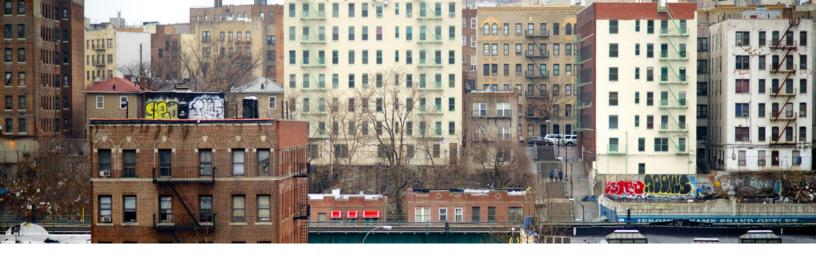


**SECOND ANNUAL REPORT 2015** 



## INTRODUCTION

Thousands of people languish in New York City jails each day because they can't pay bail as low as a few hundred dollars. In the Bronx, nearly 90 percent of those who have bail set between \$50 and \$2,000 can't afford to secure their release. As a result, they spend weeks and months behind bars, where they face the devastating consequences of incarceration—many lose their jobs, housing, and even custody of their children.

# These people have not been convicted of any crime. They are in jail simply for being poor.

Winner of the 2015 National Criminal Justice Association's Outstanding Program Award for the Northeast Region, The Bronx Freedom Fund grew out of a determination to confront this pervasive injustice. We provide bail for those who can't afford it, helping clients avoid the life-shattering consequences of jail time, return home to their families, and fight their cases from a position of freedom.

Since opening our doors two years ago as the first charitable bail organization in New York State, we have made a tremendous impact in the world of pretrial justice. We have bailed out over 300 misdemeanor defendants in the Bronx who otherwise would have been incarcerated for their poverty. Of those clients, 97 percent returned for all of their court appearances – some for as many as 15 court dates in a row. As a pioneer among charitable bail funds, we have helped other funds spring up across the country.

By intervening early and swiftly, we transform case outcomes and redirect lives. And since we get our bail money back at the end of each case, our impact will only grow with time.

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### WHAT WE DO

Attorneys refer clients to us and we work with those who lack the funds to secure their freedom. We do this right at arraignments, the first stage of a court case, so as to intervene as quickly as possible. Between December 2014 and December 2015, we posted bail for over 160 people, enabling them to avoid pretrial detention. All were clients of The Bronx Defenders facing misdemeanor charges where bail was set at \$2,000 or less.

The average bail amount that we post is \$790, and in several cases, the cost of freedom has been as low as \$250. We have been able to consistently secure clients' release over the last few years due to the revolving nature of our fund.

97% of our clients returned to all of their court appearances—some for more than 15 court dates in a row.

Once a case is complete, the bail money is recycled directly into our fund, allowing us to continue providing bail relief at negligible cost. We have received refunds on our bail in over 96 percent of cases, and anticipate similar results moving forward.

### **RESULTS**

We keep our clients out of jail, ensuring that they can contest their charges more successfully and avoid the devastating, far-reaching consequences of incarceration. No longer behind bars, clients can actively participate in their defense from a position of greater bargaining power, and they can rejoin their families.

Our model's success challenges the popular political notion that money keeps clients coming back to court, and demonstrates that financial status, rather than a fair judicial process, is the primary determinant of a case's disposition. We also engage in direct advocacy: this year, we worked with the Center for Court Innovation to streamline the bailpaying process for families; with the Mayor's Office of Criminal Justice to research short-term outcomes and their relationship to bail status; and with State Senator Gustavo Rivera and City Council Speaker Melissa Mark-Viverito to establish a citywide bail fund inspired by our organization's success.

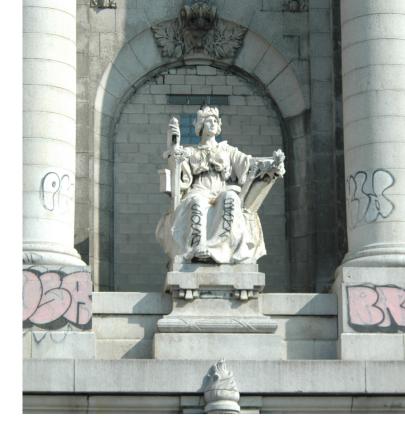
We measure our success in the jail time we prevent, the case outcomes we improve, and the lives we help stabilize. The minimal cost at which we're able to achieve this enormous impact is addressed later in the report.

#### JAIL TIME PREVENTED

Citywide, the average pretrial detention period is over 15 days for misdemeanor defendants with bail set between \$50 and \$2,000 – and since the Bronx has one of the most backlogged courts in the country, our clients face even longer jail stays as they await their court dates.

Jailing a defendant pretrial in New York City costs almost \$500 per night. This is as much as our client Robert's bail—he was accused of bending a MetroCard to enter the subway. For his inability to pay, Robert was sent to The Boat, the notorious floating jail on the East River. We provided bail just after he was admitted so that he could contest his charges from home.

Robert's story is not atypical. Each one of our clients, though innocent until proven guilty, would have faced significant jail time due to their financial limitations. Judges are statutorily required to take into consideration defendants' ability to pay, but this rarely happens, as evidenced by the small



The average pretrial detention citywide is over 15 days for misdemeanor defendants with bail set between \$50 and \$2,000.

portion of defendants that is able to make bail at arraignments. Just one in ten.

Our 300th client, Juan, was offered \$1,000 bail that he clearly could not afford. Homeless, the 60-year-old man was arrested while collecting bottles to deposit for five-cent refunds. He would have waited over two weeks for his next court date and, depending on the judge's discretion, could have remained behind bars for far longer. By providing bail relief swiftly, we disrupt a draconian system intended to criminalize poverty, and we bring our clients home.

#### CASE OUTCOMES IMPROVED

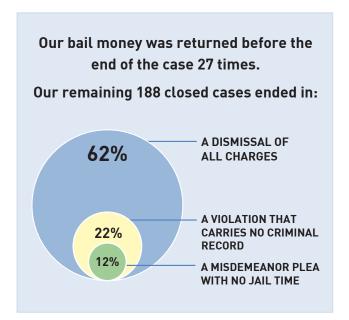
The Bronx Freedom Fund demonstrates that cases are overwhelmingly decided – and lives redirected – based on the ability to access as little as a few hundred dollars for bail. When defendants can't afford to pay for their release, they are faced with the daunting prospect of remaining behind bars for

weeks or months before they have even been found guilty of a crime, without knowing how long a judge will decide to hold them in jail pretrial.

They can resign themselves to unrestricted jail time, or they can plead guilty in order to secure their release. Often, sentences for misdemeanor pleas are far less significant than the time spent in pretrial detention. Under the tremendous pressure of incarceration, over nine in ten defendants who can't make bail will accept a guilty plea, forfeit their constitutional right to trial, and likely go home with a criminal record that follows them into the job market, housing search, and for the rest of their lives.

When the Freedom Fund intervenes, however, the balance of power shifts dramatically. No longer in the vulnerable position of pretrial detention, clients are able to work with their lawyers to prove their innocence or demonstrate that they are not defined by one allegation. They can seek out services, get back to work, and rejoin their families.

Contesting their charges from home, only one in eight Bronx Freedom Fund clients winds up with a



misdemeanor conviction. Over one in five receives a violation carrying no criminal record, similar to a traffic ticket. And more than half of our clients have all charges dismissed. This compares to a guilty plea rate of over 90 percent for those who are asked to fight their cases from jail, illustrating just how powerful the desire to go home can be.



Take our client Rodney, a teenager accused of driving without a license. He likely would have pled guilty to get out of jail and been saddled with a criminal record, but the Freedom Fund paid for his release. Like so many of our cases, his ended with a violation, and he was able to start his adult life without a destructive criminal record.

Or Angela: after receiving a referral from her lawyer, we traveled to Rikers Island to pay her bail. She was accused of scratching a man – misdemeanor assault. Without our assistance, she would have waited in jail for her court date and quite possibly taken a plea deal simply to get out of the notorious Rikers facility. But by contesting her charges from home and meeting with her dedicated team of Bronx Defenders lawyers, Angela was able to demonstrate the hollowness of these allegations. It was proven, as she had stated all along, that the man had been assaulting her.

Without financial assistance, her inability to make bail would have left her in a jail cell, waiting on a justice system that had already presumed her guilty. Instead, all charges were dismissed and she was able to maintain her clean record. She is now in school full-time working to become a medical assistant.

#### LIVES STABILIZED

Studies have shown that even the shortest jail stays can damage defendants' mental wellbeing and destabilize their lives. Pretrial detention often results in the loss of housing, employment, and even custody of children. Every day, we see our clients rebuilding their lives and avoiding the far-reaching consequences of incarceration because they've made bail. Our client Margaret,



for instance, is a 22-year-old college student who had never been arrested before. Her mother, aunt, and grandmother were fighting to pull together the \$1,500 for her bail, but living in a homeless shelter, they were unable to come up

Taking into account all losses on court fees and bail forfeiture, it costs our bail fund only \$33 to secure someone's release.

with the money. This is the norm rather than the exception in the Bronx, the poorest congressional district in the nation, where seemingly low bails can prove devastating. With Freedom Fund assistance, Margaret could continue fighting to pull her family out of poverty, taking college classes full-time while working part-time as a cashier.

Another client, Frank, couldn't afford \$500 bail. The 21-year-old allegedly jumped a subway turnstile. We paid his bail at the courthouse, before he was sent to jail. If Frank wasn't able to sign in at night, he, his girlfriend, and their infant child would have lost their spot in a family homeless shelter. For all of our clients living in shelters, one night in jail can mean failing to sign in and losing housing. Incarcerated defendants face similar consequences at work, where failing to show up for even a few days

because of inability to pay bail often leads to termination.

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. 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 other areas of the justice system. Out of jail, our clients can access services and pursue opportunities unavailable to those behind bars.

### FINANCIAL STABILITY

Not only does The Bronx Freedom Fund transform clients' lives, it does so at minimal cost. Approximately 96 percent of the money we invest in clients' bail is recycled directly into our revolving fund. Taking into account all court fees and bail forfeiture, it costs our bail fund only \$33 to secure someone's release. \$33 is the difference between

96% of the money we invest in clients' bail is recycled directly into our revolving fund.

freedom and a traumatizing jail stay; between a hard-earned job and unemployment; between remaining at home with family and potentially losing an apartment, a spot in a shelter, or custody of a child.

With an average pretrial detention of over 15 days, it costs our bail fund about \$2 a night to keep someone out of jail. A stay at Rikers Island, on the other hand, costs the city about \$475 a night.

This year, The Bronx Freedom Fund received over \$120,000 through grants and individual donations. More than 70 first-time individual donors gave in amounts ranging from \$15 to \$10,000. We received support from the Sparkplug Foundation, the Elias Charitable Foundation, the Community Church of New York Unitarian Universalist, and the Lynton Foundation. We expanded our donor base by 70 percent in 2015.



### A REPLICABLE MODEL

Over the past year, we published the first step-by-step guide to forming a charitable bail fund in New York State (the guide can be found on our website). We have also taken the Freedom Fund model on the road, advising interested groups around the state and across the country on how to establish and run community bail funds. With our assistance, bail funds currently exist or are in the works in Boston, Cincinnati, Memphis, Miami, Nashville, and St. Louis. And our technical assistance and step-by-step guide are helping funds spring up elsewhere in New York State—Albany, Columbia, Ulster, Nassau, and Brooklyn.

At home in the Bronx and in New York City, there still remains a tremendous need for greater bail fund reach – every year, thousands and thousands of New Yorkers are incarcerated because of their inability to pay low bails. We are making every effort to provide bail relief to more people in our city who need it.

As a pioneer in the field – and the group that pushed forward the legislation that allows bail funds to exist in New York – we are fighting to bring our model to every community that locks up defendants for their poverty.

To learn more about The Bronx Freedom Fund, or to support our work through a tax deductible contribution, please visit our website:

www.thebronxfreedomfund.org