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**Statement to the New York City Council**  
**Committee on Fire and Criminal Justice Services**  
**Committee on Juvenile Justice**  
**By Ana Bermudez**

**Thursday October 1, 2015 10:00 am**

**INTRODUCTION**

Good morning, Chairs Crowley and Cabrera, and other members of the Fire and Criminal Justice and Juvenile Justice Committees. I am Ana Bermudez, Commissioner of the New York City Department of Probation (DOP). Thank you for the opportunity to testify at this oversight hearing: **Examining Recidivism and Compliance Rates at the NYC Department of Probation.**

I am joined by Gineen Gray – Deputy Commissioner for Juvenile Operations, Ralph DiFiore – Associate Commissioner for Adult Operations, Michael Forte – Deputy Commissioner for Administration, and Wayne McKenzie – General Counsel.

DOP is one of the largest community corrections agencies nationwide. In total, the agency provides intake, investigation, and supervision services for more than 55,000 adult and juvenile cases annually and last year we supervised 29,387 adults and 3,308 juveniles. That is about three times the New York City daily jail census and represents one-third of those on probation supervision throughout the entire state of New York. We work with a challenging population – 60 percent of our adults are on probation following a felony arrest. Yet more than seven out of ten complete probation, and of those, less than 1 in 10 gets re-arrested for a felony within a year.

The DOP footprint throughout New York City is quite extensive, with court-based offices serving both Adults and Juveniles in each of the five boroughs. Coupled with our seven NeONs and seven satellite locations, DOP has a network of over 30 sites throughout the City that we utilize as a resource for clients, community



members, and other government partners and agencies.

We do so because our work is focused on creating “off-ramps” for youth and adults to get out and stay out of the justice system, which, in turn, strengthens and improves the safety of the communities in which they live. By having risk and public safety guide our decision-making, DOP has been responsibly reducing the number of people involved in the justice system. For example, we have been rightsizing the rate at which we file violations against adults on probation and have reduced that rate by more than half over the last five years. We have also increased the rate at which we divert youth out of the system by 36 percent and last year, 83 percent of youth successfully completed that diversion intervention.

Today, I would like to focus on three practice areas that improve probation clients’ ability to exit the system permanently: Young Adults, Alternatives to Placement, and Engagement with Clients and Communities.

#### **1. Young Adult Supervision Model:**

Where to start with young adults? There are a few things we know about them. Approximately one third of DOP’s overall supervision population of more than 29,000 is young people age 16-24. Yet they account for a disproportionate 56 percent of rearrests among probation clients. Because the age of criminal responsibility in New York State has been (and, sadly, continues to be) 16, DOP has historically supervised these young people in the same manner as “true” adults.

We now know much more about their brain development and can confirm what most parents of teenagers have known for time immemorial: 16-24 year olds are very, *very* different and very, *very* challenging. They are in a particularly defining moment in their progression toward adulthood, and we cannot supervise them as if they were “fully formed.”

Throughout this year, we have been developing a specific model for young adults on probation and recently received a boost from the Federal US Department of Justice, as the New York City Department of Probation is one of only three jurisdictions in the nation to have been awarded a Smart Supervision grant. We will use this grant to develop and refine our Young Adult Supervision Model



which utilizes evidence-informed approaches such as transformative relationships, cognitive behavior treatment (CBT), and other developmentally-appropriate programming that has been shown to lower recidivism and build competencies among 16-24 year olds. The model aims to enhance young peoples' abilities to make better, less-impulsive decisions and help them develop safer means of resolving conflict, while also ensuring there is swift and appropriate accountability should misconduct arise. Reducing the rate of re-arrest among this age group will not only have a significant positive impact for our young people, but for New York City as a whole.

## **2. Maintaining an Expanded Continuum of Placement Alternatives for Juveniles**

As you know, however, we have even *younger* probation clients that come to us through the Family Court process. To assist our youngsters under 16 stay safely in their communities, DOP maintains an expanded continuum of approaches that greatly improve our ability to meet the complex needs of these higher risk young people. One such approach, Alternative to Placement or ATP, keeps youth out of a Juvenile Facility, while providing increased structure and support for the client and their family. From 2012 to 2014, ATP dispositions per 100 cases increased from 13.8 to 25, while the number of placements decreased 39 percent, from 539 to 379. Not only is this a much better outcome for the young people kept out of placement, it represents a significant cost savings to the City.

But the numbers only tell part of the story. I would like to share an excerpt from a letter written to a Brooklyn Family Court Judge by the mother of one of our ATP participants about the positive impact the PEAK program (Pathways to Excellence, Achievement and Knowledge) has had on her son. PEAK is the newest of three Alternatives to Placement programs we run, specifically focused on education. In her letter, this mother stated:

We have been in and out of your courtroom a number of times throughout the years for legal troubles related to my son's behavioral issues. During our last appearance he was mandated to the PEAK program. Before he entered PEAK, he was not attending school, and his lack of attendance left him far behind in credits. He was also getting into trouble with the law on a regular basis. He didn't care about himself, his family, or his future. Upon his completion of the program-- I now have a son who enjoys going to school, who respects and listens to me more, and who is an all-around happier child.



The PEAK staff is to be credited with my son's transformation. I don't know where he would be without their intervention and guidance. Individually and collectively they are to be commended for their hard work, caring, dedication, wisdom, and teaching. Each and every one has made a direct, distinct, and positive, impact on my son's life. The stars and heavens aligned when this group was assembled. They worked, and continue to work, extremely hard to make my son (and the other participants) feel respected, comfortable, and supported, and this in turn makes the participants want to be and do better.

I'm well aware of the extreme circumstances that brought my son to PEAK. I feel blessed he was given this last chance, and could only wish that other children and parents not have to go through those circumstances to receive the life-changing benefits this program has provided.

I still get chills while reading this commendation.

### **3. Deepening Client and Community Engagement**

And how we got there is owed in great part to the deep engagement we have with the individuals on probation and their communities. This engages centers around education and employment, behavioral and mental health, and the ability to form healthy relationships, as those factors are recognized as critical for successful transition into adulthood and law abidance.

#### **Education & Employment:**

In regards to education, too many young people on probation are over-aged and under-credited, meaning that the chance that they will graduate from a traditional high school model is extremely unlikely. To address this, DOP has partnered with the Department of Education's District 79 to provide High School Equivalency classes for our non-school aged clients, as well as pre-HSE exam preparation and vocational training for our younger over-age, under-credited clients. Students receive technical training in fields ranging from construction, cosmetology, and computer skills while on site at Co-Op Tech High School. To give an example of the program's success, one participant - an 18 year old probation client - is expected to graduate from Co-Op Tech this June and was employed last summer as a welder making \$18 an hour. As there is currently a waiting list to enroll in the program, we are working with the DOE to secure a second classroom within Co-Op Tech, and hope to expand the model to other locations across the City.



Similarly, many young people on probation lag behind in workforce readiness. In order to build that competency, we have developed the Youth Weekend Restoration Assistance Program, or YouthWRAP. YouthWRAP is a service opportunity where participants receive a stipend for participation in neighborhood rehabilitation projects throughout New York City. Run under a restorative justice approach and taking place on Saturday mornings, YouthWRAP helps build necessary soft skills for the workplace such as waking up on time, commuting, positive peer engagement, and conflict management. It is so successful that even after participants have completed the program, they willingly come – voluntarily - on Saturday mornings to continue their service work and strengthen the bond they have developed with their cohort. YouthWRAP not only builds work readiness skills for our clients, but gives particular meaning to the term community service by creating stewardship and pride for the neighborhoods and projects on which they work. In this latest round alone, YouthWRAP participants have worked at 19 sites, packed food for over 11,000 people, and are being honored by the Open Door Pantry this Sunday, October 4th, for their service to their community.

### **Behavioral Health:**

The importance of developing interpersonal competencies cannot be overemphasized. Yet building and maintaining positive and stable relationships cannot be accomplished if one is grappling with mental illness or a behavioral health issue. As part of the Mayor's Task Force on Behavioral Health and Criminal Justice which has focused on meeting long unmet mental health needs within the justice system -- DOP has received funding to expand our staff expertise by creating an in-house Behavioral Health Team which embeds clinical advisors throughout our offices. Over the past 3 months, these clinical advisors have held over 300 case consultations to help identify behavioral and mental health needs and provide them with access to treatment and services.

### **Community Engagement/NeONs:**

This is also important because probation clients exist within a community. The epitome of community connections for us at DOP is our NeON. More than a community based space, our NeONs function as centers of exploration and innovation. Building on the promise of this approach, we've been strategically adding programs and services to the NeONs based identified needs. One such need -



being able to put food on the table - is sometimes a struggle and can hamper, or even prevent, success while on probation supervision. Recognizing this, DOP staff had been periodically providing food to those in need. At their urging, the agency partnered with the Food Bank for New York City and the Mayor's Fund to Advance New York City to launch NeON Nutrition Kitchens in all 5 boroughs. Those on probation can receive a bag of food pantry staples and fresh produce items on their reporting day and, one day a week, the kitchen is open to the surrounding community.

Our first kitchen opened in the South Bronx in June and has already provided food to over 3,000 people. Since then, we are operational in all five boroughs and have already helped over 4,500 New Yorkers have more food security.

Last month, we were a key collaborator with the Center for Nu Leadership on Urban Solutions and the Pinkerton and Prospect Hill Foundations as part of a Bed-Stuy community convening. The purpose was to explore NeON-based opportunities to minimize the involvement of young adults in the justice system through shared accountability between the local police precinct and community members. We were joined by several national, state, and local elected representatives, including Council Members Cornegy and Williams, who also share our passion, commitment, and concern for providing people with off-ramps out of the justice system.

We also continue to infuse our work with arts and culture, both of which tend to be in short supply in the communities where the majority of those under probation supervision reside. That is unfortunate, given that arts and culture are instrumental in the development of a person's resiliency and as a vehicle for transformation. Through our NeON Arts initiative, we offer young people in New York City, the chance to explore the arts through projects in a variety of disciplines including dance, music, theater, visual arts, poetry, and digital media. Just this week we showcased our latest project: a Citywide Asset Mapping effort to capture the resiliency and beauty of the NeON neighborhoods and their residents through photography. One young probation participant said it best: probation used to be all about punishment and now it's about growth. We couldn't agree more. Beginning today through mid-October, each NeON will host its own Asset Mapping exhibit. I invite all of you to visit one of our NeONs in your respective districts or boroughs so that you may see the quality community-building



and community supervision taking place here. I have the list of upcoming events with me today for all of you.

Most importantly, all the work taking place in our NeONs is fostering positive behavior change. And, as I mentioned in my March budget hearing testimony - a preliminary analysis of 12-month re-arrest rates found that 16-24 year olds supervised in our NeONs fared considerably better, with an overall re-arrest rate 27% lower than their counterparts supervised outside of a NeON.

Finally, I would like to provide a brief update on the City Council funded program Justice Plus: a flexible, wraparound initiative designed to support referred participants of neighborhood-based Cure Violence programs. This program, which provides stipends and a range of work readiness opportunities for young adults age 16-24, has grown to 12 providers, 18 sites throughout the City, and has served over 500 participants.

Thank you for this opportunity to update you on the important work underway to build a stronger and safer New York City through working with and supervising those on probation and helping them to stay out of the criminal and juvenile justice systems. We are now happy answer any questions you may have.

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**Written Comments of The Bronx Defenders  
New York City Council  
Joint Hearing of the Committee on Fire and Criminal Justice Services and  
the Committee on Juvenile Justice  
October 1, 2015**

My name is Cristina Laramée, and I am a staff attorney at The Bronx Defenders. I am here testifying on behalf of The Bronx Defenders' Probation Project. Thank you to the committees for this opportunity to discuss recidivism and compliance rates on probation and make recommendations for crucial reforms.

The Bronx Defenders initiated our Probation Project in the fall of 2014 with the goals of helping clients successfully complete their probationary sentences and reducing the number of clients who are incarcerated because of violations of probation. The traditional relationship between client and counsel typically ends at sentencing. This means that most clients have no legal representation during their probationary sentence and therefore no counsel to advise them while they are on probation, address problems they may be having, advocate for changes in conditions of probation or help them apply for early termination of their probationary sentence. Moreover, we are not notified by the court or probation when clients are called before the court for violations of probation. Unless clients reach out, they will typically appear without counsel and be assigned a new attorney from the 18b panel to represent them. For the last year, the Probation Project has been trying to change the experience of our clients on probation through a four-step system: informing clients about their rights on probation, following up with clients on probation to see how they are doing and address any concerns or needs, staffing the VOP part and advocating in court for those accused of violating probation,



and collecting and analyzing data regarding clients' probationary sentences in order to assess the impact of the Project.

While the Project was not created by the DOP, the Department has been supportive of the work we are doing and we have been pleased to see the efforts of the Department and Commissioner Bermudez to increase the number of clients granted early discharge from probation and reduce the number of clients resentenced to incarceration. We also appreciate that the Department has reached out to the defense bar and included us in some conversations about the Department's goals and strategic plans. But we think that there is even more that can be done to recognize the important role that defense counsel can play in reducing recidivism and increasing compliance rates.

As defense counsel, we are uniquely positioned to help clients successfully complete probation. We know that for many of our clients, compliance with probation is not their only struggle and there are often underlying issues that have led to our client's involvement in the justice system. Our pre-sentence representation of our clients on probation gives us familiarity with each client's challenges, which can include mental health issues, housing instability, and substance abuse. We also know their families and other existing support systems. That knowledge makes us uniquely positioned to not only effectively address compliance issues identified by the Department of Probation but also potentially address any underlying challenges leading to compliance difficulties. Furthermore, The Bronx Defenders is particularly well equipped to assist our clients in successful completion of probationary sentences because of our holistic defense model. The holistic defense model provides access to services and support to help our clients

succeed by providing a team of interdisciplinary legal and social advocates to address our clients' needs.

We hope to build on the relationship already established with the DOP so that defense attorneys can play a greater role in the efforts already underway to help more people successfully complete probation and to reduce reincarceration for violations. But in the meantime, we have several recommendations that we hope the Department will consider.

1) The DOP should change the rules to allow defense attorneys to be present with their clients for pre-sentence interviews; 2) Probation officers should reach out to defense counsel at the beginning of a client's probationary sentence, explain the client's conditions on probation, and discuss any potential obstacles to successful completion; 3) Probation officers should communicate with defense counsel while the client is on probation especially if the clients is struggling to meet the conditions of probation or if the client presents with legal issues or problems; 4) Probation should notify counsel of any Violation of Probation hearings ahead of the hearing date in order to proactively address the Department's concerns and prepare for the court date; 5) Probation should alert counsel when a client becomes eligible for early termination of probation or has applied for early termination of probation and also inform counsel and clients of the decisions regarding early discharge and the reason for denial of any application.

Thank you again to the committees for the opportunity to discuss these topics here today and we look forward to continuing to work with the Department of Probation to involve defense counsel in our clients' successful completion of probation.

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Ralph DiFiore

Address: \_\_\_\_\_

I represent: Adult Operations - DOP

Address: \_\_\_\_\_

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Date: \_\_\_\_\_

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Name: Ana Bermudez

Address: \_\_\_\_\_

I represent: Commissioner of the NYC Dept. of Probation

Address: \_\_\_\_\_

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Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Gineen Gray

Address: \_\_\_\_\_

I represent: Juvenile Operations - DOP

Address: \_\_\_\_\_

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☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Michael Forte

Address: \_\_\_\_\_

I represent: DOP

Address: \_\_\_\_\_

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Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Wayne McKenzie -

Address: \_\_\_\_\_

I represent: DOP

Address: \_\_\_\_\_

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☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Cristina Laramie

Address: 6 West 107th Street

I represent: The Bronx Defenders

Address: 360 East 161st Street

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☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: MICHAEL FORTI

Address: 33 BLAUEN STREET

I represent: DOP

Address: \_\_\_\_\_

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☐ in favor ☐ in opposition

Date: 12/14/15

(PLEASE PRINT)

Name: CHARLES MCKENZIE

Address: 33 BEAVER STREET NY

I represent: Department of Probation

Address: S/A/A

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I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☒ in favor ☐ in opposition

Date: 10/1/15

(PLEASE PRINT)

Name: Gina Gray

Address: 33 Beaver

I represent: Department of Probation

Address: \_\_\_\_\_

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☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Ralph DiGore

Address: 33 Beaver Street

I represent: NYC Department of Probation

Address: 33 Beaver Street

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THE CITY OF NEW YORK**

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I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☒ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: RAFAEL G. BERMUDEZ

Address: 433 BEAVER ST # NY 6 NY 10004

I represent: NYC DEPT OF PROBATION

Address: same as above

◆ Please complete this card and return to the Sergeant-at-Arms ◆