

THE BRONX FREEDOM FUND

Implementation of City Council's Bail Easement Laws, October 2018

Based on The Bronx Freedom Fund's client data tracking from January - October 2018

Disclaimer: The information contained in these documents is confidential, privileged and only for the information of the intended recipient and may not be used, published or redistributed without the prior written consent of The Bronx Freedom Fund.

Contact: Elena Weissmann, Director | (929) 335-3629 | eweissmann@thebronxfreedomfund.org

THE BRONX FREEDOM FUND

Local Law 123: Requiring the Department of Correction to efficiently facilitate the processing of bail payments.

Local Law 123 requires the Department of Correction to accept cash bail payments “immediately and continuously,” to release clients who have been bailed out within a “required time period” as enumerated in the legislation, and to accept or facilitate bail payment at or within a half mile of a courthouse. The law took effect in October 2017, and the current required release time period is four hours after bail has been paid.

Accepting Payment

The Department of Correction currently **does not accept bail payment at the courthouse in the Bronx**, or within any half-mile radius. The closest DOC payment facility is The Vernon C. Bain Center (“The Boat”), which is **three miles away** from the Bronx courthouse. Our staff consistently spends hours waiting for DOC to accept payment at this facility, and can attest to the fact that payment is not accepted immediately nor continuously. It can take anywhere from an hour to twenty hours for DOC to accept a cash bail payment – and we are paid professionals who know how to navigate the process.

In Queens, DOC began accepting payment adjacent to Queens Criminal Court in September 2018, almost a full year after the law took effect. Our staff has experienced mixed success in navigating this new resource, but are encouraged by the progress being made.

Release Times

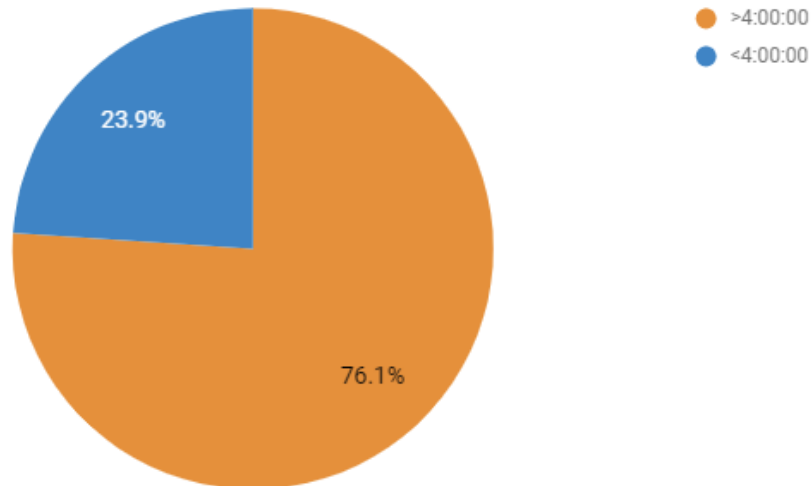
From April 1 to September 30, 2018, a period during which DOC was required to release people in under four hours, the mean release time for our clients was **13 hours and 3 minutes**, and the median release time was **6 hours and 53 minutes**. During that period, 65 clients were released **over 10 hours after we paid bail**, including **21 people** who were released **over 20 hours after we paid bail**. While these long delays are particularly egregious, even a few extra hours before release puts our clients at risk of losing their jobs, their shelter beds, and so much more.

Our data indicates that DOC release times have actually *increased* since Local Law 123 moved into the phase in which it mandates release in under four hours. **Only 24% of our clients were released within 4 hours.**

THE BRONX FREEDOM FUND

April - October 2018: 4 Hour Required Time Period

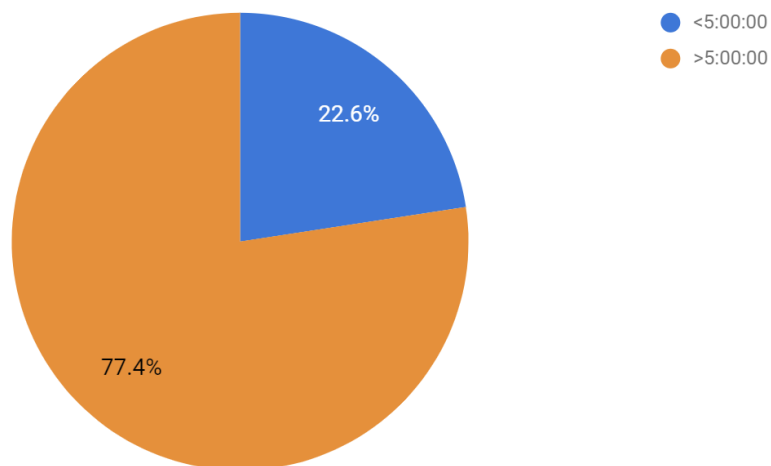
Less than a quarter of our clients were released within the required time frame.



According to our tracking from January 1, 2018 to April 1, 2018, during which DOC was required to release people in under five hours, the mean release time for our clients was **7 hours and 16 minutes** and the median release time for our clients was 5 hours and 55 minutes. During that period, 13 clients were released **over 10 hours after we paid bail**, including four people who were released **over 20 hours after we paid bail**. **77%** of our clients during this period were released over five hours after we posted their bail:

January - April 2018: 5 Hour Required Time Period

The majority of our clients were held in longer than the mandated release time of 5 hours.



THE BRONX FREEDOM FUND

Local Law 124: Permitting the delay of clients into DOC custody in order to facilitate bail payment

Local Law 124, which went into effect in summer 2017, could prevent countless jail stays if implemented. After being arraigned, if a person is lucky enough to remember the phone number for a local contact who can post their bail, that surety has just 2 hours to get to criminal court and pay bail before the person is taken into custody for at least 24 hours. Local Law 124 expands that 2-hour window to become a 4-12 hour window.

However, we have seen 2-hour holds violated, and have not seen a single client held for more than 2 hours.

Since this bill went into effect on September 20, 2017, we have had at least **ten** holds violated. Violating holds results in our clients being transported to jails (despite our presence at the courthouse ready to pay their bail and avoid any incarceration), where they spend at least an additional 24 hours incarcerated.

For example, we attempted to post bail for one client who was arraigned on July 12, 2018 at 11:00 a.m. We placed an official 2-hour hold with CJA at 11:40 a.m., but at 12:00 p.m. when we went to post their bail, they had already been put on the bus to jail. The hold violation meant that we were not able to successfully post their bail until 7:20 p.m. that night, after they had been processed into a jail facility. Our client was finally released at 5:35 am on July 13, **18 hours** after we began the process of posting bail and **10 hours** after we paid their bail. Had the hold been honored, this person would have avoided incarceration altogether.

Each hold was violated in the same way, indicating a systemic issue: when buses arrive at the courthouse to transport people to jails, the Department of Correction routinely puts people on the bus despite our availability as a surety. The hold process is very commonly thwarted around 1pm and 6pm, which is when the buses depart to the jails. Routinely, our clients are not even given their legally mandated opportunity to meet with the Criminal Justice Agency (CJA) as part of the Bail Expediting Program, which means we never have the opportunity to place a hold at all and they are never given the opportunity to reach out to potential sureties.

THE BRONX FREEDOM FUND

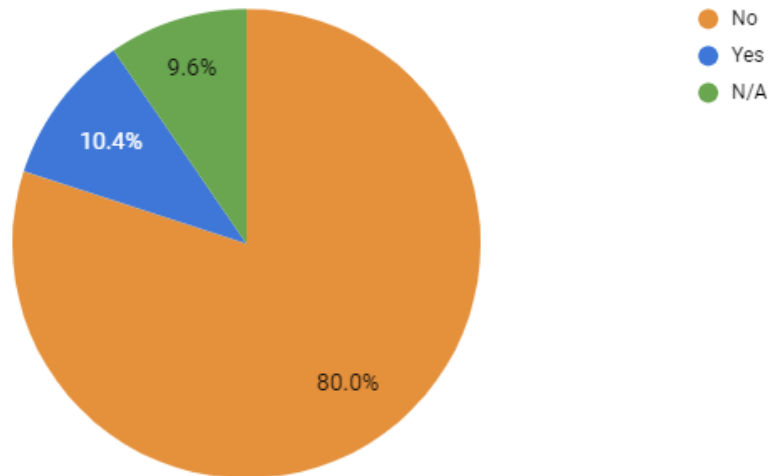
Local Law 125 – Requiring the Department of Correction to facilitate the posting of bail or bond

Local Law 125, enacted in September 2017, mandates that DOC provide “bail facilitators” to explain the bail payment process and to take reasonable measures to assist individuals with paying bail, including communicating with possible sureties and offer individuals an opportunity to obtain property to facilitate their own bail payment. DOC is supposed to provide information about bail payment and facilitate self-payment within 24 hours of a person entering custody, and grant the person access to a bail facilitator within 48 hours of entering custody, and continuously thereafter.

80% of our clients surveyed said they did **not** receive a bail facilitator or any information about their bail options, including the option to self-pay.

Bail Facilitator Provision

The vast majority of our clients did not meet with anyone who explained their bail options.



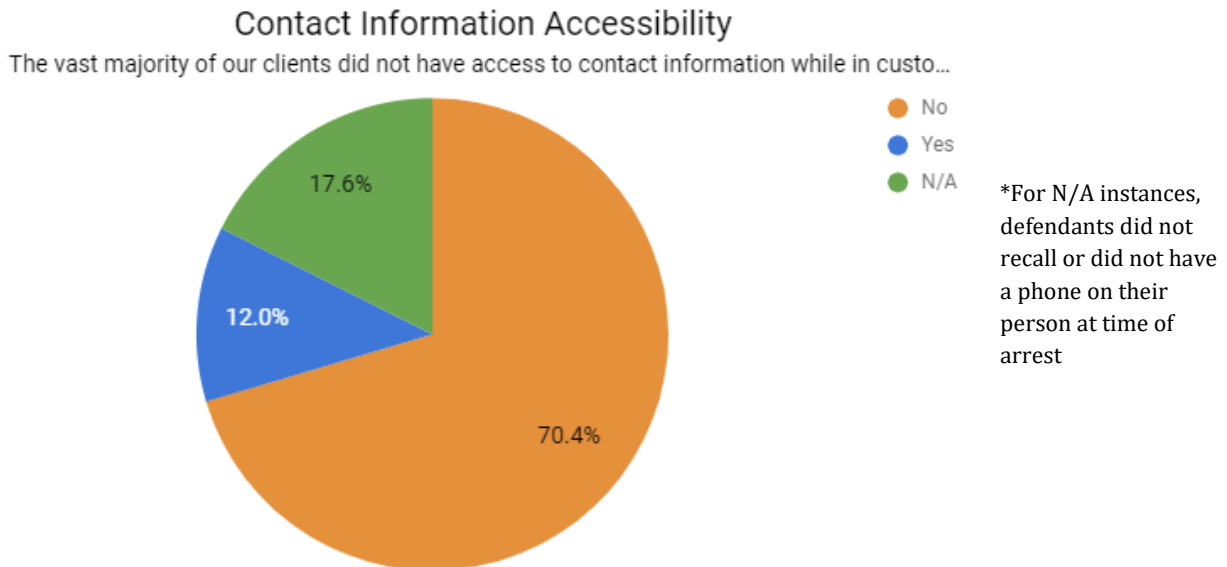
*For N/A instances, defendants did not recall or were bailed out from arraignments.
** Upon further follow-up with our clients, we have come to understand that many clients who answered “yes” were referring to Freedom Fund staff and/or Legal Aid paralegals who facilitated our communication with our clients.

THE BRONX FREEDOM FUND

Local Law 126: Requiring the NYPD to permit arrestees to access contact information

Local Law 126 was enacted in September 2017 and requires the NYPD to allow people to access contact information after they have been arrested, to the extent practicable and legal. Within 24 hours of the person's arraignment, officers are required to assist the person in accessing their personal property for the purpose of retrieving contact information. Accessing contact information is critical for ensuring that a person's loved ones can be present at arraignment (which judges consider when making bail determinations), and if necessary, that potential sureties can be contacted and come pay bail.

70% of our clients surveyed said they were **not** given access to their contact information while in NYPD custody.



THE BRONX FREEDOM FUND

Local Law 127: Requiring the communication of information regarding posting bail

Local Law 127 is the simplest in this package, and requires either the Mayor's Office of Criminal Justice or another agency/office designated by the Mayor to display information in a conspicuous manner in the courthouse, in order to assist individuals in posting bail. The information is supposed to include how to determine the amount and type of bail ordered, and instructions on the processes to post bail.

The law took effect in July 2017, and has yet to be implemented. Our office has even provided helpful graphics and pamphlets to MOCJ and OCA, but there are no signs posted about posting bail anywhere in Bronx or Queens Criminal Courts. As a result, hundreds of people desperate to get their loved ones out of custody are left scrambling for information, leaving them vulnerable not just to logistical mishaps, but to bail bondsmen who can take advantage of their situation.