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WHO MAKES BAIT?



WHO MAKES BAIL?

In 2015, roughly **45,000** New Yorkers were jailed because they couldn't pay their court-assigned bail. Today in New York City, only **1 IN 10** people who are arrested are able to pay bail when they're first brought before a judge.

WHAT'S BAIL?

WHO DOES IT AFFECT? AND HOW?



That's a bail monster. Yikes!

CUP collaborated with Teaching Artist Caitis Meissner and public high school students from the Bronx School for Law, Government and Justice (LGJ) to investigate these questions. Students surveyed members of the school community, interviewed key stakeholders working on the issue, and sat in on public arraignments in Bronx Criminal Court. This booklet is a guide to the bail system, how it works, and how it could work differently.



WHAT'S BAIL?

When someone is arrested they often have to pay "bail" to be released from jail until their court hearing. If they show up for court, they get their money back; if not, they lose it.

There are nine possible bail options, but almost always the two forms used are:



CASH BAIL

AND

BAIL BONDS

The full amount of bail must be paid. If the amount can't be paid, the accused will be detained in jail until they can afford bail, or their trial ends — which can take days, months, and sometimes, years.

A bondsman pays the bail and charges the person being released a fee. The fee will not be returned. Sometimes a bondsman will also request collateral such as more money or property. If the accused misses their court date they'll lose their collateral, and often end up owing more money.

WHAT HAPPENS AFTER YOU GET ARRESTED?



ARRESTED



PRECINCT: 4 - 6 HOURS

TRANSPORTED TO NEAREST PRECINCT

This timeline is adapted from "After Arrest" by Clara Dykstra and Stella Ioannidou, as part of the series, *The Location of Justice*, published by Urban Omnibus, 2017. For more, visit urbanomnibus.net/2017/11/after-arrest.

WHAT'S THE PURPOSE OF BAIL?

Bail is supposed to create an incentive for people to show up for their hearing while allowing them to stay home instead of in jail during their trial.



ATTENDANCE AT COURT

PERSONAL LIBERTY





LOBBY

Police confiscate personal belongings and anything considered a weapon.

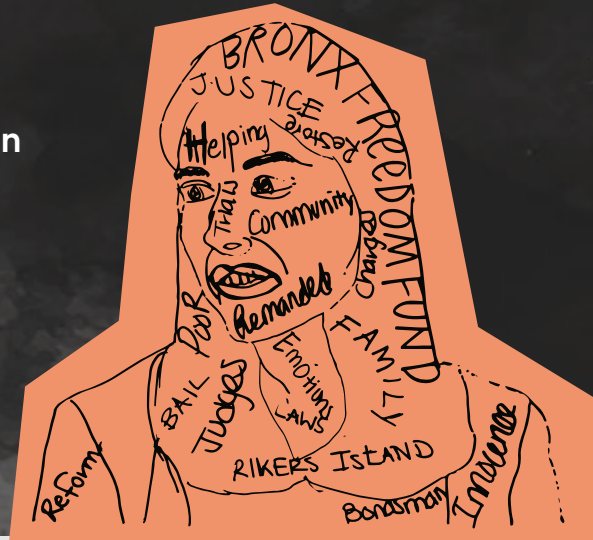
PROCESSING

Police fingerprint and photograph the defendant.



“The purpose is just supposed to be the same as when you go bowling and you leave one shoe at the cashier’s desk when you borrow their shoes, as collateral, so you don’t walk out with their (shoes) without getting your shoe back...”

— Elena Weissmann,
Interim Director, The Bronx Freedom Fund



“...BUT OVER THE YEARS, GOING BACK FROM ANCIENT [ENGLISH] TIMES TO TODAY, IT’S BECOME MORE A WEAPON OF THE STATE THAT KEEPS PEOPLE INCARCERATED WHEN THEY DON’T HAVE MONEY OR ARE POOR AND CAN’T AFFORD BAIL.”

— Judge Jonathan Lippman,
Former Chief Judge of New York
and Chief Judge of the New York Court of Appeals;
currently Of Counsel at Latham & Watkins, LLP



INTERROGATION ROOM



Police may interrogate the defendant.

LINEUP



If there is a witness, the defendant may have to stand in a lineup.

HOW IS BAIL SET?

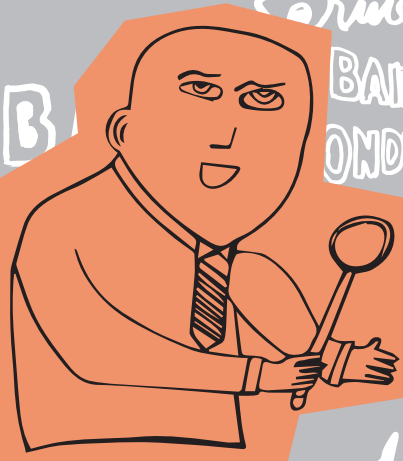
Judges decide whether or not a person will have to pay bail and how much that bail will be.





TRANSPORTED TO CRIMINAL COURTHOUSE

WHO BENEFITS? BAIL BOND COMPANIES



"Some would argue that bail bondsmen make money when they help post the bonds...To me it's more nuanced than that... If someone was advocating for the bail bondsmen then they would say those are the people who are helping people get released pre-trial. Obviously it's a business and they're trying to make money, but they're the ones that are saying until someone's proven guilty, they should be at liberty."

— Seth Steed

"[Bail bondsmen] have created a for-profit system that feeds off of the poverty and lack of choice of people who are going through it...There's something like a **20 or maybe 200 million dollar a year** cash transfer from low-income communities of color to the bail bonds industry."

— Elena Weissmann



Defendants wait for arraignment in holding cells. This could take many hours and defendants may have to stay overnight.

WHO LOSES OUT?

In NYC low-income people of color are much more likely to be arrested and prosecuted than white people for the same offenses.

“Only 2% of our clients are white...Most people who are going through the justice system in NYC are black and brown...If the person who was arrested was white, they probably didn’t have bail set, and if they did have bail set, they probably had someone who was able to afford it.”

— Elena Weissmann

“We have to have honest conversation. We’re talking about the disproportionate impact that bail has on young men and women of color, low-income minorities, possibly immigrants, LGBT New Yorkers—vulnerable New Yorkers, that are always at risk and have really been under a harsh systemic practice of over-policing, of harsh penalties that didn’t affect everyone else.”

— Vanessa Gibson,

New York City Council Member for the 16th District

LOW-INCOME COMMUNITIES OF COLOR



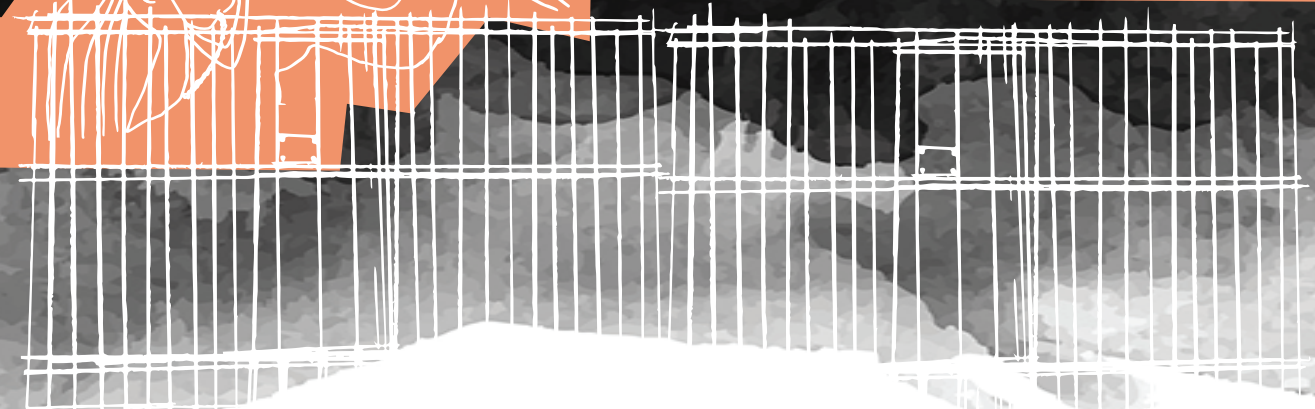


The Criminal Justice Agency (CJA) interviews the defendant to determine how likely they are to return to court, then makes a recommendation to the judge.

WHAT HAPPENS IF YOU CAN'T PAY BAIL?

Loss of Money, Work, and Opportunities

Sitting in jail while awaiting trial, or waiting to pay bail can create hardship for detainees and their loved ones. Detainees can lose money from missed work, jobs, homes, and lose out on future opportunities.



A lawyer from the District Attorney's office may interview the defendant and make a recommendation to the judge.



Plea Deals and False Confessions

Critics of money bail argue that the inability to pay bail encourages people to give up their right to trial and instead, take plea deals to avoid jail.

"Is is very difficult if you're charged with a crime and you're told if you plead guilty and bail is set, you'll be released. I think it takes a very strong individual to not take that guilty plea whether or not they were guilty... No one wants that. Courts don't want that. Prosecutors don't want that. Defendants and defense attorneys don't want that. The [criminal justice] system is not better off with people pleading guilty to things they didn't do."

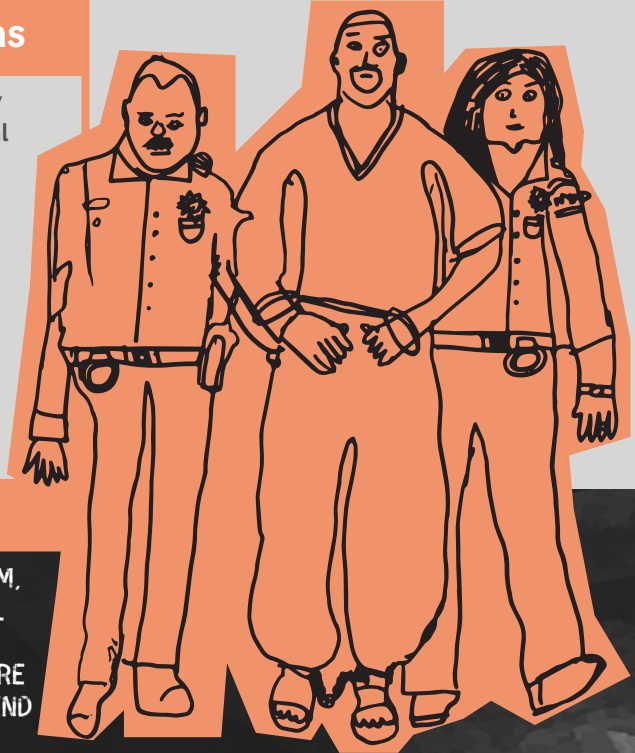
— Seth Steed

Criminalization For Life

"WHEN YOU ENTER THE CRIMINAL JUSTICE SYSTEM, YOU ARE PROHIBITED FROM ACCESSING FEDERAL STUDENT AID, GOING TO SCHOOL, ACCESSING PUBLIC HOUSING, YOUR EMPLOYMENT... THERE ARE SO MANY NEGATIVE CONSEQUENCES THAT CAN END FROM JUST THAT INITIAL ARREST..."

**THAT DOESN'T MEAN YOU'RE A CRIMINAL.
YOU MAY HAVE NEEDED TO GO TO THE BATHROOM
AND YOU COULDN'T FIND A BATHROOM."**

— Vanessa Gibson





If a defendant has not hired a lawyer, their first chance to speak with a public defender happens minutes before arraignment.

Bail is a major contributor to high prison populations in New York

RIKERS ISLAND IS NYC'S MAIN JAIL COMPLEX

It has a daily population of
10,000 inmates.

85% of the inmates haven't
been convicted of a crime

and the **vast majority**
are there because they're being
held on bail
as they await trial.

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Handwritten scribbles in black ink on the right side of the dark background, consisting of various symbols and lines.





A judge decides whether or not to set bail and the amount of bail.

The judge may also dismiss the case or keep the defendant in custody without the option of bail.

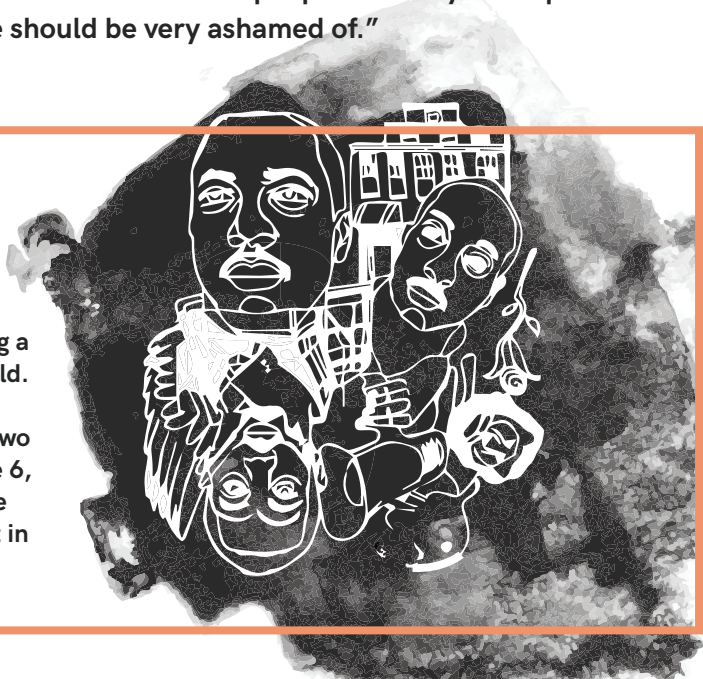
Judge Lippman served as Chair of the Commission on Rikers Island. This is what he believes about the jail:

"[Rikers Island] promotes brutality, victimization and really is an acceleration of human misery. Rikers Island hurts public safety, and is a stain on the soul of NYC... we've got to change it to rescue our soul... I think we have to get out of our heads that there is something to be proud of that the United States of America incarcerates more of its people than any other place in the civilized world. It's something that we should be very ashamed of."

Tragic Consequences

KALIEF BROWDER

In 2010, Kalief Browder was accused of stealing a backpack and arrested when he was 16 years old. Unable to raise the \$3,000 bail, he was imprisoned on Rikers Island for three years — two of them spent in solitary confinement. On June 6, 2015, Browder committed suicide. In that same year, nearly 374,000 people across the U.S. sat in jail because they couldn't pay bail.



BAIL WINDOW

IF YOU CAN PAY BAIL

A defendant's family or friends have a short time to pay bail - about 3 hours.

IF YOU CAN'T PAY BAIL

If the defendant can't pay bail they are taken to jail.

HOW ELSE COULD

Offer supervised release and community-service alternatives

"Reserve bail for only the most serious cases, or those who have demonstrated that they will not come back to court. Instead of housing people at Rikers, which is very expensive, maybe release them to community supervision, rather than custody."

— Seth Steed

Lower penalties for certain violations so people don't end up in criminal court

"We want to make sure that there are proportional penalties based on the crime. That's why we've amended some of our criminal summons. We've looked at a civil penalty as a first option, and we're talking about things like open container, public urination, loitering, [and] violation of park rules."

— Vanessa Gibson



MONEY
DOESN'T
EQUAL
FREEDOM



Being Poor Isn't
A Crime



RELEASED

TRANSPORTED TO JAIL



BAIL WORK?



Do away with cash bail completely

"[Do] away with the cash bail system we have now and [go] to a system where the presumption is that you're out with the community and your family unless there's a reason for you to be [incarcerated], like you are a danger to society...judges [should be able to] consider whether someone is a danger to society."

— Judge Lippman

Make unsecured bonds the norm

"The least kind of restrictive form of bail, would be a solution to this whole thing which, if judges were to grant it, is an unsecured bond. That's basically just a promise to pay if you don't come to court."

— Elena Weissmann





JAIL

Defendants may be detained until they can pay bail or until their trial ends.

This timeline shows a typical route from arrest to incarceration in New York City. In practice, individuals' experiences may vary widely.

WHO MAKES THE DECISION TO REFORM BAIL?

The Legislature of New York State



THE
CONSTITUTION
OF THE
STATE
of
NEW YORK

“There are things that can be done at the local level, like supervised release programs and diversion resources, and that comes at the city level. But I think you need to change the whole statutory framework of bail and that comes under the legislature up in Albany.”

— Judge Lippman

Article 1, Section 5 of the New York State Constitution reads: “Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.”

BRONX SCHOOL OF LAW, GOVERNMENT AND JUSTICE STUDENTS

"I needed to change the way I see. Not all people that go to jail are bad. I used to look at it like they all had the intention of doing wrong, but they might just have made a mistake, or are in for a crime they haven't done."

"I thought Rikers was just a place criminals go to once they've determined you're guilty. Now I understand why they want to shut down Rikers...I don't understand why we use bail as a weapon."

"I keep thinking about how bail bondsmen are seen as horrible people. It's just their job. I can't understand why they are seen as the bad people, as if they are the people that set the bail. I don't think there is a 'bad guy.' I think there is a bad system."



ANDREW



TY



MICHAEL



In January 2018, the District Attorneys for Manhattan and Brooklyn announced that they would order their prosecutors not to request bail for non-violent crimes.

Despite recent calls for change, the bail system remains in place. If you're interested in creating lasting change, here are a few things you can do to

GET INVOLVED



Find out more! Read about the issue or even sit in on an arraignment court

"I would encourage you to go sit in an arraignment court and observe. You can do that. You can walk into an arraignment courtroom and watch bail happen. That's definitely illuminating."

— Seth Steed



Organize and rally

"THERE REALLY SHOULD BE A PUBLIC OUTCRY. JUST LIKE WE ARE OUTRAGED WHEN THE POLICE USE EXCESSIVE FORCE ON OUR YOUNG PEOPLE, WE SHOULD BE OUTRAGED THAT SO MANY MEN AND WOMEN ARE SITTING ON RIKERS BECAUSE THEY CAN'T MAKE BAIL."

— Vanessa Gibson



Contact city and state law-makers

This year the New York State Legislature will consider bills that would eliminate cash bail for people facing misdemeanor and non-violent felonies.

Call and write your NY State Senators and Representatives.
To find your elected officials, visit usa.gov/elected-officials.



Support a community bail fund

Community bail funds like the Bronx Freedom Fund, the Brooklyn Community Bail Fund, and the city-wide Liberty Fund, use private donations to pay bail for people who can't afford it.

To learn more, visit bronxfreedomfund.org, brooklynbailfund.org, and libertyfund.nyc.

The Center for Urban Pedagogy (CUP) is a nonprofit organization that uses the power of design and art to increase meaningful civic engagement, particularly among historically underrepresented communities.

This project is one of CUP's **Urban Investigations** - project-based after-school programs in which high school students explore fundamental questions about how the city works. Students collaborate with CUP and Teaching Artists to create multimedia teaching tools that reach audiences in the fields of arts and social justice. To learn more about CUP, visit welcometoCUP.org.



The Bronx School For Law, Government and Justice (LGJ) combines law-related studies with real-world learning experiences for students in grades 6-12. The school has its own mock courtroom and crime forensic labs, and uses the New Bronx Criminal Court Complex as an extended classroom. Students explore careers in law and government through coursework, mentoring relationships, and internships while preparing for the challenges of college. To learn more, visit bronxlgj.org.



CUP

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