

CITY COUNCIL  
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON JUSTICE SYSTEM  
JOINTLY WITH THE COMMITTEE ON  
CRIMINAL JUSTICE

----- X

DECEMBER 3, 2018  
Start: 10:09 A.M.  
Recess: 12:50 P.M.

HELD AT: COUNCIL CHAMBERS - CITY HALL

B E F O R E: RORY I. LANCMAN, CHAIRMAN  
COMMITTEE ON JUSTICE SYSTEM

COUNCIL MEMBERS: ANDREW COHEN  
ALAN N. MAISEL  
DEBORAH L. ROSE  
ERIC A. ULRICH  
KEITH POWERS, CHAIR OF THE  
COMMITTEE ON CRIMINAL JUSTICE  
ROBERT HOLDEN  
ALICKA AMPRY-SAMUEL  
CARLINA RIVERA

## A P P E A R A N C E S (CONTINUED)

ANN PELNACK (SP?), Deputy Director of  
Crime Strategies for the Mayor's Office  
of Criminal Justice

HAZEL JENNINGS, Chief of New York City  
Department of Corrections

WILLIAM BARNES

ELIZABETH VENDOR, Attorney with Legal Aid  
Society Decarceration Project

ALAINA WEISMAN, Bronx Freedom Fund  
Director

YUONA ZEITZ (SP?), Bronx Freedom Fund  
Product Associate

SARAH RAHIMI, Bronx Freedom Fund  
Administrative Assistant

ASH STEVENS, Co-Manager of Bail  
Operations at the Brooklyn Community Bail  
Fund

SCOTT LEAVY, Special Counsel to Criminal  
Defense Practice of Bronx Defenders

SERGIO DE LAPAVA (SP?), New York County  
Defender Services

KATHERINE GONZALEZ, Brooklyn Defender  
Services Attorney

## A P P E A R A N C E S (CONTINUED)

JOANNA WEISS, Co-Director of Fines and  
Fees Justice Center

LYNETTE HOWARD, Close Riker's Island  
Campaign

HARVEY MURPHY, Free New York Campaign and  
Close Riker's Island Campaign, Just  
Leadership Community Organizer

WILLIAM EVANS, Neighborhood Benches  
President

COMMITTEE ON JUSTICE SYSTEM JOINTLY  
WITH COMMITTEE ON CRIMINAL JUSTICE

4

SERGEANT AT ARMS: Test, test, test.

Today's date is... this is a test. Committee on  
Criminal Justice joint with Justice System. Today's  
date is December 3<sup>rd</sup>, 2018. This is recorded by  
Sakeem Brown (SP?).

CHAIR KEITH POWERS: Good morning. Thank  
you everybody for being here today. I hope everybody  
had a nice weekend. I am Council Member Keith  
Powers, Chair of the Criminal, Chair of the Committee  
on Criminal Justice. I am joined here by Council  
Member Rory Lancman, Chair of the Committee on  
Justice System for today's joint oversight hearing on  
the Department of Corrections Compliance with the  
Council's Bail Easement Laws. We are joined as well  
by Council Member Holden from Queens and will be  
joined by many other members later as they come in.  
Uhm thank you for Department of Corrections for being  
here. Back in June of 2017 the City Council passed a  
series of local laws aimed at easing the Bail Payment  
process. These Laws were adopted and respond to  
difficulties, justice involved individuals and their  
family's faced with paying bail. Folks had to jump  
through too many hoops to make bail payments. For  
example, there were certain blackout periods lasting

1  
2 up to 24 hours in which the Department of Corrections  
3 did not accept Bail Payment because the individual  
4 was in transit to a DOC facility or in the middle of  
5 the intake process. While the Department of  
6 Corrections still has to be complied with the Bail  
7 Easement Laws it has been out belief consistently  
8 falling short. The Bronx Freedom Fund founded the  
9 Department of Corrections and a recent report found  
10 the Department of Corrections does not accept cash  
11 bail payment at courthouses in the Bronx which the  
12 local law requires and that the DOC has also stated  
13 that as well. The Department struggles to comply  
14 with local law requiring it to release incarcerated  
15 individuals within three hours of bail payment.  
16 According to that same report, about 62% of Bronx  
17 Freedom Fund clients were released over five hours  
18 after bail had been posted and they have shared  
19 stories and we have heard many more of those who have  
20 waited hours to be released after bail was paid. One  
21 of the clients, Jay, was detained for 32 hours after  
22 his bond was posted and that's 32, because the  
23 Department of Corrections believed that he had a  
24 parole warrant which he did not. What is really  
25 disheartening about this story is that his wife had

1 saved up money for his bond even though she was able,  
2 was not able to work while he was in jail because she  
3 is the primary caretaker for the child. She ended up  
4 losing her job because he was not released in time to  
5 watch the child the very next day. This is to  
6 unacceptable. It is stories that we continue to hear  
7 and ones that we would like to address today. No one  
8 who posts bail should be held in custody longer than  
9 they need to be. The collateral consequences of pre-  
10 dialed, pre-trialed attention in our opinion are too  
11 severe if not damaging as this story illustrates.  
12 Folks run the risk of losing employment, public  
13 benefit, housing, and education and much more while  
14 waiting to try, while detailed awaiting trial and the  
15 lives of their loved ones who are affected by the  
16 loss of income and emotional support. It is bad  
17 enough that we make it hard for these folks and their  
18 family to post bail. Department in our view must  
19 take immediate corrective to comply with local laws.  
20 I know there was an announcement today that we will  
21 hear more about. I look forward to hearing the  
22 Department's Action Plan for today's analysis and  
23 moving forward and ways in which the City Council can  
24 help facilitate the compliance with these local laws  
25

1 and ways that we can do better overall. Today we  
2 will hear, we will also a Bill Intro 1199 that is my  
3 Bill which will eliminate fees associated with credit  
4 card bail payments and allow online bail payment to  
5 be made by direct and electronic checks. Today I  
6 believe it was 7.9% if you pay a fee, if you pay it  
7 in person and it is 2% if you are paying online. The  
8 Bill will ensure that families of incarcerated people  
9 are not burdened with unnecessary fees to make a bail  
10 payment. Additionally, we will also be hearing Intro  
11 944 introduced by Council Member Lancman which  
12 required DOC to notify incarcerated individuals,  
13 defense attorneys and court personnel when an inmate  
14 is detained solely on the bail of \$1. With that  
15 said, I want to thank my staff and the staff here at  
16 the City Council for helping put together this  
17 hearing. I want to thank the Department of  
18 Corrections for being here and the staff from the  
19 Mayor's office and the DOC for their assistance with  
20 today's hearing as well and everybody who is here to  
21 tell their stories and share their antidotes as well  
22 uhm and I want to thank all the Council Members here  
23 in attendance and to those who will be here soon.  
24

1 So, with that I am going to hand it over to Council  
2 Member Lancman, Chair Lancman I should say.

3  
4 CHAIR RORY LANCMAN: Thank you, good  
5 morning. Uhm Councilman Rory Lancman, Chair of the  
6 Committee on the Justice System. I want to thank  
7 Council Members uhm Council Member Keith Powers for  
8 leading this important hearing on the difficulties of  
9 posting bail and the countless obstructions, hurdles  
10 and delays that stand between accused individuals and  
11 their freedom. We talk constantly about how there  
12 are people sitting on Riker's Island because they  
13 can't afford their bail. But it is even more  
14 maddening that many who can afford to post bail or  
15 essentially held captive by an absurd tangle of  
16 bureaucracy and the fault lies not in the stars but  
17 in ourselves. Well over there. New York City  
18 actively makes the process of paying bail owners and  
19 it is frankly both confounding and disgraceful. The  
20 package of five Bills that this Council passed in  
21 July 2017 was designed to focus attention on a series  
22 of specific choke points. Where at all time, a  
23 little information or a little assistance could mean  
24 the difference between going home and going to  
25 Riker's Island. But here we are, more than 16 months



1 later, without any indication that these Laws have  
2 been meaningfully implemented. We hear practically  
3 every day for defenders, service providers and  
4 advocates about individuals who spend extra hours,  
5 days or weeks in jail for no good reason. Loved ones  
6 who cannot show up to demonstrate community ties or  
7 pay bail because a Defendant can't remember their  
8 phone number and was never offered the chance to get  
9 it off of the cellphone taken from them at arrest.  
10 Men and women transported to Riker's because the bus  
11 is leaving. Never mind that a family member is  
12 rushing to the Courthouse to pay their bail.  
13 Defendants put through the time and resource  
14 intensive process of intake only to be bailed out  
15 hours later. Confusion about where and how to post  
16 bail, bail facilitators, nowhere to be found and even  
17 once the Jacobian system is navigated and bail is  
18 paid it takes an entire work day for someone to be  
19 released. The City has failed each and every one of  
20 these individuals. Today we demand to know why. I  
21 am also pleased that today we will also consider my  
22 Bill, Intro 944, to require a \$1 bail notification  
23 system. \$1 bail can be set on a case to allow a  
24 Defendant to receive credit for the time they spend  
25

1  
2 incarcerated on a previous open case well because of  
3 the whole of the jurisdiction. If the earlier case  
4 is resolved, Defendants and their families may be  
5 unaware that \$1 is all that is preventing them from  
6 going home, that is unacceptable. My Bill will  
7 require the Department of Corrections to inform  
8 Defendants, their Defense Attorneys and the Court  
9 when someone is being detailed solely on a bail  
10 amount of \$1. So, I look forward to hearing today  
11 from the Department of Corrections, the Mayor's  
12 Office of Criminal Justice, Public Defenders and  
13 Advocates about how the City can do its job and keep  
14 people off Riker's Island who shouldn't be there.  
15 Let me uhm just note that we have been joined by  
16 Council Member Debbie Rose from Staten Island who is  
17 a Member of the Committee on the Justice System.  
18 Also joined by Council Member Bob Holden and Council  
19 Member Alicka Samuel, uhm both of whom are Members of  
20 the Committee on Criminal Justice.

21 CHAIR KEITH POWERS: Thank you. Oh, we  
22 have to take that that first.

23 COUNSEL: Do you affirm to tell the  
24 truth. Oh, if everyone could raise their right hand,  
25 thank you. Do you affirm to tell the truth, the

1 whole truth and nothing but the truth in your  
2 testimony before this Committee and to respond  
3 honestly to Council Member questions?  
4

5 CHAIR KEITH POWERS: Thank you. You may  
6 begin.

7 ANN PELNACK (SP?): Good morning uhm  
8 Chair Lancman, Chair Powers and Members of the  
9 Justice System Committee and the Criminal Justice  
10 Committee. My name is Ann Pelnack (SP?) I am the  
11 Deputy Director of Crime Strategies for the Mayor's  
12 Office of Criminal Justice. Thank you for the  
13 opportunity to testify today. MOCJ advises the Mayor  
14 on Public Safety strategy and together with partners  
15 inside and out, outside Government develop and  
16 implement policies that promote public safety and  
17 fairness and reduce unnecessary incarceration. Since  
18 the beginning of the de Blasio Administration the  
19 jail population has declined by 27% with the steepest  
20 four-year decline since 1998. The City now has the  
21 lowest incarceration rate of any big US City.  
22 Meanwhile the major crime has fallen by 76% in the  
23 last 30 years and by 9% in the last four. 2017 was  
24 the safest year in COM stat history. This success is  
25 shared by partners in the Criminal Justice System,

1  
2 the Government and all New Yorkers. The number of  
3 people in City jail has fallen across almost every  
4 category during this Administration. For example,  
5 the number of people held on bail of under 2,000 has  
6 fallen by around 60%. The number of people serving  
7 City sentence has fallen by 17% and the number of 16  
8 and 17 years old in detention has fallen by more than  
9 60%. Reduction in our jail population is not just  
10 due to decrease in arrest. It also a result of  
11 intention diversion activities with the primary  
12 driver being supervised release, a diversion program  
13 supported by this Council. Supervised Release  
14 recently reached a milestone of diverting over 10,000  
15 people from the jail today. This pioneering program  
16 was developed in close partnership with the Courts,  
17 the five District Attorney's Offices and the Defense  
18 Bar with the District Attorney of Manhattan providing  
19 the initial funding to help get this program running.  
20 Since the program launched, 87% of Defendants under  
21 supervised release have attended all of their Court  
22 dates. More work needs to be done to reduce a jail  
23 population reforming New York's Bail Stature to  
24 eliminate money bail would go a long way to attaining  
25 the goal of a smaller and fairer Criminal Justice

1  
2 System. Sure. The impact of this antiquated system  
3 is felt primarily by men and women of color or lack  
4 adequate funding to post cash bail. This is a reform  
5 that this Administration has supported and we hope  
6 that the New York City Legislature will help move New  
7 York forward by-passing Bail Reform next session. We  
8 intend over the next year to work to accomplish  
9 shared goals of Comprehensive Criminal Justice  
10 Reform. Passing measures such as Bail Reform and  
11 other Criminal Justice Reforms will allow us to  
12 safely reduce our population on Riker's Island. The  
13 amount of money in one's pocket or bank account  
14 should not determine whether or not a person is  
15 incarcerated. Until we see the necessary reforms  
16 enacted in Albany New York City is committed to doing  
17 all we can to make the system as efficient and fair  
18 as possible. Indeed, our office works every day with  
19 stakeholders to make investments and reforms. Both  
20 to improve the experience and reduce our reliance on  
21 incarceration. While the City strongly supports bail  
22 reforms it is also important to understand the vital  
23 roles played by multiple parties in the Criminal  
24 Justice System. A system that has no one boss. The  
25 setting of bail is a good example of this. When a

1 person is arrested and then arraigned, the prosecutor  
2 may request bail, the Defense attorney may argue on  
3 behalf of his or her client for release or some other  
4 conditions and then the Judge makes the final  
5 decision on setting bail. In the event that a Judge  
6 sets bail, the individual is held in the custody of  
7 the Department of Correction until at least one of  
8 the forms of bail that has been set by the Judge has  
9 been provided, either by the individual or by another  
10 person on the individual's behalf. The various  
11 processes for paying bail involve certain challenges,  
12 including reaching someone who can, who can make the  
13 payment quickly. The Mayor's office has worked  
14 closely with the courts, the Department of Correction  
15 and providers in various ways to address these  
16 difficult system programs. Speeding up the bail  
17 payment process can have significant impact. last  
18 year, approximately 17,000 individuals made bail  
19 after they were booked into jail with 77% making bail  
20 within one week of being detained. This suggested  
21 that these Defendants may be able to afford bail but  
22 that the time that it takes to gather the funds as  
23 well as inefficiencies in the bail payment process  
24 could be leading to delays that result in unnecessary  
25

1  
2 time behind bars. To address these inefficiencies,  
3 the City rolled out several programs to make it  
4 easier to post bail more quickly and has supported  
5 the Department of Corrections efforts to improve the  
6 bail process. These programs and initiatives include  
7 creating an online bail system, accessible by  
8 internet phone and kiosk that became operational this  
9 spring, creating an alert to notify Defense attorney  
10 and court staff when the Defendant has the potential  
11 to be detained solely on \$1 bail which is an  
12 Administrative hold used by the court system in order  
13 to ensure that these Defendants aren't released  
14 promptly, eliminating the 3% fee taken from the  
15 individual's bail after plea or found guilty and  
16 installing ATMs in every courthouse to ensure that  
17 people have access to cash to post bail. The launch  
18 of on-line bail system has made payments easier and  
19 provides an additional avenue for family and friends  
20 regardless of location to provide financial  
21 assistance, to make bail payments. The on-line bail  
22 payment system is the first of its kind and the  
23 flexibility to allow the use of multiple credit cards  
24 can help individuals pull resources. The  
25 availability around night bail is individuals posting

1 bail is no longer needs to make payments in person at  
2 the courthouse or at DOC facility. For many of New  
3 Yorkers, of New York's most vulnerable population,  
4 this means that they no longer need to take a day off  
5 of work or find alternatives for childcare which  
6 create additional cost for families. Currently the  
7 Council is considering Intro 1199-2018 sponsored by  
8 Chairman Powers which would remove the fees  
9 associated with credit card bail payments.  
10 Additionally, the Bill would allow on-line payments  
11 to be made by direct deposit and electronic check.  
12 In that regard, we note first that neither DOC nor  
13 the Office of Court Administration accepts payment  
14 with direct deposit, electronic check or personnel  
15 checks of any kind. Due to security reasons, checks  
16 do not clear timely and may take up to three to five  
17 business days. In order to ensure that bail is paid,  
18 cashier's checks and credit cards protect against  
19 fraud and provide increased security. We are open to  
20 exploring additional payment options such as  
21 cashier's check to be paid on-line. Second, the City  
22 does not collect any fees associated with on-line  
23 bail payments, DOC has a contract with a vendor that  
24 is often one of the lowest fees in the country.  
25



1  
2 Thank you for the opportunity to speak today and for  
3 your continued support and partnership in improving  
4 the bail system and creating smaller, safer, and  
5 fairer justice system that works for all New Yorkers.

6           HAZEL JENNINGS: So good morning Chair  
7 Powers, Chair Lancman and Members of the Criminal  
8 Justice and Members of the Committee of the Justice  
9 System. I am Hazel Jennings, the Chief of the New  
10 York City Department of Corrections. My colleagues  
11 and I are here today to discuss the City's Bail  
12 Processes Reforms that we have implemented over the  
13 last few years, and improvements that we are enacting  
14 now. As the Council is aware, the City has  
15 implemented several important Bail Reform Initiatives  
16 over the last few years. DOC has been a partner in  
17 several of these initiatives and have implemented a  
18 number of improvements to bail process. These  
19 include several changes that were guided by local  
20 law. To begin, I will briefly walk you through the  
21 bail process and to discuss how DOC processes bails.  
22 From there, I will discuss our recent reforms and our  
23 class of future improvements and then the comment on  
24 Intro 944 which is the second Bill being considered  
25 today. If a Defendant receives bail and is not able

1  
2 to pay it immediately in the Court, he or she is then  
3 turned over to DOC custody. The DOC offices in the  
4 Courthouse accept custody of the individual and book  
5 him or her into the system. From there, the detainee  
6 is transferred to a housing facility where new  
7 admission processing is completed and the individual  
8 is housed. As soon as the person is entered into DOC  
9 system, DOC may accept bail for the individual. When  
10 a bail is paid, there are several steps required to  
11 accept the bail and release the detainee. When the  
12 surety requests to pay bail, the facility where the  
13 individual is housed must confirm his or her bail and  
14 case number to ensure that the correct bail is being  
15 paid. At this point, staff also check to see whether  
16 there are any warrants in the system and determine  
17 whether or not the person could be released upon bail  
18 payment. With that information, the cashier can  
19 accept the surety's bail payment. Once the bail was  
20 collected and the surety is given a bail receipt the  
21 housing facility is notified and the discharge  
22 process begins. To release someone, facility staff  
23 must check the system and the court paperwork to  
24 reconfirm all of the case details and confirm whether  
25 any warrants or holds have been received for the

1 individual. The required paperwork review confirms  
2 that the bailed-out individual can be released. The  
3 next step is to confirm that the correct individual  
4 is released so staff must interview the individual  
5 and take his or her fingerprints to confirm  
6 identification. These processes are repeated by  
7 supervisors who must sign off on the discharge. Once  
8 the discharge has been approved, the individual is  
9 provided with a MetroCard and his or her valuable  
10 property. This kind of year, the person is also  
11 given a coat. The discharge process is similar for  
12 everyone regardless of what is triggering the  
13 discharge bail payment or warrant lifted and sentence  
14 completed. As mentioned, we have implemented Reforms  
15 within this system over the past few years and we  
16 continue to identify ways and areas to improve.  
17 Several of these are guided by local laws. With CJA  
18 we have expanded the bail expedition or BEX program  
19 so that more people can be held in the court  
20 facilities for longer periods after arraignment given  
21 loved one times to pay bail before the Defendant is  
22 transferred to a jail facility. In compliance with  
23 the Law, we now hold individuals for at least four-  
24 hours when a hold is requested. CJA which operates  
25

1 the BEX program has expanded eligibility in all  
2 boroughs so that everyone whose bail is less than  
3 5,000 in all adolescents now qualify. We eliminated  
4 the blackout period that used to prevent bail from  
5 being paid while the Detainee was being transported  
6 from the courts to a jail. Now loved ones can pay a  
7 bail while the Defendant is on the bus so that he or  
8 she can be processed for release immediately upon  
9 arriving to the facility. We have also reduced the  
10 length of time that is permissible to release someone  
11 after bail is paid. Outside of specific  
12 circumstances, everyone must be released within three  
13 hours of the bail payment process being completed.  
14 In addition to complying with these Local Laws, DOC  
15 has been working on our own with MOCJ to implement  
16 significant reforms. Earlier this year, DOC  
17 implemented a formal system to notify individuals  
18 when they are in custody on just \$1 bail. Our IT  
19 Department generates daily reports of all individuals  
20 who are on custody for just \$1 bail with no other  
21 holds or cases. This list is sent to the Bureau  
22 Chief of Facility Operations and to each facility  
23 that has someone in custody for just \$1 bail. Staff  
24 are required to notify the individual of the bails,  
25

1 ask them whether they want to pay their \$1 from  
2 commissary accounts and if they do not have a \$1  
3 within their account, they are able to call sureties  
4 to pay the bail. So far, this policy has been  
5 effective to ensure that no one remains in custody  
6 just because of \$1 bail. Perhaps more notably in  
7 April of this year, we launched an on-line bail  
8 payment system. This on-line system allows sureties  
9 to pay eligible bails from any computer, tablet or  
10 smart phone so that the surety does not have to  
11 travel to a DOC facility and wait for checks to be  
12 conducted in person. Instead, the surety simply  
13 requests to pay bail and then receives e-mail  
14 notifications informing his or her whether the  
15 Detainee will be released. This does not make, this  
16 does not just make bail paying easier for local  
17 sureties, the system allows bail to be paid by people  
18 who live far away and allow payments to be split  
19 among several individuals. We continue to look for  
20 ways to improve the bail process, starting last month  
21 I have begun having weekly meetings with key staff to  
22 oversee the implementation of several improvements.  
23 These initiatives include improvements on existing  
24 policies and developments of new policies. We have  
25

1 re-imaged the bail facilitative role which was  
2 created by local law last year. At the time the Bill  
3 was implemented we decided that the best way to  
4 fulfill the bail facilitator's obligation was to  
5 incorporate them into several positions that were  
6 already doing similar work. This plan was discussed  
7 in the hearing about the Bill and over the last  
8 several weeks we reassessed this and determined that  
9 compliance will be better achieved by designated  
10 specific posts on bail facilitators in both the  
11 courts and the jails. We have increased the number  
12 of ways bail information is shared with detainees.  
13 Previously information had been provided in the  
14 Inmate Handbook. Now, all new Detainees will receive  
15 a bail information pamphlet, receive the printout of  
16 the bail amounts and court case information and are  
17 shown an informational video which is available in  
18 both English and Spanish. We have created this bail  
19 information video and installed televisions to show  
20 the video in all new admission court areas and  
21 facility intakes. Posters about bails and bonds have  
22 been created to hand in new admission areas, housing  
23 areas, visit areas and congregate service areas to  
24 provide information to family and friends, not only  
25

1 those just in custody. The Bail Facilitator in the  
2 courts ensures that everyone receives all of these  
3 things and all newly admitted individuals are  
4 afforded access to phone to contact sureties. We  
5 have updated our intake processing paperwork to  
6 require that the officer will confirm in writing that  
7 the required information has been provided to the  
8 Detainee. Our next step is to go live with on-line  
9 bail kiosk in the new admission court areas. So,  
10 those who qualify for on-line bail payment can pay  
11 their own bail at the courthouse and never have to be  
12 transported to a jail. The Kiosks have been  
13 installed already and we hope to have them up and  
14 running prior to the end of the year. We have  
15 already shared several of these policy  
16 implementations with Council but today we have two  
17 new innovations to announce. Money orders and checks  
18 for bail payments made out to the New York City  
19 Department of Corrections. They no longer have to be  
20 made out to an individual facility where the bail is  
21 being paid. We hope that this makes the process  
22 easier for sureties because the previous requirement  
23 had caused some confusion on how to make out the  
24 checks. Bond payment cut slips may be delivered to  
25

1 any DOC facility regardless of to where the Detainee  
2 is being housed. Previously, a cut slip for someone  
3 on Riker's Island had to be brought to Riker's Island  
4 in the Housing Facility. Now that clip may be  
5 delivered to any of the borough facilities. Again,  
6 we hope this makes the process easier for sureties  
7 who do not have to choose between traveling to  
8 Riker's or paying a Bails Bondsman to do so. Each of  
9 these new policies has come out of our Bail Working  
10 Group and DOC is constantly looking for ways to make  
11 the bail payment process simpler. We are not waiting  
12 for state bail reforms, we identify and implementing  
13 what changes can be had. DOC certainly supports the  
14 spirit of Intro 944 as mentioned earlier. We are  
15 already in compliance with a large portion of the  
16 Bill, of individuals notifying them of their \$1  
17 status; however, we notify incarcerated individuals  
18 of the bail amounts and we will certainly continue to  
19 do so. We would like to request that the attorney  
20 and the court notification requirements be removed  
21 from the Bill. The success of our existing program  
22 indicates that notifications to people other than the  
23 detainee are not necessary to ensure people are  
24 bailed out efficiently. We are happy to continue to  
25



1  
2 discuss this with the Council moving forward to  
3 ensure that the best policy is enacted and thank you  
4 again for the opportunity to testify today.

5 CHAIR KEITH POWERS: Thank you, you, uhm  
6 thank you for Assistant Chief for testifying, you are  
7 here for questions too?

8 HAZEL JENNINGS: Yes, we will be  
9 testifying.

10 CHAIR KEITH POWERS: Thank you, thank you  
11 and we have also been joined by Council Member Rivera  
12 as well from the great borough of Manhattan. Uhm  
13 thank you for the testimony and I think that we all  
14 share the same sentiment that waiting on the State is  
15 not the preferred route here and that the City should  
16 be doing all it can. Uhm the, I wanted to just note  
17 one of the sentences in the testimony from MOCJ uhm  
18 that I wanted to ask a followup question on. It says  
19 last year, approximately 17,000 individuals made bail  
20 after they were booked into jail with 77% making bail  
21 within one week of being detained, suggesting that  
22 Defendants may be able to afford bail. By the time  
23 that it takes to gather the funds as well as  
24 inefficiencies and the bail payment process can be  
25 leading to the result of unnecessary time behind bars

1 which I would note as a kind of a thesis here. So,  
2 can you just tell us, even with today's announcement  
3 what inefficiencies you think still remain in the  
4 bail payment process that could remain in the bail  
5 payment process that could lead to folks to being,  
6 remaining to be detained even beyond the point where  
7 they have the funds to pay bail?  
8

9 ANN PELNACK (SP?): I think that, those  
10 are the Operation questions. I think that is best  
11 answered by the Department of Corrections.

12 CHAIR KEITH POWERS: Sure. Yeah. Okay.

13 ANN PELNACK (SP?): I think discussing  
14 the discharge process. Uhm but I think that we want  
15 to note that the City is committed to making the  
16 process as efficient as we, as we can while we are  
17 waiting for the State Legislation to make the Bail  
18 Reform.

19 HAZEL JENNINGS: So, for the purpose of  
20 the working group that we week, we are looking at  
21 operational things that could be improved and our  
22 overall goal of these measures to ensure that anyone  
23 who had, can pay bail does not remain in our custody  
24 due to lack of confusion or information or help and  
25 that we want people who are eligible to return to

1 their lives with as little interruption as possible.

2 So, we are open to any new ideas, we are looking at  
3 every aspect of the bail payment system to make sure  
4 that we close that gap and that we are making it as  
5 streamless and effortlessly as possible.  
6

7 CHAIR KEITH POWERS: Can you maybe share  
8 with us any other operational things that you guys  
9 are considering or ways that the Council can be  
10 supportive to improve the operational uhm, part of  
11 this process?

12 HAZEL JENNINGS: So.

13 CHAIR KEITH POWERS: Even before State.

14 HAZEL JENNINGS: Yeah, so we are looking  
15 at the audit process. We currently do not have a  
16 tech solution for that as of yet and we are working  
17 with that. And MOCJ and also with the uhm payment  
18 centers in both Staten Island and the Bronx.

19 CHAIR KEITH POWERS: Okay and if you can  
20 let us know if the Council can be supportive to  
21 operational improvements that the Department is  
22 making, we would appreciate being part of that  
23 conversation and also assisting to fix issues that we  
24 perceived and were here today. Can you tell us uhm  
25

1 the average length of time before an individual is  
2 released after bail was paid?

3  
4 HAZEL JENNINGS: So, currently the  
5 average length of time is about 4.5 hours and it is  
6 like even on the ideal circumstances it takes a few  
7 hours to process an inmate to be discharged for  
8 various reasons that is critical to confirm the  
9 correct person is being discharged and every inmate  
10 that is known to mental health that is in the BRAD-H  
11 program has to be seen by a medical condition to  
12 receive medication and their discharge planning. And  
13 any inmate with mental or medical needs have to be  
14 seen by medical, that includes within that time  
15 person.

16 CHAIR KEITH POWERS: So, today the  
17 average is 4.5 hours and so I mean on admission at  
18 least I'm not here to, I'm here to help fix a problem  
19 but the Department is out of compliance with the  
20 three hours?

21 HAZEL JENNINGS: So, I would say that we  
22 are in compliance, there are components or circum, or  
23 certain circumstances in which an inmate has to be  
24 seen that uhm extends the amount of time in which he  
25 is released; however, we are also working on

2 technical solutions because the clock starts when the  
3 bail is paid and right now there is no time frame or  
4 clock that starts when the, when the funds are  
5 actually uhm received.

6 CHAIR KEITH POWERS: Okay, so you are  
7 saying, it's, it's, when paid not received is when  
8 the clock starts.

9 HAZEL JENNINGS: It's when it's paid and  
10 the, and the bail is actually posted there is a  
11 three-hour start.

12 CHAIR KEITH POWERS: Okay uhm can you  
13 tell us what percentage of people with bail paid are  
14 released after three hours?

15 HAZEL JENNINGS: So, I think it is uhm.  
16 Say, can you repeat that?

17 CHAIR KEITH POWERS: Yeah, what  
18 percentage of people with bail paid are released, I'm  
19 sorry within the three-hour window?

20 HAZEL JENNINGS: About 19%.

21 CHAIR KEITH POWERS: 19%?

22 HAZEL JENNINGS: Yes.

23 CHAIR KEITH POWERS: So, 19%, about 1/5  
24 of individuals are getting the mandated.

25 HAZEL JENNINGS: Three hours.

1

2

CHAIR KEITH POWERS: And 80% are, are not  
meeting that?

3

4

HAZEL JENNINGS: Because they fall within  
the other categories where they meet discharge  
planning, they have warrants or other jurisdiction  
holds, they are currently not in our custody when the  
bail is paid, or they are being transported or  
medical or mental health services are being applied.

5

6

7

8

9

10

CHAIR KEITH POWERS: Okay, and can you do  
you have data broken down by where an individual is  
held, and are there, are there facilities that are  
per... Can you go with it? Let's just start with  
that, do you have data broken down by where, where an  
individual is held?

11

12

13

14

15

16

HAZEL JENNINGS: Not at this time.

17

CHAIR KEITH POWERS: Not at this time.

18

But do you do you have it and is it something that we  
can take a look at. And I know this because you know  
some of the data that we discuss I think is borrough  
specific.

19

20

21

22

HAZEL JENNINGS: Correct.

23

CHAIR KEITH POWERS: And reports. So, we  
would be interested in seeing.

24

25

1  
2 HAZEL JENNINGS: So, we have no problem  
3 with work or Council to provide that information.

4 CHAIR KEITH POWERS: Okay, thank you and  
5 uhm the, well I'll go back to it. And so, uhm you  
6 know, following up that point, I think that, I think  
7 that according to the DOC there was an audit in the  
8 few weeks of October revealing an average release to  
9 be 3 hours and 40 minutes and then we've heard  
10 different data from the Bronx Freedom Fund about  
11 average release time for their clients that was 13  
12 hours and 3 minutes, the median release time being 6  
13 hours and 53 minutes. Can you describe those  
14 discrepancies? I think you just said 4.5 hours. We  
15 have a three hours and 40 minutes and then we have at  
16 least from a certain group of people six hours and 53  
17 minutes, so maybe explain the audit to us, how many  
18 people did it include? Where did it take place? And  
19 any issues particular to the Bronx that might be  
20 causing delay?

21 WILLIAM BARNES: So, uhm Council, my name  
22 is William Barnes. I just want to point that  
23 approximately just going back, there was 19% of  
24 people booked out in less than two hours which is  
25

1 under the three-hour mark and uhm I'm sorry. What  
2 was the other question?  
3

4 CHAIR KEITH POWERS: Sorry, say that  
5 again.

6 WILLIAM BARNES: So, when the Chief spoke  
7 before it was 19% of individuals are booked out in  
8 less than two hours.

9 CHAIR KEITH POWERS: Less than two hours.

10 WILLIAM BARNES: Correct.

11 CHAIR KEITH POWERS: And what's the,  
12 three hours?

13 WILLIAM BARNES: I'll have to get back to  
14 you on that specific, that specific data but that's  
15 a, that's an increase in getting them out quicker.

16 CHAIR KEITH POWERS: Okay, the local law  
17 is three hours correct?

18 WILLIAM BARNES: Yes.

19 CHAIR KEITH POWERS: So, can you check,  
20 you don't have data about your compliance level with  
21 the three hours, the three-hour law? Or maybe a  
22 followup question, why is 2%, I'm sorry why is two  
23 hours the number that you.

24 HAZEL JENNINGS: So, we don't have a two-  
25 hour time limit, we have three hours in which a



1 person has to be uhm discharged from custody but  
2 again, uhm the 19% of people who were booked out of  
3 less than 3 hours but we have a three-hour window  
4 frame. That is the benchmark and that is the goal.

5 CHAIR KEITH POWERS: And that is what?

6 HAZEL JENNINGS: That is the goal to red..  
7 to discharge every inmate within three hours' time  
8 frame but like I explained, we do have certain  
9 circumstances that brought us over the four hours, up  
10 to the four hour and about 42 minutes which gave us  
11 those six instances of where the inmate was held  
12 longer.  
13

14 CHAIR KEITH POWERS: Six instances?

15 HAZEL JENNINGS: Yes, so when the inmate  
16 receives discharge planning prior to discharge the  
17 warrants, the holds, being transported at the time  
18 that the bail is paid, uhm departmental custody where  
19 they are not in departmental custody at the time of  
20 the bail or bond and they require immediate medical  
21 or mental health treatment.

22 WILLIAM BARNES: Some of the  
23 discrepancies are also is when does the clock start?  
24 So sometimes people are in the bail line waiting to  
25 pay a bail and there are two or three people in front

1  
2 of them and they are counting that as hey I've been  
3 you know waiting, the bail process for the Department  
4 of Corrections on our end, the clock starts once we  
5 receive, we take the money from the surety and the  
6 bail is considered paid at that point. We then start  
7 the clock, so I think some of the ambiguity could be  
8 that there is no one codified out there when this  
9 clock starts, as I have spoken to people who said I  
10 waited in line for 30 minutes, I can't control how  
11 many people are head of that person when they are  
12 paying the bail, so that could be, I would ask them  
13 why is there a discrepancy I don't speculate that  
14 different people are starting their own clocks at  
15 different times.

16 CHAIR KEITH POWERS: Okay, so can we just  
17 talk about the audit that was done in the first few  
18 weeks of October. That, I think that was a  
19 department audit, revealed an average release time to  
20 be 3 hours and 40 minutes. I think you said 4.5  
21 today. But I think that.

22 HAZEL JENNINGS: Only, only because of  
23 the other avenues in which an inmate can be.

24 CHAIR KEITH POWERS: Okay, let's just,  
25 can you just give us some more information on that

1  
2 audit? How many individuals did it include? Where  
3 did it take place? And then can you tell us any  
4 particular issues related to the, to the Bronx that  
5 are causing delay?

6 HAZEL JENNINGS: So, for time on Riker's  
7 Island, the average time to the visit house was  
8 actually 4 hours and 42 minutes.

9 CHAIR KEITH POWERS: 4 hours and 42  
10 minutes for Riker's okay.

11 HAZEL JENNINGS: For Rikers, that was the  
12 median.

13 CHAIR KEITH POWERS: Okay but did, how  
14 many individuals were, did an audit? So how many  
15 individuals did that include?

16 HAZEL JENNINGS: I think it was 43  
17 people.

18 CHAIR KEITH POWERS: 43 and it took place  
19 at Riker's or where did, where did it take place?

20 HAZEL JENNINGS: At Rikers.

21 CHAIR KEITH POWERS: Okay and can you and  
22 then I want to just relate, separate talk about the  
23 Bronx, just particularly because of some data that we  
24 have received about some data in the Bronx. Can you  
25

1

2

tell us any particular issues related to the Bronx  
that have been causing maybe further delays?

4

HAZEL JENNINGS: In the Bronx? Do I  
don't have, I don't have any information on that.

6

CHAIR KEITH POWERS: Okay, so you don't  
know of any issues in the Bronx related to paying out  
bail?

9

HAZEL JENNINGS: No, only the fact that  
we don't have the bail window there.

11

12

13

14

15

16

17

18

19

CHAIR KEITH POWERS: Okay, uhm okay and  
then the, the I just want to note that in a similar  
letter that we received in October, in relation to  
our, that I send with the speaker about compliance  
with these laws, uhm, uhm, the response of the  
Department was the system to eliminate black out  
windows was not, was not used consistently in the  
Bronx, so can you tell us some information why not in  
the Bronx?

20

21

22

23

24

25

HAZEL JENNINGS: So, when we eliminated  
the blackout process, the process is that for every  
inmate who is eligible for bail that their paperwork  
is scanned into a drive so that anyone could access  
that paperwork at the time in which the inmate was  
being arraigned and if any policies that we have

1  
2 implemented are not followed, there is disciplinary  
3 actions associated with that and each case is  
4 investigated.

5 CHAIR KEITH POWERS: Okay, but that, that  
6 wasn't the answer to the question about whether you  
7 are in compliance with eliminating the blackout  
8 windows in the Bronx?

9 HAZEL JENNINGS: Uhm what we will do is  
10 continue to monitor issues and determine whether  
11 staff needs additional training but we have a policy  
12 that has been implemented and it is being used.

13 CHAIR KEITH POWERS: So, you can pay uhm  
14 bail continuously in the Bronx right now?

15 HAZEL JENNINGS: Correct.

16 CHAIR KEITH POWERS: Okay is that a new  
17 policy starting from your announcement today?

18 HAZEL JENNINGS: We started that with the  
19 BEX program back in April.

20 CHAIR KEITH POWERS: Okay uhm, I'm going  
21 to stop there. I'm going to hand it over to Chair  
22 Lancman I have some followup questions. Thank you. I  
23 should note that we have also been joined by Council  
24 Member Alan Maisel.

1  
2 CHAIR RORY LANCMAN: Thank you, good  
3 morning.

4 HAZEL JENNINGS: Good morning.

5 CHAIR RORY LANCMAN: It is always very  
6 frustrating when we have two different realities that  
7 are presented to us. One from the Administration and  
8 others, and another or sometimes it is multiple  
9 realities from those who are around on the ground.  
10 Uhm the Council passed five Bills in July of 2017,  
11 relating to making it easier for people to pay bail  
12 that they can afford. And the compliance and  
13 implementation of those Bills up to this point, I  
14 think, even the Administration would agree is  
15 seriously lacking. Uhm in MOCJ's testimony I don't  
16 see where you reference any of the Bills or the  
17 status of their being implemented and I view MOCJ as  
18 the entity that is responsible overall for  
19 coordinating the Administration's Criminal Justice  
20 Policies and ensuring that the bills and, and laws  
21 that we put into effect are actually implemented.  
22 Let's just lay out these two different realities.  
23 Alright? Local law 123, again these were passed in  
24 July of 2017, the implementation or effective date  
25 was January of 2018 so that was 11 months ago, maybe

1  
2 10 months ago. Requires the Department of  
3 Corrections to accept cash bail payments immediately  
4 and continuously, DOC must release anyone who has had  
5 bail paid within three hours. The Bronx, the Bronx  
6 Freedom Fund found that from April to September, the  
7 mean release time for clients was 13 hours and 3  
8 minutes and the median release time was 6 hours and  
9 53 minutes. During that period, 65 clients were  
10 released over 10 hours after bail had been paid and  
11 21 of those individuals were released after over 20  
12 hours. Only 24% of the Freedom Funds clients were  
13 released within four hours and that was as of October  
14 2018. The next day that went into effect, the Bill  
15 that we passed, local law 124, the expansion of BEX,  
16 it is a very effective program. The Bronx Freedom  
17 Fund founded that there was not been a single client  
18 held for more than 2 hours and as of June 2018 there  
19 were 10 incidences where the Department of Correction  
20 did not honor requests to hold incarcerated  
21 individuals for even two hours. Local law 125, the  
22 Department of Corrections must give written notice of  
23 the amount of bail or bond set to ensure that bail  
24 facilitators meet with inmates within 48 hours of  
25 admission into DOC custody. The Bronx Freedom Fund

1  
2 found that 80% of its clients have not received the  
3 required written notice and they noted a particular  
4 issue where the Department of Corrections failed to  
5 notify incarcerated individuals of their ability to  
6 pay bail in the amount of \$1 which we are going to  
7 get to. My Bill, my Law, local law 126, requires the  
8 police to offer arrestees the opportunity to get  
9 contact information from their personal property,  
10 like phone numbers off of their phone. That's not  
11 the Department of Corrections issues, that is the  
12 police departments issue. The Bronx Freedom Fund  
13 found that 70% of its clients had no access to that  
14 contact information made available to them and just  
15 to complete the list, local law 127 requiring MOCJ to  
16 work with OCA to conspicuously display and flow on,  
17 on how and where to post bail in courtrooms. Nowhere  
18 to be found. So, let me ask MOCJ what, what role and  
19 responsibility to MOCJ have to ensure that the  
20 various Criminal Justice Reform Bills that we enact  
21 into law are actually implemented? Cause I don't see  
22 any discussion of it in your testimony?

23 ANN PELNACK (SP?): We work very closely  
24 with the Department of Corrections in implementing  
25 these different initiatives and I think a lot of the



1 bail initiatives that were announced by the  
2 Department of Correction today will address a lot of  
3 the issues that you have brought up. Uhm.

4  
5 HAZEL JENNINGS: So, as I stated before  
6 on a weekly bases, we are having those meetings and  
7 MOCJ are included. As of last week, Thursday, we  
8 went live with issuing the inmates copies of the QCC  
9 screen which gives all of the information, the  
10 booking case, court, next court date, what part and  
11 the bail amount and that spe... that started last week,  
12 Thursday. We are also working with MOCJ we have  
13 received pamphlets that we will be issuing out to the  
14 inmates that we are currently printing as well as uhm  
15 poster that will be displayed in the courts and in  
16 the housing facilities. We have reassessed the bail  
17 facilitators. We provided scripts and duties and  
18 responsibility. We did additional training for them  
19 and we will be going live with the uhm instructional  
20 video in both English and Spanish probably by the end  
21 of today and we will be handing out those pamphlets  
22 as well as giving them additional assistance with  
23 paying bail.

24 CHAIR RORY LANCMAN: Okay, well, let's  
25 talk about uhm local law 126 which requires the

1  
2 police to offer arrestees the opportunity to get  
3 contact information off of their phone, in which the  
4 Bronx Freedom Fund found 70% of its clients were  
5 given no such opportunity and we have heard  
6 anecdotally from other public defenders that their  
7 clients are not seeing this law enforced and they are  
8 not getting the opportunity to communicate with  
9 someone who could potentially bail them out or show  
10 up in court and to attest to their, to their  
11 community ties. What has the city done to ensure  
12 that this local law is being implemented?

13 ANN PELNACK (SP?): So, we understand  
14 that NYPD directly negotiates this Bill with the  
15 Council and our understanding is that they are  
16 generally in compliance with the requirements of the  
17 Bill.

18 CHAIR RORY LANCMAN: Do you have any  
19 independent knowledge whatsoever to say whether they  
20 are in compliance as the NYPD claims or completely  
21 out of compliance as the Bronx Freedom Fund report  
22 claims?

23 ANN PELNACK (SP?): What we do understand  
24 now is that the Department instituted department-wide  
25 procedures for officers to comply uhm and have

1 alerted all of the officers of the enactment of the  
2 Bill and the new procedure. And have been in  
3 compliance.  
4

5 CHAIR RORY LANCMAN: Okay, so when you  
6 say that they have uhm have established a policy or  
7 implemented a policy, I don't remember your, your  
8 terms. I assume you are referring to the, to the  
9 patrol guide where officers are told that they must  
10 "inform a prison that phone numbers and associated  
11 addresses stored on a cellular phone that is not  
12 being invoiced as arrest or investigatory evidence  
13 may be accessed and recorded for the benefit of the  
14 prison in order to assist during pre-arraignment  
15 processing? Is that what you are referring to?

16 ANN PELNACK (SP?): Yes, and I think  
17 anything more than that, uhm Councilman Lancman I  
18 think the NYPD is in the best position to answer  
19 those question.

20 CHAIR RORY LANCMAN: I agree with you but  
21 here the NYPD is ... where, where are they? They are  
22 not here and unfortunately the Administration sent  
23 you to represent what is happening with the NYPD and  
24 now you are in the unfortunate situation of having to  
25 answer questions for me that respectfully you are

1  
2 clearly not prepared to answer because you don't have  
3 that information. Why would you? You are not the  
4 NYPD but you, you are here to represent these views.  
5 So, or to answer these questions. So, can you tell  
6 us what training has been done for, so that officers  
7 are aware of this uhm provision in the patrol guide  
8 and are able to implement it.

9 ANN PELNACK (SP?): We will be happy to  
10 followup with the NYPD and followup with the Council  
11 with that information.

12 CHAIR RORY LANCMAN: Can you tell us, in  
13 how many instances have the uhm arrestee been denied  
14 access to his or her phone because it would have been  
15 exempt as the phone having been confiscated as  
16 investigatory evidence?

17 ANN PELNACK (SP?): What I do know is  
18 that NYPD does not current track that data, uhm but  
19 would be happy to followup with NYPD and followup  
20 with the Council on that information?

21 CHAIR RORY LANCMAN: Uh-huh, are you, uhm  
22 do you have reason or any knowledge that would  
23 indicate that the Bronx Freedom Funds reports and,  
24 and numbers on its clients being given access to  
25

1  
2 their phones so they could contact someone to help  
3 make bail are incorrect?

4 ANN PELANCK (SP?): We have not been  
5 notified directly of any of those incidents. If  
6 Bronx Freedom Fund wants to reach out and share those  
7 specific incidents, I would be happy to followup with  
8 those incidents.

9 CHAIR RORY LANCMAN: Well, I think when  
10 the Council passes a law which almost always, we  
11 negotiate with the Administration. In my time in the  
12 Council there hasn't been a single law that has gone  
13 into effect as a result of the Council overriding a  
14 veto but even if that were the case, the  
15 Administration has an obligation to make sure that  
16 the law is implemented and I, I am glad to hear from  
17 the Department of Corrections that today, the day of  
18 the hearing there are plans to put into effect and  
19 implement all of these Bills that actually went into  
20 effect last January. Uhm but really it is completely  
21 unsatisfactory that there are people sitting on  
22 Riker's Island who shouldn't be there and the folks  
23 from the Department of Corrections you don't need me  
24 to tell you what a horrible place Riker's Island is  
25 and I don't think that I need to for MOCJ but what I

1 see is just an utter lack of seriousness and  
2 preparedness to effectuate laws that are on the books  
3 to keep people out of Riker's Island and I'm sorry  
4 that you are the person who has to bear the brunt of  
5 this but it is completely unacceptable that nobody is  
6 here from the police department or from MOCJ who is  
7 prepared and able to testify about the implementation  
8 of this law which quite literally and specifically  
9 would keep people off of Riker's Island and that is a  
10 disappointment so we are going to followup on the  
11 questions that we have asked you today and hopefully  
12 we will get answers to those and hopefully we will  
13 not see or hear going forward that there are people  
14 who are not being given access to their phones so  
15 that they can call someone to pay their bail and they  
16 end up getting shipped off to Riker's Island. Thank  
17 you.

19 CHAIR KEITH POWERS: Thank you and I just  
20 want to act on the Chairs comments such that you know  
21 we are, we are all here to kind of fix a problem and  
22 I don't, I don't pretend there are not complications  
23 in that and I recognize that we can clarify...  
24 definitions and things like that but it feels like we  
25 are in a game at times on this issue and others where

1 we passed a law, a series or laws, there was broad  
2 noncompliance with them it seems and we are admitting  
3 today that we are not in compliance with that,  
4 recognizing that there are issues and then we had to  
5 send a letter to find it. I, I actually thought your  
6 response to the letter was fairly, was fairly  
7 detailed and fairly good and admitted where there  
8 were gaps that needed to be fixed and was a, was kind  
9 of a sober, like I thought it was like a sober  
10 analysis of where you are and then we had a hearing  
11 to followup the day of the hearing at 7:15 a.m. or  
12 something like that we get notification of some  
13 improvements. Like we want to fix the issue, I'm not  
14 interested in moments, I'm not interesting I making  
15 this about a game like it's a py... We want to fix the  
16 issues that we think are really actually affecting  
17 people's lives and redo stories and anecdotes but uhm  
18 to the degree that we are going to pass more laws,  
19 we, we certainly are asking. Willing to go... I will,  
20 you will get a fair negotiation at least from me but  
21 we will then expect them to be implemented and to be  
22 followed because the public and many who are here are  
23 believing one thing is working and then one thing is  
24 working a certain way. They are pay... for instance,  
25

1  
2 they are paying bail and believing that within three  
3 hours or some time period there that the clock is  
4 started and we find out that it is not started. So,  
5 we are happy to clarify those definitions. We are  
6 happy to work with you to fix it and fixing it is  
7 actually the intention not anything else but I think  
8 it's, its, you know we want to get out of this sort  
9 of us finding out what, having to ask to find out who  
10 is in compliance and who is not and, and then have,  
11 find announcements out on the day of the hearing that  
12 are supposed to, I think cover some of the ground  
13 that, that's to make up some of the ground. So, I  
14 hope you share that analysis as well and that we can,  
15 we can partner to fix whatever other inefficiencies  
16 may still exist.

17 ANN PELNACK (SP?): So, sir, I would like  
18 to just say that we have done a tremendous amount of  
19 work and we recognize that there is still more work  
20 to be done. Uhm again, we have been meeting weekly  
21 to address some of the issues and last week I met  
22 with uhm, Chief Jones from the NYPD to incorporate  
23 her in those weekly meetings so that we can address  
24 the differences for us, inmates have always been  
25 allowed to self-pay bail. We are allowing the



1 inmates to retrieve any items that are in their  
2 property that they may need to pay bails to get  
3 numbers to sureties once they are on Riker's Island  
4 to release that information and we will continue to  
5 work and we are even putting kiosks in the facilities  
6 that are currently not more admission facilities so  
7 if an inmate has his credit card in his wallet that  
8 he could access it to still pay bail so where there  
9 is a lot of work that we have done, we are looking  
10 and we are acknowledged that there is still work to  
11 be done and we look forward to working uhm with the  
12 Committee on ways in which we could possibly  
13 improvise and improve these processes. Because  
14 again, we want to have people return back to  
15 normalcy.  
16

17 CHAIR KEITH POWERS: Alright thank you  
18 for that and I noted we were joined by Council Member  
19 Andy Cohen as well and I think Chair Lancman had a  
20 followup question?

21 CHAIR RORY LANCMAN: Just really quick  
22 uhm in the press release that was issued this  
23 morning, which really should have been a letter at  
24 least to the Chairs and to the speaker you know,  
25 Friday but in the press release that was announced

1 this morning, uhm, the new measures come out of the  
2 Department of Corrections Bail working group formed  
3 earlier this year to improve the bail process. Who  
4 was in the, the bail working group?  
5

6 ANN PELNACK (SP?): So, that's the DOC  
7 along with MOCJ and we will be jo... we will be joined  
8 soon by NYPD Assistant Chief Jones who is overseeing  
9 CJB.

10 CHAIR RORY LANCMAN: Good, well it seems  
11 to me that a bail working group would benefit from  
12 the inclusion of participation of the public defender  
13 organizations or funded by the City uhm and the bail  
14 funds, because of their knowledge and, and expertise  
15 so could you take that back to the powers that be,  
16 that, that.

17 ANN PELNACK (SP?): I'm not opposed to it  
18 sir.

19 CHAIR RORY LANCMAN: Yeah, good, would  
20 someone could followup with us, with us and just  
21 confirm or give us a reason why those entities  
22 shouldn't be part of the, the working group because I  
23 think that would make things more productive.

24 ANN PELNACK (SP?): Not a problem.

25 CHAIR RORY LANCMAN: Okay thank you.

1  
2 CHAIR KEITH POWERS: Thank you uhm, we  
3 have questions from Council Member Rivera.

4 CARLINA RIVERA: Good morning. Thank you  
5 everyone for being here. Thank you for your  
6 testimony.

7 ANN PELNACK (SP?): Good morning.

8 CARLINA RIVERA: And thank you for  
9 bringing up the Supervised Released Program which I  
10 think is incredibly important and I think is a very  
11 good program that the City has implemented so I want  
12 to thank you for that. You know, you gave us a lot  
13 of statistics of when people get out and, and how  
14 long and, and the Chairs, Chair Lancman and Chair  
15 Powers they have done an excellent job in asking you  
16 about that. I read a statistic maybe back in July  
17 that 12% of people who have bail set can pay  
18 immediately and the other 88% more or less are  
19 transported to Riker's. Whether or not those  
20 statistics are still true and again I read this in I  
21 think July. Uhm that is clearly a sign of an  
22 inequitable system which you mention on how  
23 communities of color are adversely impacted. And I  
24 saw all of that to ask how are conversations going to  
25 end cash bail entirely. Uhm I know that in this

1 article, uhm Governor Cuomo proposed something, it  
2 was blocked by the GOP controlled Senate but I ask  
3 that now that things might be a little different next  
4 year, are you working very closely with the state to  
5 lobby to end cash bail and move toward a risk based  
6 system that if of course supported by evident based  
7 assessment tools but allowing judges to really make  
8 this decision?  
9

10 ANN PELNACK (SP?): The Administration  
11 definitely committed to eliminating money bail, and  
12 we are planning on working with the Legislation going  
13 forward and we hope that the, the State is able to  
14 pass the Compressive Bail Reform that would address  
15 those issues.

16 CARLINA RIVERA: So, you are hoping the  
17 end the, uhm and you are completely committed and you  
18 are working with a lot of the advocates, a lot of  
19 whom are in this room to make sure we do this the  
20 right way?

21 ANN PELNACK (SP?): We are committed to  
22 eliminating money bail and we are committed to  
23 working with relevant stake holders as well as the  
24 State Legislation to make sure that the comprehensive  
25 bail reform is passed.

1  
2           CARLINA RIVERA: I, I, I thank you for  
3 saying that and the only reason why I am continuing  
4 to kind of highlight and underline it is because you  
5 know the bail bond industry does a lot of intense  
6 lobbying at every single level of government and I  
7 know that you are here and I want to thank you both  
8 for the work that you do in terms of how you serve  
9 the City uhm it really, really is important and I  
10 know that there have been other cities have tried  
11 this, so are you looking to those models, I think it  
12 was like D.C. and even as far as Alaska have tried  
13 uhm a different system and in your testimony you  
14 mention reform but these are conversations you are  
15 actively having? Correct, to end money bail?

16           ANN PELNACK (SP?): New York City is  
17 doing everything in its power to ensure a more  
18 efficient and faster system uhm and we are committed  
19 to eliminating money bail and working with the State  
20 Legislation to making that a reality.

21           CARLINA RIVERA: Okay thank you so much,  
22 thank you.

23           CHAIR KEITH POWERS: Okay I just have a  
24 couple of followup questions, number, the first one  
25 was on I, I saw the comment around Council Member

1 Chairman Lancman's Bill around the \$1 notification.

2  
3 Can you tell right now what the, like today you have  
4 a system in place. Just what that looks like? How  
5 do you receive notification if you have a \$1 ba...?

6 HAZEL JENNINGS: So, it's an automated  
7 bail drop that IT Department. We currently have only  
8 one inmate on that list for today and it comes out  
9 weekdays and once the list comes out, the Facility,  
10 the Chief of Facility Operations and the Facilities  
11 are notified, the inmate is brought down and  
12 interviewed and asks if they want to pay the \$1, do  
13 they have the funds available, can the contact a  
14 surety or if the Administration Chaplains have to  
15 then produce the \$1 bail?

16 CHAIR KEITH POWERS: Gotcha and if they  
17 have money in their Commissary, that can be used?

18 HAZEL JENNINGS: They can self-, they can  
19 self-bail pay.

20 CHAIR KEITH POWERS: Got it. And uhm how  
21 many individuals are on the \$1 bail today?

22 HAZEL JENNINGS: Only one.

23 CHAIR KEITH POWERS: Only one, and they  
24 have been notified?

1  
2 HAZEL JENNINGS: And they should have  
3 been notified.

4 CHAIR KEITH POWERS: And how many this  
5 year?

6 HAZEL JENNINGS: Uhm I don't have that  
7 total information.

8 CHAIR KEITH POWERS: Okay but you do get,  
9 you do get a daily report that says that?

10 HAZEL JENNINGS: We get a daily drop.

11 CHAIR KEITH POWERS: And who is, it is an  
12 automatic. It's automated?

13 HAZEL JENNINGS: It is automatic done.  
14 It's the fee is taken out through our IT department  
15 uhm in conjunction with the IAS system.

16 CHAIR KEITH POWERS: Okay, thank you and  
17 what's the average amount of people that are on \$1 at  
18 any given day?

19 HAZEL JENNINGS: Uhm I've seen as many as  
20 5, I've seen one, I've seen maybe six.

21 CHAIR KEITH POWERS: Okay, thank you and  
22 can we talk about barriers? Uhm obviously it's not  
23 just that DOC is office of core Administration that  
24 is involved in this as well. Can you tell us  
25 barriers both in terms of having to, share

1  
2 jurisdictions and also having just barriers that you  
3 see with the OCA in terms of helping to facilitate  
4 paying bail or getting a timely release and other  
5 factors that are barriers in terms of having to work  
6 with the OCA?

7           ANN PELNECK (SP?): Sure, as you know OCA  
8 and DOC systems do not speak to each other and a lot  
9 of these bail conditions are being recorded in  
10 writing by the court officers within OCA and they are  
11 then communicated to DOC. So, there are incidences  
12 where there are clerical errors are happening by the  
13 court system, then the department has to respond in a  
14 timely way to rectify and then the discharge process  
15 can be implemented. Uhm so I think this larger  
16 systemic issue is something that I think is a daily  
17 reality for both agencies and kind of rectify those  
18 mistakes as they happen as those are human errors  
19 that happen.

20           CHAIR KEITH POWERS: Thank you, can you  
21 tell us ongoing efforts, past efforts or efforts that  
22 need to be in place to help resolve the issue related  
23 to having two different systems that don't work, that  
24 don't work together?



1  
2 ANN PELNACK (SP?): Sure, so MOCJ has  
3 facilitated working with DOC and OCA and redesigning  
4 the security orders that are issued from OCA to DOC  
5 to make those uhm record on that form, much easier  
6 and clearer to record and to understand. So, those  
7 are one of the past initiatives that we will work  
8 together to try and rectify these issues.

9 CHAIR KEITH POWERS: And these are an  
10 effort underway right now to try and make it so that  
11 there is one system? I think OCA is technically  
12 State, DOC is City but is there an effort and I guess  
13 it would have to be a State partnership here to  
14 rectify so that there is, I mean could there just be  
15 one system that helps everybody uhm talk to each  
16 other more efficiently?

17 ANN PELNACK (SP?): There are various  
18 conversations where, we, we're trying to have that,  
19 trying to implement that kind of system speaking to  
20 each other; however, as you can imagine there are a  
21 lot of more logistical hurdles being that one is a  
22 State effort and one is a City effort.

23 CHAIR KEITH POWERS: Yeah, so what are  
24 those logistical hurdles?  
25

1  
2           ANN PELNACK (SP?): Well there are two  
3 different system, right and there is not, there is no  
4 way for them to communicate to each other. Uhm we  
5 are really relying on a, working on different various  
6 partners without the two different agencies where we  
7 can identify partners who can kind of troubleshoot  
8 certain issues as they come up. The security mortar  
9 is a one prime example where there are certain  
10 parties within that agency that record and there are  
11 certain parts of the department that there needs to  
12 receive and then to record. So, in working with  
13 those two types of setups of people within the two  
14 Departments we have come up with a way that they can  
15 communicate better.

16           CHAIR KEITH POWERS: Okay and then when,  
17 when there is an error made at the OCA side, like  
18 they don't release paperwork to you in time or they,  
19 put something incorrect on paperwork can you tell us  
20 the efforts or the response system of DOC and how you  
21 work with them to try to rectify an issue that comes  
22 in which would then uhm impede somebody's release?

23           ANN PELNACK (SP?): Well I would say  
24 lifetime uhm MOCJ is actually notifying DOC and we  
25 are also speaking with OCA so that now we are picking

1  
2 up the phone to call each other to say, hey this is  
3 happening, we need to get this rectified and we are  
4 doing it 24-hours because there is never a time of  
5 the day that we are not receiving those phone calls  
6 to address those issues.

7 CHAIR KEITH POWERS: Okay uhm and is  
8 there, is there an attempt to try to reduce having  
9 multiple systems and have one computer system that  
10 has everybody working you know in the same place?

11 ANN PELNACK (SP?): That hasn't been,  
12 that has not been put together as of yet but we will  
13 do any new initiatives that we can come up with.

14 CHAIR KEITH POWERS: Okay, a couple of  
15 other just last questions here, uhm first of all, at,  
16 uhm, can you share with us at some point thought the  
17 pamphlets, the videos, the posters, things of that  
18 material that you are, that you are using that would,  
19 that are both new and old that help uhm make people  
20 aware of their, of their rights and ability.

21 ANN PELNACK (SP?): We can share, we can  
22 share both the videos and we can also uhm welcome the  
23 Committee to go out and talk.

1  
2 CHAIR KEITH POWERS: Alright and also am  
3 I right saying that online uhm bail payment only  
4 allows up to \$2500?

5 ANN PELNACK (SP?): That's per  
6 transaction so it can be. If the bail is \$10,000  
7 it's only \$25.00 each credit card transition but you  
8 can still pay up to \$10,000.

9 CHAIR KEITH POWERS: And I'm pretty sure  
10 that's why, that's the...

11 ANN PELNACK (SP?): That's more for fraud  
12 prevention than anything else because there is no cap  
13 on what the bail amount that can be paid in a total  
14 but it is just to ensure that every credit card  
15 transition is legitimate payment that is going  
16 through. There is a \$2500 cap per transaction but  
17 you can repeat it. There is no limit on how many  
18 times you can repeat it to get the full bail amount.

19 HAZEL JENNINGS: Or how many people can  
20 pay right, a bail.

21 CHAIR KEITH POWERS: Okay so 10 can pay  
22 \$1000. And that is rather.

23 HAZEL JENNINGS: Absolutely. We had an  
24 incident where we had an online bill payment where  
25 there were five different sureties paid one bail

1  
2 payment so I think that really, that really kind of  
3 demonstrates the flexibility and additional option  
4 that the online bill payment system has offered to  
5 families to friends.

6 CHAIR KEITH POWERS: Got it and is that a  
7 City restriction or who limits it at \$2500? I'm just  
8 curious?

9 ANN PELNACK (SP?): That's through the  
10 vendor.

11 CHAIR KEITH POWERS: Through the vendor,  
12 got it. Okay, just saying.

13 CHAIR RORY LANCMAN: And you noted that  
14 on the Bill around credit card fees that the city  
15 doesn't pay those fees. You have a, you have a  
16 contract with the vendor which we know, we assume  
17 that it is a credit card vendor that is processing  
18 and those are the fees but can you actually share  
19 with me I think if you pay on person it is 7.9 I  
20 think it is 9 but it is 7 point something percent,  
21 why is there just a discrepancy between paying online  
22 versus paying in person with a credit card. Is the  
23 said true per se, I believe I stand corrected, but 2%  
24 if you are paying online 7.9 something percent if you  
25 are going through, paying through credit card in

1 person, can you share with us why there is such a  
2 discrepancy?  
3

4 ANN PELNACK (SP?): So, right now there  
5 is two different vendors that we are paying to, so we  
6 have Pay Amentias and we also have Secures.

7 CHAIR KEITH POWERS: So, the vendors are  
8 ch...

9 ANN PELNACK (SP?): The, the fees that  
10 are charged are the vendors fee.

11 CHAIR KEITH POWERS: Okay is is 7..  
12 whatever percent sounds incredibly high for a credit  
13 card vendor. Is there, can you share with us as why  
14 it is so high if you are paying in person I mean and  
15 why not use the other vendor that is doing 2%.

16 ANN PELNACK (SP?): That's a fee that is  
17 set by the vendor; however, we have reduced the  
18 amount of, uhm of funds that it should be. We have  
19 brought it down to 2% and the Department is actually  
20 uhm funding the additional fee.

21 CHAIR KEITH POWER: You are funding the  
22 additional? The, the spread between what it is and  
23 the 2%?

24 ANN PELNACK (SP?): That's correct.  
25

1  
2 CHAIR KEITH POWERS: And how much does  
3 that cost the City every year?

4 ANN PELNACK (SP?): We can get back to  
5 you with that.

6 CHAIR KEITH POWERS: Okay I was just was  
7 asking because I was just curious. Uhm and the, and  
8 you also had noted the 3% being now returned being  
9 now returned, the 3% fee being returned to folks  
10 after they pay bail, can you tell us more about that?  
11 I think it was in your testimony around, uhm if I can  
12 find it.

13 ANN PELNACK (SP?): That was enacted as  
14 of January 1<sup>st</sup>, that has been in effect since January  
15 1<sup>st</sup> of this year.

16 CHAIR KEITH POWER: And that is a, that  
17 is part of a, is that a local law, is that a City DOC  
18 policy to. It says eliminating the 3% fee taken from  
19 individuals bail after plea or found guilty?

20 ANN PELNACK (SP?): That, I'm not sure  
21 what the source of that is. But it is in effect  
22 where there used to be a 3% fee that was taken out of  
23 the bail refund check. That is no longer.

1  
2 CHAIR KEITH POWERS: So, when you got  
3 your bail returned to you. The City, the City kept  
4 3% of it and now that's returned?

5 ANN PELNACK (SP?): Yep.

6 CHAIR KEITH POWERS: And is that, and  
7 that is happening for everybody?

8 ANN PELNACK (SP?): That is should be  
9 happening for everybody and that has been in effect  
10 since January 1.

11 CHAIR KEITH POWERS: That is as of last  
12 January?

13 ANN PELNACK (SP?): January 1<sup>st</sup> of 2018.

14 CHAIR KEITH POWERS: 18 or 19?

15 ANN PELNACK (SP?): 2018.

16 CHAIR KEITH POWERS: Okay, okay sorry.  
17 Thanks. Uhm okay and the and then just on the Bill.  
18 The last day on the credit card Bill, I didn't hear  
19 an actual position on it. Do you, do you have an  
20 initial position on the Bill to remove credit card  
21 fees. I heard amendments but is there a feeling of  
22 supporting or opposing the Bill?

23 ANN PELNACK (SP?): We are exploring  
24 what, what can be operationally and physically  
25



1 feasible at this time. Uhm that is not something  
2 that we are looking in to.  
3

4 CHAIR KEITH POWERS: Because you have to  
5 work with the vendor as well?

6 ANN PELNACK (SP?): That's right because  
7 the City is currently subsidizing a part of the fee, a  
8 large part of the fee, uhm so to go further than that  
9 we would have to explore what is physical sound for  
10 the City.

11 CHAIR KEITH POWERS: Okay thank you and  
12 can you please share with us after this as well what  
13 the cost considerations would be as we head into the  
14 City Budget in the conversation around budge as well.  
15 Uhm uhm okay thank you. I would say that uhm. Okay  
16 Chairman Lancman has additional questions.

17 CHAIR RORY LANCMAN: So, thanks, uhm let  
18 me ask you about the kiosk? How are people supposed  
19 to be able to pay out detainees, how are detainees  
20 supposed to be able to pay through the kiosk? Are  
21 they going to be able to have access to their credit  
22 card or, or debit card? What is the plan for that?

23 ANN PELNACK (SP?): That's right, so  
24 right now uhm we have bail facilitators. We have  
25 always had self-bail pay. We are expanding the kiosk

1  
2 to be placed in all facilities so that any inmate who  
3 has a credit card that is currently incarcerated will  
4 have the ability to get the credit card information  
5 from his or her property to then utilize the kiosk to  
6 pay their bails and the intakes.

7 CHAIR RORY LANCMAN: And does that, just  
8 to clarify. That needs to be coordinated with the  
9 NYPD or at that point?

10 ANN PELNACK (SP?): This is on the  
11 correction side. We are looking to work with NYPD  
12 uhm again Chief Jones from CJB to make sure that we  
13 streamline it all and that they are in compliance as  
14 well as us.

15 CHAIR RORY LANCMAN: Okay so when will  
16 the kiosks be up and running?

17 ANN PELNACK (SP?): So, currently all  
18 kiosks have been installed in all of the court  
19 commands. We are currently we are installing them in  
20 all of the commands, the facilities, Riker's and off.  
21 So, prior to the end of the year, all of it will be  
22 up and running.

23 CHAIR RORY LANCMAN: So, you can say that  
24 by January 1<sup>st</sup>, 2019, this coming January 1<sup>st</sup> the  
25 kiosks will be up and running?

3 ANN PELNACK (SP?): That is correct.

4 CHAIR RORY LANCMAN: Okay. Then let me  
5 ask you also about the uhm the bail facilitators in  
6 the courthouses and, and DOC facilities. When, when  
7 will we be able to see that they are up and doing  
8 their thing?

9 ANN PELNACK (SP?): So, we have the last  
10 part of the additional training in which they will be  
11 doing to be able to accept bail because there is a  
12 part on in the kiosk after the inmate pays bail, a  
13 supervisor, two supervisors have to accept bails. We  
14 are doing that additional training, so by the end of  
15 this year, everything will be up and running.

16 CHAIR RORY LANCMAN: Got it uh and then  
17 let me ask you about the issue of the \$1, of the  
18 bail. Uhm I think your testimony is that the \$1 bail  
19 notification system only notifies the Defendant  
20 himself or herself?

21 ANN PELNACK (SP?): That's correct, but  
22 then maybe this is for MOCJ. The City's Bail Lab  
23 website says "the City has created a \$1 bail alert to  
24 notify both Court personnel and the Defense attorney  
25 when a Defendant may be held solely due to \$1 bail.  
Is that, is that accurate at both the court personnel

1 and and Defense Counsel get notified when someone is  
2 held on \$1 bail?  
3

4 ANN PELNACK (SP?): That is true. I will  
5 get exactly what it is and will followup with the  
6 Council.

7 CHAIR RORY LANCMAN: Okay great, thank  
8 you. There is some buzz at the end of the table so I  
9 just want to. Okay good, that's what I have thank  
10 you.

11 CHAIR KEITH POWERS: I'm sorry, two more  
12 questions from me and one is can you tell me how much  
13 money the City makes off of credit card fees every  
14 year?

15 ANN PELNACK (SP?): We don't.

16 CHAIR KEITH POWERS: You make no money?

17 ANN PELNACK (SP?): We make no revenue.

18 CHAIR KEITH POWERS: So, no money goes to  
19 the General Fund of New York City based on credit  
20 card fees. Is that one, and how is that? The money  
21 goes right directly to the vendor but you don't have  
22 a profit-sharing agreement or anything like that?

23 ANN PELNACK (SP?): No.

24 CHAIR KEITH POWERS: Okay thank you. And  
25 the second one was I was going to ask two. There are

1  
2 two, two in terms of local law 23 around the release  
3 of three hours. There are two, uhm you some of the,  
4 some of the anecdotes that were some of the stories  
5 that were raised and that would probably be the last  
6 month. And the last two months for about at least a  
7 number of individuals, I get two stories in  
8 particularly where people were held 24 hours past the  
9 time when there was, maybe it's, maybe it's less than  
10 that if it is when the money is received. Can you  
11 give us any idea why an individual might be held for  
12 24 hours even with the reasons you know and  
13 designation things like that, why it would get to 24  
14 hours or worse, in some cases 32 hours?

15 ANN PELNACK (SP?): So, what I will share  
16 with you now and I can give you specific information  
17 offline but, in the case, uhm at the VCVC there was  
18 an issue where the actual warrant not being or the  
19 lift not being send to DOC which had to be addressed  
20 and we had to reach out to try to contact the agency  
21 and then to have that inmate released.

22 CHAIR KEITH POWERS: Okay but there  
23 seems, that is one example, there seems to be others  
24 too. I am not asking for specifics here but there do  
25

1  
2 seem to be some issues I think it sounds like some  
3 are related to other agencies as well.

4 ANN PELNACK (SP?): If there are very  
5 specific incidents the Bronx Freedom Fund wants to  
6 share with the City and the Department, we will be  
7 happy to follow up into that.

8 CHAIR KEITH POWERS: Okay I am sure that  
9 they well. And lastly are there instances where,  
10 there, I mean a lot of it sounds like a lot of  
11 response seems to be issues that come up, both mother  
12 agencies but also then other circumstances. Are  
13 there issues where DOC loses the paperwork. Are  
14 there instances where you are aware of where just  
15 simply just something happens where we lose this  
16 paperwork or and somebody is sitting there while we  
17 attempt to retrieve it or find it?

18 ANN PELNACK (SP?): No, no instances have  
19 been brought to our attention at all and all of the  
20 inmate's legal paperwork is kept in one folder in one  
21 place.

22 CHAIR KEITH POWERS: Okay and we are  
23 doing this by paper still?

24 ANN PELNACK (SP?): Yes.  
25

1  
2 CHAIR KEITH POWERS: Is there any attempt  
3 to try and bring the agency and its paperwork and fax  
4 machines into the 20<sup>th</sup> Century?

5 ANN PELNACK (SP?): Yes, there is thought  
6 uhm and there are definitely IT solutions that we  
7 have to work with and we are looking forward to doing  
8 so.

9 CHAIR KEITH POWERS: And when do you  
10 think the Agency is in a place where they are using  
11 IT solutions not paperwork and fax machines and  
12 things like that. When, when, what, what would be a  
13 reasonable timeline?

14 ANN PELNACK (SP?): I can get back to you  
15 with that answer, uhm but again I am open to all  
16 suggestions made by the Council.

17 CHAIR KEITH POWERS: Has the DOC ever  
18 done an RFB or an RFI around technology solutions to  
19 help solve this problem?

20 ANN PELNACK (SP?): So, we currently have  
21 an RFB, Inmate Wristband Solution but that only  
22 tracks the inmate internally and when they go to  
23 court and when they are being booked out but it does  
24 not uhm capture the other portion of it, uhm to like  
25 replace the fax machine at this time.

1  
2 CHAIR KEITH POWERS: And could the wrist  
3 band be a solution if other agencies cooperated?

4 ANN PELNACK (SP?): That is correct.

5 CHAIR KEITH POWERS: Correct and have you  
6 tried asking them to be part of that?

7 ANN PELNACK (SP?): So, we are currently  
8 working on an MOU with OCA, uhm via MOCJ so we are  
9 looking forward to allowing them to get the feed uhm  
10 which will give them access to know when the inmates  
11 are possibly going in and being booked in for court  
12 purposes.

13 CHAIR KEITH POWERS: Okay and, and is an  
14 MOU being drafted or worked on today that will help  
15 do that?

16 ANN PELNACK (SP?): Yes.

17 HAZEL JENNINGS: Yes.

18 CHAIR KEITH POWERS: Yes. Okay, thank  
19 you and uhm we I saw it was I say this really  
20 earnestly if the Council can be helpful to an effort,  
21 I, I do think that there is some sort of easy  
22 solutions to some, to some of the problems here.  
23 That just include basic you know technology that is  
24 readily available, it can be procured and if that  
25 requires budget and other considerations Council can



1 be sportive other, please, please let us know,  
2 because I mean some of the stuff seems fixable just  
3 by, just by updating systems that are being put in  
4 place, understanding it is a large system. Any other  
5 questions? Okay, thank you for your testimony. I, I  
6 just wanted to say what I said earlier which is like  
7 these are not moments to be trying to catch anybody.  
8 We got to com... I mean we want everybody to be in  
9 compliance. We want to part of. I know I for sure  
10 want to be help in solving the problems that we  
11 identify and we are deeply appreciative of those who  
12 bring them forward and when they raise an anecdote  
13 about a 24 hours or a median time that seems longer  
14 than what the City has put in place in terms of her  
15 local laws and our expectations, I think it is our  
16 duty to respond to those and to ask those questions  
17 and I think, as I noted the responses that you put  
18 forward in writing to us, I think are acceptable in  
19 terms of responding to the information and but I will  
20 say we, we want to be cooperative, we don't want to,  
21 we don't want to be here in a year having a followup  
22 hearing and then have new announcements be taken  
23 place to help fix the problems that are identified  
24 and any local laws we put in place today. By the  
25

1  
2 time they are effective, we want to work to make sure  
3 they get implemented but certainly as part of those  
4 conversations we want you to be earnest with us to  
5 say we need, we need more time to make it happen. We  
6 need this, we need the money, we need to change  
7 systems because I certainly will lend my, my ability  
8 to try to help fix those, those processes which we  
9 feel like aren't broken. I know Chairman Lancman and  
10 the members of this Committee as well but I think it  
11 is, it is helpful if we can be, and we have to do our  
12 part too, be in a, in a kind of a dialog, because  
13 even as Council Member, Chairman Lancman said, like  
14 the bail working group, I think there are some  
15 reasonable improvements to that that would help  
16 identify these issues so we don't have to be sitting  
17 here to do them and you are aware of them and, and  
18 fixing them ahead of time.

19 CHAIR RORY LANCMAN: In that spirit, you  
20 know, we have wanted the Administration to testify  
21 after the Bronx Freedom Fund and some of the  
22 advocates so that you could hear, what they were, uhm  
23 had to say and what they were seeing. I think it  
24 would be very courteous and productive if you were to  
25 stay and at least listen and hear what they are going

1  
2 o testify to so that we are all on the same page so  
3 to speak, at least in terms of what people are seeing  
4 out there in the world. So, I can't compel you to do  
5 that but I put that out there.

6 ANN PELNACK (SP?): Thank you.

7 CHAIR KEITH POWERS: Thank you, thank you  
8 so much. Okay and, and in very good timing. We are  
9 going to have a panel come up. We have, uhm I may  
10 not do well with names here but we have Elizabeth  
11 Vendor from Legal Aid Society, Alaina Weisman from  
12 the Bronx Freedom Fund, Yuona Zeitz (SP?) from the  
13 Bronx Freedom Fund and Sarah Rahimi from the Bronx  
14 Freedom Fund. If you could please come up, thank  
15 you. Thank you, and thank you for being here. Uhm  
16 so you could start. We are going to have you on the  
17 clock. I know that the Bronx Freedom Fund, I know  
18 you have a few folks here so, I don't know if you are  
19 all testifying or you want to split some time up  
20 here, but we will start uhm I guess left to right, my  
21 left to right. So, thank you for being here.

22 ELIZABETH VENDOR: Yeah sure, I am an  
23 attorney with the Legal Aid Society De-carceration  
24 Project, thank you for having us, thank you for  
25 having this hearing. Uhm I have in my papers here

1  
2 that I want to acknowledge that I am preaching to the  
3 choir and now that I see the City has not headed  
4 Chairman Lancman's suggestion that they stay, that's  
5 even more true. Uhm but I know that, I know that we  
6 are preaching to the choir when we say that our bail  
7 system is inefficient, nonsensical and inhumane. Uhm  
8 but if we can indulge the metaphor for a moment,  
9 choirs do more than just listen, they use their  
10 voices to spread a message and make change and that's  
11 what I'm asking this body to do today. Uhm our  
12 clients need more than just laws on paper, that's  
13 clear. They need accountability, they need an  
14 investigation and they need a commitment to changing  
15 the culture within the Department of Corrections that  
16 allows for these inhumane delays to occur. This  
17 morning I woke up to an email with the Daily News  
18 article that was published at 6 in the morning with  
19 the Administration announcing that they were adopting  
20 Bail Facilitators. So, just to put that into  
21 context, to celebrate 10 months of not being  
22 compliant with the law that requires them to have  
23 bail facilitators, the Administration announced that  
24 they still don't have bail facilitators. That's  
25 where we are as to the latest of these laws went into

1 compliance. Uhm excuse me, went into effect. Uhm  
2 some of you saw the article in the Appeal last week,  
3 detailing the experience of one of our Clients. We  
4 call him DR in the article. If you missed it, I  
5 attached it to my written testimony and I do hope  
6 that you will read it and share it. It describes his  
7 experiencing at the Vernon C Bain Center, a jail that  
8 we call the boat because it is in fact a floating  
9 jail barge. He was there for 27 hours after his  
10 mother posted bail and even if you factor in the type  
11 of delays that the department wanted to describe to  
12 you today, when I spoke to staff at the boat, they  
13 told me the morning after his mom posted bail that  
14 they had his paperwork and that he would be released  
15 that morning. He did not see daylight for another  
16 six hours. Three of those hours he was in a cell  
17 being processed for released and the staff that was  
18 manning that area, told him that they were merely  
19 waiting for a Captain to sign his paperwork. So when  
20 they get up here and they testify about all of the  
21 reasons that they can delay people, it is, it is an  
22 endemic culture of just not doing things quickly uhm  
23 and that's what I am asking you to commit to change  
24 and specifically I am asking that the Committee on  
25

1  
2 Oversight Investigation become involved because what  
3 is clear to me is that the Department cannot police  
4 itself when it comes into coming into compliance with  
5 these laws. Thank you.

6 CHAIR KEITH POWERS: Thank you, thank  
7 you, I want to note that there are staff from DOC  
8 here but I share, I mean a minute after asked to stay  
9 they walked right out the door and I.

10 ELIZABETH VENDOR: I appreciate those who  
11 stayed.

12 CHAIR KEITH POWERS: But there is staff  
13 here and I will note that as well and second, we did  
14 ask for the Bronx Freedom Fund to and this panel to  
15 be first as Chairman Lancman noted as well to give an  
16 opportunity to tell some of these stories in advance  
17 of it but I, I, understand your frustration, thank.

18 ALAINA WEISMAN: Thank you all and so  
19 like Elizabeth said we are recounting some of what  
20 you already shared but what I wanted to talk about  
21 today and hope my colleagues will share is to go kind  
22 of into greater detail about some of the most  
23 egregious things that we have seen and the report  
24 that you all have. Uhm so I'm Alaina Weisman, I'm  
25 the Director of the Bronx Freedom Fund, uhm we pay

1 bail for over 1,000 New Yorkers each year and every  
2 day we see the injustices of the bail system play out  
3 and routine are aware of the human cost that they  
4 effect. In May 2017, we testified to the Council  
5 about the need for procedural changes to the payment  
6 system. We are excited for the Easement Package to  
7 pass uhm but however, as my colleague Sarah will get  
8 in to implementation is not even nominal. Since our  
9 testimony last summer, we have excitedly tracked  
10 their passage, culminating in several reports which  
11 we have submitted to both Committees, to the Board of  
12 Correction and we have also posted publically on our  
13 website. We have asked helpful personnel from  
14 various agencies, City Council and those working in  
15 bail payment facilities about implementation for  
16 months on end. We have taken to Twitter, to  
17 Facebook, Radio and print journalism and now we are  
18 calling on the Administration to follow the laws and  
19 to treat this crisis with the urgency that it  
20 demands. It is shocking to be here a year and a half  
21 later, asking why is it still so hard to pay bail in  
22 New York City. Individuals at CJA, at MOCJ and so  
23 many people in the room have been helpful resources  
24 in navigating what Council Member Lancman rightly  
25

1 called a tangled bureaucracy. But it is time for the  
2 Department of Correction personnel on the ground to  
3 start making this a system that is fair and humane.  
4 Because we know and we see every day that culture  
5 eats policy. Since the law's passage, we have also  
6 run Community Education Events teaching members of  
7 the public about the bail system including these  
8 laws. When we spoke to our clients about their  
9 experiences, we didn't just ask them a question, we  
10 educated them about the laws and their rights. So,  
11 we are here today representing the collective  
12 frustration not just of our staff but those who have  
13 thwarted from paying bail through similar means as us  
14 and the thousands of incarcerated New Yorkers who are  
15 being categorically denied their rights. My  
16 colleagues will further expand on their findings and  
17 I briefly want to applaud both Council Member Lancman  
18 and Powers on the introduction of 1199 and 944  
19 related to \$1 bail and credit card payments used.  
20 Just briefly, we receive referrals almost every  
21 single day to pay \$1 bail for people after their  
22 cases are resolved and you already know how \$1 bail  
23 worked and I want to highlight their release is often  
24 mired by delays. Just last week, we posted \$1 bail  
25



1  
2 for someone whose release took 39 hours. By creating  
3 an effective notification system, and facilitating  
4 communication the Bill could help circumvent one of  
5 the most exasperating manifestations of our money  
6 bail system. Our written testimony offers a couple  
7 of procedural adjustments to ensure even greater  
8 effectiveness. In regarding credit card fees, this  
9 would also be an urgent modification because an added  
10 nonrefundable fee of even a few hundred dollars for  
11 bail could mean the difference between incarceration  
12 and freedom when only 12% of New Yorkers can afford  
13 their bail at all. Our work as the bail fund is a  
14 temporary stop guides measure. We focus on harm  
15 reduction and on de-carceration until we reach  
16 meaningful reform. These proposed laws and then  
17 forced compliance of existing laws would seriously  
18 mitigate the harms of a system that allow wealth-  
19 based attention at all and we are excited to continue  
20 focusing our collective long-term energies on citing  
21 for systemic change. Thanks.

22 CHAIR KEITH POWERS: Thank you.

23 SARAH RAHIMI: Thank you Council. My  
24 name is Sarah Rahimi and I am the Administrative  
25 Associate at the Bronx Freedom Fund. Since January

1  
2 of this year, we have gathered data on compliance  
3 with local law's 123 through 127 based on public  
4 information as well as conversations with our  
5 clients. Overall, DOC compliance hovers around 20%.  
6 We urge you to consider our written testimony as well  
7 as previously submitted reports; however, with my  
8 brief time today I would like to focus on some of the  
9 egregious stats that we have found. Local Law 123  
10 requires DOC to accept cash bail payments immediately  
11 and continuously to release clients who have been  
12 bailed out within the required time period and to  
13 accept or facilitate bail payment at or within half a  
14 mile radius of a courthouse. Currently, all three  
15 elements are being violated. There is no DOC payment  
16 area near the Bronx courthouse, so sureties must  
17 travel about an hour to the boat, the Vernon C Bain  
18 Center, floating jail on the East River and endure  
19 hours of waiting. If their loved ones have just been  
20 arraigned, this can be up to 24 hours. That is  
21 neither immediate nor continuous. In Queens, DOC  
22 began accepting payment adjacent to courthouse even  
23 immediately following arraignment since September of  
24 2018, almost a full year after the law took effect  
25 and we have had mixed success posting at this window

1  
2 during blackout periods. Regarding payments and the  
3 current time frame of the law where DOC must release  
4 people within three hours of bail payment, only 7% of  
5 our clients have been released in accordance with the  
6 law. And of those released beyond the three-hour  
7 limit, 28 were released in 12 hours or more. Since  
8 January 2018, surprising overall the average mean  
9 release time of our clients is 9 hours and 29 minutes  
10 with a median average of 6 hours 27 minutes. Only  
11 21% of our clients have been released within the  
12 various required timeframes and release times for  
13 those in on the \$1 are even longer. Next, local law  
14 124 permits the delay of recently arraigned  
15 defendants in DOC custody for from four to 12 hours,  
16 excuse me. Nevertheless, we have seen our holds  
17 violated over a dozen times after just one or two  
18 hours, especially around the time the scheduled bus  
19 departs to jail facilities and have not seen a single  
20 client held for more than 2 hours. We are always  
21 within a 10-minute walk from the courthouse and ready  
22 to pay but we are still thwarted for paying and our  
23 clients are jailed for another 24 hours while they  
24 are considered an intake. Local Law 125 calls for  
25 DOC to provide bail facilitators to all incarcerated

1 individuals within one to two days of entering  
2 custody. In testimony presented to the Board of  
3 Correction in November, DOC staff confirmed that they  
4 have only recently begun identifying the individuals  
5 who will serve as these bail facilitators. Local Law  
6 126 requires NYPD to aid arrestees in accessing their  
7 loved one's contact information for arraignment.  
8 Only 29% of our clients reported that they were  
9 provided access to contact information and an NYPD  
10 reported to the appeal that he was surprised that  
11 number wasn't even lower. Lastly, we still have seen  
12 no evidence of Local Law 127's implementation,  
13 although it is the simplest in the package. It  
14 requires the Administration to display signs about  
15 how to pay bail in courthouses, preventing widespread  
16 confusion about how to navigate an extremely  
17 stressful situation. I understand that these are  
18 still in print production. My colleagues and I are  
19 more than happy to share information as needed and  
20 are eager to serve as a resource to the Council as we  
21 continue to push for compliance.

22  
23 YUONA ZEITZ (SP?): Thank you again for  
24 considering our testimony. My name is Yuona Zeitz  
25 and I am a Product Associate at the Bronx Freedom

1 Fund. This testimony explains how Local Laws 123 to  
2 127 all coalesce with one another and it describes  
3 the unjust impact of noncompliance on New Yorkers who  
4 enter the pre-trial legal system and speaks on the  
5 larger issue surrounding why is it so hard to pay  
6 bail. The laws in the bail easement package were  
7 created to strengthen and rely on one another and we  
8 were enthusiastic about the enactment of a multi-  
9 prong procedural justice package that could help New  
10 Yorkers avoid the typical three to four days in jail  
11 that most people spend before being released on bail.  
12 If the Bail Easement Package were followed, this  
13 would be the case. Individuals could have access to  
14 contact information before they are even arraigned,  
15 identify a surety who will have ample time to secure  
16 their freedom and post their own bail if they had no  
17 outside contacts and financial resources and be back  
18 in their shelters or their jobs within a few hours if  
19 they were taken to jail at all. Instead, as our data  
20 indicates, the vast majority of people who are lucky  
21 enough to make it, to make bail are subject to legal  
22 hurdles and delays that turn the process of accessing  
23 their freedom into punishment in itself. This puts  
24 thousands of low-income New Yorkers and marginalized  
25

1  
2 New Yorkers at risk of losing their housing, their  
3 livelihood and even custody of their children along  
4 with emotional and psychological trauma that an  
5 individual ensures when incarcerated even for a day  
6 or two. It is important to understand that a  
7 violation of one local law compounds the violation of  
8 another and needs to countless hours and even days of  
9 excessive over-incarceration. At the Freedom Fund  
10 our typical client cannot afford their bail or post  
11 it themselves if they can. They cannot recall a  
12 number of a potential surety, remain at a court while  
13 a surety makes their way to post bail or expect a  
14 reasonable release to ensure that their job or  
15 shelter bed remains available. Just two weeks ago,  
16 we posted bail for a client on Saturday at 1:45 p.m.  
17 and our client was not released from the Vernon C  
18 Bain Center until the following Sunday at 11:35 a.m.,  
19 about 22 hours after we posted his bail. Uhm our  
20 client spent an extra day in desperate limbo since he  
21 knew we already posted his bail but was unsure what  
22 was keeping him in and he was worrying about whether  
23 or not he would make it to his next job shift. This  
24 individual was already unjustly incarcerated on  
25 unaffordable cash bail and this additional 22 hours

1 are in clear violation of a further local mandate.  
2  
3 And it is clear to us that noncompliance of these  
4 laws is directly affecting the 2,100 people in jail  
5 on bail this morning with no holds and no warrants.  
6 The City should be doing everything in its power to  
7 avoid these stays altogether and to protect the  
8 individuals, their families and our broader  
9 communities from the collateral harm of  
10 incarceration. Lastly, this conversation surrounding  
11 why is it so hard to pay bail would be remiss without  
12 an acknowledgment that 8 in 10 New Yorkers cannot  
13 afford their bail. That is the simple reason why  
14 2,000 New Yorkers are incarcerated every day. The  
15 Bail System is one of the major fuels for mass  
16 incarceration in New York City and for our nation and  
17 we know that to truly end the conization of race and  
18 poverty we must abolish the money bail system and  
19 replace it with one that restores the presumption of  
20 innocence for all. Thank you.

21 CHAIR KEITH POWERS: Thank you, thank you  
22 for your testimony. Uhm I wanted to start with a few  
23 questions but I wanted, let me start with a few  
24 questions. The uhm, we had, in uhm, we had heard  
25 from the, from the Agency around their interpretation

3 of the Law around, the Law around a local, Local Law  
4 123 that it was about I guess when it was when the  
5 money was processed or received for, versus, not  
6 accepted but by when it was sort of transferred. Is  
7 that, is that your interpretation of the Law as well?

8 ALAINA WEISMAN: So, we have actually  
9 been going by the bail payment time, that DOC lists  
10 on the bail receipt itself as the start to the bail  
11 process for.

12 CHAIR KEITH POWERS: I'm sorry, can you  
13 say that again? When?

14 ALAINA WEISMAN: So, we the start time  
15 for release uhm is the DOC listed payment time on a  
16 bail receipt.

17 CHAIR KEITH POWERS: Okay, got it. So,  
18 it's when it's paid versus when they believe that the  
19 money has been, I guess received for processed?  
20 That's your interpretation of the, of the Law?

21 ALAINA WEISMAN: Correct.

22 CHAIR KEITH POWERS: Okay, and when uhm,  
23 when the last Saturday well somebody raised up the  
24 question about last Saturday when a client was in for  
25 over 22 hours. Was there a reason given for why that  
was, we heard a number of circumstances where they



1  
2 made, the mentioned that there could be reasons why  
3 there would be a delay? Was there a particular given  
4 for that particular person?

5           YOUNA ZEITZ (SP?): Uhm we don't have a  
6 reason for that particular person but some things,  
7 some issues that come up are like the fax machine  
8 being broken or the DOC changing shifts and they are  
9 waiting for the next shift to take over before  
10 actually processing someone out.

11           CHAIR KEITH POWERS: Okay and staffing  
12 they say that they have 24-hour staff dealing with  
13 bail issues, have you ever been able to reach  
14 Department of Correction Staff to pay bail or on a  
15 bail issue at 2:00 a.m. or 3:00 a.m. or somewhere in  
16 the middle of the night?

17           SARAH RAHIMI: We've paid bail uhm at  
18 court and at jail facilities at all, various hours.  
19 We have not, when we are trying to trouble shoot bail  
20 issues a lot of times, we will turn to MOCJ, we will  
21 turn to a public defender who in turn will go to the  
22 uhm usually the DOC Council, I think. Uhm I think,  
23 just to add to that, I think a lot of time something  
24 that you had brought up before was the  
25 miscommunication or lack of communication between OCA

1  
2 and DOCE and in my experience that has been the cause  
3 of a lot of the delays is that there is a phantom  
4 warrant or a phantom hold or something that should  
5 have been removed from a person's account like 45  
6 years earlier uhm and it is keeping them in for an  
7 extra day or so.

8 CHAIR KEITH POWERS: Got it and we, I  
9 asked some questions around, the particularly around  
10 the Bronx, had issues around that might cause delay  
11 or issues with paying bail in the Bronx. Can you  
12 share with us your, I think it is in your testimony  
13 but I don't know if you had an opportunity to get to  
14 it? Can you discuss some of the issues particular to  
15 the Bronx around obviously your, your report focuses  
16 on this? Around delays, and or issues in paying bail  
17 and then delays related to once, once bail is paid to  
18 getting somebody released?

19 SARAH RAHIMI: Yes, so I think there are  
20 two things to note and first of all, just to clarify  
21 the clients who are detailed in our report are not  
22 all Bronx clients, because we also work with Queens  
23 and we've paid bail at other facilities too. So, I  
24 mean I think there are the two key issues in the  
25 Bronx. One, that there is no DOC payment area at the

1 courthouse, near the courthouse and so we have to  
2 wait to get to the boat. If it is late at night or  
3 there is some other reason like we like can't get out  
4 there then sometimes we will just have to wait.  
5 That's pretty rare. It's more so that when we get  
6 there, this is reason number two is that at the boat  
7 of any of the facilities I do think that there is the  
8 most intense culture of indifference. Uhm at other  
9 facilities we can give them a heads up that we are  
10 coming, that we are going to pay bail, they will call  
11 us when it is ready and it is usually within an hour.  
12 At the boat, we will be waiting there for an hour or  
13 two hours until anyone comes to the window at all and  
14 some. There is no bell or anything to alert anyone  
15 that we are there. Sometimes they will cover the  
16 window with a sheet so they can't even see that there  
17 are people waiting and once we do submit the bail to  
18 them, we can, there are people back there eating  
19 lunch. There is no way to communicate about what is  
20 going on and we will see them just. It will go right  
21 through the next shift if they want to be able to get  
22 out of there on time. So, it thinks those, it's  
23 indifference and it is the lack of the facility near  
24 the courthouse.  
25

1  
2 CHAIR KEITH POWERS: And so that example  
3 that you brought up is showing up to post bail and  
4 somebody not being there for an hour or more?

5 SARAH RAHIMI: Exactly, yes.

6 CHAIR KEITH POWERS: Is there ever a  
7 reason given why, that's the case?

8 SARAH RAHIMI: Well, there are people  
9 there, we can see them walking around so no, no one  
10 is ever coming to us to say I see that you are here,  
11 I will get to you soon. It's more, if they do come  
12 to talk to us, they will say stop staring at me, you  
13 are making my nervous go sit down.

14 CHAIR KEITH POWERS: Uhm I have no  
15 comment. I, the and then the, do you experience that  
16 at other facilities as well?

17 SARAH RAHIMI: That's where, when we go  
18 to a jail facility that is usually where we are  
19 paying. At the new Queens window, I believe is run  
20 by newly trained civilians as well as at the Brooklyn  
21 House window which has the same situation. They are  
22 very kind uhm and the delays that we do experience  
23 there are due to the issues with fax machines with  
24 them getting paperwork from other facilities.

1  
2 CHAIR KEITH POWERS: Do you believe that  
3 we should be using fax machines in 2018?

4 SARAH RAHIMI: No (laughing).

5 CHAIR KEITH POWERS: The uhm, okay uhm  
6 let me get it here. Can you talk to us more about  
7 uhm we, we saw some announcements that were made  
8 today which I believe is in response to this hearing?  
9 Uhm we also I think were made aware of them through  
10 the Daily News and can you, can you originally from  
11 the news can you share with us your thoughts on those  
12 improvements and then additional improvements that  
13 you feel like. Recognizing that just basic  
14 compliance with the laws that we have today is, is a  
15 starting point but can you let us know what your  
16 feeling is on those announcements today and then  
17 second, other further improvements that the City and  
18 the DOC can be making to help facilitate the payment  
19 and the release?

20 SARAH RAHIMI: Yeah just quickly on the  
21 announcement that came out today. I haven't gone so  
22 much in depth on what is reported there, but I have a  
23 hard time imagining that a video that is only in two  
24 languages and a couple of trained people in every  
25 facility are going to be able to have individualized

1 meetings with every single person within 24 hours of  
2 them coming. Uhm especially when there is just a  
3 kiosk that you need to kind of figure out yourself  
4 about how to get your property, property window is  
5 probably closed. It closes at 8 p.m. Uhm I don't  
6 know that it really reaches that level of kind of an  
7 individualized trouble shooting assessment. Uhm and  
8 I, does anyone else want to talk about other  
9 improvements?  
10

11 ELIZABETH VENDOR: I think later on in  
12 the Department's testimony this morning they talked  
13 about what I view as the more important piece of that  
14 law which is actually providing people with an  
15 opportunity to access their wallets, their credit  
16 cards, their cash whatever the case may be because  
17 you can know everything in the world about your bail  
18 conditions but if you can pay with a credit card but  
19 you can't access it, what is it worth? Uhm so I was  
20 glad to hear that they said something about that  
21 component of it. I think that is super important and  
22 again it is something that I, I am acting this  
23 Council to start pro-actively investigating. I mean  
24 one of the things that they said is that these kiosks  
25 where folks can pay their own bail will be up and

1 running by January 1<sup>st</sup> both in facilities and the  
2 jails. Let's get some investigators in those  
3 locations on January 1<sup>st</sup> and see if that is actually  
4 true. Because again, I sat at the Board of  
5 Correction meeting on what November 3<sup>rd</sup> or sorry,  
6 November 13<sup>th</sup> maybe it was and I heard a lot of the  
7 same stuff. It is, it is sort of vague. Uhm some  
8 level of acknowledgment that there is noncompliance  
9 but much more broad general statements about we will  
10 be in compliance but when you look at the details,  
11 when you impact the Freedom Funds data it is  
12 incredibly hard for me to believe that by mid-  
13 December their projected compliance date that they  
14 gave at the Board Meeting is at all achievable. And  
15 so, I think we need, we need to get some outside eyes  
16 and ears uhm to see if that is actually true. Uhm  
17 and they I'm just looking at my notes on the things  
18 that they said they might be ready to implement. I  
19 mean the \$1 bail issue, and I know we are talking  
20 about a Bill on that issue today. I, uhm, too many  
21 people are held on \$1 bail. I think the Department  
22 agrees, the City agrees but they talked at the Board  
23 Meeting and today about Chaplains or I think they  
24 normally refer to them as Chaplains as being a  
25

1 resource to post it. That is not my information,  
2 there are not Chaplains in every facility uhm and  
3 those that are there I think at most what I am  
4 hearing is that they pay... they are helping people  
5 execute their own self-bail paperwork. So, it's not  
6 this sort of panacy cure all. I don't doubt that  
7 they are helpful, but but that is not a policy.  
8 That's not an overall reliable policy and I think  
9 that speaks to our general trouble shooting  
10 experience. When Alaina says that she will contact  
11 public defenders and MOCJ uhm you know what we do is  
12 speak to helpful people in MOCJ and DOC and they do  
13 exist. Let's be very clear, there are uhm a group of  
14 Captains that we know that we can reliably email or  
15 call and even if they are not working, they will  
16 assist. So, it's not like the Department is devoid  
17 of folks that want to help. I believe that  
18 sincerely, uhm the, the liberty of our client should  
19 not depend on the availability of a certain number of  
20 helpful people uhm and that's why I'm ask... I'm really  
21 asking that we turn our attention to the culture  
22 change that I think needs to happen. If you look at  
23 OCA and the fact that they are communicating by fax  
24 or courier. I mean, that, there is no excuse for  
25



1 that, to your question earlier and so let's get  
2 people at the table who want to modernize things and  
3 actually make it happen.  
4

5 CHAIR KEITH POWERS: Yeah, I appreciate  
6 that and I think that in addition to. I think it is  
7 a lot of system, system issues including technology  
8 and, and processes and ways that we are doing this  
9 that seem very updated to, to me. We heard some of  
10 their number, I think at their letter they issued to  
11 us they said average time was, uhm close to  
12 compliance 3 hours and 40 minutes is the average  
13 time. I think today they said 4.5. Uhm I think we  
14 had seen other data from the Bronx Freedom Fund  
15 understanding that maybe the populations are  
16 difference in terms of who you... can you share with us  
17 your thoughts on their number, their data and why you  
18 think there might be differences between the numbers  
19 in your report and the number they are reporting  
20 today?

21 ALAINA WEISMAN: Uhm yes, so I think part  
22 of it is definitely to what they brought up as what  
23 is the start time. From where do you start the clock  
24 of release and we understand it as when they have  
25 accepted payment and listed the payment time. Uhm of

1 bail. I have that they have an average release of  
2 4.5 hours, uhm unclear if that is a mean or a median.  
3 For our numbers, we have been tracking since January  
4 of this year. We've done every installment of the  
5 Bill as far as the timeframe requirement as well as  
6 overall and so overall our average mean is 9 hours to  
7 their 4.5. Uhm, as far as their, the current  
8 installment of 3 hours, they listed that 19% of  
9 people are released from a jail facility within the  
10 current three hours or less, we have that as 7%.  
11 Uhm.

12  
13 CHAIR KEITH POWERS: And guys a followup  
14 question, you are doing Queens and Bronx?

15 ALAINA WEISMAN: Correct.

16 CHAIR KEITH POWERS: And how many people?  
17 How many cases we are studying?

18 ALAINA WEISMAN: Roughly 25 cases a  
19 month.

20 CHAIR KEITH POWERS: A month? And for  
21 how long?

22 ALAINA WEISMAN: Since January.

23 CHAIR KEITH POWERS: Okay, so it is  
24 possible that they are. What I'm asking, what I'm  
25 really asking if you have different data than they do

1 in terms of average times, mean and median,  
2 differences between times, it is possible there are  
3 just some facilities that are much worse than others  
4 and they are, they have some that are actually better  
5 than some of the ones that you are looking at.  
6 Which, which raises a question of when you talk about  
7 civilians or, other, other things happening, acc...  
8 access being at the courthouse versus being, being on  
9 the barge that there are some examples to be taken  
10 immediately from other facilities that could be  
11 shared with the ones that you are studying.

12 ALAINA WEISMAN: Right, no certainly  
13 sorry. Just really quickly I was going to say that  
14 most of our clients are housed at either at  
15 facilities within Riker's Island or at the Vernon C  
16 Bain Center, the boat but we post bail from multiple  
17 facilities across the City. Uhm and I have been  
18 studying trends as to what factors might.

19 CHAIR KEITH POWERS: Right okay.

20 ALAINA WEISMAN: Affect one's release.

21 SARAH RAHIMI: And it sounded it like I  
22 would imagine people who are in their 43% bail audit  
23 were all at Riker's and had their bail paid at  
24 Riker's so that they could get rid of the lag time  
25

1 that might result within communication between  
2 facilities. Uhm but you know we all know that is the  
3 most inaccessible place to pay bail. That is not  
4 where most people are going to get their loved ones  
5 out and if anything, we have also tracked their  
6 release time for the online bail system which is  
7 supposed to circumvent this entirely, allow people to  
8 pay at any time, get people out more quickly, prevent  
9 needing to rely on fax machines and communication  
10 between facilities but those times seem longer, much  
11 longer especially recently than paying in person at a  
12 facility and so I don't know that it is only an issue  
13 of where you go and what, what their kind of systemic  
14 issues are but probably one of like Liz was saying  
15 about culture of you know lack of urgency.  
16

17 CHAIR KEITH POWERS: And what is the  
18 most, oh I had two questions. One is when the  
19 differences between when you, your expectation about  
20 when this clock starts and their expectation? How  
21 long is that window between those two normally?  
22 Meaning when they, what you, when one believes the  
23 clock starts, when you get the receipt with the  
24 timestamp on it versus when the Department? Like  
25

1  
2 what is an expectation about what the difference is  
3 in terms of time?

4                   YOUNA ZEITZ (SP?): I don't think we are  
5 actually at a clear difference in when the time  
6 starts. I think that they are assuming that when we  
7 were tracking our data that maybe we were counting  
8 the time that we were waiting.

9                   CHAIR KEITH POWERS: Oh okay.

10                   YOUNA ZEITZ (SP?): What my colleague  
11 mentioned is that she actually tracks it from when we  
12 get the bail receipt, so when the bail has actually  
13 been paid. So, I don't think there is actually a  
14 disagreement on when the clock starts.

15                   CHAIR KEITH POWERS: Okay.

16                   ALAINA WEISMAN: But if they do, if they  
17 do mean that they are starting to count when the  
18 paperwork makes it way from the window to some person  
19 inside.

20                   CHAIR KEITH POWERS: Yeah, that's what I  
21 thought, that's what I thought they were saying.

22                   ALAINA WEISMAN: I would imagine that  
23 that depends on the time of day as does so much else  
24 when we are there. If there is a tour change, if it  
25 is nighttime, it is going to last until the morning

1 until the Deputy Warden can come and sign off or  
2 something like that.  
3

4 CHAIR KEITH POWERS: Okay, and then when,  
5 when, when you have a delay of 22 hours or even when  
6 the ones that are not compliant do you uhm what is  
7 the, what is the most uhm what is the, what are the  
8 highest reasons they are given or the most reasons?  
9 Are they, what is the predominant reason given to you  
10 for why there is a delay? They named, they aligned a  
11 number of things that might be considerations why  
12 somebody would be there longer, I'm wondering if you  
13 have uhm any information on what is the most likely  
14 cause for a delay?

15 ALAINA WEISMAN: Well I've never heard  
16 about any of the kind of medical needs or other  
17 discharge planning that has to happen. When we are  
18 given a reason it's usually punted over to the OCA.  
19 I don't know, do you have.

20 SARAH RAHIMI: Yeah, no I was going to  
21 say the same thing of like general miscommunication  
22 between OCA and DOC when it comes to like holds being  
23 lifted on the defendants account despite the fact  
24 their attorney has confirmed that the hold has been  
25 vacated or dismissed.

1  
2           ALAINA WEISMAN: We will also frequently  
3 or from time to time anyway hear that the court staff  
4 has told us that they have either delivered the  
5 paperwork to DOC staff in person in the courthouse or  
6 faxed it to the number that was available to them and  
7 then when we speak to the these, these helpful staff  
8 to troubleshoot the issue they will say well fax it  
9 to this different number and it is a number that the  
10 court staff didn't have. So those, those types of  
11 miscommunications and delays lead to a lot of these  
12 issues too. And to me, if you are going to use the  
13 fax machine like okay, let's, let's assume that we  
14 have to live in that world. Get everyone a single  
15 people of paper and it says where to send it. It is  
16 inexcusable to me that we would have a secondary you  
17 know number that nobody knows about.

18           CHAIR KEITH POWERS: Alright, got it. I  
19 appreciate that. Uhm I am going to stop my questions  
20 there in the respect to time but I think Council  
21 Member Holden had a question?

22           ROBER HOLDEN: Yeah, I'm just, it's not  
23 so much of a question about it. Just stunned, that a  
24 property window can't be left open or at least  
25 somebody doesn't have access to it to get the

1 belongings when the person that is released or that a  
2 coat can't be provided. We heard the Administration  
3 say that a coat is provided. Yet, we, people are  
4 being released without coats, without their property,  
5 uhm that is not an Administration that is serious  
6 about bail reform or serious about fixing this, this  
7 broken system. And I am sure that you have thousands  
8 of stories, nightmares, what happens to these  
9 complaints after you obviously protest, do you get  
10 any kind of other than bureaucratic answers over the  
11 property window, we don't have a person to open it or  
12 we can't gain access, what happens to some of the  
13 complaints? Do you have any, any examples? Do they  
14 keep happening?

16 ALAINA WEISMAN: I think this is the  
17 prime example of what happens. Uhm we've, I've never  
18 got any kind of constructive idea from the Department  
19 of Correction personnel when we've brought this to  
20 their attention. Granted you know we are talking to  
21 people who are at the bail windows or we call on the  
22 phone to the GO's office. Uhm we don't have really  
23 high level communication with DOC personnel but you  
24 know here we are, we have been talking about it for  
25 over a year uhm with anyone who will listen and



1  
2 ultimately I think that as much as Council Member  
3 Powers as I agree with you that we are not trying to  
4 bully, pulpit each other, call each other out that  
5 perhaps it takes uhm a megaphone being blasted into  
6 someone's ear for something to happen.

7           ROBERT HOLDEN: But just that some people  
8 are held for 16 hours without food, is that true?  
9 That's happening?

10           ALAINA WEISMAN: Where, usually when  
11 people are stuck in the discharge phase for a long  
12 time, they are put back into intake especially if we  
13 are pa... we are usually paying bail for people who  
14 have been arraigned within a day or so and so they  
15 haven't been assigned a bed yet. They have been  
16 subjected to this blackout period and they've been in  
17 intake for multiple days at a time without a bed and  
18 yes, usually, and or sometimes without food. It  
19 depends on again the time of day and who is there,  
20 and how, how they are feeling.

21           ROBERT HOLDEN: That should not be  
22 happening. Maybe we need some uhm Legislation about  
23 leaving the property window open 24/7 I mean that's,  
24 that's possible right. Thank you.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIR KEITH POWERS: Thank you, uhm, just final question here is with the announcement today and the Bills that we have, that we are hearing today are there, I think I asked it but I want to ask one more time, are there additional recommendations? We have some of them and I know, I know Chairman Lancman also recommended having some more participants in the working group, other recommendations in terms of easing the process for paying and then also improving the process related to making sure that folks of released in a reasonable amount of time. Are we in com... being compliant with the Law?

ALAINA WEISMAN: Uhm yes, something that we talk about a lot is what Youna brought up, that the real reason why people are in is that they can't afford their bail and nobody can afford their bail. Uhm and so you know, we are exacted to the see the bureau pilot take off with inability to pay assessment. If there are any if there is any way for the Council to expand that or to make inability to pay assessment part of the uhm arraignment process. I would imagine that would be helpful as well.

CHAIR KEITH POWERS: Great, thank you, and I want to say thank you for the report and the

1 work that you are doing. I don't disagree that the  
2 megaphone matters to but what I mean is that I am  
3 really am intent to trying to fix the problems that  
4 are existing there, not just to catch the Agency when  
5 they are out of compliance and say and then walk away  
6 and say, we got our, and I think we all here want to  
7 actually fix some of these real structural problems  
8 and I do think the Department shares that but, but  
9 has been slow to respond and we don't want to have to  
10 hold. We will hold hearings as we need, we shouldn't  
11 have to hold hearings to get them to comply with a  
12 Law that we passed that they sat at a table with us  
13 to negotiate. So, we, we look forward to continuing  
14 to work uhm to, help fix this process. We thank you  
15 for your testimony and the reports that you have done  
16 to help put this conversation forward and I will say  
17 it is, often the public defenders that we hear from  
18 that help elevate the stories that are about how long  
19 and different difficulties and obviously in 2018 it  
20 is easier than ever to find those stories whether it  
21 is in the press or on social media or things like  
22 that. So, we thank all of those who, who do raise  
23 those issues for us to be able to understand this,  
24  
25

3 this process better. So, thank you, thank you for  
4 your testimony and your work.

5 ALAINA WEISMAN: Thank you.

6 SARAH RAHIMI: Thank you.

7 YOUNA ZEITZ (SP?): Thank you.

8 CHAIR KEITH POWERS: Okay next panel, we  
9 have uh four folks coming up, we have Ash Stevens  
10 from the Brooklyn Community Bail Fund, Scott Leavy,  
11 from the Bronx Defenders, Sergio de Lapava (SP?) from  
12 New York County Defender Services and Katherine  
13 Gonzalez from Brooklyn Defender Services. We are  
14 waiting for one more. Alright thanks, thank for  
15 being here. We can start over here and then go  
16 ahead. Thanks.

17 SCOTT LEAVY: Uhm thank you my name is  
18 Scott Leavy. I am Special Counsel to the Criminal  
19 Defense Practice of Bronx Defenders. I want to thank  
20 you Chair Powers and Chair Lancman for the  
21 opportunity to testify today. I also want to say a  
22 special thank you to my colleagues at Legal Aid and  
23 at the Bronx Freedom Fund for really pushing this,  
24 this issue and keeping, holding folks accountable.  
25 They really have been leading the charge on this.  
Uhm in 2017, the Bronx Defenders welcomed the

1  
2 enactment of Legislation intended to address some of  
3 the obstacles facing our clients and their families  
4 when attempting to pay bail. These obstacles  
5 needlessly keep people in jail and cause additional  
6 pain and frustration. While we recognize that there  
7 have been some tangible improvement since their  
8 passage, the City, the Department of Corrections and  
9 the NYPD in particular has failed to fully implement  
10 and adhere to these laws. The unfortunate reality is  
11 that many of our clients and their families continue  
12 to front he same obstacles today that they, that  
13 existed last year and as the Freedom Fund reports  
14 shows there is still a long way to go. Many of the  
15 Bills mandates remained unfulfilled and a significant  
16 challenge remain. Uhm I will rely mostly on my  
17 written testimony; however, I do want to raise, focus  
18 on two specific issues. The first we have heard some  
19 about already is \$1 bail. The obstacles facing our  
20 clients, uhm and delays facing our clients and their  
21 families are particularly frustrating when they are  
22 only being held in on a \$1 bail. The practice of  
23 setting of a \$1 bail and relying on a system of \$1  
24 bail in lieu or an Administrative hold is  
25 anachronistic and leads to absurd and devastating

1 consequences and I want to share one particular story  
2 that I think lays this off. Uhm the experience of  
3 James, a 16-year-old client shows how the practice of  
4 setting a \$1 bail interacts with the rest of the bail  
5 system to destabilize our client's lives. This past  
6 spring James was detained on significant bail in the  
7 Bronx and \$1 bail in Manhattan. Unable to afford the  
8 bail he spends many months on Riker's before  
9 ultimately pleading guilty and agreeing to  
10 participate in a residential program for adolescents.  
11 Representatives of that program were in court when he  
12 took the plea to escort James directly to the program  
13 and the judge released James with the understanding  
14 that he would go directly from court to the program.  
15 However, the \$1 bail in Manhattan held him in because  
16 there is no bail paying facility, DOC Bail Payment  
17 Facility near the Bronx courthouse, no one could pay  
18 \$1 bail. He ended up being taken to Riker's, missing  
19 his admission into the Residential Program and was  
20 released after midnight that night. Uhm, the  
21 notification system that is being proposed today is  
22 absolutely crucial and it is also crucial that not  
23 just our clients be notified but defense counsel as  
24 well. As you have heard, as often defense counsel  
25

1 that is trouble shooting, tracking down, information  
2 and making sure that our clients are released.  
3  
4 Currently we rely in part on the network of  
5 volunteers across the City known as the \$1 bail  
6 brigade to pay \$1 bail for our clients. We are  
7 extremely grateful for their service and inspired by  
8 their work but it is outrageous that their public  
9 service is even required and even later the obvious  
10 absurdity of the current practices. The other thing  
11 that I just want to notice and I will try to make  
12 this very quick is we have heard and we welcome the  
13 advances in the online bail payment system and we  
14 also applaud the Council's proposal to expand the  
15 methods of payment for online bail and the  
16 implementation delay it may be, though it may be of  
17 kiosk for self-payment but I want to talk about who  
18 is excluded from online bail payment very quickly and  
19 I, I will wrap up. First, the uhm ability, the  
20 limitation on the credit card only bail excludes a  
21 lot of our clients who just don't have access to  
22 credit. Many of our clients don't have credit and so  
23 expanding to other methods of payment such as uhm  
24 online checks uhm and debit payments will make a big  
25 difference in a lot of our client's lives. I also

1 want to note that the online bail system currently  
2 requires a social security number uhm in order to  
3 pay. This obviously excludes uhm a number of  
4 communities from being able to access the online bail  
5 system and we think that if New York City does not  
6 require a social security number to get a New York  
7 City Identification Card the online bail payment  
8 system should do the same. Uhm and I just want to  
9 end by saying that online bail system, the online  
10 bail system, again while welcomed should not be the  
11 only focus of the City's efforts. A 2015 report by  
12 the Urban Institute found that 21.8% of the  
13 households in the Bronx do not have a bank account  
14 compared to only 12.7% in Brooklyn, 8.8% in  
15 Manhattan, 8% in Queens and 7% in Staten Island.  
16 Many of our clients and their families are just  
17 simply excluded from the financial system across the  
18 board and so the, the lack of a bail payment facility  
19 in and around the courthouse is inexcusable  
20 particularly in the Bronx where people need the  
21 physical place to actually pay bail. Uhm and we want  
22 to make sure that the focus on online bail payment is  
23 not to the exclusion of improving if the, the other  
24  
25



1 services such as the fax machines and accessibility  
2 issues.

4 CHAIR KEITH POWERS: Thank, thank you.

5 SERGIO DE LAPAVA (SP?): Good afternoon,  
6 I'm Sergio de Lapava (SP?) of New York County  
7 Defender Services. Thank you for the opportunity to  
8 be heard in support of these two proposals. Bail  
9 Reform must be at the heart of any attempt at  
10 meaningful criminal justice reform. We testify today  
11 to applaud attempts such as these at easing the  
12 burden on those striving for the release of a pre-  
13 trial detainee. But also, to advocate on behalf of  
14 an even more radical rethinking of this City's  
15 Procedures and Practices in the area of bail. Pre-  
16 trial detention, that is the widespread incarceration  
17 of mostly indigent people of color who have not been  
18 found guilty of any wrongdoing and are presumed  
19 innocent under the law is inherently unjust. The  
20 goal we all should share there is a pronounced  
21 reduction in this City's population of pre-trial  
22 detainees. The best way to drive such a reduction is  
23 to move entirely away from a cash-based system.  
24 Until then it is critical that we remove barriers  
25 such as the two today that complicate the release of

1 someone incarcerated due to poverty. For example,  
2 the setting of bail in the amount of \$1 is a  
3 strategic tool designed to ensure that our clients  
4 who are eventually sentenced are property credited  
5 for every terrible day they spend in custody. It is  
6 never in any instance intended to be even a partial  
7 reason that someone is incarcerated. Every major  
8 player in our criminal justice system understands  
9 this. Not just defense attorneys but prosecutors,  
10 judges the NYPD and most critically the Department of  
11 Correction are perfectly versed in this practice.  
12 The critical factor is that DOC is in the best  
13 position to recognize whenever this principal is  
14 being violated. Creating a statutory obligation on  
15 their part to inform the other interested parties who  
16 are in a position to take remedial action is highly  
17 laudable. Similarly reducing the toxic transfer of  
18 wealth away from our most vulnerable communities  
19 which is our current bail system is a morale mandate.  
20 There is no good reason for the harmful fees that are  
21 essentially extorted from people already reduced to  
22 relying on the exploitative credit card industry out  
23 of the desperate need to free a loved one. The  
24 Council's proposal would at least strike a blow  
25

1  
2 against this harm. The elements of profit taking do  
3 not belong in our criminal justice system. A  
4 person's liberty and Constitutional Rights are not a  
5 proper venue for commercial exploitation and fees  
6 like the one at issue run counter to this principal.  
7 Pre-trialed attention due to poverty harm is not only  
8 those directly detained but also our criminal justice  
9 system as a whole. It fosters a general derogation  
10 of respect for our system and for the fundamental  
11 principal that the rich and poor alike are entitled  
12 to equal justice under the law. The instant  
13 proposals are a step in the right direction and we  
14 support them.

15 CHAIR KEITH POWERS: Great, thank you

16 SERGIO DE LEPAVA (SP?): Thanks.

17 KATHERINE GONZALEZ: Hi Council Members  
18 my name is Katherine Gonzalez. I am an attorney with  
19 the Brooklyn Defender Services. I do want to  
20 apologize for my voice, I'm getting over a cold  
21 (laughing). Uhm thank you for this opportunity to  
22 testify in the obstacles to release for people that  
23 we represent who are actually able to afford to pay  
24 bail. It is important to note that the vast majority  
25 of people for whom bail is set cannot afford the

1 amount and form that is sought by the prosecution and  
2 eventually set by judges. However, those with  
3 resources to pay often can't do so because of  
4 inexcusable bureaucratic obstacles and a lot of those  
5 have been discussed this morning already in  
6 testimony. We highlight some of those additional  
7 ones, we also provide accounting stories of our  
8 client's situations that we have confronted uhm with  
9 regards to these issues. Uhm before I talk about  
10 some of those issues with you today I do just want to  
11 note that the actual process of posting bail which I  
12 have experienced myself personally is a nightmare and  
13 is something that I think uh our communities will  
14 benefit to see the Council investigating and one of  
15 the things that we would like to propose is perhaps  
16 uhm as part of an investigation the City Council can  
17 send secret like shopper investigators to look into  
18 this process and what it is actually like and some of  
19 reforms that can be implemented to address those  
20 issues, specifically. With regard to a credit card  
21 bail, one of the things that we want to talk about is  
22 none of the Supreme Courts in our City uhm allow  
23 people to post credit card bails at the courthouse  
24 because they don't have credit card machines and  
25

1 while the Legislature implements a credit card as a  
2 form of bail in 1986, in 2018 no one, none of the  
3 five Supreme Courts in our five boroughs are you  
4 allowed to pay credit card bail because they do not  
5 have the machines required to do so. Uhm with regard  
6 also to the \$1 bail, no one in our ever has ever  
7 received an alert from the City when a client is held  
8 on a \$1 bail and it is something that we could easily  
9 help to resolve and avoid unnecessary legal detention  
10 of our clients. Again, thank you for this  
11 opportunity to testify.  
12

13 CHAIR KEITH POWERS: Great, thank you,  
14 save your voice.

15 KATHERINE GONZALEZ: Thank you.

16 CHAIR KEITH POWERS: Next.

17 ASH STEVENS: Uhm good morning, uhm thank  
18 you to the Committee on Criminal Justice for the  
19 invitation to testify today. My name is Ash Stevens,  
20 I am co-manager of Bail Operations at the Brooklyn  
21 Community Bail Fund. We are the largest of their  
22 charitable bail funds here in New York City and the  
23 largest in the country. Although we started out  
24 three year ago serving only people arraigned in  
25 Brooklyn, we also operate in Manhattan and Staten

1  
2 Island. We pay bail for more than 100 of our fellow  
3 New Yorkers every month who can't afford it and  
4 nearly 4,000 individuals to date. Unable to afford a  
5 few hundred dollars, they would either remain in jail  
6 or plead guilty just to go home. I appreciate the  
7 Committee for calling this hearing to ensure that  
8 people aren't held in jail on \$1 bail, that  
9 additional fees aren't levied against vulnerable  
10 individuals who when paying bail and that the bail  
11 easement laws previously passed by City Council are  
12 effectively implemented. I also want to thank City  
13 Council for their efforts to better regulate the  
14 predatory commercial bail industry, the bail bond  
15 industry. The Council's efforts stem from the  
16 understanding that money bail is a pernicious evil  
17 that makes a mockery of our notions, of our notions  
18 of justice, imprisons New Yorkers for their poverty  
19 and is one of the primary mechanisms that perpetuates  
20 a racist criminal legal system. The local laws  
21 passed in June 2017 to make bail easement, the bail  
22 easement process easier on the bail easement laws,  
23 were introduced because we know that individuals are  
24 subjected to unspeakable harm even when they or a  
25 loved one can't afford to pay bail. As we testified

1 last year, this is just one reason that a true  
2 solution must be uhm the abolishment of bail and  
3 wealth-based attention. Last year we detailed how  
4 people are often unable to reach loved ones for help  
5 with bail because they do not have phone numbers  
6 memorized. We described how incarcerated people and  
7 their families need easily accessible information in  
8 order to navigate the confusing bail paying process.  
9 We emphasized the importance of giving families  
10 enough time to get to the courthouse to pay bail and  
11 of requiring that the Department of Corrections  
12 accept bail payments immediately and continuously  
13 after bail has been set. Finally, we pointed out  
14 that our clients are often held 6 to 12 hours or  
15 sometimes days after their bail has been posted and  
16 called for a more rapid release process. Uhm we  
17 supported the passage of the bail easement laws  
18 because we saw people struggle every day to get their  
19 loved ones out when the system was clearly designed  
20 to keep them in. We regret to report that we are not  
21 finding the relief that the bail easement laws  
22 require. I would direct you all as has been spoken  
23 about to look at the Bronx Freedom Funds report on  
24 the implementation of the City Council's Bail  
25

1  
2 Easement Laws which documents the failure of the  
3 Department of Corrections and other Agencies to  
4 comply with the laws that were set to have been  
5 implemented throughout this past year. We have also  
6 found blatant disregard for the laws in our work this  
7 year and would like to share relevant information  
8 based on our experience posting bail in Brooklyn and  
9 Manhattan. Like the Bronx Freedom Fund, we have  
10 found that DOC will not accept bail payment  
11 immediately and continuously after bail has been set  
12 as required by local law 123. At the Brooklyn  
13 Detention Center, staff repeatedly tell us and family  
14 members that DOCs own rules do not allow them to  
15 accept bail payments for someone when they are in  
16 jail's custody. This means that DOC, DOC staff  
17 repeatedly refuse bail payment when someone is in  
18 transit, both from arraignment to a detention center  
19 and from a detention center back to court. When we  
20 have pointed out that this is not in compliance with  
21 City law, we have been told that DOC does not have  
22 the capacity to accept bail payment because of their  
23 reliance on faxing physical paperwork which cannot be  
24 done in transit on a bus. In addition to being  
25 unable to pay bail when someone is in transit, we



1  
2 routinely experienced a number of difficulties paying  
3 bail when the courts and DOC do not communicate  
4 effectively or efficiently. Just this past Friday,  
5 we tried to post bail for someone held uhm in the  
6 Manhattan Detention Center who had a court date  
7 scheduled on that day. Since this client was never  
8 brought to court and was still at the jail in DOC  
9 custody we tried to pay. This is why we tried to pay  
10 at Manhattan Detention Center; however, since he was  
11 not taken to and from court with his paperwork the  
12 jail did not have the paperwork telling them when his  
13 next court date was going to be. Because of this, we  
14 were told that we would not be able to pay bail until  
15 Monday. This person was going to be held in jail  
16 from Friday until Monday because DOC didn't know when  
17 his next court date was. Since we are accustomed to  
18 navigating the system, the asked the client's  
19 attorney to ask the court clerk to send the necessary  
20 paperwork to DOC staff at MDC and we were able to  
21 post last Friday evening. If this has been a family  
22 member unable to facilitate this type of information  
23 transfer the person would have been held in an extra  
24 two days. We have also found a refusal to release  
25 clients within a timeframe mandated by local law 123

1  
2 in the majority of our encounters with clients after  
3 their release from jail, we learned that they were  
4 released in the early hours of the morning even  
5 though we consistently pay in the afternoon and in  
6 the evening the day before. In some cases, people  
7 are held 24 hours after we have paid their bail.  
8 Just this past October, we paid for two clients who  
9 were held for so long that they missed their  
10 subsequent court appearance. In both cases, we paid  
11 bail around 4 p.m. on a Monday and by 4 p.m. the next  
12 afternoon they still had not been released from MBC.  
13 We also would like to draw attention to the uneven  
14 implementation of local law 124 which is designed to  
15 hold people at the court houses long enough for  
16 family members to arrive and pay their bail. Though  
17 we have seen increased hold times on occasion we  
18 still routinely see family members forced to pay bail  
19 at DOC facilities because they were turned away at  
20 court. We continue to see court staff refuse to  
21 accept bail payments when someone is in DOC custody  
22 even if the detained individual is in the court  
23 building just because court staff do not have proper  
24 paperwork. And finally, family members are often not  
25 able to make it to the courthouse to pay bail because

1 they have not been notified the bail has been set, a  
2 result of failed compliance with local law 126 and  
3 the vast majority of cases.  
4

5 CHAIR KEITH POWERS: I just got to ask  
6 you to wrap up, sorry. Thanks.

7 ASH STEVENS: Uhm I'll just end with,  
8 uhm, uhm the Council has an incredible opportunity  
9 and obligation to end the caging of so many New  
10 Yorkers in City jails, I applaud the City Council's  
11 efforts so far to get more people out of jail by  
12 simply allowing them to pay their bail. As I have  
13 pointed out the City has to do much more though to  
14 ensure that the current Legislation is implemented  
15 and to make sure that bail is never set on so many  
16 New Yorkers in the first place. I am grateful for  
17 the opportunity to testify to this, to testify to  
18 this imperative. Thank you for the invitation and  
19 for your efforts.

20 CHAIR KEITH POWERS: Thank you and just I  
21 know we have to vacate this room so sorry to cut you  
22 off but. Just a quick question, the issue around  
23 transit comes up a lot, so, and custody and transit  
24 uh what we ways that we improve that part of it,  
25 which is seems to be an impediment often where uhm

1  
2 DOC says the person is not here and how, how do we  
3 fix that. One seems to be stuck in systems and  
4 technology and getting rid of paperwork. Are there  
5 other suggestions on how we fix that issue?

6 ASH STEVENS: Uhm yeah, I think the one  
7 about technology uh that folks have already spoken  
8 about I think is an interesting one. I think also  
9 uhm sometimes the people that I am speaking with are  
10 still in the same building and the communication  
11 between individuals isn't happening or for whatever  
12 reason as folks from Bronx Freedom Fund said, uhm  
13 the, the just willingness to also want to facilitate  
14 the communication doesn't happen as far as we have  
15 seen. So, I think there is something there in that  
16 point and to the anecdote about the person being on  
17 the bus and not being able to receive paperwork on a  
18 bus uhm for the person to be allowed to be uh let  
19 off. Again, some sort of technological advancement  
20 that allows that to be disseminated on a bus via I'm  
21 not sure what that looks like, I'm not super tech  
22 savvy but I think there is room for all us.

23 KATHERINE GONZALEZ: I will suggest just  
24 moving to another track system where this information  
25 is kept and stored. One of the issues that we

1  
2 discussed in our written testimony is that in the  
3 actual paperwork that is processed because it is  
4 handed from person to person and it input into an  
5 electronic system, we have issues where the bails  
6 that the judge set is not the bail that DOC is seeing  
7 that this person is being held on and family is not  
8 able to post bail because there is a discrepancy in  
9 the amount. If the system is electronic from the  
10 beginning, then I think it easier to monitor and uhm  
11 address more of these very like constant issues and  
12 frequent issues that, that are happening.

13 CHAIR KEITH POWERS: That would be like  
14 an, like an error made about which amount is?

15 KATHERINE GONZALEZ: Yeah, we provide  
16 specific examples in our written testimony but for  
17 example, we had a client who was the bond that was  
18 set was \$500 and when the family attempted to pay his  
19 bail DOC told us that the amount of \$500,000. It was  
20 a thousand times more than what the amount was and it  
21 is because their database reflected this amount that  
22 isn't actually what was set, so we needed to do a lot  
23 of advocacy around getting proof. We had to  
24 scrambling around the court to get proof to DOC to  
25 show them that the information that they have is

1 wrong and I think it is mostly due to the fact that  
2 there is a piece of paper that needs to travel. I  
3 don't know how far for them to then take that piece  
4 of paper and put into a computer anyway and they are  
5 relying on that computer and not the piece of paper.

6  
7 CHAIR KEITH POWERS: And I, and this is  
8 my last question and we have another panel but when  
9 you do or when you are hitting these issues in the  
10 process, do you feel like either on the OCA side, the  
11 DOCE side, DOC side or any other part of this  
12 equation that you both know the appropriate ways to  
13 resolve the issues that you are facing such as  
14 appropriate personnel and training to help you  
15 facilitate that and can you, can you tell us what our  
16 improvements in that part of it as you are, as you  
17 are, you see something like it's 5,000 for 500,000 or  
18 another issue that arises where there is a question  
19 about what is going on or who is, you know there is  
20 an error made how you, how that process works in  
21 terms of trying to resolve it. It seems like a  
22 little bit is just know how in terms of how...  
23 experience navigating the process but are there  
24 improvements that can be made or, or other parts of  
25 this said that need to be fixed so that?

1  
2           SCOTT LEAVY: You mentioned training and  
3 I think the larger issue is that you are fighting  
4 against an ingrained culture, where for decades the  
5 Department of Correction has been allowed to operate  
6 with near perfect impunity and I have been a public  
7 defender for 22 years and this is just instantiations  
8 of what they do. They think that, you know how they  
9 release somebody, when they will take bail, when they  
10 will release someone is entirely up to them and is  
11 not the business of the Judge, Prosecutor, NYPD or  
12 anybody else and so it is a question of education and  
13 training the that this is a different mindset, that  
14 this is a different world that they are operating  
15 under and until you do that you are always going to  
16 come across little uhm instances of people saying not  
17 my business or not, not the OCA, NYPD, not a fax  
18 machine. You are just always going to come across  
19 that until there is a strong commitment to retraining  
20 and educating them as to the new landscape.

21           KATHERINE GONZALEZ: And if I could, I  
22 think you for the answer as well, warrant the first  
23 is there isn't a, like even as an attorney there  
24 isn't like I don't like take the same steps every  
25 time there is an issue it is literally frantically

1  
2 running around to the last person who managed the  
3 situation to figure out what is missing and what can  
4 be addressed. Sometimes it is running back to the  
5 court to say I know you don't have a copy of the  
6 order because you physically gave it to a DOC officer  
7 can you draft another one because you have in your  
8 court records that this is the bail that you set so  
9 that we can fax it to this other person that I have  
10 on the phone who is willing to help me, so there  
11 isn't a streamline system to address these issues or  
12 one particular person that you know that you can  
13 address necessary to fix. I think the other thing is  
14 maybe we need to be thinking about ways to hold DOC  
15 accountable for failing to comply uhm because uhm you  
16 know us talking to, because that doesn't seem to be  
17 working.

18 CHAIR KEITH POWERS: And what would that  
19 be?

20 KATHERINE GONZALEZ: Maybe we need to  
21 impose some sort of sanctions statutorily, I mean  
22 there are so many issues that logistical and it is  
23 like either it is misinformation or there are not  
24 appropriate systems in place because this has never  
25



1  
2 been a priority. Releasing our clients is not a  
3 priority.

4           SCOTT LEAVY: If I can just very briefly,  
5 I think the technological piece of this is actually  
6 crucial to all of it, right because for any  
7 particular issue that comes up you spend a lot of  
8 time diagnosing the problem and then you spend a lot  
9 of time fixing the problem and everybody has this own  
10 wort of rolodex of people that they know who to call  
11 and you have to figure out who, who the right person  
12 for this one is. If you have information sharing  
13 across the system, there would not only be able to  
14 diagnose and fix but there would also be sort of  
15 accountability within that transparency. If OCA  
16 knows that DOC knows then they can hold each other  
17 accountable and if we know what they know then we can  
18 hold them accountable. So, the, the technological  
19 piece and getting rid of fax machines really would go  
20 a long way to actually creating internal  
21 accountability.

22           ASH STEVENS: Just, okay I was just going  
23 to quickly add that in certain instances we at the  
24 bail fund, at the Brooklyn Bail Fund do try to call  
25 people within the systems to help sort of

1  
2 troubleshoot. Also, and probably more importantly to  
3 us though is like people with families and all of  
4 those people don't have access to those numbers, they  
5 don't know who to call when these things come up and  
6 so even if we have accountability across our systems  
7 uhm that being related to the real people who are  
8 really impacted every day, that's not happening. Uhm  
9 I'm not sure how to remedy that but that is,  
10 especially important in this piece too.

11 CHAIR KEITH POWERS: Thank you I  
12 appreciate those insights and testimony. Thank you  
13 for being here. Uhm we are going to have uhm one  
14 last panel, it is uhm let's see we have Joanna Weiss  
15 from the Fines and Fees Justice Center, Lynette  
16 Howard from Close Riker's Island Campaign, uhm Close  
17 Riker's Island Campaign uhm I think its Harvey Murphy  
18 from Just Leadership I think and William Evans from  
19 Neighborhood Bunches. I don't know if I got that  
20 wrong. Apologies. Okay and I think we are waiting  
21 for one more. Alright thank you, thanks for being  
22 here. Thank you for your patience as well. Uhm I  
23 think we are starting from this way going, I think  
24 you are up first so you can you can begin and we will

25

1 have you on the clock for two minutes. Thanks so  
2 much.  
3

4 HARVEY MURPHY: Hey how is everybody  
5 doing my name is Harvey Murphy. I'm from Just  
6 Leadership I'm a Community Organizer here at Just  
7 Leadership. Uhm we stand on a Free New York Campaign  
8 and Close Riker's Island Campaign. Uhm I just want  
9 to keep it real, real brief. I am a formerly  
10 incarcerated. I'm standing with the fight. I  
11 appreciate you guys up there for actually like  
12 standing with us in the fight and the more we are  
13 seeing you guys, I feel like I am knowing you guys.  
14 I just want to start off by saying one of the things  
15 that, I paid bail, it was, it was a decision that I  
16 had to make either pay bail or be homeless. And one  
17 of the things I did, I paid the bail and I was  
18 homeless and honestly it was like a revolving door  
19 for me because I felt like society owed me something.  
20 I felt like how would they put a price on a man's  
21 freedom. I sit back and I think about it now, and I  
22 see why I am mad now that's why I said it is an honor  
23 and it is a pleasure to be with you guys, formerly  
24 incarcerated up north twice so it definitely is a  
25 pleasure to be here standing on this fight. Paying

1  
2 bail and being homeless and making that decision in  
3 your household as a man to say you know what I don't  
4 want to be in this nasty cage no more so you know  
5 what I'm going to do I'm going to bail out and the  
6 next thing you know I found myself and my and my  
7 family in a raggedy situation. I am 35. I had to  
8 live with that. That was in 2002, I am still living  
9 with that but I'm here, I'm here standing strong,  
10 standing on the fight, standing on the Free New York  
11 Campaign and Close Riker's Island Campaign. Uhm it  
12 became a revolving door for me because I felt like  
13 society owed me something. I felt like why would  
14 they, I was innocent it was a dirt bike. A friend of  
15 mind reported his dirt bike stolen, I wound up  
16 getting the dirt bike from the person who stole the  
17 dirt bike. I am riding the dirt bike, I wind up  
18 getting caught, \$1500 bail. I'm innocent though.  
19 The guy is sitting in court, he is telling the judge  
20 and everybody listen this man ain't stealing my dirt  
21 bike. You know, but then again, I had to pay bail.  
22 I just want to say again man thank you man, uhm the  
23 whole bail system all you have to. I want to get  
24 this on the record just to say this, how would you,  
25 excuse me man, how would you post, how would you put

1 cash on somebody's freedom? How would you put cash  
2 on somebody's freedom? And I'm here to testify  
3 against that, that the system is built not for me and  
4 not for the black and brown people so I'm here today  
5 to testify on this behalf on these issues because the  
6 issue is a situation, it is definitely a situation.  
7 I appreciate you guys, I feel like I know you guys up  
8 their man. I just want to take up all of the time,  
9 I'm a little emotional, my mom's fighting cancer so I  
10 just want to.  
11

12 CHAIR KEITH POWERS: No thank you, thank  
13 you for being here and sharing that and it sharing  
14 tough family situation and thank you for that.

15 WILLIAM EVANS: How are you doing? I  
16 want to uhm thank you as well, Council Members for  
17 having us up here. My name is William Evans. I am  
18 the President of Neighborhood Benches. Uhm we have,  
19 we have a small organization out in the Bronx where  
20 we actually go out and talk to community members  
21 about issues that it impacting them. And one of the  
22 issues that come up regularly is incarceration about  
23 incarceration and violence and uhm with cash bail  
24 being one of the major issues that a lot of  
25 individuals in the south Bronx are being impacted by,

1 uhm I think it is very important that we have this  
2 type of conversation. Uhm one of our initiatives or  
3 focus on NYCHA Developments. And NYCHA is something  
4 like 4, 4% of New York City population, right and  
5 within that population you have individuals that is  
6 impacted with incarceration a regular basis and to  
7 have this type of conversation with them about  
8 incarceration it is not something new to them. They  
9 are bringing up these issues every day, uhm these are  
10 individuals that are being, that is being arrested  
11 for minor charges still as we speak uhm and when we  
12 talk about the process, uhm these are also  
13 individuals that are being impacted at multiple  
14 levels. For example, when they are arrested and they  
15 are going into the precinct. The thought of bail is  
16 always on their mind but they are only allowed to  
17 take \$100 them through the system while the rest is  
18 being vouchered. That same money that is being  
19 vouchered whether it is for rent or whether it is for  
20 anything is also being taxed. And it's and it's a  
21 longer process for them to even get that money back  
22 to even talk about bail. Uhm and in and on top of  
23 that when I heard, when I heard some of the  
24 correction officers up here and they are talking  
25

1 about the process there, have, if you ever go on to  
2 Riker's Island or the boat and you look at the actual  
3 process you will see that a lot of the officers are  
4 relaxed, right, they are not as, they are not as  
5 eager to get paperwork done as they are to run to a  
6 situation. Right, they will sit back and they will  
7 watch you wait and this is uhm a regular attitude for  
8 a lot of the correction officers. So when you have a  
9 family member that is actually going to pay bail and  
10 they are faced with this type of, this type of uhm  
11 for lack of a better term disrespect, they lose  
12 interest in paying bail uhm and then when you have,  
13 when you have situations like this and uhm and this  
14 type of conversations take place in your own  
15 community where you are already impacted by multiple  
16 things, you lose interest in believing in a system  
17 that is supposed to be there to help you. You know  
18 uhm so, a lot of us are against the cash bail  
19 entirely because of these issues uhm and I do not  
20 think personally that this should be something that  
21 is in the hands of the Department of Corrections uhm  
22 because they are so lenient and they are laid back  
23 without interest uhm about, about individuals  
24 returning home to their families, a lot of people are  
25

1 sitting on Riker's Island uhm and this could be an  
2 ongoing conversation because uhm I could just speak  
3 about 100 people when there are thousands and  
4 millions of people out there that is being impacted  
5 by it. So, I appreciate your time for having us as  
6 well.  
7

8 CHAIR KEITH POWERS: Thank you, thank you  
9 for your time and for your patience as well. Thanks.

10 LYNETTE HOWARD: Good afternoon, my  
11 Lynette. Good afternoon my name is Lynette Howard.  
12 But never mind what my name is, I'm just another one  
13 of the 5 million people that as detained on Riker's  
14 Island with an \$80,000 bail. Whether I committed the  
15 crime or not the judge stated pay cash or stay  
16 incarcerated. So, my question is, what if I had  
17 \$80,000? Did it matter that I was accused of  
18 assaulting three individuals? What about the fact  
19 that I was a young troubled teen struggling trying my  
20 best, trying my best to help my mother as a single  
21 parent provide for me and my sisters? But if I had  
22 \$80,000, I would get out and have a get out of jail  
23 free card. A significant payment for my freedom  
24 until I was convicted. So never mind what my name is  
25 all that mattered was my booking case number and if I



1 was able to pay the courts to let me go. The  
2 excessive bail clause of the 8<sup>th</sup> Amendment of the US  
3 Constitution forbids excessive bail pre-trial but for  
4 who? Putting up a house, a car, a life fortune was  
5 not enough, cash was the value. So, what's next? A  
6 called up the bails bond. The bails bond industry  
7 brings in \$2 million in profit. In New York between  
8 \$14 to \$20 million so from Riker's Island I called my  
9 wife who called the bails bond on three-way and as he  
10 said hello. I said my name is, he cut me off and  
11 said forget about what your name is, how much is the  
12 bail? Better yet, what's the booking case so I can  
13 look it up and immediately broke down the numbers?  
14 \$80,000 bail about \$5000 up front not including  
15 collateral, not including being innocent. Having to  
16 get home, having to feed my family, the price to live  
17 outside bars surpasses the value of everyday things  
18 we use to live. How bad I wish I had a silver spoon  
19 in my mouth. I stayed in jail and I fought my case  
20 from inside, fighting for my sanity as well. Thank  
21 you.  
22

23 CHAIR KEITH POWERS: Thank you, thank you  
24 for sharing that with us.

1  
2                   JOANN WEISS: Thank you, good morning, I  
3 want to thank Chairs Powers and Lancman and their  
4 Committees uhm for introducing Intro 1199 to  
5 eliminate fees associated with credit, credit card  
6 bail payments and for inviting me to testify.  
7 Following Bill 741, Into 1199 would be another step  
8 toward ending the disproportionate harms of fines and  
9 fees that are exacted on poor communities, and  
10 particularly communities of color in New York City.  
11 My name is Joanna Weiss. I am the co-Director of the  
12 Fines and Fees Justice Center. We are a national  
13 organization that seeks to eliminate fees in the  
14 justice system and ensure that any fines are  
15 equitably imposed and enforced. Fines and fees hurt  
16 New Yorkers and New York City. They make our  
17 communities less safe, they perpetuate and exacerbate  
18 poverty and they extract millions of dollars from our  
19 most vulnerable communities, particularly from  
20 communities of color. And while the State is  
21 responsible for reforming our equitable cash bail  
22 system the City shouldn't make it harder for people  
23 to secure their freedom by adding additional fees on  
24 top of bail payments. There are currently two fees  
25 associated with paying bail by credit card.

1  
2 Depending on when in the process you pay and who is  
3 involved with administering and collecting those  
4 fees. One is a 2% fee that is assessed by one vendor  
5 that was hired by the City. The second and for a  
6 higher credit card fee up to 7.9% of the entire bail  
7 payment. The reason that fee is fair higher is  
8 because a private company called JPAY a subsidiary  
9 for Secures the company that currently charges  
10 unconscionably for jail phone calls in New York City  
11 and around the country has been allowed to profiteer  
12 off of people trying to pay bail. The Fines and Fees  
13 Justice Center strongly endorses Intro 1199 but this  
14 reform is not enough. We ask the City Council to  
15 eliminate all fees in New York City. That includes  
16 fees imposed by the City itself such as the DWI  
17 Probation Fee and Fee for Diversion that are assessed  
18 by the Mayor's Office of Criminal Justice. We also  
19 ask the Council to ensure that the City ends the use  
20 of fees that are assessed by private entities  
21 including most diversion fees and an array of fees  
22 that are charged to people who are incarcerated in  
23 city jails. Though Intro 1199 is without question a  
24 step in the right direction it will not prevent JPAY,  
25 Secures and other company from continuing to extract

1  
2 millions of dollars in fees from people who are  
3 incarcerated in city jails as well as from their  
4 loved ones. For example, when family and friends put  
5 money into their loved one's commissary accounts to  
6 support their basic needs, JPAY pays a fee of at  
7 least 20, JPAY keeps a fee of at least 20% of the  
8 deposited funds. This profiteering off of our most  
9 valuable communities must end and we are asking for  
10 the Council's help. The Council should also require  
11 that the Department of Correction make public all of  
12 its contracts with private entities that provide  
13 services to people who are incarcerated in public  
14 jails. Contracted private entities must explicitly  
15 prohibit profiteering through fees, markups,  
16 interests or other costs imposed on people who are  
17 incarcerated in their communities. Finally, the  
18 Council should ensure that anyone who is eligible for  
19 a diversion program be able to participate in that  
20 program regardless of their financial circumstances.  
21 When the City or a third party provides uhm providers  
22 charge fees for diversion programs it can prevent  
23 people who can't afford those fees from  
24 participating. Diversion programs are good for all of  
25 us, they allow people who do not need to be

1 incarcerated to remain productive members of their  
2 communities, keep their jobs and support their  
3 families. Diversion programs improve public safety  
4 in New York City because they address underlying  
5 problems like drug addiction and mental illness that  
6 can result in criminal conduct and finally Diversion  
7 Programs can also result in huge savings for tax  
8 payers since incarcerating someone at Riker's can  
9 cost nearly \$200,000 a year. No one should be denied  
10 access to diversion simply because they are poor.  
11 Thank you, we look forward to continuing to work with  
12 the Council to abolish these fees in the justice  
13 system and to ensure that the Criminal Justice System  
14 in New York City is funded equitably.

16 CHAIR KEITH POWERS: Thank you I want to  
17 thank all of you for your testimony and sharing your  
18 personal experiences and uhm I think on the final  
19 point around fees, and I the Council took and made an  
20 effort to eliminate fees on telephone calls earlier  
21 this year that the Speaker had a Bill on which we  
22 thought was a good step and this is, would be a  
23 continuation of that but I think I know I and many  
24 others feel like private companies shouldn't be  
25 profiting off of others pain and that we have a

1  
2 responsibility to eliminate and at the minimum reduce  
3 that and that sort of added ending or intended cost  
4 that arise even as we try to do things at the State  
5 level around bail and the bail system entirely that  
6 we have a responsibility to uhm to make sure that  
7 people are not, you know unduly burdened but also  
8 just fees that the City or a private company collects  
9 so we hope that this Bill will uhm will be another  
10 step toward, toward that process and as I noted  
11 earlier I think 8% on a credit card fee is, should  
12 not be period but it certainly seems higher than what  
13 the market gets on in other places. So, we  
14 appreciate all of the testimony. Uhm just thank you,  
15 thank you for the testimony. Okay, so I just want to  
16 just, I'm going to hand it over to Chairman Lancman  
17 but I wanted to thank everybody for being here and as  
18 I, as I noted earlier that I think the stories that  
19 are put forward, had continue to reflect to us that  
20 the City has a lot more work to do to make the system  
21 uhm work better and work and be easier for people who  
22 have to interact with it. We have a lot of uhm a lot  
23 of work to do at the State level and probably the  
24 Federal level as well to, to make the bail system,  
25 just it is significantly better if not erase parts of

1  
2 it that have no place here and, and really cause harm  
3 to people and communities and families but what we  
4 want to do at the city is to make sure that those who  
5 are should be free should be at home, should be with  
6 their family, should be at work, should be doing,  
7 continuing their lives, are not being held in one  
8 case we heard almost a weekend when they should have  
9 been, when they are actually meeting the demands that  
10 the City is uhm unfairly puts before them. So, I am  
11 thankful for the Bronx Freedom Fund and for those who  
12 put forward information and reports recently to help  
13 continue to highlight this, for the public defenders,  
14 for the people that are affected by it, that come and  
15 tell their stories because like I said earlier, I  
16 think our technology in the jails is, is, is, is far,  
17 is far behind but the technology that we have these  
18 days and the ability to access information and people  
19 makes it easier to tell those stories for us. And I  
20 think it, I think it is working in that way. So,  
21 with that being said, I want to hand it over to  
22 Chairman Lancman. I just want to thank the staff  
23 here at the Council and the Committee. Thank you, my  
24 staff and all the members that were here today for,  
25 being part of this and all of the people that sat

1 through, uhm waiting to speak and testify. And as we  
2 noted, there are staff from the DOC here but we did  
3 ask and I think Chairman Lancman was right and  
4 correct to ask them to stay to hear the information  
5 that was being presented because uhm often it is that  
6 information that is really some of the most important  
7 that we get during these hearings. So, thank you.

9 CHAIR RORY LANCMAN: I just wanted to  
10 thank the advocates, the public defenders, the  
11 Freedom Fund for the work that you do. It is your  
12 information and your experience that informs us and,  
13 and makes it possible for us to hold, the,  
14 Administration's feet to the fire. It is good to see  
15 that there was some progress that we were able to  
16 push them towards today and we will keep pushing.  
17 Stay tuned for a package of Bills on the issue of  
18 fines. I think people will like the work that we are  
19 going to be doing on, on that and I would also like  
20 to thank my Chief of Staff and the Committee Council  
21 for, for their help in making this hearing successful  
22 and my co-Chair.

23 CHAIR KEITH POWERS: Thank you, and we  
24 are adjourned. Thank you (gavel pounding).



COMMITTEE ON JUSTICE SYSTEM JOINTLY  
WITH COMMITTEE ON CRIMINAL JUSTICE

145

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date JANUARY 3, 2019