domestic Violence Bureau and Trial Division. His practice includes DWI, weapons, federal criminal, and domestic-violence matters, as well as custody, child support, and orders of protection.

A New York Law School graduate, he was admitted in New York in 2016 and is also admitted before the U.S. Supreme Court and the Southern and Eastern Districts of New York. His professional service includes the New York City Bar's Family Law and Ethics Committees, the New York State Association of Criminal Defense Lawyers' Publication Committee, and the Joint Bar Associations' Task Force on the New York City Assigned Counsel Plan. He is an AWS co-host.

Education: J.D., New York Law School

Admissions: New York, 2016; U.S. Supreme Court; U.S. District Courts for the Southern and Eastern Districts of New York

Experience: Founder, The Law Offices of Mehdi Essmidi, P.L.L.C.; former Bronx assistant district attorney, Domestic Violence Bureau and Trial Division

Professional service: Family-law and ethics committees, criminal-defense publications, and assigned-counsel advocacy

Meet the faculty continued

Arielle Ivy Reid, Esq.



Director, Decarceration Project, The Legal Aid Society

Arielle Ivy Reid is Director of the Decarceration Project at The Legal Aid Society. A career public defender, she works on challenges to pretrial detention through litigation and policy advocacy. Before joining the project, she was a supervising attorney at the Center for Appellate Litigation, handling criminal appeals and other post-conviction matters.

She graduated from Columbia Law School in 2015 and was admitted to practice in New York in 2016. She has taught an appellate-defense externship at Columbia. Legal Aid recognized her with its Manager Marden Award in 2024, and Columbia Law School's Empowering Women of Color organization selected her as the Public Sector honoree for its 2026 Constance Baker Motley awards.

Education: J.D., Columbia Law School, 2015

Admission: New York, 2016

Leadership: Director, Decarceration Project, The Legal Aid Society

Teaching and recognition: Columbia appellate-defense externship; Manager Marden Award, 2024; Columbia EWOC Public Sector honoree, 2026

Meet the faculty continued

Bryant Bell



Paralegal and criminal-justice advocate

Bryant Bell is a paralegal and criminal-justice advocate with experience as a casehandler in The Legal Aid Society's Decarceration Project. His work has included helping lawyers, clients and families assemble bond applications, financial records and other documentation needed to seek release from detention.

A formerly incarcerated New Yorker, he also brings experience conducting legal research and navigating incarceration and supervision. His advocacy includes parole reform and efforts to end coerced prison labor. He has spoken publicly about prison working conditions and the barriers that people and their families face when seeking release and rebuilding their lives.

Professional background: Paralegal casehandling and client advocacy; experience with Legal Aid's Decarceration Project

Casework: Bond applications, financial documentation, and communication with lawyers and families

Advocacy: Parole reform, prison labor conditions, and the practical effects of incarceration

1. The reform and the decision today

A dated framework for deciding what the court may order and what the record must establish.

1.1 The course title describes a reform movement

The episode explains reforms that took effect in January 2020 and also discusses the 2020, 2022, and 2023 amendments. It is not a snapshot of the law on January 1, 2020. Its recurring problem is practical: a client may be legally eligible for release yet remain detained because the court selects an unaffordable amount, the family cannot complete a bond application, or an approved order never becomes an actual release. Counsel must address each stage separately.

The original legislation narrowed the offenses on which money bail could be imposed and required more explicit individualized decisions. Later legislation expanded qualifying circumstances and changed the general decision language. The current starting point is CPL 510.10, read with the provision governing the particular court and procedural posture. The 2025 Court of Appeals decisions in *Welch* and *Kon* and the 2026 Second Department decision in *Boksenbaum* supply material guidance that postdates the discussion. [\[1\]](#) [\[2\]](#) [\[3\]](#) [\[4\]](#)

Period or decision	Development	What counsel does differently
January 2020	2019 reforms become operative	Separate qualifying and nonqualifying offenses; identify authorized release alternatives.
July 2020 and May 2022	Expanded qualifying circumstances; harm-on-harm provision and later revisions	Examine both cases, the conduct dates, release status, proof, and negligible-theft exception.
June 2023	Revised general standard in CPL 510.10	Use the current kind-and-degree-of-control language and current subsection (1) factors.
Welch in June 2025	Posting bail counts as release under conditions for subsection (4)(t)	Do not defeat that provision merely by showing the earlier release followed payment of bail.
Kon in October 2025	Meaningful flight-risk and securing-order reasons required	Preserve a deficient explanation and request relief suited to the defect.

Period or decision	Development	What counsel does differently
Boksenbaum in February 2026	Parole is distinct from probation and postrelease supervision	Verify the actual supervision category before invoking subsection (4)(r).

The table is a course-specific history, not a complete legislative chronology. Authorities [1]–[5] identify the current provisions and the decisions explaining the changes. The recording date has not been independently established; references to recent budgets or outages remain statements made in the recording, not proof of conditions today.

1.2 Four decisions that must remain distinct

First, identify the court's legal authority. A charge may qualify under a listed offense, under the harm-on-harm provision, or through a different statutory procedure. A label such as domestic violence or gun case does not supply that analysis.

Second, decide which authorized securing order is justified. For a nonqualifying case, CPL 510.10(3) directs recognizance unless the court makes the required finding that it will not reasonably assure return; appropriate nonmonetary conditions then become the alternative. For a qualifying offense, subsection (4) permits recognizance, nonmonetary conditions, bail, or combined conditions and bail; remand is available under that subsection only for a qualifying felony. Eligibility does not require a monetary order. [1]

Third, make a financial order usable. Identify the amounts and alternative forms, the required deposit, the obligors, and actual ability to post without undue hardship. An order with three labels can still be practically inaccessible. Fourth, implement and monitor the order: posting, approval, transmission, other holds, release, and later review are separate events. [1] [6] [7]

1.3 The current standard is not a quotation from 2020

CPL 510.10(1) requires an individualized determination of risk of flight to avoid prosecution, consideration of the kind and degree of control or restriction necessary to reasonably assure return, and a securing order consistent with that determination. The court must explain its basis on the record or in writing. Available information includes activities and history; charges; conviction and specified juvenile records; prior flight; financial circumstances and hardship where bail is authorized; relevant protection-order violations; firearm history; alleged serious harm; and, where applicable, the merits of an appeal. [1]

The recording treats the former least-restrictive language as convenient shorthand. Current advocacy should use the enacted language. Kon expressly identifies the older phrasing as the former standard. At the same time, the amendment did not eliminate individualized

analysis or permit unexplained detention. The federal statute and certain specific New York provisions have their own language; do not homogenize them. [3] [8]

New York's general pretrial bail framework is centered on return to court. This does not mean firearm history, serious harm, protection-order violations, or later misconduct are legally irrelevant: the statute expressly identifies factors and procedures involving them. It means counsel must connect the asserted facts to the governing provision instead of importing a free-standing federal dangerousness detention test. [1] [9]

1.4 A decision route you can use at arraignment

The order of the questions matters. In a nonqualifying case, an unaffordable deposit is not the first defect to argue: first identify the absence of authority for money bail. In a qualifying case, authority alone leaves the choice of order unresolved. After an affordable bond is approved, the urgent question can become whether the custodian received the release certificate. The same client can therefore need three different applications over the life of a case. [1] [8] [12]

Consider three brief files before reading the analysis. File A alleges an ordinary first petit larceny, no separate case, no supervision or other qualifying circumstance, and no later misconduct. File B alleges a qualifying felony but supplies a reliable appearance record and a workable nonmonetary plan. File C contains an approved undertaking, receipt and release certificate, but the jail reports a second docket. Which decision should counsel address first?

For A, apply CPL 510.10(3) and the local-court provision. Require the statutory return finding before nonmonetary conditions; a discretionary reduction of unauthorized money bail leaves the principal error intact. For B, concede only the stipulated eligibility and argue the individualized order. The court must explain its reasoning even if the prosecution has substantial evidence of the charged offense. For C, identify the second mandate, its issuing court and actual terms. A certificate disposing of the first hold cannot silently vacate a different order. The release team must assign the second matter to counsel while preserving proof that the first order has been implemented. Chapters 5 and 10 complete that handoff.

2. Establishing bail eligibility

Start with the exact charge and procedural facts before arguing about an amount.

2.1 Read the subdivision rather than the category label

Obtain the accusatory instrument, precise Penal Law subsections, alleged conduct, and all existing securing orders. Check every asserted qualifying basis and any statutory exception. CPL 510.10(4) is an enumerated list with both offense-based and circumstance-based routes; the following examples highlight recurring mistakes rather than replace the full list. [1]

Proposition to test	Governing distinction	Practical consequence
Every violent felony qualifies	Subsection (4) (a) incorporates Penal Law 70.02 with express robbery and burglary qualifications	Check the charged subsection and, for specified burglary, the living-area allegation.
Every domestic-violence misdemeanor qualifies	Specified contempt, breathing-obstruction, and related provisions contain particular offense and relationship requirements	Family relationship alone does not make every misdemeanor bailable.
No misdemeanor qualifies	Article 130 misdemeanors and other specifically listed circumstances may qualify	Classify the exact offense and all applicable routes.
Every drug felony qualifies	The class-A drug rule specifies class A-I; other asserted routes need separate analysis	A class B drug charge is not made qualifying merely by the word felony.
Every person on supervision qualifies	Subsection (4) (r) addresses a felony committed during probation or postrelease supervision	Parole is a separate status under Boksenbaum.
A qualifying misdemeanor allows remand	Subsection (4) reserves remand under that provision for a qualifying felony	Identify a separate lawful basis before requesting detention without bail.

The court's power also depends on forum. CPL 530.20(2) limits release authority in specified city, town, and village court felony matters, and requires a prosecution opportunity to be heard and criminal-record information for local-court felony release decisions. CPL 530.30 supplies a superior-court route when the action remains in local criminal court. Do not

confuse a judge's lack of power in that forum with a categorical rule that no court may release the client. [10]

2.2 A supervision status that changes the result

In *People ex rel. Boksenbaum v Maginley-Liddie*, the principal faced class B drug and related charges and was on parole in another case. The bail court treated parole as a basis under CPL 510.10(4)(r). The Second Department held in February 2026 that the text names probation and postrelease supervision, not parole. It sustained the writ to the extent of remitting for further proceedings and also rejected the asserted persistent-felony basis for the charged drug offenses. [4]

Application. An intake notation saying on parole is not enough to support or oppose subsection (4)(r). Obtain the sentence and supervision documents. If they establish parole alone, cite *Boksenbaum* and require a different qualifying basis. If they instead establish postrelease supervision and the alleged felony conduct occurred during it, the statutory analysis changes. Even then, eligibility leaves the individualized securing-order decision to be made. A parole warrant or other custody mandate requires its own review; winning the new case's bail issue does not automatically discharge every hold.

2.3 Harm on harm requires a chronology and proof

CPL 510.10(4)(t) addresses specified new felony or class A misdemeanor conduct involving harm to an identifiable person or property, and the listed firearm charge, committed while the person occupied a described release status on a separate felony or class A misdemeanor involving harm. The text includes recognizance, release under conditions, and a desk appearance ticket before arraignment. The prosecutor must show reasonable cause for both the new and underlying crimes. The earlier crime need not itself have been a qualifying offense. Theft or property damage can be harm; physical injury is not indispensable. [1, subsection (4)(t)]

Read the statutory grammar and controlling cases for the particular charge. Earlier decisions, including *Lee*, discuss competing interpretations of the felony language and apply the provision to repeated burglaries involving significant property damage. *Lee* applied an earlier statutory version and does not justify substituting felony plus felony for analysis of the current text. The course's examples use actual alleged harm so that they do not depend on that broader reading. Allegations of generalized community harm or self-harm warrant targeted research and a demand for the precise statutory and evidentiary basis; the episode's reports of such rulings are not holdings establishing their validity. [5]

Welch resolves an important release-status question. The principal had posted bail on an attempted-murder charge before facing new theft-related charges. The Court of Appeals held that release after posting bail falls within released under conditions for subsection (4)(t). The fact that the first case was already bail-qualifying did not take it outside the

provision. The decision does not dispense with the other elements or require the court to set bail once authority exists. [2]

2.4 Worked case of two theft allegations

Editorial hypothetical. On September 2, Sam receives a desk appearance ticket for an alleged class A misdemeanor theft of a \$7 hygiene item. Before arraignment, Sam is arrested on September 6 for allegedly taking a \$6 hygiene item from another shop. The prosecution identifies each employee witness and the recovery circumstances. No property damage, violence, resale operation, or other criminal activity is alleged. Neither charge independently qualifies on the assumed facts.

The prosecution can argue that theft is expressly included as property harm, that the new conduct occurred during the listed DAT status, and that the detailed witness accounts support reasonable cause in both cases. The defense should address those propositions individually rather than claim all misdemeanors are exempt. The remaining statutory question is the negligible-theft exception: if the court determines from the instrument's factual allegations that the theft is negligible and not apparently in furtherance of other criminal activity, subsection (4)(t) directs recognizance or appropriate nonmonetary conditions. Counsel should identify the small value, nature of the goods, recovery, absence of damage, and absence of alleged further criminal purpose. [1]

No fixed dollar ceiling for negligible theft appears in this provision. Recovery of goods is relevant but does not automatically settle the issue. Request an express finding and preserve an objection if the court simply calls all theft harm and never addresses the exception. If the court finds the exception inapplicable, make a separate return-to-court application. Losing the eligibility objection does not concede that monetary bail is necessary.

Changed facts. If the second instrument instead alleges \$1,400 of window damage during an attempted burglary, the negligible-theft argument no longer describes the case. Lee illustrates why substantial repeated damage can satisfy property harm. If the new conduct preceded the September 2 DAT, the required temporal relationship is missing regardless of the arrest sequence. If the prosecution produces only a docket number for the first allegation, demand the facts supporting reasonable cause there; an arrest label is not a substitute for the statutory showing. [5]

2.5 Eligibility must be revisited when its basis disappears

In Darocha, the First Department held that the bail court failed to consider the dismissal of the underlying cases supporting its harm-on-harm ruling and failed to make the required individualized findings. For a principal still confined under the existing or a prior securing order, CPL 510.20(1) and (3) require a new securing order when dismissal or reduction leaves the order unsupported by CPL 510.10. Darocha granted habeas relief and remitted for

further proceedings. If the client has already been released on bail, identify that different posture and request review of the existing order under CPL 530.60(1), applying the current CPL 510.10 framework. [1] [9] [11] [12]

For Sam, obtain certified dispositions if the earlier case is later dismissed and make an application identifying exactly which basis has disappeared. Do not merely request lower bail because time has passed. If another qualifying charge remains, explain why dismissal still affects the discretionary assessment without claiming that all authority has vanished. This is a new securing-order application grounded in the changed legal posture, not an assumption that the jail will release the client automatically. [12]

2.6 Record the qualifying route and the unresolved question

A useful eligibility note separates an allegation from its documentary support. In Sam's negligible-theft example, the two DAT and conduct dates establish the claimed sequence; the identified store witnesses supply the reasonable-cause proffer. Those facts permit examination of subsection (4)(t). They do not prove that theft is substantial, establish guilt beyond a reasonable doubt, or answer whether monetary bail reasonably assures return. [1] [2]

Model note for the court file: The People invoke CPL 510.10(4)(t), relying on the September 2 DAT and alleged September 6 conduct. Defense disputes intent but addresses eligibility on the proffer. The instruments describe \$7 and \$6 hygiene items, recovery at the stores, and no violence, damage, resale or further criminal purpose. Defense requests a finding that the theft is negligible and not apparently in furtherance of other criminal activity, followed by recognizance or appropriate nonmonetary conditions. If that finding is rejected, defense separately requests recognizance on the individual appearance record. Counsel requests the reasons for both rulings.

The strongest adverse fact is a substantiated further criminal purpose, such as an alleged coordinated resale scheme. Small price tags then do not dispose of the statutory exception, because it contains two conditions. Conversely, a new arrest after the DAT cannot repair proof that the new conduct actually preceded it. Make the conduct chronology visible in the application; arrest dates are not substitutes for offense dates.

3. Building the release record

Turn client facts into a supported proposal that answers the actual statutory concern.

3.1 Interview for obstacles as well as ties

Ask where the client can safely receive notices, whether a phone works reliably, how travel to court occurs, what language or disability accommodations are needed, and whether work or care responsibilities conflict with appearances. Obtain the actual appearance history and the explanations for missed dates. Unstable housing or limited resources may create contact problems without showing a plan to evade prosecution. A past warrant also cannot be ignored merely because it was later vacated. The record should explain what happened and why the proposed plan addresses recurrence. [1]

The episode mentions high appearance rates and relationships between offense seriousness and attendance. This book does not repeat those numerical or causal propositions as established research findings. An aggregate study needs its population, period, definitions, and comparison group; it does not decide this person's flight risk. The official DCJS pretrial-release data provides a starting point for properly bounded empirical work. The courtroom application here rests on verified client facts and the statutory factors. [13]

Financial inquiry is equally concrete. Record available cash, essential expenses, income stability, accessible assets, existing debts, willing sureties, and the cost and feasibility of each proposed alternative. Distinguish money that exists from money the client can lawfully access tonight. A relative's gross annual salary is not the family's disposable cash. Ability to post without undue hardship is an express factor where monetary bail is authorized; inability to pay alone does not answer every issue concerning a qualifying charge. [1]

3.2 Completed release memorandum

Editorial hypothetical. Jordan is charged with a qualifying felony. Assume eligibility is established and no other custody mandate exists. Jordan has lived with an aunt for six years, works an early shift, has \$450 available after rent and food, and has appeared at eight of nine prior dates. The missed date followed an emergency hospitalization documented by admission and discharge records; Jordan contacted counsel the next morning. The prosecutor points to the serious charge and possible sentence as an incentive to flee.

Requested order. Release on recognizance; alternatively, specified nonmonetary reporting and appearance reminders. The proposal is supported by an aunt's permission to use her address, the employer's shift confirmation, a working contact number, a transportation plan, and the prior docket and hospital records. Counsel should seek only necessary disclosure of medical information and obtain the client's informed authorization for the proposed submission.

Model argument. The charge permits the court to consider monetary bail, but CPL 510.10 requires an individualized decision. The anticipated sentence is a relevant concern; the record also shows repeated appearances, a documented explanation for the sole absence, stable contact, and a workable plan to attend. Jordan has no demonstrated prior flight on the stipulated facts. Recognizance reasonably assures return. If the court finds it insufficient, weekly contact through the identified provider, reminders, and same-day reporting of contact changes address the actual logistical concern. Please explain any contrary flight-risk finding and why the chosen order is necessary. [1] [3]

Financial alternative. If bail is imposed, counsel requests three or more lawful alternative forms, including an unsecured surety bond or a realistically affordable partially secured surety bond. Counsel presents the \$450 availability and essential-expense proof, proposes a specific amount and deposit, and explains who can execute the undertaking. The request is not simply lower bail. It identifies a feasible order and the facts supporting it. [6] [12]

Changed facts. If Jordan previously left the jurisdiction after receiving notice and remained absent until arrest, that evidence materially strengthens the prosecution's position. Counsel must address the earlier conduct, its circumstances, and why the current plan is adequate; repeating the original speech without that fact would be misleading. If the aunt cannot receive mail, substitute a verified alternative rather than retaining a false stability claim.

3.3 Ask for reasons that can be reviewed

Kon concerned a defendant awaiting retrial after reversal of his conviction. The bail court said it had considered statutory factors and ordered continued remand without identifying its flight-risk reasoning. The Court of Appeals held that this was inadequate. A court need not recite every factor at length, but it must supply substantive reasoning for both its flight-risk determination and choice of order. Counsel and the reviewing court cannot fill the gap by guessing that the court adopted the prosecutor's position. [3]

Preservation language. Counsel can state: We request an individualized finding concerning flight to avoid prosecution and an explanation of the facts supporting this securing order under CPL 510.10(1). We ask the court to address the verified appearance history, the financial record, and the proposed alternative. If relief is denied, please state the basis on the record or in writing. Obtain the resulting order and transcript promptly.

A program acceptance letter strengthens a release plan when it identifies an actual place, start date, transport, reporting arrangement, and accommodation for court appearances. It should not imply that admission of guilt, treatment, employment, or a family payment is the price of being considered for lawful release. The client retains the decision on any plea after consultation; a release application and plea advice are distinct work. [14, Rules 1.2 and 1.4]

3.4 Assign responsibility for the next action

The recording emphasizes paralegal case handling and teamwork. A useful division of work is specific: the advocate confirms contacts and collects authorized financial records; the lawyer assesses eligibility, selects legal grounds, approves disclosures, and presents the application; a named team member tracks the order through release. Legal judgment remains with counsel, with appropriate supervision of nonlawyer assistance. A referral or private consultation does not itself transfer responsibility for an urgent deadline. [14, Rules 1.1, 1.3, 1.4 and 5.3]

3.5 Jordan's supporting record

The following fictional documents complete the release memorandum in section 3.2 and supply the record for Chapter 8. They describe an invented Queens case as of September 21, 2026. They are teaching records, not representations about a real person, court or employer. Jordan Vale is charged by indictment with second-degree assault under Penal Law 120.05(2); for this exercise that qualifying-felony classification is stipulated. Identity, guilt and the trial merits remain disputed. The next appearance is October 5, 2026 at 9:30 a.m. Attorney Elena Cruz represents Jordan; advocate Marcus Lee assists under her supervision.

J1 Appearance extract. The earlier proceeding lists eight attended appearances. On February 11, 2025, Jordan did not appear and a warrant issued. On February 12 counsel reported the hospitalization, submitted the discharge confirmation and arranged Jordan's voluntary appearance that day; the court vacated the warrant. The extract identifies no other absence and no departure from the jurisdiction. This is a court-event summary, not a conclusion that a warrant never existed.

J2 Limited hospital confirmation. With Jordan's written authorization, the fictional hospital confirms admission on February 10, 2025 at 11:40 p.m. and discharge on February 12 at 7:10 a.m. The document reports that Jordan remained in the facility during the missed appearance. It omits diagnosis and treatment details because the timing, rather than the full medical chart, explains the absence. Cruz verifies the source and retains the authorization separately.

J3 Residence and notice statement. Aunt Marisol Vale confirms that Jordan has lived with her since September 2020 and may continue to do so. Her signed statement authorizes delivery of court notices at their fictional address, 14 Example Court, Queens. She agrees to notify Cruz if mail cannot be received. This supplies a contact arrangement; it does not make her a custodian with power to detain Jordan or a surety without an undertaking.

J4 Employment and travel confirmation. Harbor Example Repairs confirms Jordan's 7 a.m. –3 p.m. weekday shift and permission to attend court when required. The planned bus and subway journey takes approximately 55 minutes under the exercise assumptions. For a 9:30 appearance, Jordan plans to leave by 7:30, carry counsel's contact information and call

immediately if travel is disrupted. The employer does not promise that work excuses absence from court.

J5 Available-funds statement. Jordan has \$1,450 in accessible savings; \$700 is committed to the next rent payment and \$300 to food, travel and utilities, leaving \$450. Jordan authorizes use of that financial summary for this application. Marisol can provide housing and reminders but declines any financial undertaking. Counsel neither treats her refusal as adverse character evidence nor represents her gross income as money available to Jordan.

3.6 Completed submission and the ruling to preserve

Defense submission, September 21. Jordan requests recognizance, alternatively weekly pretrial-services contact and reminders, with prompt notice to counsel of contact changes. The qualifying charge authorizes consideration of bail but does not decide which order is justified. J1 and J2 explain the single nonappearance rather than suppressing it. J3 and J4 establish contact and transportation. J5 shows why a substantial deposit would create hardship. There is no evidence of prior flight on this record. These facts support return without a monetary condition under CPL 510.10(1) and (4). If the court disagrees, defense requests findings identifying the flight concern and explaining why the proposed alternatives are insufficient. [1] [3]

Prosecution response. The People rely on the alleged use of a weapon, serious injury, strength of identification evidence and substantial potential sentence as reasons Jordan may avoid prosecution. They contend that employment and family support did not prevent the charged conduct. Defense answers that the seriousness and incentive argument deserves consideration, while the application seeks an order governing return, not a premature adjudication of guilt. The prior appearance evidence directly bears on that issue. Defense does not assert that an address or job immunizes anyone from bail.

J6 Teaching minutes, pages 3–4. After receiving J1 through J5 and hearing both parties, the fictional court states: I have considered the factors. Bail is \$10,000 cash, \$20,000 insurance-company bond, or \$30,000 partially secured surety bond at five percent. Cruz requests a specific flight finding and reasons for rejecting recognizance and the proposed nonmonetary plan. The court replies: The order stands. J7 is the written order with those three alternatives. This short exchange is fictional; it is not a quotation from Kon or a faculty case.

The record supports a challenge to the absence of substantive reasons. It also preserves the financial issue: the \$1,500 partially secured deposit exceeds Jordan's \$450 and Marisol has not agreed to become a surety. The three statutory form labels do not cure the missing individualized analysis. Counsel obtains the complete certified minutes, rather than attaching only the two favorable lines, and records that the supporting documents were actually before the judge. Chapter 8 shows the resulting petition.

Adverse variation to attempt. Replace J1 with proof that Jordan twice left the state after actual notice and remained away until arrest. Keep the other facts. What must the application change? The reasoned answer is in section 3.7.

3.7 Answer to the adverse appearance history

The original assertion that there is no prior flight is now false and must be removed. Counsel should investigate the reasons, duration, return circumstances and current changes before proposing an adequate plan. Housing, a job and reminders may address logistics while leaving deliberate evasion unanswered. A stronger verified arrangement, travel restriction or other lawful condition may be necessary; counsel should explain why it addresses the proved conduct and whether it is feasible. The court still owes an individualized finding and reasons. Winning the procedural point does not erase adverse evidence, and a habeas challenge cannot become a vehicle for inventing an improved factual record after the ruling. [1] [3] [14]

4. Bond forms and family exposure

Explain the undertaking before asking anyone to sign it.

4.1 The order must offer lawful alternatives

CPL 520.10 lists nine forms: cash, insurance-company bond, secured surety bond, secured appearance bond, partially secured surety bond, partially secured appearance bond, unsecured surety bond, unsecured appearance bond, and credit card. When specifying forms, the court must designate three or more alternatives, including an unsecured or partially secured surety bond. It may designate different amounts for the alternatives. The statute does not give an unrestricted right to choose any unlisted form. If the court fixes only an amount without specifying forms, subsection (2)(a) permits an unsecured surety or unsecured appearance bond. [6]

A surety bond involves at least one obligor other than the principal; an appearance bond is executed by the principal alone. An unsecured bond requires no deposit or lien. A partially secured bond requires a deposit of no more than ten percent of the undertaking. Ten percent is a ceiling, not a mandatory minimum or a universal charge. The deposit secures an obligation; it is not the insurer's premium. [15, subsections (14)–(19)]

4.2 Completed comparison of three orders

Editorial hypothetical. A court specifies \$10,000 cash, \$20,000 insurance-company bond, or \$30,000 partially secured surety bond at five percent. The family can access \$1,800 without missing rent and has a proposed surety. No finding approving that surety has yet been made.

Alternative	Initial financial requirement	Continuing exposure
Cash at \$10,000	\$10,000 paid as bail	Forfeiture risk; refund governed by the case and applicable deductions.
Insurance bond at \$20,000	Maximum statutory premium \$1,460, plus any lawful reasonable collateral required by the agreement	Indemnity obligations and any disclosed lawful conditions; premium generally not returned after qualifying release.
Partially secured surety at \$30,000 and 5 percent	\$1,500 court deposit	Undertaking up to \$30,000; \$28,500 beyond the deposit may remain exposed.

The premium calculation is \$300 on the first \$3,000, \$560 on the next \$7,000, and \$600 on the remaining \$10,000, totaling \$1,460. Insurance Law 6804 sets tiered maximum compensation,

not a flat ten-percent charge on every bond. Collateral is separate from premium. Obtain the written quote and agreement; a price below the family's cash ceiling does not establish affordability if collateral or indemnity endangers essential housing. [16]

The partially secured alternative fits the stipulated \$1,800 liquidity, but approval and informed assent remain necessary. It exposes the signer to substantially more than \$1,500. Multiple obligors ordinarily undertake jointly and severally under CPL 520.20(2)(e); counsel must not imply that ten signatures automatically divide a \$30,000 undertaking into ten independent \$3,000 caps. Read the actual instrument. [7]

Changed terms. If the court uses a \$100,000 partially secured bond at ten percent alongside \$10,000 cash, the immediate cash hurdle is still \$10,000 and the undertaking is much larger. The presence of a partially secured label has not made release accessible. Ask for an affordable amount, a lower deposit percentage, or an unsecured surety option using the financial evidence. Different alternative amounts are statutorily permitted; challenge their justification and practical burden rather than asserting that amounts must always match. [1] [6]

4.3 Build the surety packet from the statute

CPL 520.20 requires the bond and each obligor's justifying affidavit. The undertaking identifies the parties, proceeding, charges, and obligation. For partially secured and unsecured bonds, subsection (4)(c) calls for the nature and location of employment or business, its duration, income in the past year, and average income over the preceding five years. That is different from a universal requirement to produce a fixed number of W-2 forms or prove income equal to twice the bond. [7]

The episode reports judges asking for pay stubs, tax returns, and particular income ratios. Those reports help counsel anticipate practical obstacles; they do not convert local practices into statutory eligibility rules. Collect reliable supporting evidence, explain unavailable records, and ask the court to identify the basis for a disputed requirement. Do not manufacture income proof or omit liabilities to make an application look stronger.

CPL 520.30 permits an inquiry into obligor reliability, sufficiency of security, sources of funds, and public-policy concerns. It imposes an additional predicate for an inquiry into a cash poster: a prosecution application and reasonable cause concerning rightful possession or unlawful proceeds. The court may examine knowledgeable persons, and the prosecution may participate. The inquiry ends in approval or disapproval; CPL 510.40(2) requires prompt written reasons for nonapproval. [17] [8]

Completed packet index. For the \$30,000 example, counsel attaches the securing order, signed undertaking, each statutory affidavit, employment verification, available income records, a concise explanation of lawful deposit sources, and contact details for persons who can clarify discrepancies. The cover request identifies the \$1,500 deposit and asks for

an approval ruling. Counsel preserves a rejection based solely on an unexplained income multiplier and distinguishes any legitimate reliability concern.

If one proposed surety is rejected, identify what additional evidence or alternative obligor would address the reason. The recording's encouragement to return with a better bond application is practical guidance; it is not permission to ignore the separate one-application limitation on a CPL 530.30 superior-court application. Identify which procedural request is being renewed. [10]

4.4 Forfeiture is a real liability with distinct remedies

Under CPL 540.10, failure to appear without sufficient excuse or failure to remain amenable to court orders can result in forfeiture. The statute addresses entry on the minutes, proceedings on the undertaking, and a limited opportunity to discharge forfeiture when the principal appears before final adjournment and satisfactorily excuses the neglect. Do not promise that eventual return erases the debt. [18]

CPL 540.30 provides a remission application within one year after forfeiture is declared, on at least five days' notice to the district attorney with the supporting papers. A superior-court forfeiture is addressed there; a local-court forfeiture generally goes to a superior court in the county, with the statutory district-court alternative. Remission is discretionary, may be partial and on just terms, and requires payment of enforcement costs and expenses. Low apprehension cost is relevant advocacy, not a guaranteed refund formula. [19]

Editorial application. A surety receives notice after the principal misses court during a documented hospital stay. Counsel immediately obtains the minutes, forfeiture order, undertaking, hospital proof, notice, and current custody information; addresses the warrant and appearance through lawful procedure; and calendars remission from the declaration date. The request explains the excuse, return efforts, prejudice and expense, and proposed relief. If instead the principal deliberately absconded and a costly search followed, the equities and financial exposure change. The family needs that explanation before signing, not only after forfeiture.

4.5 A completed undertaking and justifying affidavit

The following fictional packet develops Morgan's Chapter 10 alternative: a \$10,000 partially secured surety bond with a five-percent deposit. Morgan's sister, Priya Vale, voluntarily provides \$500 from wages and is the sole obligor. The court has not yet approved the bond. These teaching excerpts supply the statutory substantive content; an actual filing also needs the court's accepted form, genuine signatures, oath, identifying details and supporting records. No signature or notarial act is represented as having occurred. [7]

B-1 Undertaking. Criminal Court of the City of New York, Queens County. People of the State of New York v Morgan Vale, fictional docket QN-TEACH-260914. The action is pending on a misdemeanor complaint charging petit larceny under Penal Law 155.25, with a

securing order entered September 15, 2026. Principal: Morgan Vale, defendant. Obligor: Priya Vale, residing at 28 Example Lane, Queens, employed as a payroll assistant. I undertake that Morgan Vale will appear whenever required in this action and remain amenable to the court's orders and processes. If Morgan does not comply, I undertake to pay the People of the State of New York the sum of \$10,000 fixed by the court. This is a partially secured surety bond with a \$500 deposit, equal to five percent of the undertaking. Its duration is governed by CPL 520.20(3); no shorter term is proposed. Prepared for Priya Vale's subscription and oath on September 15, 2026.

B-2 Justifying affidavit. I, Priya Vale, reside at 28 Example Lane, Queens, and work as a payroll assistant for Borough Example Services at its Queens office. I have worked there since January 3, 2020. My income during the past year, September 15, 2025 through September 14, 2026, was \$46,000. My annual income for the five consecutive years ending September 14, 2026 was \$38,000, \$40,000, \$42,000, \$44,000 and \$46,000. The total is \$210,000 and the average is \$42,000. The attached employer statement and earnings summaries support these figures. The \$500 deposit comes from wages held in my account. It is not borrowed from Morgan, supplied by an unidentified person or derived from the alleged conduct. I understand that the undertaking is \$10,000 and that liability may exceed the deposit. Prepared for subscription and oath; all names, addresses and figures are invented.

B-3 Earnings and funds extract. The five annual entries above are stipulated payroll totals for the stated rolling periods, not five calendar-year tax-return figures mislabeled as an exact current average. A bank entry shows a September 11 net payroll deposit of \$1,350 and a September 15 withdrawal of \$500. Priya retains \$850 for committed expenses; Morgan's separate \$700 is not added to her affidavit as her income. Counsel checks reconciliation between the sworn period and the documents before submission.

B-4 Submission note. Cruz submits B-1 and B-2, the securing order and the earnings/funds records, requests approval under CPL 520.30, and asks for a certificate of release under CPL 510.40(2) upon approval. She identifies the sole obligor and does not use the larger household's income to conceal an unwilling signer's absence. If approval is refused, she requests prompt written reasons and identifies what lawful proof or alternative would resolve them. [7] [8] [17]

The undertaking names the proceeding, charge, posture, principal, obligor and promised sum because those facts define the enforceable obligation. The affidavit supplies the employment location and nature, duration, past-year income and five-year average required for this type of bond. It is not a secured-real-property affidavit. No apartment is pledged here. A second obligor would require a separate justifying affidavit and an explanation of joint and several liability; two signatures would not automatically halve the \$10,000 exposure.

Changed funds. Suppose the bank extract instead shows a \$500 transfer from an unidentified sender that morning and Priya cannot explain it. Do not retain the wages

statement. Counsel investigates the source, discloses the unresolved discrepancy as required, and offers a verified alternative if available. A rejection based on a concrete source-of-funds problem differs from an unexplained rule requiring twice the bond amount in salary. The cash-poster predicate in CPL 520.30 does not erase the broader bond-inquiry authority. Approval remains a judicial decision.

4.6 A remission request with a supported explanation

Assume a separate fictional \$10,000 surety undertaking is forfeited in Supreme Court, Queens County on September 8, 2026. The principal missed that morning's appearance during an emergency hospital admission; the family notified counsel at 10:15 a.m. Counsel promptly arranged a September 10 appearance after discharge. The court did not discharge the forfeiture under CPL 540.10. The surety now requests remission under CPL 540.30. [18] [19]

Completed request excerpt. The surety requests remission of the September 8 forfeiture, subject to payment of documented enforcement costs and expenses. The undertaking, forfeiture minutes and order, limited admission/discharge confirmation, counsel's contemporaneous notification and September 10 appearance minutes accompany the application. The absence arose during documented incapacity; the principal returned promptly and the surety assisted rather than concealing the principal. The People report no search expenditure beyond \$120 in documented enforcement costs, which the surety tenders. The requested order remits the balance on terms the court finds just. The application does not claim that return automatically extinguished the undertaking.

The lawyer calendars the one-year outside limit from the declaration of forfeiture, September 8, 2027, and plans well before it. In this specimen, papers are personally served on the district attorney on September 16, 2026 for a September 24 application, allowing more than the statutory minimum five days without depending on a last-day calculation. Service method and any additional required papers must match the governing procedure. Because the forfeiture was ordered by Supreme Court, the application belongs there; a local-court forfeiture would require the forum analysis in section 4.4.

If the principal instead deliberately fled for three months and generated substantial search expense, the excuse and equitable balance change. Counsel must replace the hospital narrative, quantify the actual costs and address the surety's efforts and delay. The court may deny remission or remit only part. A successful repayment arrangement or small initial deposit is not a defense that the full undertaking never existed.

5. From an order to actual release

Resolve financial choices, payment access, and administrative obstacles without losing the legal record.

5.1 Choosing a commercial bond is an informed decision

Choosing between a commercial bond and a court bond requires attention to speed, expense, dignity, and access. A commercial bond may be more achievable for one family; another may prefer a court bond to avoid a nonrefundable premium. Neither preference should be imposed categorically. Compare the complete premium, collateral, indemnity, approval process, likely timing, and lawful additional terms. Ask who risks an asset, who is the client, and whether a family signer needs separate advice because the interests differ.

[16] [20]

The DFS statement of rights calls for written identification of the agent and insurer, financial terms, restrictions, surrender circumstances, copies, and receipts. It describes premium refunds when the defendant is not released or is released without a monetary requirement and return of collateral after exoneration. Confirm the operative agreement and applicable regulation rather than telling a client that an agent may freely invent conditions or revoke bail at will. A commercial surrender and a court's revocation ruling are different acts. [20]

Counsel should not profit from giving bail: Insurance Law 6804(c) expressly prohibits a lawyer's financial interest for that purpose. The choice should be documented in neutral language: the family selected this option after reviewing cost, collateral, exposure, and alternatives. The episode's appeal to help relatives is not legal advice to risk rent, housing, or unaffordable debt. [16] [14, Rules 1.4 and 1.7]

5.2 Payment channel and bail form are separate questions

Credit card is an authorized statutory form, and the court may specify more than three alternatives. A request to add it should preserve the required unsecured or partially secured surety alternative rather than incorrectly treating three as a maximum. Identify whether the order authorizes the proposed form and whether the receiving location can process it. A debit card is a payment mechanism; its availability is not established by guessing from the statutory label credit card. [6]

Operational update checked October 12, 2026. NYC311 states that DOC online bail payment is unavailable until further notice and lists in-person payment channels, including credit or debit cards, cash, specified checks, and money orders. It also identifies requirements and payment locations. This is dated agency guidance, not a guarantee that a particular counter, order, card, or transaction will be accepted. Verify current instructions before sending a family to pay. The episode's \$500 transaction anecdote is not a statutory cap. [21]

5.3 A payment and release handoff that closes the loop

Editorial hypothetical. Counsel secures an order at 9 p.m. specifying \$2,500 cash, an insurance bond, and a partially secured surety alternative. The client's sister has funds in her bank account but no cash, and the client remains at court. Counsel confirms the signed order, the institution holding the client, accepted payment methods at the relevant window, required identification and case number, and whether a credit-card alternative should be added. The sister receives verified instructions rather than an assumption that a jail payment webpage will work.

At posting, keep the receipt and confirm that payment was applied to the correct docket. Obtain the release certificate or approval and confirm its receipt by the actual custodian. Check separately for another open case, nominal bail, a warrant, a sentence, or another lawful hold. Assign a team member to confirm physical release and tell the client the next court date and conditions. Payment alone is not proof of discharge. [8]

If a system outage blocks payment, preserve the attempted transaction time, the precise obstacle, and the staff response. Ask the court for a feasible authorized alternative or a revised securing order, supported by the facts. Escalate an unimplemented approved release through the responsible court and custodian. Do not infer that every processing delay creates a damages claim or that an outage suspends all custody protections. Chapter 7 identifies the separate timing questions.

5.4 Accessing the client's own money

The principal may execute an appearance bond where authorized; cash bail is not inherently limited to a third-party payer. Physical custody, bank access, identity verification, cardholder requirements, and court procedures can nonetheless obstruct payment. The recording's power-of-attorney example illustrates a possible solution, not a universal bank form that works after a signature alone. New York powers of attorney have execution and authority requirements; verify capacity, voluntariness, witnesses and acknowledgment where required, the scope of financial authority, and the bank's lawful acceptance process. [7] [15] [22]

Practice application. A client wants a sibling to withdraw \$5,000. The lawyer identifies the account and proposed transaction, obtains the client's instructions privately, selects a legally sufficient instrument, coordinates execution, and confirms what the bank needs. The sibling's authority is limited to the actual document. A casual text or the lawyer's possession of the debit card is not treated as equivalent authority.

If the firm receives client or third-party funds in connection with its practice, safeguarding, separation, recordkeeping, notification, and delivery obligations apply. A judicial record of consent does not by itself resolve bank authorization, card terms, fiduciary duties, or a conflict. Prefer a clearly authorized payment path and maintain receipts; never commingle the money with operating funds. [14, Rules 1.6, 1.7 and 1.15]

5.5 Morgan's dated payment and release file

This fictional continuation of Chapter 10 assumes that the court has approved a revised \$10,000 partially secured surety alternative at five percent. It does not assume that approval has already produced release. Dates are September 15–16, 2026, in New York local time. Cruz is responsible for legal decisions; Lee tracks documents and contacts. Priya is a voluntary surety, not counsel's employee.

Date and time	Source event	Completed action and next owner
September 15, 3:00 p.m.	Signed revised securing order M-1	Cruz verifies all three alternatives, five-percent deposit and principal's docket. Lee receives the order directly from counsel.
3:15 p.m.	Undertaking B-1 and affidavit B-2	Priya reviews the full \$10,000 exposure and chooses to proceed. Cruz confirms the oath and execution required for the real court form; the teaching packet models their content only.
3:35 p.m.	Approved undertaking M-2; \$500 receipt M-3	Lee checks the docket and payer on the receipt. He records the receiver's confirmation that funds are applied to this bond, rather than recording merely that Priya withdrew cash.
3:50 p.m.	Release certificate M-4	Cruz obtains the issued certificate. Lee records transmission to the actual custody office and follows up for acknowledgment.
4:10 p.m.	Custody acknowledgment M-5	The custodian confirms receipt but reports a warrant on a different docket. Lee immediately sends the second docket and mandate to Cruz. Physical release remains unconfirmed.

Date and time	Source event	Completed action and next owner
4:30 p.m.	Second-docket record M-6	Cruz confirms that a prior warrant was recalled at 11:20 a.m. that day and obtains the signed recall order. She transmits it through the required court/custodian process and retains proof.
5:15 p.m.	Custodian acknowledgment M-7	Custodian confirms both documents are entered and identifies no further hold in the checked record. Lee continues monitoring; an expected release is not logged as completed.
6:40 p.m.	Morgan's direct confirmation M-8	Morgan confirms physical release and safe arrival with Priya. Lee records contact, delivers the next appearance and conditions, and notifies Cruz.
September 16, 10:00 a.m.	Counsel's follow-up M-9	Cruz confirms Morgan understands the September 28, 9:30 a.m. appearance in this fictional misdemeanor case, checks transportation and records who will send reminders.

The second-docket event is a teaching variation on Chapter 10's no-other-hold assumption. It does not amend that original assumption silently. The exercise supplies an already-issued recall order so that the task is verifying implementation. If the warrant were still valid, Cruz would need to address it in the proper court; Lee could not clear it by insisting that the first bond was paid. No real office, employee, acknowledgment or release has been contacted or verified in this invented file.

5.6 The actual handoff messages

Lee to Cruz, September 15, 4:12 p.m. Receipt M-3 and release certificate M-4 are matched to QN-TEACH-260914. Custody acknowledged the certificate at 4:10 but reports second docket QN-TEACH-250422 with an active-warrant flag. Morgan is still held. I attached the acknowledgment and docket reference. Please determine the second mandate now; I will request status again at 4:40 and immediately after you provide the operative order. I will not tell Priya that release is complete.

Cruz to Lee, 4:32 p.m. The second court's signed 11:20 a.m. recall order is M-6. I have sent it through the prescribed channel. Please obtain custody acknowledgment against the second docket, verify whether any other mandate remains, and record the actual release time. If receipt is not confirmed by 5 p.m., return this to me for escalation to the court and custody supervisor. Any new hold comes to me for legal review.

Counsel's message to Morgan after release. You are released in this case under the September 15 order. Your next appearance is September 28 at 9:30 a.m. Keep the written conditions with your court papers, confirm transportation with us, and contact us promptly if your address or phone changes or an obstacle arises. A family member or employer cannot excuse an appearance or change a court condition. We will send a reminder; you should contact us if it does not arrive. This communication explains the order without guaranteeing a future result.

5.7 Insufficient funds and authority to use money

Now change the packet before posting: Priya has only \$250 available without missing rent, and Morgan's \$700 cannot be accessed until the bank verifies a lawful authorization. The five-percent deposit remains \$500. The team has a current \$250 shortfall; it cannot label an inaccessible account as cash on hand or pressure Priya to divert rent. Counsel should seek an unsecured surety alternative, a lower permitted deposit percentage supported by the record, or recognizance/nonmonetary reconsideration. A \$10,000 bond at 2.5 percent requires \$250, but still creates the stated \$10,000 undertaking and requires a court order and informed assent. [1] [6] [7] [12]

Completed account-access note. Morgan privately instructs Cruz to explore a limited authorization for Priya to withdraw \$500 from Morgan's identified account for bail. Cruz records the purpose, amount, proposed agent and client's questions; she does not treat this note as a power of attorney. The fictional bank's September 15 response is that its acceptance review requires a legally executed instrument and identity verification before withdrawal. Cruz checks General Obligations Law 5-1501B and the selected instrument's authority, arranges appropriate execution if Morgan chooses, and requests a realistic review time. Pending acceptance, Lee leaves accessible client funds at zero in the immediate-payment column. [22]

If the client revokes instructions before execution, stop that path and document the revised instruction. If the firm actually receives funds, Rule 1.15 requires appropriate safeguarding and records; a judge's acknowledgment of consent is not a substitute. The recommendation under the changed facts is to pursue a feasible judicial alternative while properly investigating account access, not to use Morgan's card without authority or promise that a bank must act that night. [14]

6. Nonmonetary conditions and electronic monitoring

Make the order workable today and review its continuing necessity.

6.1 Conditions should answer a demonstrated need

CPL 500.10(3-a) describes individualized nonmonetary conditions and provides that the principal is not required to pay any cost associated with them. These can include appropriate pretrial-service contact, travel restrictions tied to actual risk, and specified programming or other lawful requirements. A condition is not harmless merely because no money is demanded: work, treatment, care duties, and transportation can make compliance difficult. Explain the actual obligation and seek realistic terms. [15]

CPL 510.40(3) requires individualized written conditions and consideration at future court appearances of lessening or modifying them to a less burdensome form based on compliance. It does not make every successful appearance an automatic entitlement to unconditional release. If important noncompliance is alleged and additional conditions are sought under that subsection, reasonable notice, an evidentiary opportunity, and a clear-and-convincing finding are required. The reasons for the decision and changes must be stated. Distinguish this route from CPL 530.60 revocation. [8] [9]

6.2 Electronic monitoring has an additional test

First, the person must fall within CPL 500.10(21), which identifies qualifying classes of case and specified circumstances. Second, CPL 510.40(4)(a) requires notice, an opportunity to be heard, individualized reasons, and a finding that no other realistic nonmonetary condition or combination suffices to reasonably assure return. Eligibility alone is not the necessity finding. The method must be approved and as unobtrusive as practicable within the statute. [15] [8]

Monitoring may be ordered for a maximum of sixty days and renewed for another such period only after notice, an opportunity to be heard, and a fresh individualized determination with reasons. This corrects the recording's uncertainty between sixty and ninety days. The future-appearance review duty in subsection (3) and the sixty-day renewal rule in subsection (4)(d) are separate safeguards; counsel need not wait until day sixty to seek narrower conditions. [8]

The statute also treats a person under electronic location monitoring as held or confined for CPL 180.80 and as committed to the sheriff for CPL 170.70, as applicable. Do not drop those statutory clocks merely because the client sleeps at home. That specific treatment does not establish that monitoring is custody for every other statute or sentencing-credit purpose. [8]

6.3 Completed request for a narrower order

Editorial hypothetical. On day thirty of a sixty-day monitoring order, Taylor has attended every required appearance and reporting appointment. The written order allows work only from 9 a.m. to 5 p.m.; the employer now offers a documented 7 a.m. shift. No violations are reported. Counsel obtains the compliance record and employer letter, confirms travel time, and requests removal of monitoring or, alternatively, a defined adjustment allowing travel and the new shift.

The application invokes CPL 510.40(3), explains why the record supports a less burdensome arrangement, and asks the court to reassess whether another realistic nonmonetary combination now suffices. The prosecution may argue that compliance shows the existing structure works. Counsel responds with specific evidence of reliable conduct and the narrower proposal's ability to secure return, rather than claiming that good behavior alone compels removal. If monitoring continues beyond the original period, counsel insists on the separate renewal procedure under subsection (4)(d). [8]

Changed facts. A disputed location alert requires examination of the device record, permitted travel, notice, and any technical explanation. It is not automatically a deliberate violation. Conversely, a verified departure contrary to clear terms cannot be omitted from the application. Seek judicial modification before the client changes an operative condition; an employer's approval does not amend a court order.

6.4 Installation delay should not disappear into logistics

The episode describes custody continuing while a monitor is arranged. Counsel should identify whether the court authorized release before installation, which public or contracted nonprofit entity will administer monitoring, what order it needs, and when it can act. Request a feasible self-reporting arrangement or another lawful order when supported; the recording supplies an advocacy option, not a guaranteed right to self-install or a fixed turnaround time. Keep the delay and the court's response in the record and continue reviewing all applicable custody deadlines. [8]

6.5 Taylor's complete modification packet

This fictional packet supplies the application, supporting exhibits and proposed order for the monitoring change described in section 6.3. Taylor Reed faces a felony complaint and is stipulated eligible for monitoring under CPL 500.10(21); necessity remains independently contestable. Counsel is Elena Cruz. The September 1, 2026 order expressly runs through October 30, with a September 30 review. It permits Taylor to leave home for employment only between 9 a.m. and 5 p.m., plus court, counsel and approved treatment appointments. It directs weekly telephone reporting, contains no protective-order restriction on the workplace, and imposes no charge on Taylor. These are facts of this exercise, not standard conditions that every court should impose. [8] [15]

Exhibit T1 — compliance record. The monitoring provider's September 29 report lists completed weekly calls on September 4, 11, 18 and 25; no missed calls; no departure alerts; and attendance at the September 15 appearance. The report identifies its reporting period and author. Counsel checks it against Taylor's account before relying on the absence of alerts. Silence in an incomplete download would be weaker proof.

Exhibit T2 — employer statement. Harbor Example Repairs offers Taylor a permanent Monday–Friday shift, 7 a.m.–3 p.m., beginning October 1. The workplace is 22 Sample Avenue, Queens; the supervisor confirms the schedule on September 28 and permits court-related absences on notice. The proposed journey takes approximately 55 minutes each way. The statement establishes a concrete conflict with the present 9 a.m. start, rather than a general preference to loosen restrictions.

Completed application, September 30. Taylor requests termination of electronic monitoring under CPL 510.40(3), with weekly telephone reporting and advance court reminders retained. T1 documents compliance across the order's first month, and T2 supplies a stable, verifiable schedule. The court should consider whether those less burdensome measures now reasonably assure return. If monitoring continues, Taylor requests the alternative work-and-travel paragraph below. Counsel requests individualized reasons for the ruling and a written amended order provided to Taylor and the provider before October 1. Taylor will obey the existing order until it is modified; employment does not confer permission to disregard it.

Proposed operative paragraph. Effective upon entry of this order and communication to the monitoring provider, the work provision of the September 1 order is replaced as follows: Taylor Reed may depart the approved residence at 5:45 a.m. Monday through Friday for direct travel to Harbor Example Repairs, 22 Sample Avenue, Queens; work from 7 a.m. to 3 p.m.; and return directly, arriving by 4:15 p.m. Court attendance takes precedence over work. Necessary deviations caused by a transit interruption must be reported promptly through the provider's designated channel and to counsel. The provider shall record that report for judicial review; this paragraph does not delegate power to impose new court conditions. Existing permission for court, counsel and treatment appointments remains. All other unmodified terms remain in force through the original October 30 expiration. This amendment does not renew monitoring.

Why the wording matters. A departure time and return time cover the commute; merely authorizing a 7 a.m. shift leaves travel unauthorized. Identifying the retained provisions prevents accidental loss of treatment access. The expiration sentence prevents a modest work adjustment from being read as a new sixty-day term. Counsel calendars October 29 for any requested renewal hearing, with notice and a fresh individualized determination before expiration. The proposed dates are written into the fictional order; they do not rely on a silent assumption about when the provider began tracking. [8]

6.6 Changed record: the alert is real but its meaning is disputed

Before reading the answer, change T1: the provider reports a 22-minute departure on September 22, but its address field contains the former residence. Taylor says the provider approved the new residence, and supplies a September 20 acknowledgment. What should change in the application, the requested evidence and Taylor's conduct tonight?

Reasoned answer. Withdraw the unqualified assertion that no alert occurred. Preserve the raw location data, address-update request, acknowledgment, applicable order and provider explanation. A stale geofence could explain an alert without a prohibited departure; a screenshot of an alert alone cannot settle that dispute. Ask for prompt correction of the address record and the statutory opportunity to contest material noncompliance if additional conditions are sought. Continue the narrow work request supported by T2, identifying the unresolved issue rather than certifying perfect compliance. Taylor must follow the actual order tonight and seek clarification through counsel; the provider's administrative error does not independently authorize unrelated travel. If reliable records instead establish a deliberate unpermitted visit, acknowledge it and propose a response tied to return risk under the proper statutory branch. [8] [9]

7. Custody deadlines and alleged violations

Different clocks and procedures protect different interests.

7.1 Before arraignment

CPL 140.20 requires presentation following a warrantless arrest without unnecessary delay, after necessary preliminary police duties. Appearance-ticket rules in CPL 150.20 have their own exclusions and exceptions. A charge's nonqualifying status under the bail statute does not itself establish unconditional entitlement to a DAT, and a blanket practice of holding everyone cannot replace the statutory analysis. In a delay case, obtain the arrest time, processing chronology, reason given, court availability, and any asserted exception; seek prompt relief through the appropriate forum. [23]

An operational outage may explain particular facts, but it does not itself decide whether detention was lawful. The episode's discussion of twenty-four or forty-eight hours should not be converted into an automatic damages rule. Prearrest delay, judicial probable-cause review, postarrest detention, and a civil damages action are separate legal inquiries. This book teaches identification and preservation of the delay issue, not adjudication of a damages claim.

7.2 Felony complaint custody under CPL 180.80

Upon application, CPL 180.80 addresses custody pending disposition of a felony complaint exceeding 120 hours, or 144 hours when a Saturday, Sunday, or legal holiday occurs during the custody. It looks to disposition of the complaint or commencement of a hearing, with specified exceptions involving the defendant's request, action, condition or consent; a timely written certification that an indictment was voted or specified grand-jury filing before the application; and compelling good cause. The remedy is recognizance release under this provision, not dismissal of the prosecution. [24]

The recording's reference to 125 or 145 hours is incorrect. Nor is this simply a deadline to file an indictment: the statute identifies other events and exceptions. Confirm the actual custody start and the procedural record. A routine adjournment notation does not prove a statutory exception without its underlying facts.

Worked chronology. Assume uninterrupted custody on a felony complaint begins Friday at 10 a.m.; a weekend occurs during custody; no excluded defense conduct, timely qualifying certification or filing, hearing commencement, or good cause exists. The 144-hour mark is Thursday at 10 a.m. Counsel prepares before that mark and applies once the statutory more-than-144-hour condition is met, using the arrest/custody record and docket. Do not add another weekend extension to the already selected 144 hours. A written certification filed before the application that an indictment has been voted changes the analysis under subsection (2); preserve its actual filing time. [24]

7.3 Misdemeanor complaint custody under CPL 170.70

This provision concerns a defendant held pending a misdemeanor complaint for more than five days, excluding Sunday, without replacement by an information. On application the court must order recognizance unless the statutory waiver or compelling-good-cause exception applies. It is not a demand that the People already be trial-ready, and a supporting deposition is useful only insofar as the instrument as a whole satisfies the required conversion. [25]

The actual misdemeanor computation appears in section 7.7. The first qualifying day of custody counts under Neufeld, even if only part of that day remains; Sunday is excluded, and prearrest custody is not silently inserted into this postarrest clock. A legally sufficient timely information defeats the failure-to-replace premise; lack of readiness is a separate issue. The completed application identifies the commitment record, instruments, counted dates and exceptions rather than assuming the threshold. [25] [26] [36]

7.4 Readiness release is a separate inquiry

CPL 30.30(2) generally uses custody periods of ninety days for a felony case, thirty days for a misdemeanor punishable by more than three months, fifteen for the lower misdemeanor category, and five for a violation-only category, subject to the statute's exclusions and exceptions. Subsection (3) excludes specified homicide cases and addresses other custody and readiness circumstances. Subsection (4) governs excluded periods. These are not unqualified calendar-day deadlines. The remedy under subsection (2) is release on bail or recognizance on just and reasonable conditions; subsection (1) addresses dismissal on different periods. [26]

For example, a misdemeanor defendant cannot obtain a dismissal merely by showing thirty days of chargeable custodial unreadiness. Counsel must select the remedy, prove the custody and readiness ledger, and address exclusions and other holds. The episode's plea for faster adjournments and prompt discovery is practice advocacy, not a statutory rule that every detained case must be tried within two or three weeks. Discovery and readiness disputes require their own current analysis.

7.5 Revocation requires the correct branch

CPL 530.60(1) permits review and good-cause revocation, with a new order when release remains a matter of right. Subdivision (2) contains additional routes with specific grounds, proof standards, hearing protections, and remedies. Do not collapse them into a rule that any rearrest allows jail. [9]

Route	Predicate and proof	Material limit
530.60(2)(a)	Pending felony release and reasonable cause of specified later class A or violent felony or intimidation offense	Hearing; special detention period and termination rules under (2)(d)(i).
530.60(2)(b)(i)	Clear and convincing proof of persistent and willful failure to appear after notice	New securing order may include bail under the statutory criteria.
530.60(2)(b)(ii)–(iv)	Clear and convincing proof of specified protection-order violation, intimidation/tampering, or later felony circumstances	New bail or combined order subject to the stated findings; not unrestricted remand authority.

Subdivision (2)(c) provides a hearing with relevant admissible nonprivileged evidence, witnesses and cross-examination, subject to its express provisions. The special detention under (2)(a) is limited by (2)(d)(i), including a maximum ninety days excluding defense-requested adjournments and earlier specified charge reductions. Subdivision (2)(e) permits a distinct short hold in specified new-felony-complaint circumstances: seventy-two hours, with an additional seventy-two only on its stated grounds. These limits must be read with the precise route invoked. [9]

Editorial application. A client misses one date after an emergency hospitalization and appears voluntarily the next morning. That fact alone does not establish persistent and willful failure after notice. Offer the hospital proof and communication record; request identification of the asserted ground and required hearing. If the prosecution instead proves several intentional absences despite actual notice, the analysis changes. Still identify the authorized resulting order and preserve individualized findings rather than assuming every violation permits remand.

7.6 A dated felony calculation and completed application

Fictional client Devon Price is arrested and continuously held on a felony complaint beginning **Friday, September 11, 2026, at 10 a.m.** The arrest report, custody intake and arraignment minutes agree on that start. The Saturday and Sunday occur within the period, so CPL 180.80 uses 144 hours. Six times 24 is 144; the threshold arrives **Thursday, September 17 at 10 a.m.** Counsel checks the docket at 9:45 and again before applying at 10:01. The complaint has not been disposed of, no preliminary hearing has begun, and the supplied file contains no defendant-caused exception, qualifying grand-jury certification or filing, or compelling good cause. [24]

Completed oral application at 10:01 a.m. Counsel requests Devon Price's release on recognizance under CPL 180.80. Exhibit D1 fixes uninterrupted custody at September 11, 10

a.m.; D2 is the current felony complaint; D3 is the September 17 docket and hearing record. More than 144 hours have elapsed. Counsel asks the People to identify any statutory exception and its supporting facts. On this supplied record, counsel requests an immediate release order and transmission to the custodian, with a stated next appearance. This application seeks release on the complaint, not dismissal, and does not purport to vacate another custody mandate.

Change one event. At 10:00:30 a.m., before counsel's 10:01 application, the prosecutor files the statutory written certification that an indictment has been voted. Does crossing the 144-hour mark by itself eliminate the certification exception? Decide before reading on.

Answer. No. CPL 180.80(2) places the relevant certification or specified filing before the application. Counsel must obtain the actual document and filing time and test statutory compliance; calling it late merely because 144 hours had elapsed is insufficient. Conversely, an oral prediction that the grand jury will vote later is not the identified written certification. The application time, threshold time and filing time all belong in the record. Counsel continues other available release advocacy if this particular ground is defeated.

[24]

7.7 Counting the misdemeanor days from the actual commitment

Alex Chen is arrested Tuesday, September 8, 2026. Arraignment and commitment to the sheriff on a misdemeanor complaint occur **Wednesday, September 9 at 9:10 p.m.** Alex remains in custody. No information replaces the complaint, and there is no waiver, compelling good cause or separate hold. The first qualifying custody day counts even though only part of that day remains; Sunday does not count. The Court of Appeals in *People ex rel. Neufeld v McMickens*, 70 NY2d 763 (1987), adopted Justice Gibbons's dissent below on this computation. Do not adopt the reversed majority's contrary approach or substitute a 120-hour calculation. [25] [36]

Date	Event and computation	Running count
September 8, Tuesday	Arrest before arraignment; not the commitment day in this file	0
September 9, Wednesday	Arraignment and commitment at 9:10 p.m.; fraction of day counts	1
September 10, Thursday	Continuous custody on complaint	2
September 11, Friday	Continuous custody on complaint	3
September 12, Saturday	Saturday is counted	4

Date	Event and computation	Running count
September 13, Sunday	Expressly excluded	4
September 14, Monday	Fifth counted day	5
September 15, Tuesday	Sixth counted day; more than five	6

Completed request, September 15 at 9 a.m. Alex seeks recognizance under CPL 170.70. A1 is the September 9 commitment and arraignment record; A2 is the unconverted complaint; A3 is the current docket and filings checked this morning. The calculation above establishes six counted days with Sunday excluded. No waiver or compelling good cause appears in the supplied record. Counsel requests the People's position on conversion and exceptions, a ruling, the release certificate and a next appearance. Counsel does not assert that release dismisses the charge or establishes innocence. [25] [36]

Practice problem. Change commitment to Thursday, September 10 at 12:30 a.m.; keep arrest on September 8. Identify the sixth counted day. Then return to the original Wednesday commitment, but add a legally sufficient information filed Monday, September 14 at noon. Is the September 15 application still supported on the stated ground?

Reasoned answers. With Thursday commitment, Thursday is one, Friday two, Saturday three, Monday four, Tuesday five and **Wednesday, September 16 six**. Two prearrest days cannot be inserted into this clock simply because arrest occurred Tuesday. Under the second change, the timely replacement information defeats the stated failure-to-replace ground. Counsel must examine its actual sufficiency; a filing label alone is not enough. A separate readiness problem belongs under CPL 30.30, with its own ledger and remedy. These problems specify a timely filing and do not decide a disputed late-conversion case. [25] [26] [36]

7.8 A separate readiness ledger

A different fictional misdemeanor case has a legally sufficient information and continuous custody. Its maximum punishment is more than three months; no felony or excluded homicide is charged. The parties stipulate that three successive adjournments contain **12, 11 and 8 chargeable days**, the People have never been ready, no statutory exclusion applies, and no other sentence or custody mandate exists. This exercise begins with adjudicated chargeability, not raw dates, because disputed exclusions require a different evidentiary analysis. The sum is **31 chargeable days**. [26]

Counsel requests release under CPL 30.30(2)(b), addressing just and reasonable conditions and the supplied absence of other holds. Counsel does not seek dismissal merely because the thirty-day custodial threshold has passed; the ninety-day misdemeanor dismissal period in subsection (1)(b) is distinct. If seven of the final eight days are instead properly

excluded, the sum becomes $12 + 11 + 1 = 24$, and this release ground has not matured. Identify the ruling supporting the exclusion, not simply an unexplained docket code. The felony and misdemeanor-complaint calculations above remain separate inquiries.

7.9 Preserving a prearrest delay record

The state unnecessary-delay rule and federal prompt judicial probable-cause review address different questions. *People ex rel. Maxian v Brown*, 77 NY2d 422 (1991), addresses the New York statutory setting and a rebuttable presumption associated with arraignment delay beyond twenty-four hours. *County of Riverside v McLaughlin*, 500 US 44, 56–57 (1991), addresses the ordinarily forty-eight-hour federal probable-cause framework and explains that even a shorter delay may be unreasonable when used for an improper purpose. Neither number is a license to hold every person until it expires. [37]

A useful record identifies arrest, completion of necessary processing, any judicial probable-cause determination, court availability and the explanation for each interval. For an arrest Tuesday at 8 a.m. and arraignment Wednesday at 2 p.m., the interval is thirty hours; obtain the processing and court facts and raise the New York issue instead of asserting that federal forty-eight-hour language makes the delay necessarily lawful. This course does not resolve damages, immunity or a class remedy from those six excess hours alone.

8. Reviewing an unlawful or excessive order

Choose the procedure by the error, the court, and the record available.

8.1 Three avenues are not interchangeable

CPL 510.20 permits an application to change a securing order while the principal is confined as a result of it or a prior order. Counsel may present evidence and propose recognizance, nonmonetary conditions, or authorized financial alternatives. Dismissed or reduced charges require the specific reassessment described in subsection (3). This is often the place to develop new facts such as a confirmed placement or an updated financial record. A client already at liberty on bail has a different posture: seek review of the existing order under CPL 530.60(1), applying CPL 510.10, and request exoneration under CPL 510.40(1) if the court orders recognizance or nonmonetary release in place of bail. [1] [8] [9] [12]

CPL 530.30 permits specified superior-court relief while an action remains in local criminal court, including when the local court lacks authority, denies release, fixes excessive bail, or imposes unnecessarily restrictive nonmonetary conditions. It allows no more than one application under that section and contains requirements for felony matters. Prepare that application deliberately; do not describe every subsequent request as a new unrestricted 530.30 application. [10]

CPLR Article 70 supplies habeas relief concerning unlawful restraint and qualifying bail errors. Kon explains that a bail determination is not directly appealable, that habeas review does not rehear bail from scratch, and that review is confined to the record on which the determination was made. An appeal from a habeas judgment is different from a direct bail appeal. Where important new evidence was never presented below, consider obtaining a new securing-order determination that properly includes it. [3] [27]

8.2 Constitutional foundations without the shortcut

The recording's description of habeas as an embodiment of a Sixth Amendment right to freedom is imprecise. The federal Suspension Clause appears in Article I, section 9; the Eighth Amendment prohibits excessive bail; due process has separate Fifth and Fourteenth Amendment foundations. New York Constitution Article I separately addresses habeas, bail, and due process. Article 70 is the New York civil procedural vehicle. The Sixth Amendment's criminal-procedure guarantees do not replace those distinct sources or create a universal right to pretrial release. [28]

For most issues taught here, start with the precise statutory violation and the controlling bail decisions. A broad constitutional appeal cannot cure missing proof of release status, a failure to preserve the financial record, or the wrong requested remedy. Federal habeas exhaustion and jurisdiction are outside this course's New York bail-review scope.

8.3 Prepare the petition and the record

CPLR 7002(c) requires a verified petition or accompanying affidavit addressing detention and custodian, the mandate or why it could not be obtained, the asserted cause and illegality, exclusive federal jurisdiction, relevant appeals, and prior habeas applications and outcomes. Identify the actual custodian rather than naming a department casually. Section 7004 addresses the writ's direction and return. Obtain local emergency filing and service instructions; neither an old fax practice nor a general preference for email proves that service is sufficient. [27]

Forum deserves particular care in New York City. CPLR 7002(b)(5) specifies the county where the charge is pending for a trial prisoner held in a city detention institution, while also addressing applications to the Appellate Division or a Supreme Court justice. The special return provision matters. The physical location of Rikers is not a universal answer to where a Queens case's writ belongs. Read the statutory route and the relevant court's current requirements together. [27]

Completed record index. A bail challenge ordinarily needs the accusatory instruments; all relevant securing orders; transcript of the challenged determination; the financial and release-plan submissions actually before that court; underlying-case records if harm on harm is asserted; disposition documents for any dismissed basis; current custody proof; and an accurate prior-application history. The legal argument maps each error to the record and requests a remedy the reviewing court can give. Absence of minutes should be explained and addressed, not filled with an invented quotation.

8.4 Match relief to the defect

Kon is especially useful because it distinguishes a failure to explain an otherwise authorized order from automatic entitlement to discharge. The majority treated the deficient ruling as an abuse of discretion, reversed the dismissal of the writ, and remitted to the Appellate Division for a new securing order complying with CPL 510.10. Darocha instead remitted to the bail-setting court after addressing the loss of the asserted qualifying basis and the absence of individualized findings. The reviewing forum and identified defect therefore matter when choosing a proposed disposition. Counsel should not promise that a silent record necessarily produces unconditional release. CPLR 7010 separately addresses discharge, excessive-bail relief, and denial of relief. [3] [11] [29]

Editorial argument outline. On Jordan's assumed record, counsel identifies the missing individualized flight-risk finding, the absence of reasons for rejecting the supported alternative, and any failure to consider the financial evidence. The argument cites the exact pages containing the application and ruling, invokes Kon, and requests appropriate relief under Article 70 and CPL 510.10. It does not ask the habeas court to accept a new employer letter as though it had been part of the original record.

Different defect. If Sam's sole qualifying basis disappeared after dismissal of the earlier case, the application should separately explain CPL 510.20(3) and Darocha. If the asserted basis is parole under subsection (4)(r), Boksenbaum supplies a direct statutory distinction. These are not interchangeable complaints that the number feels high. [4] [11]

8.5 Release during litigation does not justify delaying release

The episode notes that prompt payment can overtake a writ. Counsel should pursue the client's release objectives while assessing mootness and any continuing restraint. Welch demonstrates that the Court of Appeals converted that proceeding to a declaratory judgment action once affirmative habeas relief was unavailable, but that outcome is not automatic in every case. Preserve the issue and evaluate the available procedural route; do not keep a client detained merely to maintain a preferred test case. [2] [14]

8.6 Completed Article 70 petition: Jordan Vale

The following is a fictional teaching specimen tied to J1–J7 in Chapter 3. It supplies substantive allegations and requested relief; it is not a filed or executed document. Local emergency presentation, electronic filing, service recipients and the assigned return part must be confirmed in an actual case. The proposed court directions in section 8.8 require judicial issuance. [27] [38]

Supreme Court of the State of New York, County of Queens. The People of the State of New York ex rel. Elena Cruz, on behalf of Jordan Vale, petitioner, against the Commissioner of the New York City Department of Correction, as custodian of Jordan Vale, respondent.

Verified petition for a writ of habeas corpus. Counsel must substitute the verified incumbent and custodial description for an actual filing; this educational specimen uses the office rather than inventing an incumbent's name.

1. Relator and restraint. Elena Cruz is Jordan Vale's attorney in the Queens indictment QN-TEACH-260901. Jordan is restrained at a New York City detention institution on Rikers Island in Bronx County pending that Queens charge. In this fictional record, J8 is the custodian's September 22, 8:30 a.m. written status response confirming continued detention solely under the September 21 securing order, with no separate warrant, sentence or other hold identified. Counsel requests a prompt return disclosing any additional basis for custody.

2. Forum. The charge is pending in Queens and Jordan is a trial prisoner held in a city detention institution. This application is made to Supreme Court, Queens County under CPLR 7002(b)(5). The proposed return is to that court. The detention location is relevant to notice and custody; it does not displace the statutory charge-county provision. [27]

3. Mandate. J7 is the September 21 written order fixing \$10,000 cash, \$20,000 insurance-company bond, or \$30,000 partially secured surety bond at five percent. Jordan has been unable to post those alternatives. J6 contains the bail proceeding, including the parties'

presentations, ruling and counsel's request for reasons. Copies are supplied; counsel is not asking the court to proceed without an obtainable mandate.

4. Record presented below. The bail court received J1 appearance history, J2 limited hospital proof, J3 residence confirmation, J4 employment and travel arrangement, and J5 the financial schedule showing \$450 presently available after identified essential expenses. Counsel sought recognizance or weekly reporting and reminders. The People relied on the alleged weapon, serious injury and potential sentence. Jordan does not concede guilt; this petition concedes the stipulated qualifying-felony classification for purposes of reviewing the selected order.

5. Error. The court said that it considered the factors and then imposed the alternatives, without identifying an individualized flight-risk determination or explaining why that order reasonably assured return. When Cruz requested those reasons, the court stated that its order stood. The petition challenges that omission under CPL 510.10(1), not the court's mere failure to accept defense advocacy. The \$1,500 partial-bond deposit also exceeds the \$450 shown as available, but the pleaded statutory defect does not depend on proving that inability alone compels recognizance. [1] [3]

6. Scope and other proceedings. Jordan is not detained under exclusive federal jurisdiction. No direct bail appeal is pending, and counsel identifies no prior Article 70 application concerning this order. No appeal has been taken from a judgment in the criminal case, which remains pretrial. If any prior application or appeal existed, CPLR 7002(c) would require its disclosure and status; a lawyer must not reuse this paragraph without checking the complete file. [27]

7. Requested relief. Issue the writ or appropriate order requiring a return and prompt determination. Find that the unexplained order failed to comply with CPL 510.10(1), grant relief consistent with CPLR 7010 and Kon, and direct a prompt new securing-order determination supported by individualized findings and reasons on the record. Address lawful interim custody or release expressly. Petitioner does not ask the court to infer a new factual record, substitute a de novo bail hearing under the label of review, or promise automatic unconditional release from this defect. [3] [29]

Verification — completed fictional wording, September 22, 2026. I, Elena Cruz, am the attorney-relator. I have read this petition and know its contents. The statements concerning my representation, my submission of J1–J5 and my participation in the September 21 proceeding are true from personal knowledge. The custody statement is based on the September 22 written confirmation J8; the residence, employment, medical and financial statements are based on J1–J5, identified and presented at the bail proceeding. Those statements are made on information and belief, and I believe them true based on those records and my investigation described in the petition. I have checked our case and application records concerning the prior-proceeding statements. Elena Cruz, attorney-relator. This is the text to be subscribed and sworn in the fictional packet; no actual

signature, oath or notarization is represented. A live filing requires proper execution of the verified petition or supporting affidavit. [27]

8.7 The supporting record and completed argument

Exhibit	Supplied content	What it establishes and what it does not
J1–J2	Eight of nine appearances; February 11 absence during February 10–12 hospital stay; voluntary return February 12	Supports the explanation for the missed date; does not erase the absence or decide every flight factor.
J3–J4	Six-year residence; verified work schedule and travel plan	Makes return arrangements concrete; employment is not a legal prerequisite to release.
J5	\$1,450 savings less \$700 rent and \$300 essentials equals \$450	Supports hardship and accessibility analysis; aunt's residence support is not a promise to fund bail.
J6	September 21 minutes, including both arguments, ruling and request for reasons	Fixes the record for review and exposes the missing reasoning.
J7	Entered securing order and October 5 appearance notice	Identifies the operative mandate and future obligation.
J8	September 22 custody confirmation described in the petition	Establishes continuing restraint; does not introduce new merits evidence into the challenged bail determination.

Petitioner's argument. Eligibility and a lawful exercise of discretion are separate. The qualifying charge permitted the court to consider financial conditions, but the statute still required an individualized determination and explanation. J6 shows no such explanation. The prosecutor's weapon and injury arguments could matter under the statutory factors, yet a reviewing court cannot guess which arguments the bail court accepted or how they supported its chosen restrictions. Counsel therefore seeks a new compliant order under Kon rather than a finding that every fact favors Jordan or that the reviewing court should select bail afresh. [1] [3]

Respondent's strongest answer. The serious allegation and potential sentence were discussed; the court stated that it considered the factors; three authorized financial forms

were provided. The respondent would argue that the basis can be understood from the full hearing and that the defense is seeking impermissible reweighing.

Reply. Three lawful forms answer a forms question; they do not supply the omitted individualized reasoning. Kon rejects speculation about which party's arguments the court adopted. The application expressly preserves the charge's qualifying status and asks for correction of the decision process. If the actual minutes instead included substantive findings connecting the facts to flight risk and the selected order, this omission theory would weaken substantially; counsel would need a different, record-supported claim of abuse, not an assertion that all unfavorable bail orders are reviewable anew. [3]

8.8 Proposed writ, service and return sequence

Proposed writ — submitted for judicial consideration, September 22. To the Commissioner of the New York City Department of Correction, as custodian of Jordan Vale: make a return stating by what authority Jordan Vale is detained, attaching each operative mandate, before Supreme Court, Queens County, at the court-designated return part on September 23, 2026 at 2 p.m. Produce the detained person as the court directs. Pending determination, custody and any interim release remain subject to the court's express order. Deliver the return and accompanying papers as directed by the court. This proposed text has no legal effect unless issued. [27] [38]

Proposed expedited notice direction. Petitioner requests an order authorizing personal service of the issued writ and petition on the custodian, and notice with copies to the Queens County District Attorney and the Bronx County District Attorney, by September 22 at 4 p.m., with proof filed before the return. The proposed shortened schedule requires the court's authorization; it does not arise merely because counsel marks the papers urgent. CPLR 7009(a)(3) ordinarily provides eight days' personal notice, or another time and manner the court orders, to the district attorneys for the detention county at service and the commitment county. Here both are identified. Actual delivery details and any other required notice must conform to the issued order and statute. [38]

Completed teaching sequence. At 9 a.m., Cruz checks current restraint and finishes the petition. At 10:15, counsel presents it through the court's confirmed emergency channel and requests the return part and shortened notice direction. In the exercise the court issues those directions at 11:30. An authorized process server personally delivers the writ and petition to the custodian's proper recipient at 1 p.m.; the required district-attorney notices are personally delivered at 1:40 and 2:10. The server's proof identifies recipient, place, manner and time; counsel files it at 3 p.m. These are invented completion events demonstrating the sequence, not evidence that a real court or agency accepted service.

At the September 23 return, the custodian's sworn return attaches J7 and confirms no additional mandate; the People oppose on the grounds in section 8.7. Cruz files a sworn reply disputing the proposed inference of reasons and identifying the relevant minute

pages. CPLR 7008 governs the return; CPLR 7009 provides for the reply and summary determination. For a writ returnable forthwith, the return timing differs, including the statutory twenty-four-hour requirement. A routine email or filing receipt alone does not establish personal service or satisfy a separately ordered notice requirement. [38]

Proposed disposition — fictional terms for judicial consideration. The petition is granted to the extent of finding that the September 21 securing order lacked the individualized determination and substantive explanation required by CPL 510.10(1). The matter is remitted to the bail-setting court for a new securing-order determination, on the existing record and any properly submitted additional evidence, by September 24, 2026 at noon, applying CPL 510.10(1). Respondent shall produce Jordan for that proceeding as directed by the criminal court. Pending that prompt determination, the September 21 order remains the interim securing order, subject to further order of this court; this judgment does not authorize detention under that interim provision beyond the stated deadline without further judicial determination. Counsel shall promptly notify this court if the hearing cannot occur within that period. These proposed interim terms are not themselves a ruling and must be settled by the issuing court under CPLR 7009 and 7010. Counsel obtains the entered disposition, confirms the new hearing and follows the actual custody record. A challenge to the habeas judgment follows CPLR 7011 and applicable appellate procedure; it is not a direct bail appeal. [3] [11] [29] [38]

8.9 Changed evidence: an offer that did not exist below

On September 22, Jordan receives a new confirmed residential-program offer that was never before the bail court. Should counsel place it in J4 and say the September 21 judge ignored it? Should counsel abandon a valid omitted-reasons claim?

Answer. Do neither. Preserve the original J4 and identify the offer as new evidence with its actual date. Consider a new securing-order application under CPL 510.20 that presents the program's terms and connection to return, while accurately maintaining any pending record-based claim. Counsel must coordinate the proceedings and disclose later orders or release; a new order can change the relief still at issue. Kon's record boundary prevents relabeling later evidence as part of the old record. If Jordan is released, analyze mootness and available procedural treatment rather than assume that every habeas claim survives or that Welch guarantees conversion in every case. [2] [3] [12]

9. The federal comparison

Similar vocabulary conceals a different statutory decision.

9.1 Appearance and safety are both express considerations

The episode describes federal presentments, unsecured bonds, sureties, and pretrial supervision through counsel's practice experience. The governing federal framework is 18 USC 3142. It provides for recognizance or an unsecured appearance bond, conditional release, specified temporary detention, and detention following the statutory hearing. Conditional release uses the least restrictive further condition or combination that reasonably assures appearance and safety. The court may not impose a financial condition that results in pretrial detention under subsection (c)(2). [30]

That financial-condition rule does not prohibit detention under subsections (e) and (f). Counsel must examine the hearing trigger, applicable rebuttable presumptions, information relevant to appearance and safety, and whether conditions can adequately address the risks. The statute specifies clear and convincing evidence for the finding that conditions will not reasonably assure safety. It permits proffers and does not apply criminal-trial evidence rules wholesale to the detention hearing. [30, subsections (e)–(g)]

9.2 Do not turn one practitioner's experience into a mandate

Federal electronic monitoring is not a universal condition for everyone released, nor is every federal bond necessarily unsecured. The statute lists alternative conditions and contains specific monitoring requirements for certain enumerated cases. Read the actual charge, applicable statutory provisions, governing constitutional decisions where a mandatory condition is disputed, and the order. The comparative lesson is that a New York return-focused argument cannot simply be copied into a federal case without addressing the separate safety inquiry. [30]

An initial appearance or complaint presentment also differs from an arraignment on an indictment or information. Federal Rules of Criminal Procedure 5 and 10 identify those distinct events; a person may appear on a complaint before indictment. Arrange any surrender, counsel access, and initial-appearance preparation without assuming the episode's timing anecdote is a guaranteed same-day release protocol. [31]

Editorial comparison. If Jordan is charged federally, the verified job, address, appearance history, and proposed sureties remain useful. But counsel must add the section 3142 analysis of the charged offense, any detention-hearing basis or presumption, and safety-related evidence and conditions. If release conditions are already imposed, subsection (c) (3) allows amendment. Reopening a detention hearing under subsection (f) requires the specified previously unknown information materially bearing on the release question. A new document and a new legal standard are not the same thing. [30]

The recording's comments about government employment do not alter a federal defender's duty to the client. Public funding does not make defense counsel an advocate for the prosecution. Evaluate communication, preparation, independence, and effective representation rather than assuming quality from public or private status.

9.3 Hearing authority, proof and conditions are three questions

In a federal file, counsel should identify the subsection authorizing a detention hearing before debating the outcome. Section 3142(f)(1) lists categories on the government's motion; subsection (f)(2) addresses serious flight or obstruction risks on the government's or judicial officer's motion. A qualifying hearing does not itself prove that detention is required, and a rebuttable presumption under subsection (e) must be identified from its own predicates. The statutory finding concerning the inadequacy of safety conditions requires clear and convincing support. Written detention findings and reasons are required by subsection (i). [30]

Bounded comparison exercise. Assume the federal charge and record satisfy an identified subsection (f)(1) category. The prosecution proffers a documented threat to a prospective witness, while Jordan offers only a stable address and good appearance history. What is missing? The defense must confront the safety evidence and consider a supported, workable combination addressing the alleged threat, including the practical ability to avoid contact and the reliability of supervision. A perfect attendance history does not answer witness safety. Conversely, the court cannot use an unaffordable financial condition as an informal substitute for the statutory detention process. The facts here do not establish whether a particular condition is sufficient; they identify the additional question the federal lawyer must answer. [30]

If new information later materially changes the assessment, explain when it became known and why it matters before invoking reopening under subsection (f). An ordinary request to amend conditions under subsection (c)(3) and a request to reopen a detention hearing have distinct predicates. This comparison does not replace circuit-specific detention law or constitutional analysis of a contested mandatory condition.

10. An integrated release plan

Carry eligibility, financial advice, implementation, and review through one case.

10.1 The facts and the first recommendation

Editorial hypothetical. Morgan faces a new class A misdemeanor theft allegation involving \$90 of groceries and is alleged to have committed it while released after posting bail on a separate felony involving identifiable property damage. The prosecution supplies detailed instruments and reliable witness accounts for both allegations. The defense disputes intent in the new case. Morgan has stable work, a working phone, six prior appearances, no flight history, and \$700 available after essential expenses. A sister can offer a \$500 deposit but will not risk her apartment. There is no other hold. These are invented teaching facts.

Counsel first analyzes subsection (4)(t), including the release chronology and proof of both crimes. Welch forecloses the argument that posting bail on the first matter excludes the release status. Counsel nevertheless contests any unsupported element and develops the negligible-theft question from the allegations rather than inventing a statutory \$100 threshold. If the court finds that exception applies, it should order recognizance or appropriate nonmonetary conditions under the provision. If it does not, counsel requests recognizance based on appearance history and the verified plan, with a realistic reporting alternative. [1] [2]

10.2 If the judge sets three financial alternatives

Assume the court instead sets \$5,000 cash, \$10,000 insurance bond, and \$20,000 partially secured surety bond at ten percent. The court gives reasons, but counsel believes it inadequately addressed the financial record. The court-deposit alternative requires \$2,000, beyond the stipulated \$1,200 total accessible resources. The insurance maximum premium is \$860 before any reasonable collateral, but the sister refuses to pledge housing. Counsel explains that her refusal is legitimate and does not imply a failure to support Morgan. [6] [16]

The next application should identify why the ordered alternatives are inaccessible without undue hardship and propose a concrete adjustment: for example, an unsecured surety bond or a lower undertaking with a deposit the proposed obligor can lawfully provide. The lawyer obtains informed instructions and the statutory affidavit; the advocate collects supporting records. The proposal should connect the amount and form to return-to-court concerns, not merely to the funds the family happens to have.

Completed financial note. Available client funds \$700; voluntary family funds \$500; total \$1,200. Existing partially secured deposit \$2,000; shortfall \$800. Proposed \$10,000 partially secured surety bond at five percent requires \$500 and leaves potential exposure beyond that deposit. The signer must understand the full undertaking. The lawyer requests lawful

alternatives under CPL 520.10 and individualized reconsideration under CPL 510.20, supported by the original record and new documentation. No approval is assumed. [7] [12]

10.3 Implement the order and review the case again

If the revised undertaking is approved, the team follows Chapter 5's posting-to-release steps, confirms every docket and hold, and gives Morgan clear written instructions. The file identifies who will confirm release, who will send reminders, and who will review the next appearance. A receipt is retained with the approved order and undertaking.

Later variant. The separate felony is dismissed after Morgan's release on the revised bond. Counsel obtains the disposition and requests review of the existing bail order under CPL 530.60(1), identifying the lost harm-on-harm basis and Darocha. If no independent qualifying route remains, the court must apply CPL 510.10's nonqualifying framework. Counsel requests recognizance or appropriate nonmonetary conditions and, if that relief is ordered, exoneration of the bail under CPL 510.40(1). CPL 510.20(3) addresses the corresponding changed-charge application when the principal is still confined under a securing order; it is not the procedural route for this released-client variant. Obtain the ruling and new order, and complete the exoneration and return-of-deposit process rather than assuming that dismissal automatically cancels the existing order. [1] [8] [9] [11] [12]

Compliance variant. If Morgan is instead released on monitoring, counsel calendars the sixty-day expiration and requests appropriate reduction at intervening appearances based on the compliance record. If Morgan receives a later allegation, counsel distinguishes new-case eligibility under subsection (4)(t) from revocation of the earlier order under CPL 530.60 and requests the procedure applicable to each. [8] [9]

10.4 What persistent advocacy looks like

Repeated effort should add a legal ground, new evidence, or a workable implementation step. A program letter may resolve a missing placement; a corrected instrument may eliminate eligibility; a documented family budget may expose an inaccessible deposit; an order-transmission receipt may locate the release obstacle. Repetition without an identified change can obscure the strongest issue. Maintain one custody and application chronology with dates, court, relief, outcome, and next owner.

Client communication closes each stage. State what the order permits, what must still happen, which restrictions continue, and when counsel will act again. Do not promise a release time outside counsel's control. If the family asks whether to replace appointed counsel, discuss the actual communication and representation concerns; do not disparage an entire category of lawyers or abandon an urgent task while a possible substitution is unresolved. [14]

10.5 Morgan's dated source file and reconsideration

The following dates complete the fictional sequence in sections 10.1–10.3. P1 is a July 20, 2026 felony property-damage complaint and its supporting witness statement. P2 records Morgan's release after posting bail on July 21. P3 is the new misdemeanor instrument alleging September 14 theft of \$90 in groceries; its witness gives firsthand observations, recovery details and a basis for identification. September 15 is the new arraignment. These documents support a conduct-after-release sequence. The merits remain disputed, and the court must still decide the negligible-theft exception from the allegations. No statutory dollar cutoff is supplied. [1] [2]

Completed reconsideration submission, September 15. Defense renews its request for recognizance or a feasible reporting condition. Six recorded appearances, verified employment, a functioning contact method and no established flight history support return without money. If the court declines that request, Morgan asks that the \$20,000 partial bond at ten percent be replaced by a \$10,000 partially secured surety bond at five percent, or an unsecured surety alternative the court finds appropriate. The existing deposit is \$2,000; \$700 from Morgan plus \$500 voluntarily available from Priya totals \$1,200, an \$800 deficit. Priya declines any housing pledge. Counsel submits the financial schedule and the completed surety materials in Chapter 4, explains full undertaking exposure, and requests reasons addressing the actual alternatives. [1] [6] [7] [12]

Teaching result. In this branch, the court approves the \$10,000 partial bond at five percent, giving reasons on the record. Priya knowingly elects to provide its \$500 deposit from the documented lawful funds; this does not represent a finding that a person with no available surety must remain detained. Chapter 5 follows the order through approval, certificate and actual release. Its added second-docket flag is an expressly labeled operational variation; the base file here has no other hold.

Later completed application, September 28. Morgan was released on the revised bond on September 15, and the earlier felony was dismissed on September 24. Counsel submits the filed dismissal and updated dockets, identifies CPL 510.10(4)(t) as the only asserted qualifying route, and requests review of the existing bail order under CPL 530.60(1). With no remaining independent qualifying basis established, Morgan requests recognizance under CPL 510.10(3), or appropriate nonmonetary conditions if the court makes the required finding that recognizance will not reasonably assure return. Six recorded appearances, verified employment and the documented contact plan support that request. Counsel also requests exoneration of the bail under CPL 510.40(1) if recognizance or nonmonetary release replaces the bond. Darocha supports requiring the court to confront the dismissed basis; it does not make dismissal an automatic clerical cancellation of every order. Counsel obtains the new order and exoneration paperwork and confirms the return-of-deposit process with the court. If Morgan instead remained confined, the changed-charge application would invoke CPL 510.20(1) and (3). [1] [8] [9] [11] [12]

10.6 A fresh case: decide before reading the answer

A new client, Casey, is arrested September 18 for conduct alleged to have occurred September 10. Casey first received a DAT on a separate class A misdemeanor on September 12. The new allegation is a \$12 theft, with no damage or alleged further criminal activity. The prosecutor invokes only CPL 510.10(4)(t), points to the later arrest date, and requests money bail. Casey has no other qualifying circumstance or revocation allegation in the supplied file. Separately, a family member offers \$300 toward a hypothetical \$15,000 bond at three percent.

Prepare a short recommendation identifying the threshold issue, the significance of the small amount, the deposit arithmetic, and the first relief to request. Then change only the conduct date to September 14 and add reliable allegations that the theft supplied a coordinated resale operation. What changes, and what remains unresolved?

Reasoned answer. In the first file, the new conduct preceded the DAT. The later arrest cannot establish conduct while at liberty after that DAT. Counsel challenges the asserted qualifying route first and requests the applicable nonqualifying order. The negligible-theft exception is an additional issue, not a reason to skip the failed chronology. The hypothetical deposit is $\$15,000 \times 0.03 = \$450$, leaving a **\$150** shortfall; inability to fund it is not the primary defect where money bail lacks statutory authority. [1] [6]

In the changed file, the chronology could satisfy the release-sequence requirement, but the People still must establish the statute's other predicates and reasonable cause for the crimes. The alleged further criminal activity prevents reliance on price alone to establish the two-part negligible-theft exception. If eligibility is established, the individualized order remains contested. Counsel develops the actual return record and financial circumstances and seeks reasons; eligibility does not command money bail or make \$450 accessible. A reasoned response changes with the facts without collapsing eligibility, discretion and implementation into one question.

11. Related remedies and reentry lessons

The episode's later examples teach how to identify the right source of restraint and the right kind of relief.

11.1 A sentence is different from an administrative addition

Bryant Bell recounts helping challenge postrelease supervision that correctional officials imposed although a judge had not pronounced it. The course cannot identify that individual's case from the anecdote. A verified doctrinal illustration is *Matter of Garner v New York State Department of Correctional Services*, 10 NY3d 358 (2008). Garner's sentencing and commitment records omitted a PRS term; DOCS later imposed one. The Court of Appeals held that only the sentencing judge could pronounce that component and granted Article 78 prohibition against the administrative addition. It resolved the case on statutory grounds. [32]

Garner did not hold that every person with an omitted PRS term must receive permanent unconditional release, and it did not determine every possible resentencing issue. A present case requires the plea and sentencing minutes, commitment papers, supervision documents, any later judicial sentence, and all current custody mandates. Identify whether the challenge concerns an administrative act, a judicial sentence, or custody under a violation. Choosing the remedy from the word parole alone risks attacking the wrong act.

11.2 Article 70 and Article 78 do different work

Article 70 addresses unlawful restraint and the bail-review issues described above. Article 78 permits specified review of governmental action: failure to perform a legally required duty, excess of jurisdiction, legal or procedural error, arbitrary-and-capricious action or abuse of discretion, and substantial-evidence questions in the specified hearing posture. Finality, available administrative remedies, and statutory limits on review must be addressed. The ordinary CPLR 217(1) period is four months from the final-and-binding determination or the relevant refusal, unless a shorter governing period or applicable exception changes it. [27] [33]

Editorial application. A client challenges a final denial of a prison program or parole release. Counsel obtains the determination, service or receipt facts, hearing record, governing eligibility provision, and administrative-appeal materials before calculating the judicial deadline. A challenge to the reasons or procedure may produce a new lawful determination rather than immediate release. Bell's account of receiving another parole hearing illustrates that difference in remedy. It is not evidence that every successful Article 78 proceeding ends confinement.

Changed posture. If an administrative appeal is required and remains pending, assess finality and exhaustion before filing. If immediate release from unlawful custody is the actual objective, assess Article 70 and any limitations rather than mechanically calling

every challenge an Article 78 appeal. Do not let a request for records consume the period for preserving a timely remedy.

11.3 Institutional conduct matters within a statutory route

The recording links prison conduct to opportunities created by Rockefeller-era drug-law reforms. Those reforms contain different eligibility pathways. As one concrete example, CPL 440.46 addresses specified class B Article 220 offenses committed before January 13, 2005, qualifying indeterminate sentences, custody, and exclusions. Only after identifying the applicable route should counsel assess the institutional record. The statute directs attention to programming and disciplinary history and protects a person's inability to participate despite willingness from being treated negatively. [34]

Application. A disciplinary incident is not automatically a statutory eligibility bar for every resentencing remedy. Conversely, a strong programming record cannot create eligibility for the wrong offense or sentence. Obtain the conviction, sentence, predicate history, disciplinary decisions, available programs, and evidence of attempted participation; distinguish threshold eligibility from the merits. The anecdote does not support promising resentencing or release in a particular case.

11.4 Clemency and collateral relief are separate branches

A challenge seeking vacatur or correction of a conviction or sentence differs from an executive request for clemency. New York Constitution Article IV, section 4 supplies the Governor's pardon and commutation authority, subject to its terms. Counsel should identify the client's objective, litigation posture, available record, and effect of any factual submission before selecting or combining routes. The episode's clemency question and Bell's desire to overturn his conviction do not establish the merits of either application. [28]

A certificate of relief from disabilities under Correction Law 701 can remove specified automatic disabilities for an eligible person; it does not erase a conviction or guarantee a job or license, and its coverage has limits. The current voting rule also requires care: Election Law 5-106's felony-based exclusion applies while a person is incarcerated for the felony, not throughout every period of parole. Eligibility still requires the other voting qualifications and registration. Do not tell a released client that a certificate or early discharge from parole is invariably needed to regain the franchise. [35]

Practical lesson. Verify the written supervision terms before a client changes a curfew, work schedule, travel plan, or treatment arrangement. Productive activity can support a modification request; it does not itself cancel restrictions. A client's progress should inform a realistic plan without implying that poverty, unemployment, or lack of family support makes the client undeserving of lawful relief.

11.5 Reading the mandate before choosing the remedy

Fictional comparison. File R contains sentencing minutes pronouncing a five-year determinate prison term and commitment papers with no PRS term. A later administrative release document adds five years of PRS. Counsel has found no intervening judicial resentencing. Garner identifies the central problem: the administrative body cannot perform the sentencing judge's function. The completed issue note should identify the conflicting documents, the responsible act and the requested prohibition, while investigating any later judicial sentence and present custody. The case does not determine that the conviction vanishes or that every current hold is invalid. [32]

Now change the record: certified minutes show a later judicial resentencing that expressly imposed PRS in the person's presence. The immediate challenge can no longer rest solely on the assertion that an agency added the term. Obtain that proceeding's full record, jurisdictional basis, notice, representation and available review routes. Whether that judicial sentence is valid requires its own analysis. Calling both situations an administrative error would direct the lawyer to the wrong act and potentially the wrong remedy.

Garner also illustrates a citation trap: the Attorney General abandoned the limitations defense, so the Court of Appeals did not decide it. The decision is not authority that every Article 78 challenge to an administrative PRS addition is timely regardless of elapsed time. Its disposition was without prejudice to appropriate resentencing proceedings in the proper forum. [32]

11.6 A completed administrative-review calendar note

In this separate fictional program-denial file, counsel verifies that a written determination became final and binding on **May 12, 2026**, and that every required administrative review was completed that day. The exercise stipulates no shorter statute, toll, disability or unresolved finality question. Four calendar months reaches **September 12, 2026**, a Saturday. General Construction Law 25-a moves this assumed statutory deadline to the next business day, **Monday, September 14**. Counsel sets the internal filing target at **September 10**, allowing time to resolve filing problems before the legal deadline. The calculation depends on the stipulated May 12 final-and-binding event; it is not a rule that all administrative matters accrue on receipt. [33] [39]

Completed remedy note. The client's objective is a lawful reconsideration of the program denial. Obtain the final determination, governing program criteria, complete administrative record and exhaustion documents; assess the particular legal error under CPLR 7803. The proposed judicial relief is annulment and a new lawful determination on the established record, with any more specific relief supported separately. Neither a favorable ruling nor a new hearing necessarily ends a sentence. Counsel will not wait for a voluntary records response beyond the preservation date.

Changed facts and answer. If the May 12 letter expressly allows a required administrative appeal that remains pending, revisit finality and exhaustion before treating May 12 as the stipulated accrual event. Record the appeal deadline and available interim route; do not simply delete all deadlines. If the actual objective becomes immediate release from allegedly unlawful custody, reassess Article 70 and other applicable limits. Remedy choice begins with the source of restraint and the relief the court can lawfully give, not the heading on the first form counsel finds. [27] [33]

11.7 Reentry advice without overpromising

For a specified CPL 440.46 application, the threshold conviction, sentence and custody requirements precede the discretionary institutional record. A client who repeatedly sought an unavailable program should retain the requests and denial or wait-list responses; absence of participation despite willingness is not the same factual record as refusing available programming. Neither set of facts supplies eligibility for a conviction outside the selected statutory route. [34]

For a released client asking about work and voting, counsel should separate three questions: current supervision conditions, any automatic occupational disability, and voter eligibility. A certificate can address specified disabilities within Correction Law 701 but does not erase the conviction or assure employment. Under Election Law 5-106's current felony provision, incarceration for the felony is the relevant exclusion, not a blanket continuation through parole; other voter qualifications and registration still matter. The practical work product is accurate, individualized advice and a lawful modification request where needed, not a promise that a certificate resolves every collateral consequence. [35]

Review and practice tools

Use the answers to test the legal distinction, then adapt the worksheets to a real file.

Question 1 The third alternative

The judge offers cash, insurance-company bond, and credit card. Is the three-form requirement satisfied?

Answer. No. Although three forms are named, CPL 520.10(2)(b) also requires an unsecured or partially secured surety alternative. Request that form and a usable amount; credit card can remain as an additional alternative. The error is in the specified forms, distinct from whether the amounts are justified. [6]

Question 2 A substantial undertaking

A \$60,000 partially secured surety bond is set at five percent. What must be explained?

Answer. The initial deposit is \$3,000, not \$6,000. The full undertaking is \$60,000, with potential liability beyond the deposit. It is not an insurer premium. If there are multiple obligors, examine the joint-and-several undertaking rather than promising equal fractional exposure. Approval requires the statutory papers and any lawful inquiry. [7] [15]

Question 3 Release after posting bail

The new charge is otherwise nonqualifying; counsel argues that the client paid bail in the earlier case and therefore was not released under conditions. Does that defeat harm-on-harm eligibility?

Answer. No. Welch rejects that interpretation for CPL 510.10(4)(t). Counsel must examine the other requirements, reasonable cause for both offenses, chronology, any negligible-theft exception, and then the separate individualized order. [2]

Question 4 A monitor that continues without review

The client has completed sixty days without a violation. Does monitoring automatically renew, or must it automatically disappear forever?

Answer. Neither formulation is accurate. CPL 510.40(4)(d) permits renewal only after notice, an opportunity to be heard, and a fresh individualized determination with reasons. Subsection (3) separately requires consideration of less burdensome terms at future appearances based on compliance. Seek a ruling before expiration and clear written instructions. [8]

Question 5 The unexplained order

On a qualifying felony, the judge states only that all factors were considered and remands. Is immediate unconditional release the inevitable habeas remedy?

Answer. No. Kon requires substantive reasons and treats the deficient ruling as an abuse of discretion, but its remedy was a new compliant securing-order determination through remittal. Identify the precise defect and seek relief under the statute and current cases; do not substitute a promise of discharge. [3] [29]

Question 6 Supervision and status

The instrument alleges a new felony during parole. Does subsection (4)(r) apply because parole and postrelease supervision sound similar?

Answer. No. Boksenbaum holds that parole is a separate status and is not named in that provision. Examine other possible qualifying grounds and any separate custody mandate. If the documents actually establish postrelease supervision, the analysis changes. [4]

A completed custody and action ledger

Editorial specimen using Morgan's case; dates and facts are invented.

Event or issue	Evidence retained	Action and responsible person
New arraignment and harm-on-harm claim	Both instruments, earlier release order, conduct chronology	Lawyer tests reasonable cause and exception; requests individualized findings.
Unaffordable \$2,000 deposit	Order, \$700 client resources, \$500 voluntary family support, essential expenses	Advocate collects authorized records; lawyer presents specific lower-deposit or unsecured alternative.
Revised bond approved and posted	Undertaking, approval, receipt, release certificate	Assigned team member verifies custodian receipt, other holds, actual release and client instructions.
Earlier felony dismissed	Filed disposition and current docket	Lawyer requests review under CPL 530.60(1) and 510.10 because Morgan is already released; obtains the new order and any bail exoneration under 510.40(1). Use 510.20(3) for the corresponding confined-client application.

Reusable preparation sheet

Case and client: identify each docket, court, custodian, charge subsection, arrest and commitment time, next appearance, counsel, and safe contact method.

Authority: record every asserted qualifying provision, its predicate facts, competing interpretation, evidence for each required crime, exceptions, and the requested ruling.

Release proposal: state the verified appearance history, explanation for absences, practical support plan, financial resources and hardship, proposed forms and amounts, and exact conditions sought.

Implementation: identify who prepares affidavits, posts funds, obtains approval, transmits the release certificate, checks holds, confirms release, and gives written instructions.

Review: calendar applicable custody thresholds, monitoring expiration, next condition review, remission deadline if any, and the correct forum for each contemplated application. Record the evidence and owner of each task.

Selected authorities

Primary law and official practice resources supporting the text, reviewed October 12, 2026. Pinpoint provisions identify the governing rule; numbered references do not signify faculty endorsement. The research record identifies access limitations and the versions consulted. Live matters require current controlling authority and local procedure.

1. CPL 510.10, particularly (1), (3), (4) and (5). Current general standard, qualifying circumstances and nominal bail. **Official statute.**
2. People ex rel. Welch v Maginley-Liddie, 44 NY3d 385 (2025), especially 387–390. Release after posting bail under CPL 510.10(4)(t); procedural conversion after release. **Opinion.**
3. People ex rel. Kon v Maginley-Liddie, 2025 NY Slip Op 05785 (Court of Appeals, Oct. 21, 2025), majority parts II–III. Individualized findings, limited record-based habeas review and remedy. **Opinion.**
4. People ex rel. Boksenbaum v Maginley-Liddie, 246 AD3d 684 (2d Dept 2026). Parole distinguished from probation and PRS. **Opinion.**
5. People v Lee, 77 Misc 3d 794 (Crim Ct, NY County 2022), parts II–III. Persuasive trial-level decision applying an earlier version; reasonable cause, property harm and amendment history. **Opinion.**
6. CPL 520.10(1)–(2). Authorized forms and required alternatives. **Statute.**
7. CPL 520.20(1)–(4). Undertakings and justifying affidavits. **Statute.**
8. CPL 510.40(1)–(5). Exoneration on recognizance or nonmonetary release, approval, release certificate, written reasons, conditions and monitoring. **Statute.**
9. CPL 530.60(1) and (2)(a)–(e). Review of an existing release or bail order; revocation grounds, burdens, hearings and remedies. **Statute.**
10. CPL 530.20(2) and 530.30(1)–(3). Local-court authority and superior-court application. **530.20; 530.30.**
11. People ex rel. Darocha v Maginley-Liddie, 244 AD3d 501 (1st Dept 2025). Dismissed underlying cases and unexplained continued bail. **Opinion.**
12. CPL 510.20(1)–(3). Application to change a securing order while the principal is confined under that or a prior securing order. **Statute.**
13. NYS Division of Criminal Justice Services, Pretrial Release data and documentation. Resource for defined empirical research; no statistical finding is adopted in this coursebook. **Official data.**
14. New York Rules of Professional Conduct, 22 NYCRR Part 1200, Rules 1.1, 1.2, 1.3, 1.4, 1.6, 1.7, 1.15 and 5.3. Court compilation dated January 1, 2017, read with the 2021 Rule 1.15 order and the conflict-rule amendments effective November 10, 2025. The court amendment index and the cited provisions were checked October 12, 2026. **Court rule amendments.**
15. CPL 500.10, particularly (3-a), (14)–(19), (21)–(22). Definitions and eligibility. **Statute.**
16. Insurance Law 6804(a)–(c). Premium caps, prohibited compensation and attorney financial interests. **Statute.**

17. CPL 520.30. Sufficiency inquiry and cash-bail predicate. [Statute](#).
18. CPL 540.10. Forfeiture and enforcement. [Statute](#).
19. CPL 540.30. Remission, forum, one-year period and notice. [Statute](#).
20. NYS Department of Financial Services, Bail Bond Statement of Rights, pp. 1–3, and bail-agent regulatory resources, including 11 NYCRR Part 28. Official guidance distinct from the statute. [Statement](#); [agent resources](#).
21. NYC311, Bail. Dated operational guidance concerning DOC payment and identification. [Official instructions](#).
22. General Obligations Law 5-1501B. Power-of-attorney creation requirements; consult Article 5, title 15 for the selected instrument and transaction. [Statute](#).
23. CPL 140.20 and 150.20. Warrantless-arrest processing and appearance tickets. [140.20](#); [150.20](#).
24. CPL 180.80. Felony-complaint custody periods, triggering events and exceptions. [Statute](#).
25. CPL 170.70. Misdemeanor-complaint replacement and custody relief. [Statute](#).
26. CPL 30.30(1)–(4). Readiness dismissal and release; current text includes 2025 amendments. [Statute](#).
27. CPLR 7002 and 7004. Petition, forum, custodian and writ. [7002](#); [7004](#).
28. US Constitution, Article I, section 9, clause 2, and Amendments IV, V, VI, VIII and XIV; NY Constitution, Article I, sections 4–6 and Article IV, section 4. Habeas, bail, due process and state clemency are distinct sources. [US Constitution](#); [Bill of Rights](#); [later amendments](#); [NY Constitution](#).
29. CPLR 7010(a)–(c), read with Kon. Habeas determination and bail relief. [Statute](#).
30. 18 USC 3142(b), (c), (e)–(i). Federal release and detention. Official House text current through Public Law 119-120 (October 7, 2026), including statutory text and amendment notes checked October 12, 2026. [Current House Code text](#).
31. Federal Rules of Criminal Procedure 5 and 10. Initial appearance and arraignment; official December 1, 2025 compilation, checked October 12, 2026. [Federal criminal rules](#).
32. Matter of Garner v New York State Department of Correctional Services, 10 NY3d 358, 360–363 (2008). Administrative PRS and Article 78 prohibition; see also its discussion of People v Sparber. [Opinion](#).
33. CPLR 7801, 7803 and 217(1). Administrative review, permissible questions and limitations. [7801](#); [7803](#); [217](#).
34. CPL 440.46(1)–(5). Specified drug resentencing route and institutional record. [Statute](#).
35. Correction Law 701 and Election Law 5-106. Certificates and the felony-related voting exclusion. [701](#); [5-106](#).
36. People ex rel. Neufeld v McMickens, 70 NY2d 763 (1987), reversing for the reasons in Gibbons, J.’s dissent, 117 AD2d 243, 247–252 (2d Dept 1986). First qualifying custody day included under CPL 170.70; the Appellate Division majority was reversed. [Court of Appeals order](#); [Appellate Division opinion and dissent](#).

37. People ex rel. Maxian v Brown, 77 NY2d 422, 425–427 (1991); County of Riverside v McLaughlin, 500 US 44, 56–57 (1991). State prearrest-delay and federal judicial probable-cause frameworks. [Maxian opinion](#); [Riverside opinion](#).

38. CPLR 7005, 7006, 7008, 7009 and 7011. Service, obedience, return, notice/hearing and appeal; read with 7002, 7004, 7010 and Kon. [Read CPLR 7005](#); [Read 7006](#); [Read 7008](#); [Read 7009](#); [Read 7011](#).

39. General Construction Law 25-a(1). Next-business-day extension when a statutory period ends on Saturday, Sunday or public holiday; applied only to the stipulated Article 78 calendar example. [Read General Construction Law 25-a](#).

Faculty biographies reflect professional-source checks completed October 12, 2026. The worked clients, records, calculations, model applications and answered exercises are fictional teaching materials.