

# City Agrees to Pay \$125,000 to Bail Funds in Settlement Over Out-of-Cell Time for People Incarcerated in Philly Jails

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CONTACT: Ben Bowens, Pennsylvania Institutional Law Project, 267-838-0620,  
bbowens@pailp.org

PHILADELPHIA – In an unprecedented settlement agreement, the City of Philadelphia (“City”) has agreed to make a one-time payment of \$125,000 to the Philadelphia Bail Fund and the Philadelphia Community Bail Fund, to resolve violations of Court Orders requiring out-of-cell time for people incarcerated in Philadelphia Department of Prisons facilities.

This settlement comes after a federal judge found that there were grounds to hold the City in contempt for failing to provide the Court-ordered minimum of three hours of daily out-of-cell time. Last month, the judge ordered Philly jails to prove that they are letting people out of their cells for at least three hours a day, or be forced to pay a fine to the bail funds.

“After over a year of living in dire conditions, including harsh lockdown conditions, we hope this substantial payment will convince the City to provide the out-of-cell time that is necessary for people’s health and humanity,” said Su Ming Yeh, Executive Director of the Pennsylvania Institutional Law Project.

In April of 2020, ten incarcerated people filed a federal civil rights class action lawsuit against the City over the conditions in the City’s jails. A component of that lawsuit focused on requiring incarcerated people be provided with more time out of their cells. When incarcerated people do not get enough time out of their cells, they are unable to shower, make phone calls to loved ones, or get adequate exercise. Prolonged in-cell confinement also has well-known and potentially devastating psychological effects.

After receiving consistent reports from incarcerated people that the Philadelphia Department of Prisons was not complying with the requirements laid out in a court order issued in January 2021 requiring a minimum of three hours of daily out-of-cell time—reports which were supported by certifications from Philadelphia prison officials-- the Pennsylvania Institutional Law Project, Kairys, Rudovsky, Messing, Feinberg & Lin, Dechert LLP, and the ACLU-PA, who together represent the people incarcerated in the Philadelphia jails, asked the judge to hold the City in contempt and fine the City for its noncompliance.

Today, to avoid a possible finding of contempt by the judge, the City of Philadelphia agreed to make a one-time payment of \$125,000, in equal amounts of \$62,500, to the Philadelphia Bail Fund and the Philadelphia Community Bail Fund. A hearing on the plaintiffs’ contempt motion had been scheduled for today.

Attorney David Rudovsky stated that the settlement agreement was a fair resolution of the contempt motion, as “it provided a measure of relief from overcrowded conditions by enabling release of persons awaiting trial, often on minor charges, who cannot afford to post the required bail, and by initiating a process in which the prison system can eventually safely return to pre-pandemic programming, visitation, and normal periods of out-of-cell time.”

“We will use these funds immediately to free more people,” said Malik Neal, Executive Director of the Philadelphia Bail Fund. “But to be clear: we are not the solution to this problem. The solution is for local officials to take the necessary steps to end the human rights abuses in our jails.”

According to the agreement, the City has until July 12, 2021 to “make all reasonable efforts to increase out-of-cell times beyond those required by current Court Orders, with the ultimate goal of a new schedule that would provide: (a) out-of-cell time for all vaccinated units in the range of 4.5 - 5 hours/day; (b) for other general housing units, 3.5 hours/day; (c) for quarantined housing units, 3 hours/day; and (d) for segregation units, 1 hour/day” or face further action in federal court. The City must also submit a report detailing its plans to resume pre-pandemic operations.

“We’re encouraged that the City is taking steps to improve conditions in the jails,” said Candace McKinley, lead organizer with the Philadelphia Community Bail Fund. “But these are small steps compared to what is needed, including large reductions in the jail population.”

The lawsuit, *Remick et al. v. City of Philadelphia*, 20-cv-1959, was filed in the United States District Court for the Eastern District of Pennsylvania. The plaintiffs are represented by Su Ming Yeh, Matthew A. Feldman, and Grace Harris of the Pennsylvania Institutional Law Project; David Rudovsky and Susan Lin of Kairys, Rudovsky, Messing, Feinberg & Lin LLP; Nyssa Taylor of the ACLU of Pennsylvania; and Ben Barnett of Dechert LLP