

THE BRONX FREEDOM FUND

ONE YEAR REPORT NOVEMBER 2014

INTRODUCTION

One year ago, The Bronx Freedom Fund opened its doors, becoming the first licensed charitable bail organization in New York State. In our first year of operation, the Freedom Fund has posted bail for nearly 150 Bronx residents who would otherwise have languished in jail on minor offenses because they were too poor to afford bail.

Of those clients, 98 percent returned to all their court appearances. More than 50 percent had their cases completely dismissed, and of the rest, more than half received non-criminal dispositions. Our work shines a spotlight on the fact that the ability to post bail, far more than anything else, determines criminal case outcomes in misdemeanor cases in the Bronx.

WHAT WE DO:

The Bronx Freedom Fund is a revolutionary program designed to help poor Bronx residents charged with low-level offenses avoid the devastating consequences of pre-trial incarceration. Every one of the clients we serve is presumed innocent, yet subject to detention because of extreme poverty. The average bail over the past year has been just over \$750, and in many cases, the cost of freedom is as low as \$500.

HOW WE WORK:

We accept referrals from attorneys and then work with eligible clients who lack the funds to secure their freedom. We do this right at the arraignment stage, so as to intervene as quickly as possible. Between October 2013 and October 2014, we posted bail for 140 people, enabling them to avoid pretrial detention. All were clients of The Bronx Defenders facing misdemeanor charges.

In our first year, The Freedom Fund has proven that when our clients are given the opportunity to fight their cases from the outside, they overwhelmingly return to court, win far better dispositions in their cases, and are almost certain to avoid a jail sentence. Moving into our second year, we can emphatically say that our model works. The Freedom Fund has regularly made the difference between freedom and incarceration, between criminal and non-criminal dispositions, and – in many instances – between being homeless, unemployed and deported, and continuing to be a productive part of our society. We are deeply proud of our accomplishments this past year and truly excited about moving forward and expanding our fledgling program.

THE RESULTS:

Ninety-eight percent of our clients made all required court appearances. Fifty-six percent of Freedom Fund cases have ended in a dismissal, with another 23 percent ending with non-criminal dispositions for our clients. By posting bail we have helped clients avoid many of the most destabilizing consequences of pre-trial incarceration by enabling them to keep jobs, maintain housing, and avoid deportation.

READ ON FOR INFORMATION ABOUT:

- The Freedom Fund's return rates
- Case outcomes for clients of the Freedom Fund
- Details on how our bail fund works
- Stories of clients assisted by the Freedom Fund
- Our advocacy work, and more.

OUTCOMES

We measure our success in three ways: by our impact on clients' case outcomes, our impact on their lives, and by the fund's long-term sustainability through high rates of return on bail money. In terms of all three metrics, the Freedom Fund's outcomes have been astonishing.

RETURN RATES

The Freedom Fund is authorized by New York's recently enacted Charitable Bail Organization law to post bail in a misdemeanor case where bail is set at \$2000 or less. We take seriously our responsibility to preserve the bail fund for future clients, so we screen our clients using strict criteria that take into account an individual's ties to the community, history of court appearances, and existence of family or other primary contact person, among other factors.

Of the 140 clients of the Freedom Fund, ninety-eight percent have returned to every scheduled court appearance. Our clients' cases are active for an average of just over four months, though some clients have returned to court as many as nine times over the course of a year to continue fighting their cases.

In order to ensure a high rate of return for clients, the Freedom Fund makes regular follow-up calls and court reminders for clients, provides Metrocards and transportation fare for clients who need assistance, and corresponds with the clients' Bronx Defenders attorney and other team members to stay up to date about all court obligations.

We work to connect our highest needs clients with social workers at The Bronx Defenders who can help them access drug, alcohol, or mental health treatment to ensure they are able to meet court obligations. Additionally, many of our clients have critical needs they are pursuing in other areas of the legal system – in family court, immigration court or housing court – and Freedom Fund assistance empowers them to participate fully with advocates in those other areas.

CASE OUTCOMES

Posting bail to secure our clients' freedom dramatically changes the trajectory of their cases. A look at our case outcomes demonstrates just how transformative posting bail can be. It allows clients to effectively participate in their cases and challenge the charges against them by removing the overwhelming pressure to accept a wrongful or premature guilty plea just to get out of jail.

Out of 79 bail fund cases that were closed as of October 2014, 44 (56%) ended with a complete dismissal of the case with all charges dropped. Another 18 (23%) ended with a violation similar to a traffic ticket. In seven cases (9%) clients pled guilty to a misdemeanor. In ten cases (13%) bail was exonerated and returned to the bail fund prior to the case ending. We anticipate similar case outcomes for the sixty cases that are pending and have yet to resolve.

REVOLVING BAIL FUNDS

Part of what makes the Freedom Fund so effective is the fact that when a client makes their court appearances, the money posted on their behalf is returned to the fund to be re-invested on behalf of another client. In the first year of operation, the Freedom Fund posted a total of \$116,759 in bail money. Of that, nearly 40% were reinvested funds that had already been used to post bail at least once. Over time we expect more than 95% of bail money to be refunded and reinvested in our bail fund.¹

¹ Average case duration stands at four months, and refund processing time adds an additional average of eight weeks. A three percent fee is imposed on all bail refunds where a case resolves with a guilty plea to a misdemeanor or violation. Cases that are dismissed result in no fee.

What stands between our clients and their homes and families is almost always less than a thousand dollars. The average bail that we post is \$768. The legal limit on bail the Freedom Fund can pay is \$2000, and in some cases we post bails as low as \$250. (And yes, many of our clients cannot afford, or know anybody who can afford, \$250 to secure their freedom.) Over time, nearly every dollar of our fund is reused more than once, meaning that the fund remains sustainable over time even as additional support allows it to broaden its impact.

AVOIDING COLLATERAL CONSEQUENCES

Often, just as important as case outcome is avoiding the deeply destabilizing effects that even a short time in jail can impose on our clients. By allowing them to fight the criminal charges from a position of freedom, The Freedom Fund empowers clients to continue working, parenting, going to school, receiving medical treatment, and insures that they can maintain their housing, keep their jobs and so much more. Below are several stories of our clients* for whom the Freedom Fund made a difference:

Tyler was seventeen when, while visiting a friend at his apartment building, he was arrested on misdemeanor charges of trespass and marijuana possession. He had a fraught relationship with his parents, and their inability to pay \$500 bail would have left Tyler in custody at Rikers' infamous adolescent unit. With Freedom Fund assistance, he was able to return home. Tyler has returned to his court dates for more than six months, and during that time has enrolled in a GED program, found part-time employment and has connected with a Bronx Defenders social worker.

Michelle had never been arrested before she was arraigned on misdemeanor contraband charges. Four months pregnant at the time, she was extremely worried about what jail time would mean for her,

her child and her minimum-wage job. The Freedom Fund paid Michelle's bail at court so that she did not spend a single night in jail. Upon release, she was able to return to work as a retail salesperson. After four months and several court appearances, all charges in her case were eventually dismissed.

Anthony was working a full time job and taking a mechanic course when he was severely beaten by police and charged with resisting arrest. His family did not have \$1500 to pay his bail, and the Freedom Fund was the only means he had of returning to work while fighting his case. Once he was released, he worked with a Bronx Defenders civil legal advocate to prepare a lawsuit based on the serious injuries he sustained from police during his arrest. He is determined to continue fighting the charges arising from his wrongful arrest.

Countless other clients have kept jobs or been able to find work to support themselves and their families while they would otherwise have been incarcerated.

Immigration is another crucial area where the Freedom Fund makes an immediate and lasting difference in clients' lives. In at least eight Freedom Fund cases, bail fund intervention has prevented an Immigration and Customs Enforcement (ICE) detainer which allowed clients to return to their families rather than be placed into deportation proceedings.

Samuel, for example, had lived in New York for years without legal status. The father of a one-year-old son, Samuel attended a community college in the Bronx. When he was arraigned on misdemeanor charges on a Sunday night, his mother, with whom he was living, scrambled to try to find the \$750 the judge required as bail. Unfortunately, she was unable to get the money on such short notice. The problem of course was that if Samuel spent even one night on Riker's Island, he would be flagged

*Clients' real names are not used here for their privacy.

for deportation, leaving his young son fatherless. The Freedom Fund was able to pay Samuel's bail immediately, allowing him to go home directly from court and avoid contact with ICE. Three months later, after Samuel returned to several court dates, all charges against him were dismissed.

Of course some of the most important things the Freedom Fund accomplishes are also the hardest to quantify: a client who was able to witness his son's birth because he was at home rather than at Rikers; a young mother able to spend the holidays with her children; a client who continues to provide at-home care to his paraplegic mother while his case is pending. Without the Freedom Fund, these clients would have face an intolerable choice: plead guilty to a crime you didn't commit, and go home to your family, or insist on your innocence and remain incarcerated.

TECHNICAL ASSISTANCE AND ADVOCACY

Over the past year, we have also taken the Freedom Fund model on the road, advising interested groups on how to establish and run community bail funds. To that end, we have provided technical assistance to more than half a dozen organizations in New York and across the country interested in starting bail funds. In July, we co-hosted a roundtable with Senator Gustavo Rivera for six New York City area public defender offices and non-profits considering establishing bail funds. We have shared updates on our work with the New York State Defenders Association and several City Council members and state Assembly members. Our guide to creating a licensed bail fund in New York is published on our web site.

As we move into the future, we aim to expand our services to help even more clients gain their freedom, while exploring the potential for expansion through partnerships with city nonprofits in the Bronx and other boroughs of New York City. We have

recently added a second part-time staff member, giving us added capacity to evaluate referrals and quickly assist eligible clients.

Finally, in addition to directly assisting individuals by posting bail, we will continue to look for opportunities to speak, and give clients the opportunity to speak, from experience about reducing pretrial detention and ending the wealth-based disparities created by cash bail. We continue to use the data we collect on Freedom Fund case outcomes to draw attention to the number of New Yorkers detained before trial, and to be vocal advocates for fairer bail practices in New York City, New York State and around the country.

FUNDRAISING AND CONTRIBUTIONS

This year, The Bronx Freedom Fund received \$53,655.71 through grants and individual donations. More than forty first-time individual donors gave in amounts ranging from \$15 to \$10,000. In addition, we received support from the Sparkplug Foundation, the Elias Charitable Foundation and the Community Church of New York Unitarian Universalist, and we expanded our donor base to double our number of individual supporters this year.

LEARN MORE

We are extremely proud of what we've done this year, and are excited to expand our work in the coming year. We invite everyone to stay connected with The Bronx Freedom Fund and of course, to support the bail fund by contributing. You can read more about us or make a tax deductible contribution by visiting our web site:

www.thebronxfreedomfund.org