

JUNE 2017

# **LICENSE & REGISTRATION, PLEASE...**

An examination of the practices and  
operations of the commercial bail bond  
industry in New York City

**BROOKLYN  
COMMUNITY  
BAIL  
FUND**

## INTRODUCTION

The purpose of bail is to allow presumptively innocent people to be free during the pendency of a criminal case. But this is not how bail works in practice. Each year in New York City, 45,000 men and women are imprisoned for their inability to afford bail.

Although New York Criminal Procedure Law<sup>1</sup> provides for nine different forms of bail that a judge can set at arraignment, bail is almost exclusively set in one of two forms: commercial bail bond or cash. Commercial bail bonds transfer the decision-making power of who is free and who is jailed from the courts to for-profit actors, giving them the authority to determine which defendants will secure pretrial release.

Commercial bail bonds are by their nature the most onerous form of bail – it is the only type of bail that requires consumers to pay an upfront, non-refundable fee that families lose no matter the outcome of the case. When consumers use commercial bail bonds, they lose about ten percent or more of their bond amount in non-refundable fees. This is money that could have been used to pay rent or put food on the table. Paying bail via a commercial bail bond also often requires families to put down collateral, in amounts decided by the bail bond companies and agents, as well as additional requirements, such as GPS tracking and required in-person visits. The system even allows for-profit bail bond agents to take measures not allowed by the court or police (such as warrantless searches of an individual's home).

The Brooklyn Community Bail Fund sees the harmful effects of bail and the commercial actors who profit from it every day. The thousands of hours we have spent in criminal courts and detention facilities, meeting and working with individuals who can't afford cash bail and are forced to turn to bondsmen, have made it abundantly clear that commercial bail bond companies routinely charge fees above what is allowed by New York State law, demand exorbitant and discriminatory collateral and then not return it at the conclusion of a criminal case (as they are required to do), perform arbitrary re-arrests, and purposefully do not comply with their contractual obligations by delaying bailing people out. They are able to do this by taking advantage of lax state and city oversight. Some of their practices are clear violations of the Insurance Law and/or outright fraud, while others – while not in violation of the law – are clearly unethical.

Based on public information, it is unclear exactly how many New Yorkers rely on commercial bail bonds to secure the pretrial release of their family and community members, although it is likely to be at least 11,000<sup>2</sup> annually. It is also difficult to know how much New York City residents are paying commercial bondsmen based on a lack of centralized information, but our estimates suggest that in 2016, the industry syphoned between \$14-\$20 million<sup>3</sup> in legally allowed premiums – primarily from low-income communities – to for-profit entities. This transfer of wealth is concentrated in just a handful of already marginalized New York City neighborhoods, compounding the harm in those communities.

---

<sup>1</sup> NY CPL §520.10. Available at: <http://codes.findlaw.com/ny/criminal-procedure-law/cpl-sect-520-10.html>

<sup>2</sup> 'Bonds Posted by Amount Category'. Office of Court Administration. 2016.

<sup>3</sup> Estimates based on available information on average bail amounts in New York City and legal premiums charged. However, this estimate does not account for illegal fees charged to consumers, so numbers on total dollar amounts are expected to be much higher.

Despite the extreme power bail bond companies and agents have over the most vulnerable communities that make up their consumer base, there is little information available regarding their operations and oversight of the commercial bail bond industry. The Brooklyn Community Bail Fund undertook a thorough examination of the industry in New York City in order to provide New York City and New York State agencies with the information needed to meaningfully protect consumers.

This report has been forwarded to the Governor, Attorney General, and to the regulatory agencies that have oversight of the bail bond industry. It documents how the commercial bail bond industry operates in New York City and sheds light on an industry that is not meaningfully regulated and lacks basic consumer accountability. We ask that the state and city agencies responsible for protecting New York consumers immediately address the issues raised by the report.

## KEY FINDINGS

The report was compiled using multiple research methods carried out in three phases from January – May 2017: (1) Research of publicly available information, including Google and Yellow Pages searches; (2) Phone verification of all internet-listed commercial bail bond phone numbers; and (3) Site visits to confirm all internet-listed physical office locations. Bail bond company information gathered from the three phases of research was also referenced against license information available on the New York State Department of Financial Services (DFS) website for active bail bonds agents<sup>4</sup>.

Our findings include blatant violations of DFS regulations and New York State Law, as well as a number of operational trends that make it next to impossible to protect consumers:

- We identified nine bail bond companies operating in New York City that appear to be unlicensed;
- We identified six instances of bail bond companies using fictitious trade names/DBA's that appear to be unlicensed;
- We identified six licensed bail bond companies conducting business at unregistered locations;
- We identified myriad instances of consumer obfuscation by bail bond companies.

All of our findings and their supporting documentation have been forwarded to the Governor, Attorney General, and the Department of Financial Services.

---

<sup>4</sup> Bail Bonds Active Agent Listing – DFS. <https://myportal.dfs.ny.gov/web/guest-applications/bail-bonds-search>

## RECOMMENDATIONS

**We believe that there are immediate steps that can be taken to protect consumers based on our research.**

**This includes:**

- Enforce current licensing and registration requirements for all bail bond companies and bail bondsmen;
- Address the gaps in regulations around fictitious names, DBAs, and aliases;
- Require the licensing and oversight of companies claiming to be bail bond aggregators;
- Create a clear set of rules regarding the advertisement of bail bond services and related enforcement;
- Create a clear set of consumer rights when using bail bonds and related enforcement;
- Conduct an immediate audit of the industry, followed by regular periodic audits.

**Our review focused on the licensing, advertising, and positioning of bail bond companies and bondsmen.**

**Our review did not address a number of operational issues which we believe also must be confronted including:**

- Enforcement of current regulations around maximum premiums, fees, and collateral;
- Rules regarding bail bond contracts and certification of such contracts by DFS;
- Consumer notice of rights with respect to the bail-paying process including premiums, fees, collateral, and contracts;
- A clear process for consumer complaints and questions.