



TESTIMONY OF:

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Presented before

New York State Joint Senate Task Force on Opioids, Addiction and Overdose Prevention

Hearing to discuss strategies for reducing overdoses, improving individual and community health, and addressing the harmful consequences of drug use

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My name is Jacqueline Caruana and I am a Senior Attorney in the Criminal Defense Practice 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 in over 30,000 cases in Brooklyn every year. This includes thousands of people arrested for possession or sale of controlled substances, and many more fighting deportation, eviction, or a loss of parental rights due to drug-related allegations or convictions. I thank the New York State Joint Senate Task Force on Opioids, Addiction and Overdose Prevention and Chairs Senator Gustavo Rivera, Senator Pete Harckham and Senator David Carlucci for inviting us to provide written testimony.

The overdose epidemic is among the most deadly forces in our city today, warranting a strong response from policymakers. The overdose epidemic is killing more New Yorkers than car accidents, suicides, and homicides combined, and 2017 was the deadliest year on record—over 3,200 people died of a preventable opioid overdose.¹ Though 2018 overdose numbers are not yet finalized, they are predicted to be just as severe. In the last decade, over 20,000 people across New York State have died due to overdose.² Importantly, the overdose epidemic is driven not only by opioid use but also by drug mixing, often including a combination of opioids and stimulants or benzodiazepines. BDS believes a public health approach is essential to reducing the

¹ NIH National Institute on Drug Abuse, *New York Opioid Summary*, March 2019, Available at <https://www.drugabuse.gov/opioid-summaries-by-state/new-york-opioid-summary>.

² Lauren Jones, *New York State Must Take Action to reduce opioid Overuse Deaths*, Vera Institute of Justice, June 14, 2019, Available at <https://www.vera.org/blog/new-york-state-must-take-action-to-reduce-opioid-overuse-deaths>

harms of addiction and recreational drug use. The criminal legal system is simply ill-equipped to prevent drug use, meaningfully reduce the supply of drugs, or – most important – help keep people who use drugs as safe as possible and minimize harm to their families and communities.

ACCESS TO SUBSTANCE USE TREATMENT FOR ALL

This crisis calls for a greater public health response; it is our firm belief that the War on Drugs has failed and very likely contributes to this shocking death toll. The National Institute of Health³, American Society of Addiction Medicine⁴, and American Psychiatric Association⁵ recognize that addiction, or substance use disorder, is a chronic brain disease, not a moral failure. The State’s discordant efforts to meld the enforcement and public health approaches often result in unnecessary and counterproductive incarceration and criminal records, social stigma, and tragic deaths. The criminalization of drugs often keeps those who use substances from accessing the care they want and need. New Yorkers who use substances need access to lifesaving medical care, regardless of income, insurance coverage, criminal history, or incarceration. We are grateful for NYS’ commitment to the Opioid Overdose Prevention Program and expanded access to lifesaving naloxone. However, we urge the Legislature to confront addiction issues by tackling the root causes that lead people to use drugs in the first place – poverty, trauma, desperation, and other factors – while providing adequate medical care for people who use drugs. We also ask that funding be used to better educate young people about addiction. There are many misperceptions about addiction and alcoholism that would be better addressed if these were seen as issues to be addressed in health classes in school as opposed to something to stay away from only because you could be arrested.

I. Expand Access to Medication Assisted Treatment

Access to affordable, evidence-based treatment for substance use disorders is paramount to both public health and public safety. Medication assisted treatment (MAT) for opioid use disorder is recognized by addiction medicine physicians, advocates, the U.S. Department of Health & Human Services and the Food and Drug Administration as an effective, sustainable treatment.⁶ Many of our clients experience barriers to accessing MAT due to program requirements, housing instability, and facility waitlists. Health insurance companies must not be allowed to create additional barriers for New Yorkers seeking treatment. We commend the NYS Legislature for passing S.4808 (Harckham)/A.2904 (Quart) and S.5935 (Harckham) /A.7256A (Rosenthal) which would prohibit insurance policies from requiring prior authorization for medications used to treat substance use disorders. We urge the Governor to sign these bills and remove unnecessary barriers to receive these medications while under the care of a medical professional.

³ National Institute of Health. (2018). “Drug Abuse and Addiction.” Retrieved from: <https://www.asam.org/resources/definition-of-addiction>.

⁴ American Society of Addiction Medicine. (2011). “Definition of Addiction.” Retrieved from: <https://report.nih.gov/nihfactsheets/viewfactsheet.aspx?csid=38>

⁵ L M Broyles, et al., Confronting inadvertent stigma and pejorative language in addiction scholarship: a recognition and response., *Substance abuse*, 2014.

⁶ Substance Abuse and Mental Health Services Administration, *Medication-Assisted Treatment*, May 7, 2019, Available at <https://www.samhsa.gov/medication-assisted-treatment>

II. Ensure MAT Access for New Yorkers in Prisons and Jails

BDS supports expanded access to treatment for people in our jails and prisons. Although the Key Extended Entry Program (KEEP) facilitates detox and manages methadone treatment for people with opioid dependency in New York City jails, people facing state prison time are excluded from the program. Many people facing state prison “on paper” will likely never be sent to state prison once the case reaches sentencing. Even though the parties may all be aware that state prison time is unlikely, prosecutors often wait until pleas are entered to withdraw the most serious charge. Many people are, therefore, excluded from KEEP and are forced to detox in local jails. An expansion of the KEEP program would benefit public safety, as people maintained on methadone are more likely to continue treatment in the community and avoid relapse. Since this group of people will be released to the local community, it is essential that the local jails maximize the chances of continued treatment whenever possible. Another side effect of forcing people to detox in jail is that when they are released, they are more likely to overdose. A little time away from the drug will change their body’s reaction to a dose they were able to consume before they went to jail. This is another reason that KEEP should be available to anyone who wants it in local city jails.

State prisons do not offer currently offer methadone management, but they should expand their program to include methadone treatment and other medication assisted treatment (MAT) as an important step towards a humane approach to drug addiction. In this era of skyrocketing opioid overdose deaths, research has shown that MAT can cut the mortality rate among addiction patients by half or more.⁷ Further, while receiving MAT, people are able to think more clearly about their options and many do decide to reduce their reliance on methadone and other medications.

While incarceration should not be a response to substance use disorder or behaviors linked to it, as long as there are addicted people in jails and prisons, they should have access to every treatment that can help them, including MATs.

III. Invest in Community-Based Harm Reduction Strategies

The NYS Department of Health recognizes the value of harm reduction services, which they define as a “fully integrated client-oriented approach” to keeping people who use continue to use substances safe and healthy.⁸ These strategies currently include overdose prevention and reversal trainings, syringe exchanges, access to supportive counseling, and care management. BDS additionally supports the Safer Consumption Space model sought by people who use drugs and

⁷ German Lopez, There’s a Highly Successful Treatment for Opioid Addiction. but Stigma Is Holding It Back., Vox, Oct. 18, 2017 at , <https://www.vox.com/science-and-health/2017/7/20/15937896/medication-assisted-treatment-methadone-buprenorphine-naltrexone>.

⁸ NYS Department of Health, Harm Reduction Services, May 2018, Available at https://www.health.ny.gov/health_care/medicaid/redesign/2018/docs/harm_reduction.pdf.

harm reduction specialists. Safer Consumption Spaces have been shown to prevent fatal overdoses, prevent spread of disease, and act as a gateway to substance use treatment.⁹ Building on the highly effective single-stop model used in many social-welfare agencies across New York, people who use substances would be able to access referrals to treatment, speak with health-care professionals, and consume substances in a safe, sterile environment under professional supervision. Safer Consumption Spaces in New York would build on the successes of other such sites around the world, which have saved countless lives.¹⁰ Crucially, these centers must not become dragnets for the NYPD, which would seriously undermine their efficacy.

DRUG TREATMENT COURTS

Pressed by formerly incarcerated people, grassroots activism and legal experts to reverse skyrocketing incarceration rates for drug offenses, New York City became a pioneer in the creation of drug treatment courts in the early 1990's and remains one of the jurisdictions with the most developed post-arraignment diversion system. While these courts are part of the problematic drug prohibition model, they have helped reduce jail and prison admissions and sentences within that structure. A landmark report, *Better by Half: The New York City Story of Winning Large-Scale Decarceration While Increasing Public Safety*, details and attempts to quantify the impact of these courts, including the Drug Treatment Alternative-to-Prison (DTAP) program, originally operated by the Brooklyn District Attorney's office and later replicated throughout the state. For example, "the proportion of felony drug cases that resulted in a prison sentence fell from 21 percent in 1997 to an all-time low of 11 percent in 2007."¹¹ Largely as a result of decreased drug arrests and an increase in diversion, the City jail population began to fall from its peak in 1991. State prisons followed suit in 1999 (72,899 in 1999 to 49,424 as of June 1, 2018), with the majority of the decline in admissions coming from New York City. It is important to remember that this decline was relative to the surging incarceration rates under the Rockefeller Drug Laws, during which the state prison population increased by a factor of seven. The decline has only been by about one-third since then.¹²

In Brooklyn, there are four specialized courts for drug offenses and/or criminal conduct linked to substance use disorders: Screening Treatment & Enhancement Part (STEP), Brooklyn Treatment Court (BTC), Misdemeanor Brooklyn Treatment Court (MBTC), and Brooklyn Mental Health Court (MD-1).

I. Screening Treatment & Enhancement Part (STEP)

⁹ L. Beletsky, et. al., The law (and politics) of safe injection facilities in the United States, 2008, *Am J Public Health*, 98(2): 231-237.

¹⁰ B.D. Marshall, et. al., *Reduction in overdose mortality after the opening of North America's first medically supervised safe injecting facility: a retrospective population-based study*, 2011, *The Lancet*.

¹¹ Judith A. Greene & Vincent Schiraldi, *Better by Half: the New York City Story of Winning Large-Scale Decarceration while Increasing Public Safety*, 29 *Fed. Sentencing Reporter* 22, 27 (2016), available at https://sites.hks.harvard.edu/ocpa/cms/files/criminal-justice/research-publications/fsr2901_04_greeneschiraldi.pdf.

¹² New York State Corrections and Community Supervision, DOCCS Fact Sheet, June 1, 2018, available at <http://www.doccs.ny.gov/FactSheets/PDF/currentfactsheet.pdf>.

STEP primarily handles non-drug, non-violent felony cases (such as grand larceny, unauthorized use of a credit card, burglary in the 3rd degree) for those who have substance-use disorders. The court part also accepts felony drug cases for so-called non-violent predicate felony offenders, or people who have one or more prior non-violent felony convictions in the last ten years. Based upon a clinical evaluation, the participant may receive intensive outpatient or residential treatment. Successful completion of the program results in a dismissal of the case. Unsuccessful participants receive a jail sentence of up to one year if the person does not have a prior felony.

STEP also handles Drug Treatment Alternative to Prison (DTAP) cases. DTAP was the first prosecution-led residential drug treatment diversion program in the country. The program diverts nonviolent felony drug offenders with a prior felony conviction to community-based residential treatment.¹³ DTAP requires an upfront plea to a felony charge that will ultimately be changed to a misdemeanor or an outright dismissal if they complete the program. DTAP requires a longer residential treatment mandate – usually up to two years, although I once had a client who stayed for three years because he had no place to live. The mandate also requires six months of outpatient treatment with full-time employment and a stable residence. DTAP can be difficult for our clients to successfully complete. Notably, DTAP mandates are not based on a clinical determination but are based solely on the participant’s criminal record. If our clients cannot complete the program, they are sentenced to prison time that varies based on the case.

II. Brooklyn Treatment Court (BTC)

BTC handles felony drug cases for defendants who do not have previous felony convictions (non-predicates). Eligibility for BTC is decided on a case-by-case basis by the prosecutor. However, if the prosecutor does not consent, the court has the capability of offering treatment through judicial diversion for some people, but not all, under the Drug Law Reform Act of 2009.

III. Misdemeanor Brooklyn Treatment Court (MBTC)

MBTC is designed for people who repeatedly face criminal legal system involvement for low-level charges due to their addiction. The court has recently evolved to be less punitive toward our clients. Defendants now receive shorter treatment mandates and shorter jail sentences for those who are ambivalent about treatment or not yet ready to adhere to treatment mandates. Prior to these shortened mandates and jail alternatives, court administrators, the judiciary, treatment staff, prosecutors and defense attorneys found that defendants were avoiding this option, preferring to take a plea to the underlying misdemeanor with a sentence of time served (or even short jail sentences). Those who complete the treatment program get a full dismissal of their case.

IV. Brooklyn Mental Health Court (MD-1)

¹³ Prosecutors may also, at their discretion, allow people to participate in DTAP who are charged with or have previous convictions for technically violent felonies, if the underlying conduct of the violent felony was not actually violent and no one was injured. A common example of this is burglary in the 2nd Degree when somebody steals a package from an empty foyer in a residential building.

MD-1 serves those with serious and persistent mental illness and offers community-based treatment as an alternative to incarceration. A special program is offered for those with dual diagnoses for serious mental illness and substance use disorders.

V. Concerns with the Existing Treatment Court Models

All of the Brooklyn treatment courts refer participants to “outside” or “contract” substance abuse treatment programs. These programs also have patients who have no court mandate and who are not criminal justice involved. However, the overall quality of these programs varies. Some programs cannot take participants who have a diagnosed mental illness while some are better equipped to treat our clients with dual diagnoses.

New York City has limited residential treatment bed capacity, which can result in wait times of a few weeks or more for our clients who are interested in treatment. Sometimes, if the person is incarcerated, the longer waiting periods discourage them from choosing the treatment program option. More funding for such programs could increase capacity and reduce waiting periods, but it should only be provided with oversight to ensure that recipient programs are actually addressing the need, including mental health needs, providing culturally competent services, serving unique populations or otherwise expanding options for people who need treatment.

All of the drug treatment courts have contributed to positive case outcomes for individual BDS clients, but in general many BDS attorneys are skeptical of STEP and BTC, and in some cases even MBTC. All of the treatment courts allow for relapses and recurring relapses, but our clients face increasingly harsher sanctions with each additional relapse. Additionally, our clients often face harsh punishments, including jail sanctions for low level drug arrests while in these programs. This is particularly problematic because of the disparate treatment between arrests for drug *possession* and sanctions for drug *use*. Treatment courts and ATI (Alternative to incarceration) programs are tolerant of drug use relapse, yet almost universally incarcerate or expel participants when they are *arrested* for possessing the same drugs they tested positive for using. Obviously, for a person to use drugs, that person had to at some point possess the drugs. This model multiplies the punitive nature of our current criminal legal system model for addressing drug use. Our clients often find these coercive treatment regimens and inconsistent punishment schemes to be less effective than voluntary alternatives that do not involve such sanctions. These schemes also do not inspire confidence in our staff and we may not recommend these courts to some clients due to the complications they will likely experience if they say yes.

CRIMINALIZATION OF SUBSTANCES DOES NOT WORK

The real effect of drug criminalization is the punishment and stigmatization of people who use drugs, which ultimately prevents many from seeking or obtaining the treatment they need. For people in recovery, past convictions due to addiction may interfere with their ability to move on with their life. When attempting to access housing, employment, and education, a criminal record will follow them. These outcomes are particularly pronounced for those who are most often targeted by police, namely low-income people and people of color.

In 2018, BDS represented 1,371 people who were arrested for misdemeanor possession of a controlled substance pursuant to New York Penal Law § 220.03. The vast majority of these individuals have substance-use disorders, yet last year 824 people represented by BDS plead guilty to misdemeanor drug possession, giving them or adding to a criminal record. What is even more disturbing is that 57 of them received a jail sentence for a misdemeanor drug possession charge.

I. The Injustice of Predatory Buy-And-Bust Operations

Many of the felony drug cases¹⁴ we see originate with predatory so-called “buy-and-bust” operations. These buy-and-busts typically involves undercover officers, generally dressed like homeless people and acting desperate, asking or pleading with people, who themselves are drug users, to procure drugs for them. Based on the cases we pick up in court, officers appear to target people who are struggling with either addiction or mental illness or both. Some are what we call “no cash, no stash” cases, in which police do not recover buy money or drugs. Our clients often tell us they procured the drugs out of a sense of obligation to help somebody in need, perhaps in exchange for a single hit of a drug. They are almost never involved in drug selling or pursuing customers. In some cases, people have walked away with the buy money rather than actually procure the drug, and the police then arrest them for theft!

Even if law enforcement interventions were an effective tool to reduce the supply of drugs, which it has been proven it is not, his predatory NYPD tactic certainly does not “get drug dealers off the streets.” Police argue that they use this tactic to gain intelligence from people who use drugs to climb the ladder to find higher-level drug suppliers, but we have seen no evidence that buy-and-bust tactics lead to the arrest and prosecution of drug suppliers. In our experience, prosecutors generally pursue the charges in these cases and our clients almost never have any information to provide, nor has anyone asked them about how they obtain their narcotics.

The harm of buy-and-bust operations is that they maliciously target the most vulnerable New Yorkers, those who are homeless, clearly suffering from a substance-abuse disorder or mental illness, and prey upon them in order to bump up their arrest numbers. Rather than setting people up for arrest and jail time, NYPD should be working with other city agencies to connect people in crisis with voluntary drug treatment, mental health support, housing and other services. In one buy-and-bust case that was highlighted in the *New York Times*, a juror actually wrote a letter to prosecutors in the office of Manhattan District Attorney Cy Vance, saying it was “approaching absurd that you would use the awesome power of your office to represent the people of New York County, along with it and the court’s limited resources, on such a marginal

¹⁴ Most of these cases are charged with felony drug possession intent to distribute (PL 220.16) or felony drug sale (220.39).

case.”¹⁵ This juror raises a valuable point: Why is the City wasting its resources on targeting the most vulnerable among us, rather than supporting them? If police can identify people struggling with addiction, why not provide them with information on treatment options or other services?

II. Arrests and Harassment Outside Methadone Clinics

For many years, the NYPD has targeted areas surrounding methadone clinics and needle exchanges for enforcement and harassment. This is widely known in public health circles, and police have discussed reforms, yet aggravatingly, the practice persists.¹⁶ Often, the arrests involve deceptive buy-and-busts or other predatory tactics that sometimes result in serious charges against people who are actively and even successfully turning their lives around. Furthermore, it is impossible to know how many people have shied away from medication-assisted treatment and other widely-accepted and publicly-funded harm reduction resources due to fear of police presence. These harm reduction resources they are infringing upon have been proven to save lives, which suggests that police interventions may in fact be resulting in deaths, the exact opposite of their charge and mission.

When discussing the frequency of this practice, one BDS attorney said: “Everybody’s arraigned a guy who’s been arrested outside a methadone clinic. Usually, it’s a Friday and the guy’s got enough for the weekend.”

DEALING WITH THE CRISIS GOING FORWARD

When analyzing the merits of drug enforcement and coercive treatment systems like drug treatment courts, it is essential to always consider what the funding required by these approaches could do to address the underlying causes of addiction and problematic drug use, such as lack of access to mental health care in the community.

As a public defense organization, Brooklyn Defender Services is principally concerned with the direct impacts of drug laws and enforcement on our clients and their families and communities. That said, we recognize that the fiscal and economic impacts of drug policy do in fact play a major role in their daily lives. For example, most of our clients or their children attend or attended public schools with inadequate funding. According to the New York State Board of Regents, schools are owed billions of dollars in funding under the Campaign for Fiscal Equity lawsuit, with the majority owed to schools with high populations of Black, Latino and immigrant

¹⁵ Joseph Goldstein, *Undercover Officers Ask Addicts to Buy Drugs, Snaring Them but Not Dealers*, N.Y. Times, April 4, 2016, available at <https://www.nytimes.com/2016/04/05/nyregion/undercover-officers-ask-addicts-to-buy-drugs-snaring-them-but-not-dealers.html>.

¹⁶ John Knefel, *The Common Cure for Heroin Addiction is Also a Magnet for Police Harassment*, Buzzfeed, Feb. 19, 2015, available at https://www.buzzfeed.com/johnknefel/how-police-harassment-at-methadone-clinics-makes-quitting-he?utm_term=.rj94qpORg#.ekNOjm12P; see also VOCAL-NY, *Beyond Methadone: Improving Health and Empowering Patients in Opioid Treatment Programs* (2011), available at <http://www.vocal-ny.org/wp-content/uploads/2011/10/Final-Methadone-Report1.pdf>.

students.¹⁷ Without the resources for a State Constitutionally-mandated “sound basic education,” many of our public schools have infamously become pipelines to prisons and jails. If funds currently spent on drug enforcement were instead reinvested in school-based mental health clinics and restorative justice programs, school environments would improve and administrators and teachers would be better able to address any behavioral problems without calling 911 or issuing suspensions and expulsions. If funds currently spent on overtime for police officers who make buy-and-bust arrests near the end of their shifts were instead reinvested in making substance use disorder treatment more widely available, perhaps overdoses would decline rather than increase or plateau at record-high levels.

The fact that drug prohibition is the status quo should not exempt it from close scrutiny. This hearing is a critical example of such scrutiny. We need to be careful not to expand the disparities in health, economic success, and liberty in our society. A much more effective approach to reducing overdoses would be to offer drug checking services and distribute testing strips as they do in Europe and as is also being piloted around the country including in San Francisco and Baltimore. The authorization of safe consumption services would also prevent fatal drug-related overdoses. Drug war tactics are widely opposed across the board, from recovery groups like Friends of Recovery to parents groups like Families for Sensible Drug Policy, faith leaders like NYS Council of Churches and Jews for Racial & Economic Justice to civil rights groups like National Action Network, Latino Justice, and Color of Change and criminal justice reformers like the New York Civil Liberties Union, Legal Action Center, and public defender organizations around the state, in addition to public health researchers. The overdose epidemic is all the more reason to listen to these experts.

CLIENT STORIES

Jake¹⁸ was a 40 year-old with a series of prior arrests. His mental health had deteriorated in tandem with his drug use. Jake was making progress in overcoming his heroin habit through his participation in a local methadone program in South Slope, Brooklyn. An undercover police officer disguised as a homeless man walked up to him one day, begged Jake for heroin, and promised to give him a cut of the money. Jake was not interested in selling drugs, but acquiesced, bought him a bag, and was arrested. Ever since, all of his progress against his addiction has stalled. He worries about whether he will be evicted from NYCHA, where he cares for his ailing mother full. He has now lost trust in himself and his ability to gain sobriety, suffering from severe anxiety and depression. He may go to drug treatment court, but at best it will restore him to his former path toward success, and at worst it will result in a sentence to upstate prison if he is unsuccessful, where he will have no access to medication-assisted treatment.

David was a 21-year-old with an intellectual disability (IQ of 55) with severe deficits in cognitive functioning and communication. He had struggled with heroin addiction since he was

¹⁷ Brennan Center for Justice, *Campaign for Fiscal Equity V. State of New York* (2006), <https://www.brennancenter.org/legal-work/campaign-fiscal-equity-v-state-new-york>.

¹⁸ All names have been changed.

16. He was living at home with mom in Bay Ridge when he was arrested for petit larceny after stealing from her to buy drugs. The judge at arraignments set bail. To get out of jail, David took a plea with a full order of protection. He was forbidden from having any contact with his mother, which resulted in a series of contempt charges when he violated the order. His mother never wanted the order of protection and asked for it to be withdrawn, but the District Attorney fought to keep it in place because they deemed his offense to be elder abuse. The order of protection effectively made David homeless and he was forced to stay in a shelter. The judge ordered regular treatment, but with his cognitive disability, he did not have the adaptive skills to tackle addiction himself. David was unable to answer the intake questions by himself; his mother has been his only support. The judge agreed that he would lift the order of protection after David completed a certain amount of treatment. His mother was legally barred from assisting her son until he completed his treatment but he could not complete his treatment without her. Seeing no other options, David's BDS attorney and social worker regularly went with him to the methadone clinic. Ultimately, after the case had been open for two years, the judge realized how limited he was, recognized his hard efforts, and accepted his partial compliance with the program, resolving the case with a conditional plea to misdemeanor contempt with a limited order of protection for five years. Unless his mother makes a serious allegation against him, they can remain together.

Francis was found after he overdosed in a public bathroom and, after being revived, was charged with misdemeanor drug possession. With several other misdemeanor cases open, he continued to suffer from substance use disorder. He acquired a gun owned by a family member and intended to sell it for drug money but was caught and arrested for criminal possession of a weapon in the 2nd degree – a C violent felony. He ultimately pled guilty to an E felony with two to four years in upstate prison. He was denied a treatment alternative because his was technically a violent crime.

Carlos was an older man with a heavy file, which is indicative of a long history of criminalization. As is often the case with such people, his is a record of mostly misdemeanors. He was ensnared in a buy-and-bust operation and charged with felony possession with intent to distribute. The prosecutor found the arresting officers' documentation deficient and dismissed the felony charge, leaving only the misdemeanor drug possession charge for residue on a crack pipe found in Carlos' pocket. He was released from court with a sentence of time served and, as always, a mandatory surcharge that will likely go unpaid, damaging any credit he might have had. His parting words to his BDS attorney were, "I have a crack problem. When are they going to stop this?"

BDS is grateful to the Joint Task Force for hosting this critical hearing and shining a spotlight this issue. Thank you for your time and consideration of our comments. We look forward to further discussing these and other issues that impact our clients. If you have any questions, please feel free to reach out to Jared Chausow, our Senior Policy Specialist, at 718-254-0700 ext. 382 or jchausow@bds.org.