



**BROOKLYN
DEFENDER
SERVICES**

TESTIMONY OF:

Rebecca Kinsella – Senior Social Worker, Adolescent Representation Team

Presented before:

**The New York City Council
Committee on Juvenile Justice**

Evaluating Programs that Aim to Reduce Recidivism Among Justice-Involved Youth

January 16, 2019

My name is Rebecca Kinsella and I am a senior social worker in the Adolescent Representation Team at Brooklyn Defender Services (BDS). BDS provides multi-disciplinary and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for over 35,000 clients in Brooklyn every year. I thank the City Council Committee on Juvenile Justice and Chair Andy King for the opportunity to testify today about our young people's experience with programs aimed at reducing interaction with the criminal legal system.

Brooklyn Defender Services has a specialized adolescent unit, called the Adolescent Representation Team, comprised of 12 committed attorneys, nine adolescent social workers, and two youth advocates dedicated to providing legal representation, advocacy and social services to court-involved adolescents age 21 and under. Our team represents over two thousand adolescents ages 13-21 annually. My caseload includes adolescents detained at Crossroads and Horizons, ACS detention facilities in Brooklyn and the Bronx, respectively, as well as young people detained on Rikers Island. Our continued goal is to eliminate or reduce any and all interaction young people have with the criminal legal system. We do that through utilizing alternative-to-incarceration programs; advocating for additional social workers in youth detention centers; connecting young people to holistic reentry programs; legislative advocacy to eliminate or reduce harsh punishments for youth and free up resources for more supportive programming; and providing a support system for young people as their lives are unfortunately disrupted by the system.

RECOMMENDATIONS

BDS is fortunate to have great relationships with several programs that provide many of our adolescent clients with holistic services and are aware of the reality young people live in. For example, Exalt, the Brownsville Community Justice Center, Families Rising, The Door, and Esperanza all have proven track records of working diligently with our youth to help them achieve their own personal goals. Though we are fortunate to work with such great partners, we need to understand that recidivism programs cannot be the ultimate solution. A three to six month or one-year program cannot undo generational trauma and address internal and external factors that lead people into problematic behavior, nor can they displace the vastly overly inclusive penal laws and racially biased enforcement that often ensnare them. Placing that expectation on these programs is unrealistic and takes responsibility away from the other agencies and institutions that need to transform if we are truly trying to address violence and build safer communities. That being said, here are our recommendations for the Council:

1. The City should improve access and increase funding to community-based programs that are led by formerly incarcerated people.

Such programs are crucial to meeting young people's needs and providing services to this vulnerable population. In our experience, youth mentoring programs are extremely effective. These programs involve mentoring of court-involved youth by individuals who themselves have been through the system. It is critical that these programs be properly funded, including adequate compensation for the crucial advocacy on behalf of young people mentors provide and stipends for young people.

BDS has also found great success for our clients who have enrolled in programs that engage teenagers along with their families, like Families Rising. According to its website, “Families Rising is a collaborative initiative between the New York Center for Juvenile Justice and the New York Foundling to provide evidence-based therapeutic services to teenagers who come into contact with New York’s adult criminal courts. These services provide families and caregivers with essential rehabilitative tools to comprehensively address the complex behavioral and mental health issues that may have initially led to the child’s involvement with the criminal justice system.”

Harm committed by youth is a product of generational trauma and experiencing poverty. Often times the most accessible “resource” for family members is to call the police when a young person is acting up and that usually results in a protective order that prevents the young person from returning home. Having programs such as Families Rising helps to address the cycle of abuse through a more restorative and transformative approach.

2. The City should expand funding for adolescent social work services for public defender offices.

Adolescent social workers in public defender offices go beyond the traditional role of social work at public defense offices, often maintaining contact with our clients during and after their incarceration. Our social work fills in the gaps that are not met by other service providers. Each BDS client under the age of 21 is guaranteed to receive social work intervention. Currently, each of our Adolescent Representation Team social workers has an individual caseload of 45-55 clients. Our social workers provide direct advocacy, advice, and referrals for clients in the community and those in pretrial detention. By keeping in touch with our clients from the point of

arraignment through the end of their incarceration and sometimes beyond, we have a better chance of ensuring they feel supported. BDS' adolescent social workers help our clients re-enroll in school, apply for college, find work, secure housing, and connect with services they need following their release. Increased capacity for specialized adolescent social work in defender offices could prevent more youth from slipping through the cracks of society and into the criminal legal system.

Michael, a young client of mine, was awaiting disposition of his case while detained on Rikers Island. As his social worker, I was able to identify an appropriate alternative to incarceration program that a judge ultimately found suitable to serve as a resolution to Michael's case. Following Michael's release, I was able to assist him in locating an appropriate education setting as well as connecting him to necessary mental health treatment that he was not receiving while incarcerated. Without this support, it is unlikely Michael would have made a smooth transition back to the community. Michael successfully completed his alternative to incarceration program after more than one year of participation, resulting in no criminal record and having acquired important skills to accelerate his growth and development.

3. The City must provide safer shelter space and respite centers for homeless and formerly incarcerated youth in their communities.

One key to successful reentry for formerly incarcerated youth is having a safe space to return to in their communities.

Public defenders in Brooklyn serve around 500 homeless 16- and 17-year-olds every year, the vast majority of whom are not being served by Runaway Homeless Youth (RHY) service providers because of the lack of beds in Brooklyn. About half of the youth are *made homeless* by the criminal legal system because the court has issued an order of protection against the youth for a certain amount of days, sometimes months, after a criminal allegation involving a domestic disturbance, making it illegal for the young person to return home.

The City and State should provide more safe shelter space and respite centers for RHY youth in Brooklyn. The vast majority of runaway and homeless youth must seek crisis shelter beds in Manhattan where they are too often turned away for lack of beds. Runaway and homeless youth have been made homeless by failures of the education system, juvenile and adult criminal legal systems, the family court and foster care systems, and adults who have been unable to properly care for them. The City can and must address the youth homelessness crisis by opening youth crisis shelters in Brooklyn, the Bronx, Staten Island, and Queens.

4. Young people surveilled for an assumed gang affiliation should instead be connected to a social worker and provided additional rehabilitative services.

Black and Latinx New Yorkers are being surveilled and added to a gang database even if they have not committed a crime and for those who have been accused of a crime they are provided no viable alternative to incarceration options or rehabilitative programs while incarcerated. Though we firmly believe that we should abolish the gang database because it does not address violence, it only monitors and escalates violence, we recognize the sensitivity of the topic. Gangs and the gang database continue to be a contentious topic in New York City and is often avoided when gang related violence occurs. However, through our work with justice-involved youth, we

know that young people can be better served if they are connected with social-services aimed at improving their social, economic and emotional well-being before they become justice-involved. Another effective intervention, is credible messengers and cure violence programs. Credible messengers are formerly incarcerated men and women, some who are former gang members and now work to address the root causes of gang violence in our neighborhoods. Increasing the funding to these services and allowing credible messengers to intervene before violence happens, is more effective than monitoring and criminalizing young people.

BACKGROUND

Our reliance on the racist punishment paradigm and a violent carceral system has proven to be an extremely destructive method of social control and isolation rather than an effective means to address abuse and violence. Incarceration is harmful; it is systemized abuse designed to violate, harm, exploit, and perpetuate violence. It has always been this way, and as we continue to make incremental reforms, it has become a system that is increasingly detrimental to Black and Latinx people, young people, people with mental illness, and people who are queer, disabled, immigrants, and/or living in communities where resources have been siphoned and invested in policing rather than social and economic resources.¹ For this hearing on programs that aim to reduce recidivism among justice involved young people, it is important to make it clear that incarceration is harmful and counterproductive for young people because the harm that they cause does not happen in a vacuum; they are a product of generational poverty and communities that have been disproportionately provided resources in the form of jails, prisons and police.² For the sake of our youth, I am thankful for Chair Andy King and the Committee on Juvenile Justice for having this hearing to ensure that programs are providing the best services to our young people. I hope we continue to allocate resources towards comprehensive services but also advance legislative reforms to change the criminal laws, policies, and practices that treat our young children, particularly those who are Black and Latinx, as “superpredators”.³

Programs’ benchmarks should be individualized

As advocates, it is our duty to push the legal system to consider our clients’ individual and nuanced experiences. While the criminal legal system can view people as two-dimensional based predominately on their criminal history, we use our unique clinical relationship with our clients to push judges and prosecutors to look at them as whole people whose essential rights and dignity must be protected, even if they have made mistakes or caused serious harm. The benchmarks of alternative to incarceration and reentry programs for youth should also offer a nuanced view of success.

Recidivism is a difficult concept to measure; this can result in programs creating a rigid standard of success that needs to be achieved within a specific timeline. In our experience, using the concept of recidivism, meaning interaction with the criminal system or being rearrested, is not an effective measurement of success of rehabilitation or individual transformation. Many of our

¹ Hari Ziyad, *What do we do with abusers like R. Kelly if we abolish prisons?*, January 8, 2019, Black Youth Project, available at: <https://blackyouthproject.com/what-do-we-do-with-abusers-like-r-kelly-if-we-abolish/>.

² Adam Schaffer, *New report documents urgent need to replace youth prisons with rehabilitation-focused alternatives*, October 21, 2016, The Harvard Gazette, available at: <https://news.harvard.edu/gazette/story/2016/10/youth-justice-study-finds-prison-counterproductive/>.

³ Krista Larson and Hernan Carvente, *Juvenile Justice System Still Grappling with Legacy of the “Superpredators,”* January 24, 2017, Vera Institute of Justice, available at: <https://www.vera.org/blog/juvenile-justice-systems-still-grappling-with-legacy-of-the-superpredator-myth>.

young people live in heavily policed neighborhoods, go to schools with a large police presence, and are often stopped and frisked by police on a regular basis. This reality may lead to re-arrest for engaging in typical adolescent behavior that is not monitored in higher income areas. Youth who are rearrested should be granted the presumption of innocence, not labeled as recidivists, noncompliant, or failing programs.

Aside from the looming threat of re-arrest, research shows that experiencing poverty makes a person more likely to interact with the criminal legal system⁴. Black and Latinx young queer, disabled and/or immigrant populations are particularly targeted due to homelessness, hanging out with a group of friends and being criminalized and labeled a gang, and/or them finding underground means of survival.⁵

The existing programs for youth with criminal legal system involvement are not designed to meet the diverse needs of all participants. I have a client who has an intellectual disability and an IQ of 50. The ATI programs available to him are not designed for young people with intellectual or developmental disabilities. For my client, social interactions look different, his job and educational prospects are limited, and success for him will not look the same. However, the strict benchmarks of the program hold him to the same standard as young people without cognitive delays. With growing frustration he is more likely to quit the program.

Each young person that I work with requires different support from me, so appropriate intervention is always individualized to the needs of the youth. Recidivism programs should be individualized and cognizant of the day-to-day realities that Black and Latinx young people are living.

Eligibility restrictions for young people assumed to have gang affiliations

Currently, there are very limited and generally not viable alternatives to incarceration for young people given a gang classification by NYPD even if the young person denies any gang affiliation. For young New Yorkers facing charges of alleged gun possession or, in some cases, robbery in Brooklyn, there are only two available alternatives to incarceration programs: Youth and Congregations in Partnership (YCP) and Project Redirect. Both are run by the Brooklyn District Attorney's (DA) office, require upfront guilty pleas with severe suspended sentences, and allow for defendants to get their cases dismissed and sealed upon completion. YCP is the preferable option for our clients, as it is more productive and has better outcomes. This program requires young people to participate in weekly meetings with DA staff, attend school or work, and abide a curfew for a year. However, in our experience, adolescents who are alleged to be gang members are never offered this program, and instead are pushed to Project Redirect. We have serious concerns about the philosophy of this program, which often results in shaming our clients rather than modeling positive behavior.⁶ All of our clients need and deserve viable and rewarding ATIs, regardless of the accusations against them.

⁴ See for example Lauren Nichol Gase, et al., Understanding racial and ethnic disparities in arrest: the role of individual, home, school, and community characteristics. *Race and social problems*, 8(4), 296-312. (2016).

⁵ *Being African American & LGBTQ: An Introduction*, available at: <https://www.hrc.org/resources/being-african-american-lgbtq-an-introduction>.

⁶ See Rebecca Kinsella Testimony before the New York City Council Committee on Public Safety, June 13, 2018, available at: <http://bds.org/wp-content/uploads/2018.6.13-BDS-testimony-on-gang-policing-NYCC-SUBMITTED-1.pdf>.

We thank the City Council for your consideration of this important issue and hope you consider BDS a resource as we continue to have this conversation.

If you have any question about this testimony, please contact Saye Joseph at scjoseph@bds.org or (718) 254-0700 Ext 206.