

NEW YORK CITY DEPARTMENT OF PROBATION IN 2018

I'm just saying the world's a different place from the nineteenth century when that bootmaker bailed some drunk out of jail in Boston and invented probation.

—*Slow Motion Riot*, 1991

And so we come to probation in New York City. A second chance in the nation's capital of second chances, another bite at the apple in the Big Apple.

History Down to the Late 1980s

As probation rolled out from state to state following the Massachusetts model, a Probation Services agency was instituted in the State of New York in 1893, a new law empowering the courts to suspend a sentence.

The rap sheet that would come to be maintained by Probation Services took the form of an index card. One client had previously done six months in the Workhouse, the city's jail for petty crimes recently relocated to Riker's Island.

NAME PERRETTI, Joseph		32001		
ALIASES		AGE 31		
ADDRESS 56 Mulberry St. City		R C		
PREVIOUS ADDRESSES		C W		
DATE	OFFENSE	DEPARTMENT RECORD		DISPOSITION
		JUDGE	OFFICER	
1-11-38	FL	Collins	Morgan	Workhouse 6 months
REMARKS				

COURT OF GENERAL SESSIONS, PROBATION DEPARTMENT INDEX CARD
48A-1002-36-Ba. 1960

DOP case card, 1938.



New York City Probation Chief Angelo Gagliardo, 1955.



New York City Probation Officer (R) joins Guard William Diamond (L), juvenile and family, and Judge Kaufman in juvenile court, 1959.

Through 1960, eight probation divisions functioned in the city—the County Court in each borough as well as the Domestic Relations Court, the Court of Special Sessions, and Magistrates Court.

PRESENTENCE INVESTIGATION OF A HEIST IN QUEENS

In 1962, DOP looked into the case of a 29-year-old Brooklyn woman who we'll call Patricia Nunzio and who—already sentenced to two-to-ten in the women's prison in Bedford Hills for participating in an armed robbery with three men and facing a charge of first-degree murder for the killing of a payroll guard during the proceedings—wound up buying a manslaughter conviction. Her accomplices proved not as fortunate, their homicide convictions sending two hurtling towards a date with Old Sparky upriver in Sing Sing, the other headed at a more deliberate speed to Elmira for twenty-to-life. DOP now set out to investigate the case towards a sentence for her second conviction.

When police pulled up at the factory of the Global Lighting Company in the Ridgewood section of Queens one early May afternoon in 1961, after being dispatched by radio following a citizen's complaint about a robbery in progress, they found the guard already dead, pay envelopes scattered about, the culprits gone. With the help of a witness, the getaway car was tracked down, but no prints found in the abandoned vehicle.

That evening, and stranger than fiction, police received a tip from a psychiatrist whose patient had been warned by a fellow-employee about the impending hold-up. That employee revealed upon subsequent questioning by police that he had been alerted by Nunzio, who turned out to be his lover. Picked up herself, she quickly fingered the three robbers to whom she had suggested the payroll of the Globe factory, where she worked, as an easy mark. With all four in custody, the tale quickly spilled out (the report silent on the questioning methods used but noting that one defendant later claimed his confession had been made under duress). His firearm already at the ready—contrary to the gang's expectations—and aiming his gun at two of the perpetrators, the guard had been shot by the third. The crime at the cost of a man's life had netted about \$2,000 (\$17K in today's money), far less than their hoped-for payoff.

Nunzio explained to NYPD that she had been trying desperately to raise two children with no help from her drug-addled husband—holding down three jobs at one point—but even so had tried to dissuade the robbers from going ahead once she realized how wrong things might go. Upon further questioning, Nunzio reversed course from her earlier tale, indicating none of this had been her idea, one of the others having on his own initiative drawn her out about the payroll at her place of employment. She claimed she had alerted her lover in the hope he would warn company officials of the impending heist.

But her co-defendants also had tales to tell, leading the jury to decide Nunzio instigated the crime after all.

Here the report takes the viewpoint of Carlo Monteverdi:

"He was not feeling well and did not want to go through with it. They were riding in Reilly's Thunderbird. Fiorello got talked into it. At this point, Erlinger was undecided, but was going along. Reilly observed that the guard's gun was broken and so they had nothing to worry about. The payroll was supposed to be from \$15,000 to \$40,000. Again, Monteverdi mentioned that he did not want to go through with it, but Reilly gave him a gun and he took up position on the landing between the two stairways."

After covering the crime from the viewpoint of each of the four defendants—in the style of pulp fiction as influenced by *Rashomon*, no resolution of conflicting stories—the report returned to an examination of the woman in question, Patricia Nunzio, starting off with lengthy descriptions of her father, her mother, their marital history and parental interest in their daughter; brothers and sisters along with sibling interest in their sister; and the husband, their marital history, and his spousal interest in his wife. This background coverage concluded with brief descriptions of their children; other relatives as well as friends and associates; and her home and neighborhood. Then the focus narrowed to Nunzio herself, including early development; education; employment, past living standard; current financial status; physical, medical, and mental history; appearance and mannerisms; personality and behavior; leisure time interests; religious practice and observance.

All this—but no victim impact (unusually, barely a mention of his name), and no recommendation, both of which would only come into play in PSIs during the 1970s, the latter change perhaps instigated by the 1974 shift of probation from the judicial branch of government to the executive. It was unusual even at the time of the 1962 report to include tales of co-defendants. But perhaps DOP's investigator was inspired.

Nunzio's fate remains lost to history.

The following year, the eight offices were consolidated into the city Office of Probation, which in 1962 set up five divisions—Family Probation, Criminal Court Probation, and three representing each judicial district, which had replaced the county courts. The Office also assumed responsibility for juvenile detention.

In 1972, a methadone program began to serve the Criminal Court, the first medical treatment in the country for hard-core addicts serving probation terms.

The Office institutionalized its alternatives to probation offering in 1973.

The curtain finally rose on DOP the year after, the state removing the function from the judicial branch and transferring it to the executive, its head named by and reporting to the city mayor.

In its early years, the department like so many others in the city lost headcount during the Fiscal Crisis. And so, when rising crime threatened to overflow Riker's with inmates in 1981, DOP could hardly accelerate its investigations to allow the inflow into the jail to be counteracted by a heavier outflow. But a healthy dose of OT turned the tide.

The department like NYC offices across-the-board then began to beef up staff as the city regained its fiscal health. Yet it remained so overworked, slipshod, and ineffective in the 1980s that judges who normally accorded offenders a term of probation sent them to prison instead. In response, the state—in keeping with the Wall Street culture that had begun to permeate many aspects of social policy—attempted a hostile takeover of DOP. It failed.

By 1985, the agency's budget of \$30.2 million could not keep PO caseloads below 150. These would keep growing.

Meanwhile, DOP followed national trends by adopting in the 1980s a punitive approach to combat the crime wave, leaving rehabilitative efforts by the curbside.

The Late 1980s: Jane Testifies

DOP's Director of Special Programs—ensconced in a spacious office in a DOP headquarters occupying a half-dozen floors of a nondescript postwar office building steps from Bowling Green in Lower Manhattan— Jane Imbasciani calls herself a dinosaur, having started at the agency in the midst of the crime explosion in 1986. Average height, glasses, black hair graying here and there, the solid build and confidence of a peace officer.

“When I first came to Probation,” she recalls, leaning back in her chair, “I didn't come straight from college like they do now, ready to embark on an exhaustive training course. I already had a job, but still—I didn't know the difference between Criminal Court and Supreme Court, couldn't tell a misdemeanor from a felony, was just thrown into the fray, given a caseload of two hundred. And I'm, like, oh my God.” Jane winces at the memory.

In short order, caseloads would surge to almost three hundred (partly because jails and prisons had become so overstuffed with inmates that probation had to temporarily absorb the overflow—a form of net widening, but not the sort hyped by probation reformers). All the POs staggered under their weight. “We were at the limit of what a normal human being can do.” And this was the punitive era, when no time was spent on rehabilitation. “We were just putting on Band-Aids.”

In that era, she acknowledges, “We would violate for anything, from the technical stipulations to re-arrests. The courts couldn't handle what we sent over. You get rearrested for jumping the subway turnstile—which a lot of people did back then—we violate you. When I was a court liaison in Queens, we were competing against each other to see who could send more people to jail in a day.” Shades of notorious Chicago prosecutors angling to first convict two thousand pounds' worth of defendants.

In 1989, while the Department of Corrections had seen its funding more than double over the past four years, DOP's budget had risen only by 49 percent, to \$45.1 million, following the national trend in terms of incarceration monopolizing the new monies coming in to accommodate the ballooning of correctional supervision. And so caseloads rose.

The 1990s: Jane, George, and Yvette B. Testify

The '90s saw the city's crime reach its peak—and then quickly decline, faster and steeper than anywhere else in the country. And unlike elsewhere, felony arrests and incarceration quickly followed the same path.

And so probation caseloads dropped in the 1990s, the falling NYC crime rate pushing fewer into the system, but the agency still needing to conduct fifty thousand pre-sentence investigations annually as late as 1995. The advent of kiosk reporting in 1996 represented a turning point in the agency's fortunes, relieving both POs and probationers of a large burden. With low-risk probationers shifted to reporting technology, probation officers only needed to pay constant attention to 50-70 cases. "That was more manageable," Jane points out, "but back then we still didn't have a really good scientific way of developing our risk levels. And we hadn't yet heard of Evidence-Based Practices." (What seems odd in retrospect is that clients had not been sorted by even apparent risk level long before this, enterprises and government agencies long since accustomed to using ABC analysis—borrowed from materials management—to allocate resources most efficiently.)

When Jane moved on from Queens to Brooklyn, she felt she had hit the big time. Brooklyn was hot in the crack era, making New York's largest borough looking by comparison like somewhere out in the country. "I stayed twelve years and towards the end I loved Brooklyn." Her eyes soften at the memory.

Jane not only supervised in the office, she paid unannounced home visits to check up on her charges. She recalls one excursion, unspooling in her mind decades on, suddenly a hint of fear in her voice.

Pulling into a parking space with her partner, a hostile crowd made the pair, slowly and menacingly approaching the unmarked vehicle. "We got nervous and decided to leave. But the car wouldn't move! My partner started to panic. I almost had a heart attack. Finally, she saw the auto was still in PARK. She shifted into gear and off we sped, just in time." The getaway scene in *Double Indemnity* (1944), placing at risk the hearts of both conspirators along with the movie audience, come to life. As she relates this, Jane must be relieved not having to perform field work on a day like today, the temperature and humidity soaring to a life-threatening heat index of 99.

The job came with other drawbacks. "We were disrespected in the public eye because they didn't know what we were doing. We were often confused with parole—and to an extent are to this day."

The possibility of a client succumbing to the lure of crime also haunted the evenings of George Goodman, Chief, and Yvette Brownridge, Supervising Probation Officer, of DOP's Manhattan Branch, they also too apprehensive to watch the news on television. A former Police Athletic League director having lost a step or two, just returning to his tiny office in the Harlem center from celebrating the latest programmatic and career achievements of those under his supervision, George exudes friendliness and caring, a personality tailor-made for connecting with his charges. Still slim and athletic, Yvette combines a kind-hearted mien with a dose of skepticism. Hip to every trick in the book, equipped with advanced degrees in street-smarts and voluble as they come, these colleagues know their clients better than they know themselves.

Both George and Yvette express confidence that if they follow DOP protocol in a case that eventually goes south, they won't be thrown under the bus by their own chain of command—the agency and themselves equally aware that even with the best predictive tools around, human behavior cannot be forecasted with total accuracy. As Yvette observes, "It comes down to that person's choice."

As the volume of clients began to fall in the '90s, DOP began to explore innovations including Restorative Justice, which attempted to put the toothpaste back in the tube through a reconciliation between offender and victim, the latter receiving an apology if not restitution, not prejudicial like so many victim impact statements. But the agency's tight budget remained a primary focus, its report to the mayor in 1997 proudly proclaiming its ability to Do More With Less, the catchphrase of the day.

INSIDE VIEW

The peak probation period in New York City was chronicled by *Slow Motion Riot*. The novel's protagonist, a DOP officer winding up so torn by his uncertain judgement calls, so frustrated by his inability to confirm he'd actually helped anybody under his supervision even as he unknowingly comes under mortal threat by one client, that he leaves office supervision behind in favor of conducting the unannounced home visits that support it.

"After two years of heart-wrenching cases that never seemed to end, it's a pleasure being liberated from the glum social work pieties and bureaucratic snares. I like having people respond when I order them around."

But then this also begins to seem pointless. "What I'd really like is to see a couple of my old clients again. That way I'd feel like I was still doing serious work. It's just this field job makes me wonder if we're accomplishing anything. I mean, we just go marching into people's houses and start ordering them around. I don't know if that's so great." Meanwhile, neither the public nor NYPD offer any respect.

He gets angry with his clients and then at himself for getting angry with them. "I went in there to change them and instead they're changing me."

He finally leaves the probation field altogether, though not criminal justice. "The economics of it are enough to drive most people out. Cops, lawyers, and psychiatrists all make a lot more money and get better benefits, though probation officers sometimes do all three jobs."

To this day, probation remains a demanding but low-paying field in New York and everywhere else, recruitment of able officers no easy matter.

The 2000s: Jane Testifies

All new POs went about armed beginning in 2003. They were considered peace officers, after all. With a young son at home, Jane exercised her option not to carry. "I never wanted a gun. When they gave me one, I gave it back."

Meanwhile, DOP tried to market to the probation industry its home-grown case management system the kiosks relied upon, but ran into a roadblock in Texas, where those on probation included many with DWI convictions. "It would have made the newspaper that these offenders were allowed to report to a machine. 'Shame on you. How could you let that happen?'"

Public safety also counted back home, she recalls. "That's why it was very, very important to put the right client on the kiosk. And once we really figured out who was low-risk and put them on the machine, we discovered that it worked better than live interaction. Studies showed that the more we POs touched this population, the worse off they became. Some of my colleagues were insulted. 'You mean we get involved with our clients, we care for them, and now you're telling us we're hurting them more?' 'Like, sure, sorry. That's what you're doing. Leave them alone.'"

DOP's 2002 budget of \$96.8 million allowed it to serve 67,000 clients, or \$1,445 per person.

By 2003, seven in ten low-risk DOP clients used kiosks to self-report, freeing up probation officers to focus on those clients needing personal supervision. And so both populations began to successfully complete their terms more often. Kiosk reporting would be adopted by other probation agencies far and wide.

Seven years later, DOP began recommending early discharges for clients who seemed to have reformed, again helpful not only to these clients but to others now able to benefit by more intense supervision by freed-up staff.

When a New York State task force took a look in 2008, it summarized the practice using the term employed in this book and found throughout criminal justice: "Probation...is intended to give offenders a second chance—to help them reclaim their lives and become productive citizens."

The 2010s: Jane Testifies

In 2010, DOP began following a strategy of justice reinvestment, the first probation function in the country to do so, redirecting some of the savings from its reduced probationer volume toward community programs helping to keep New Yorkers out of the criminal justice system, in the neighborhoods with the highest concentration of clients.

Meanwhile, the placement in the financial district of an adult operations center housing a bank of kiosks met fierce opposition by a community not thrilled by the prospect of a constant flow of felons past a neighborhood school. The protests went nowhere.

The NeONs began to offer innovative services including nutrition kitchens feeding clients and community members, and clothing closets ensuring that those without have proper attire for job interviews and other critical events.



Staffing a Nutrition Kitchen as here in Staten Island can fulfill a community service requirement ordered by the court, calling on a client's strengths as opposed to the chain-gang activity characterizing the practice in punitive jurisdictions.

These centers also came to incorporate a huge artistic component, DOP collaborating with all manner of enterprises in all kinds of endeavors, from Carnegie Hall's music writing and performing, to a poet in residence conducting a poetry workshop; and from a neighborhood mural painting project to a nonprofit using computer animation to teach behavior modification techniques while imparting a marketable skill—all these selected by the cadre of stakeholders at each center. An award-winning probation practice, NeON Arts remains an innovative, community-based model of providing access to free, high-quality arts education and programming to not only DOP clients but community members as well, no participants identified as one or the other. Commissioner Bermúdez notes that even DOP staff began to change as NeON Arts took hold.

Its value was confirmed by an independent evaluation at the end of 2018—participants engaged, relationships built, new skills and confidence developed. This finding followed a 2017 study out of the University of Pennsylvania confirming the salutatory impact of cultural programming on surrounding communities, in terms of everything from health to parenting and from educational achievement to lawfulness.

Also in this decade, a combined city/state initiative to open juvenile residential facilities within NYC allowed those sentenced to placement to serve the time Close To Home, in new facilities or alternative-to-placement programs, instead of winding up in underperforming facilities upstate.

The arming of POs initiated in 2003 came in especially handy in 2014, when an off-duty officer stopped a subway harasser in his tracks. Jane notes that even if guns remain optional, “Now you have to have a vest and radio and a partner to go into the field.”

This was the year when New York State revised probation guidelines to allow felons to be sentenced to anywhere from three years to five in place of five outright, and those convicted of high-level misdemeanors to be given a term of two-to-three years in place of three.

The quick-and-dirty metric reported up to the mayor, DOP monthly re-arrest rates actually escalated in this century, the juvenile rate quadrupling, reflecting the department’s new concentration of higher-risk cases—these arising from a greater willingness of the courts to send some offenders to probation administered by such an improved agency rather than prison, on the one hand; and in the spirit of reform divert mild-risk cases from the criminal justice system altogether, on the other.

Driven by the city’s achievement, New York became one of the first states to significantly reduce its correctional population across-the-board—jail, prison, probation, and parole.

Probation may have been short-changed in the city’s budgeting process simply because it had clearly been performing well and was continuing to improve. In some locales, its track record could have demonstrated it could put resources to good use. However, NYC has often made a practice of prioritizing the funding of agencies in the sorriest shape, another rational approach except where such agencies’ failures made it all too likely that these sinkholes would simply swallow up the funding provided, leaving nothing to show for it.

BEEN THERE. DONE THAT.

In May 2012, a reformer decided it would be a good time to see what corrections was like from the inside. A former prosecutor who had helped send many young Black Bostonians to jail for the same offenses leading police to let off white teens with a warning, he wound up getting more than he bargained for, thanks to a judge who took a special interest in such a political case—receiving three years’ probation, with strict limitations on travel, no limitations on police searches of his residence, and fines to boot. The same periodical that in 1982 had published the article proposing a Broken Windows approach to law enforcement now provided a vehicle for *I Got Myself Arrested So I Could Look Inside the Justice System*, the first inside view of DOP since *Slow Motion Riot* over two decades earlier and perhaps the first client-based tale ever. Shocked that his first probation officer took the travel restriction seriously, the intrepid undercover agent concluded his story (in *When New York City Is a Prison*) with the following:

“When I was sentenced to probation I expected to find a public safety utopia full of conscientious officers implementing evidence-based practices. Instead, over the last two-and-a-half years I have witnessed almost exclusively the opposite: a meat grinder of bureaucratic obstruction, patronization, and waiting that flies in the face of everything practitioners are advised to embrace.”

Perhaps unfair—even he acknowledging the awesomeness of the PO who took over his case when his request for the first one to be replaced was accommodated—it could be that DOP still had some distance to travel in walking the talk.

As its current commissioner, Ana Bermúdez acknowledges, “That’s the hardest part about leading an organization like this, making sure that everyone does do that. We have a ways to go.”

Still, with the money to service fewer clients serving shorter terms, while providing more intense supervision to those in need, and handling others by machine—thereby fulfilling the reform manifesto—DOP took its place as the industry’s overall model.

The Agency in 2018

DOP completed intake, investigation, and supervision of more than fifty thousand New Yorkers. Fifteen thousand pre-sentence Investigations were conducted for all felonies and certain misdemeanors leading to probation or serious incarceration time, along with almost four thousand intakes into Family Court, and two thousand subsequent investigation & reports as requested by the judge.

Some eighteen thousand adults were being supervised on a given day, including something over six thousand reporting by kiosk, along with one thousand juveniles as young as seven. Half were African-American, almost a third Latinx, most of the remainder white. (The staff makeup seems at first glance to roughly mirror its clientele.)

Eighty-three percent were male, 17% female. (Staff, clearly, are mostly female.) About eight in ten clients successfully complete their terms. Half of adult violation proceedings wind up in a judicial revocation of probation, and something like a third of proceedings for juveniles.

That year, a 75-year-old man caught a five-year term of probation for leaving the scene after accidentally driving into and killing a seven-year-old boy in Pelham Bay, reinforcing how even those you might least expect to become part of the 3.7 million on probation nationwide succeed in doing so. Probation can happen to anyone.

Both sanctions and incentives form part of probation practice to keep clients moving ahead, the agency employing a graduated structure of each in swift and certain responses.

DOP in 2017 completed over two thousand field enforcement actions—investigating gangs, turning up illegal guns and drugs, monitoring DUI cases, paying visits to homes of those failing to report, enforcing bench warrants, assessing NYPD domestic incident cases, transporting prisoners to and from jurisdictions as far away as Seattle.

Recidivism as measured by re-arrests continues as the primary performance indicator, along with term completion, reported up to the mayor.

Since 2010, the agency has dramatically increased the proportion of youth diverted from the criminal justice system. But another sign of progress—the state’s Raise the Age effort phased in over 2018-19—is placing more juveniles under DOP supervision, along with fewer adults.

(As elsewhere in the country, probation practice would change dramatically during the 2020 pandemic, with clients reporting to POs remotely, home visits reserved for the absolute riskiest cases. Meanwhile, many on probation reached out to supervision out of concern for the officer’s health. For its part, programming also could only be conducted virtually, which our embedded teacher herself was called upon to set up across-the-board, not only photography.)

The View from the Bridge: Ana, Robert, and Lily Testify

Commissioner Ana Bermúdez thinks any net widening impact of probation “should be something we think about all the time so that the system doesn’t actually do that.” It’s conceivable in her view that for borderline offenses, someone placed on probation might—in its absence—have actually had the case dismissed by certain judges. She recalls that after recently giving a presentation on everything DOP now does for young adults, one listener recommended placing all youth at risk on probation, something with which the Commissioner respectfully took issue.

The first openly gay DOP Commissioner, as well as the second woman and the first Latina, Ana Bermúdez once told the press that if she had a dollar for every time somebody told her she didn’t look or sound Puerto Rican, she’d be rich. After all, her complexion seems as white as a Spanish queen’s. But the soft island accent does come across clearly, at least to a native New Yorker, who would also sense she may not even know how to be rude and polite at the same time. So she’s clearly not from around here—but then neither are most New Yorkers.

She sits down in DOP's executive conference room on the twenty-third floor of the agency's downtown headquarters for a friendly chat, accompanied by her close advisors Robert Eusebio and Lili Shapiro.

How does DOP interact with other agencies across the country? "There's a few of us who are doing really interesting stuff and we communicate a lot. In juvenile practice, for example, there's LA, Florida, DC, Arizona. I think we ourselves should be the national model—but that's me." It's not just her, but when staff around DOP later interviewed are informed of their agency's role as industry leader, their faces look either blank or disbelieving, their roles possibly too circumscribed by day-to-day travails for them to appreciate the big picture.

Success stories like abound. But then there's the other side.

"There was a kid we had in family court who was doing great but then got arrested for shooting somebody. Everybody thought everything was fine."

How does DOP view technology? "We've experimented with GPS and ankle bracelets in the past, but the technology was such that it was complicated. And it seemed to be purposed for the wrong reason, to provide the evidence that someone had violated their probation."

Robert points out, "This is New York City. If someone gets in the subway, you can forget about it." He adds, "We are trying this again, in Queens, as part of a domestic violence pilot project. We've come upon technology that's a little better, but I don't think we're there yet."

The Commissioner looks up from her iPhone. "Speaking of which, Siri thought I was talking to her when I mentioned her earlier. 'These are things I can help you with.' Laughter erupts.

"This could have another net widening impact," she resumes, "with some saying 'Let's put ankle bracelets on everybody!' I would never want to start with bracelets, except where we wanted to take someone out of incarceration and needed to tell the judge, 'Look, this is a form of incarceration, but in the community. It's still some heavy-duty social control.' Bracelets could also be used on people we're afraid of losing—they start getting rearrested, or they're traveling outside the jurisdiction, they're getting in trouble in other boroughs. In those cases, the technology would be accepted by the client.

"I'm not really following up. I now need to do this for a little while.' It wouldn't be permanent, but a graduated response to certain behavior."

The Commissioner and Robert know all about one case where false alarms had tragic consequences. In 2013, federal probation agents in Syracuse, weary from false alarms, dialed down the sensitivity of the device monitoring a child-porn suspect, missing forty-six alerts in nine weeks—including the one generated when he removed his ankle bracelet, going on to rape a ten-year-old girl and kill her mother. "As with fire alarms, we'd have to respond," notes Robert. "You'd have to monitor the bracelet 24/7," adds the Commissioner.

Has any thought been given to using instead of recidivism a metric like crime desistance?

"Yeah, but it's such a nightmare to quantify. We report arrests, which are a quick and dirty metric, even though a third of arrests don't go anywhere, and in any event reflect policing practices." It's unclear what to make of the 2015 New York State report that three in ten DOP clients wind up re-arrested on a felony charge within three years of their original sentence.

"We need to be able to do some form of wellness outcome measures, at least internally, but I think honestly all we can do now is outputs by the department. Being employed is an important wellness factor, but we don't control the job market. So the most we can do is prepare people for the job market. But unless I give somebody a pre- and post-evaluation, I can't really tell if they're better prepared. All I can tell is that they went through and completed the program. That's a program for preparedness.

“We’re not there yet, but we’re building up to it. It’s very complicated to figure out how to measure the success of probation.”

“A safer city?”

Lily exclaims, “Yes!”

The Commissioner adds, “I think that’s true. We’ve not been recognized as a part of that narrative, but I think we’re a huge part of it.”

But there’s a problem, opening the door to so many extraneous influences.

“Our outcomes are lagging. People are on probation for five years. Can we isolate our contribution to a safer city X years after that?”

And so on to another matter. Is the former DOP commissioner, her former boss, an effective leader of the reform movement? This would be Vincent Schiraldi, who has fought the good fight for years now.

“Yes. I’m not saying anything he hasn’t said about himself—but he comes in, he blows it up, and then leaves during implementation because he’s not an implementer. That’s his time to exit.” The Chicago preacher and leading African-American spokesperson who we heard from earlier comes to mind, once saying of himself, in the familiar Black ministerial cadence, “I’m a tree shaker, not a jelly maker!”

“Vinnie knows that about himself,” the Commissioner resumes. “And he knows also to surround himself with people who can implement. So that was my role in Juvenile,” she points out, referring to her previous position with the agency.



Vincent Schiraldi (R) with a South Bronx NeON client (L)

“Had I been the person in charge instead of him,” she adds, “I don’t think we would be as far as we are today because my style is very different. I like to grow things from within. But for a reform of a department this big to take place, he needed to push the envelope as far as he did.

“At first, I was like—I’m not sure how this is going to play.” She turns to Robert. “You’re from within. Is that how you see it?”

“I think you’ve captured the essence of it,” he confirms. “We may not have known it, but we needed that to happen for this to happen today. It couldn’t have happened the other way around.”

“Before I met Vinnie,” the Commissioner confides, “I thought I was an out-of-the box thinker. Then, I was, like, ‘Oh, my God.’” Her aides burst out laughing. “Now I think I’m a total conservative.”

What has it been like segueing from serving one mayor to becoming a commissioner for his more progressive successor?

“The former mayor also was very much on board with what we were trying to do.”

“He funded it!” Lily interjects, and the Commissioner agrees. “Right, so many of our programs, starting with the Young Men’s Initiative straight through to NeON Arts. And so it’s been pretty seamless—there hasn’t been a philosophical change that I’ve had to navigate.”

But didn’t NYPD practices change dramatically from one administration to the next?

“NYPD is tied to the mayor. That was the case and it’s the case now. And so I never had a relationship with the Police Commissioner then or now.”

“But at the local level we coordinate closely,” Lily points out.

“Yes,” the Commissioner agrees, “that has always been the case, regardless of who’s in charge.”

Is she satisfied with the volume of cases now that it’s been slashed since 1996, or will she want to divert even more cases going forward?

“Oh, there’s always more diversion that needs to be happening.” The Commissioner mentions a category of offender she’s been mulling around lately. But her inflow is determined by the judge and by statute. She points out that her POs conducting pre-sentence investigations cannot themselves recommend more diversion, these endeavors only conducted following convictions, long after the diversion option has left the building. “In New York City, diversion has to happen at the arraignment or even earlier, at the precinct.” Her PSIs can only recommend probation or incarceration.

“But to turn to the industry generally, caseloads remain way too high in many jurisdictions for appropriate practices to be put into effect. There are counties upstate with caseloads of a hundred or more, many high-risk, who need a certain amount of dosage, if you will. But there’s an unwillingness to fund more staff, especially in a tiny probation department, out of fear it will look padded. But it won’t be, if you really want to curb the behavior. Now, the bulk of their cases may be misdemeanors. And people tend to equate misdemeanors with low-risk and felonies with high-risk. But the category of the offense is only one factor.”

Unlike Robert, subdued and thoughtful like many veterans of long service, Lily remains a sparkling newbie, only four years in. In some organizations, those with many years to their credit might get up and quit during an inflow of wide-eyed rookies brimming with enthusiasm—a bit like the shell-shocked German Army throwing in the towel in 1918 at the prospect of facing a million innocent Doughboys singing on their way to battle—but these two appear to work seamlessly with each other and with their boss, finishing each other’s sentences. And service in DOP, unlike on the Western Front, seems a winning proposition. But more to the point, Lily is no naive know-it-all, Robert no jaded cynic.

“What’s been so amazing to me,” Lily now shares, as if to prove it, “is how nothing we do is new. You come up with an idea, and you’re bound to hear, ‘Oh, yeah, we did that back in ’98.’ And it’s true. Years ago there were some pockets of similarity. Maybe without some of the bells and whistles that have come along since. And so the delighted response is, ‘Oh, we’re allowed to go back to the way we once tried?’ Those who got into this work decades ago often have a bachelor’s or master’s in social work, and that was something that Vinnie and Ana both got to tap into and unlock.”

The Commissioner jumps back in. “It’s also about creating space for a sense of ownership of decision-making, making it known that not everything has to be approved by Central. People had gotten very used to that paradigm, almost a paramilitary process.”

“And we had wanted to merge with Corrections,” Lily points out. “That was a driver of the old culture.”

The Commissioner continues, “So no agency head ever said, ‘You are the commissioner of adult probation for the borough of Manhattan. Go with it. I’m your board of directors. I’m your sounding board.’”

“But,” Commissioner Bermudez ends with a Hispanic phrasing, “I will tell you what to do very little.” Muy pequeño.

Robert confirms this. “People had been waiting for marching orders.”

“One question has often been voiced in meetings,” the Commissioner continues. “Is the department considering blah, blah, blah?” Wait, that sounds like you are making a suggestion. Do you believe the department should be doing this and that’s why you’re asking? In which case, let’s have a conversation.”

For all the world an avian mother encouraging her chicks to fly the roost.

“The great thing is that the two deputies of the operations divisions are from within who completely believe in the work that we’re doing and how we’re doing it. So this will all transcend me.”

“Otherwise,” Lily observes, “we’d be going back to the days of the basketball leagues in the Bronx. That was a wonderful effort started by staff, who would play alongside their juvenile clients outside of DOP’s domain. And because such a thing had never been authorized, it was felt by the POs that it had to be carried out in secret—and so it was, for years.”

It’s time to end the interview. “So how’s the book going?” asks Commissioner Bermúdez. She has kept a respectful distance, not offering the slightest direction, while making her staff continually available. When told about the possible quoting from *West Side Story*, laughter erupts in the conference room. She shares her dream, known to her two advisors, for DOP’s young clients to rewrite the lyrics to *Gee*, *Officer Krupke* in a rap or modern version, maybe in the context of the whole show, including actual NYPD officers. “The lyrics are absolutely relevant today,” she affirms.

Involving the Community

The agency continues to expand the community presence in this form of community corrections, always seeking with its help the sweet spot combining its sufficient protection with caring for the department’s twenty-one thousand clients (more than double the city’s jail population). Various programs cater to probationers depending upon age, gender, and estimated risk level, among them YouthWrap—providing paid work opportunities to juveniles for civic betterment and that began in 2013 with a cleanup following Superstorm Sandy, which had devastated parts of the city. A sports program started up in the NeON centers, complementing their arts, nutrition, and clothing offerings.

When it came time to roll out this latest offering to Brooklyn, some in DOP thought basketball would go over best—but by involving the community upfront, the agency discovered that fencing represented the activity of choice, proving remarkably popular in practice.



NeON Sports martial arts offering.

Catrina Prioleau, director of the NeON, “can go into any disadvantaged community in the city and find great people.” So says Bob Costello, who as DOP’s head of training and organizational development should know, sounding for all the world like one of the bickering salesmen in *The Music Man* chorusing, “You gotta know the territory!” Catrina, clearly, knows the territory. “Other probation agencies often approach us about how to start up a NeON of their own,” he notes. “First thing, they need to find and hire someone like Catrina.”

WHAT WERE YOU THINKING?

Cultural representations of probation remain rare. But occasionally, a bit of dialogue or a visual might resonate.

One thing the POs are careful about, especially with juvenile clients, is not to ask why they did the offense in the first place; but they do ask what the client was thinking at the time, as such knowledge can help their treatment, and reinforce their ownership of their offense—considered key to rehabilitation. This may seem like a recent practice, but in the 1962 film *The Loneliness of the Long-Distance Runner*, one scene shows a psychologist summoning Colin Smith to his borstal office:

“When you were breaking into this bakery, what were you thinking about at the time?”

“I wasn’t thinking about anything. I was too busy breaking in.”

“Just describe the action to me in your own words. Put me in the picture.”

“Got over the wall of this baker’s yard. Broke into his office.”

“I think you can do a bit better than this, Smith. Surely your nerves were on edge, weren’t they? You felt afraid.”

“If I felt afraid, I wouldn’t have broken in, would I?”

“No, perhaps not.”

The exchange would ring a bell with more than a few POs today.

Participant Emily typifies how DOP clients look to the neighborhood for support: “To have the right role model, it gives us an opportunity to have support by our communities and elders.” Of course, community involvement with offenders cuts two ways, *On the Run* having shown how Philadelphia neighborhoods provided an extensive support system for those attempting to dodge the long arm of the law.

Even certain correctional reformers view communities—the source of ad hoc punishments from stoning in ancient times to lynching just in the last century—as ill-placed to assist the administration of justice. Photographer Tavel recalled how he had to become a different person on moving to Brownsville, watching every move he made and every move everyone else was making. Eric labelled Bed-Stuy a jungle, nowhere in the city more dangerous.

Justice Reinvestment: Catrina Testifies

When word got out in 2011 of the new commissioner’s interest in applying the model of justice reinvestment to probation for the first time in American practice —seeking to short-circuit the vicious cycle of depleted neighborhoods stimulating crime, leading to further community degradation—Catrina lost no time signing up to pull it off. As Jane testified, hiccups characterized first efforts to devolve probation into the communities, although Catrina ascribes it less to DOP’s still-punitive stance than to resident confusion about probation’s place in the criminal justice system, some taking it for an offshoot of city policing. In any event, with DOP modifying and explicating its practice, the seven disadvantaged neighborhoods eventually signed off. None have lived to regret it.

“NeON is a franchise operation,” Catrina explains in her office in DOP headquarters. “Each center follows a basic pattern of service delivery in a basic physical space, but with nuances reflecting the needs and desires of the particular neighborhood.”

So how does Catrina know the territory so well? “It’s all the time I’ve lived in New York and all the time I’ve been with DOP.” She’s being modest, as only the very strong can be.

Now the \$64,000 question. With DOP getting better every year at doing what it does, earning the respect of every other probation function in the country, why do three out of ten continue to wash out? Not even waiting until term completion to reoffend, but getting re-arrested while on probation? “That’s the impact of the policing of these communities.” Well, that, but not only that. Maybe some clients have such deep wounds that not even cognitive behavioral therapy can penetrate, let alone repair. On the other hand, perhaps it’s only DOP’s continuous improvement that has kept most clients completing their terms successfully, given the greater concentration of higher-risk cases now supervised.

Restorative Justice: Bob Testifies

Clients have been brought face-to-face with the victims of their offenses, both sitting in a circle along with their respective “circles of influence” (key individuals in their own lives), the probation officer, and other facilitators. The probationer knows the drill, offering an apology and even committing to making restitution. The focus here is not the laws broken but the harm done to the victim, and what it may take to set things straight again. Such a practice forms a growing part of DOP’s playbook under Bob, who—as author of several books on the subject—also serves as the agency’s point man on restorative justice. The tall, bespectacled self-described leftist occupies a corner office in departmental headquarters off Bowling Green.

Bob traces the roots of the practice to various sources, from the Mennonites to New Zealand’s Marori people to native Americans. “The Navajo don’t even have a word for ‘criminal,’ he observes, “only for ‘one who doesn’t have a family.’” But, he cautions, “Let’s not romanticize the tribe. Navajos make a firm distinction between their own kind and outsiders. They reserve restorative circles for their own.”

Admirers of the Russian novelist who penned *Crime and Punishment* argue that he himself would have signed on to the practice, obsessed as he was with the acceptance of responsibility for criminal acts.

Restorative justice spread from the US and Canada in the 1970s to the entire West, eventually going global, partly under UN auspices.

In the context of our own criminal justice system, restorative justice offers a unique degree of closure—not in his view the strong suit of mainstream judicial practices. Of course, he acknowledges, no apology by an offender can bring a homicide victim back to life, so closure has its limits.

DOP clients don’t look upon restorative justice as a cakewalk. “The actual process can be excruciating,” Bob points out, taking off his glasses for emphasis. He’s had clients who plead for the type of supervision that does not make so many psychic demands.

But is the technique applicable to all offenses? If a turnstile jumper on probation is brought to his care, “An apology to the MTA won’t impress that agency,” he acknowledges. “But there are other victims: the mother, say, or the girlfriend.” In the final analysis, “The practice offers offenders an opportunity to reclaim their good name.”

Restorative justice “often winds up involving rich white kids,” Bob observes. But here he is at DOP, serving anyone but. It’s no accident. He makes the point more than once, tapping his desk for emphasis, eyes piecing behind his wireframes: this Commissioner has his back.

(A hopeful sign of the practice’s growing prominence even outside probation and criminal justice entirely—a signpost of its potential to help heal America’s divisiveness—came at the end of 2018 with its enlistment of an alt-Right harasser of the first Black female student body president of American University, part of a settlement of her civil suit.) The following year would see a CNN series on use of the practice among the incarcerated and their victims.

Credible Messengers

DOP has found that those who have themselves successfully navigated the criminal justice system possess a cred with clients who blow off everyone else, from their own parents to probation officers to (as she freely admits) the Commissioner herself. Recruited to mentor young clients, these Credible Messengers have demonstrably succeeded in reducing felony recidivism by juveniles one and two years after probation compared to a control group. The city's mayor took note of this finding, pointing out in a press release that "In New York City, we believe in giving young people a second chance—and opportunities to change themselves and their communities for the better. Mentoring programs like these are laying a strong foundation and creating pathways for young people to lead productive, stable lives."

And so the program has become yet another DOP model for the industry. The Credible Messenger Justice Center, established to promote this innovation, now gives lessons even to Los Angeles probation, which itself found over two decades earlier (as chronicled in *No Matter How Loud I Shout*) that one of its most recalcitrant, combative, skeptical teens finally experienced an epiphany when a young woman who had been there but then reformed took her in tow. (Fast forward to the 2013 New Orleans chronicled by *The Second Chance Club* and you'll meet a quite similar probation client who would almost certainly have benefitted from such a mentor.) Some of our own participants serve as agency mentors (including to others in the program), several going on to teach a follow-up photography class.

Other Elements of DOP Practice: Jane and Yvette B. Testify

In general, DOP aims to calibrate treatment based on the risk of the client offending and her or his needs, following the national risk/needs/responsivity (RNR) model. Supervision employs a cognitive behavior therapeutic approach, looking to change hearts and minds towards a permanent new behavior. Rather than transforming the offender's personality, DOP simply reframes it in a law-abiding perspective.



Federal probation training video on the RNR treatment model.

All of this, progressive as it sounds, reflects a basically neoliberal strategy of placing on the individual client, however supported by the community, the full responsibility for changing her or his situation, citing poor choices in her or his past that need acknowledgement. No external factors, from the absence of jobs to over-policing, can be addressed—but DOP would hardly have the leverage to do so. The agency does what it can, its hands full as it is, even while much better placed than its peers. Now enjoying caseloads below fifty, the department continues to experience the national disconnect of the criminal justice system serving as the primary responder to drug addiction and mental illness.

Overall, things are much better now, in Jane's view, the administration of former commissioner Schiraldi and Commissioner Bermúdez the turning points, as they are for George and Yvette.

Cases such as the Christmastime slaying on Jane's watch have become rare, allowing her to watch the evening news like anyone else. Any such incident now triggers an exhaustive DOP review of everything that happened to see if and how the agency went wrong, taking special care of those who handled the case.

Meanwhile, Manhattan continues almost as a sideshow, probation location driven by the client's residence; except in the agency's Harlem base—where many probationers live in five-story walkups, the bane of any PO over thirty—most clients can't afford to live in Manhattan, even if they take the subway there to offend. But among DOP's clients remain a few of the borough's rich, who live in buildings with doormen disinclined to admit probation officers. For their part, DOP's officers aren't looking to embarrass anybody, and have learned to finesse the situation.

Leaning forward, Jane notes, “Nowadays, one of the biggest problems we have with stipulations is failing to report or absconding. We can’t find the client, he’s disappeared. We used to file a violation, but we don’t do that anymore. We do a lot of different things behind the scenes to try to find you.” DOP intends to keep its clients from wandering off the reservation—come hell, high water, or the local gang.

Jane observes with a chuckle that Manhattan’s pre-sentence investigators have been eagerly awaiting the case of the Hollywood producer whose reported transgressions kicked off the #MeToo movement. Researching that one will be a hoot if it comes to pass, if not something to share with one’s grandchildren. (In the end, his sentence astonished many, not least himself.) She herself has handled many high-profile cases, from the Central Park Five to Mafia hoods, from the city’s Preppy Killer to fashion models.

Basic DOP supervisory practice for those in the key risk age range of 16-24 now comes down to tailoring individual actions plans on the assumption that one size fits one, tracking client performance across a series of yardsticks indicating if she or he remains on the straight and narrow or seems at risk of failing. These indices include attitudes and orientation, personality and behavior, peer relations, and substance abuse, along with criminal history, family relations, education, employment, leisure and recreational activities, accommodation, and financial health.

A client may want a job most of all, but if her or his attitude favors criminality, any job she or he gets won’t last long. So the outlook needs to change. As Bob Costello says, “DOP wants clients out of the co-pilot’s seat and into the pilot’s.” They need to shoulder responsibility for their own rehabilitation.

Taking responsibility for their offense remains another key milestone; as George defines it, “Getting them out of the mode where they whine, ‘He shouldn’t have left his wallet there!’” A particular challenge Yvette cites: entire families on probation. One client got rid of dope by stashing it his son’s room; when NYPD found it there, the son wound up violated. PO Vito pleads with sons to break the family chain of offending: “Make this stop here. Don’t let it happen someday that you’re on parole and your child is on probation.”

Yvette can call on a network of employers to provide her clients with jobs (if not often, say, STEM gigs), while various substance abuse and mental health treatment centers stand ready to help. She knows how easy it is to fail a drug test, often sensing the results beforehand. “Oh, he’s your best friend? I know he’s using!” Still, she realizes “relapsing is the rule in addition.” Violating a client serves no purpose: “You can get drugs in prison!” Patting his ample stomach, George knows from personal experience how difficult change can be.

Yvette can tell in a New York minute if a client has flirted with gangs. “You’re not in school? You don’t have a job? So what are you doing all day? And with whom?”

She coaches clients who have landed a job interview, advising against wearing do-rags and sweatpants. Asking as part of her routine supervision where clients see themselves in five years—that old standby of employment Q&As—might have already accustomed them to the hiring process. DOP discourages its officers from raining on the parade by doubting any vision, not even an intent to play for the NBA voiced by a 5’5” 16-year-old (bringing to mind the Monty Python skit of the chartered accountant insisting to his career coach on his true métier of lion taming).

Yvette warns clients about the racket developed selling for upwards of \$1500 New York State certificates of good conduct, and certificates of relief from disabilities, documents that help a convicted felon obtain employment—the state providing these free of charge. (Juveniles have less to worry about on this score, even a juvenile delinquency adjudication not constituting a crime and therefore not part of a criminal record.)

As a client’s neighborhood strongly influences the likelihood of reoffending, Yvette sees herself as well-placed to evaluate the goings-on, residing in the same community as her clients, a fan of the Rockford, Illinois program of providing free rent to police who choose to reside in the hood they patrol. “If I see men playing dominoes or kids splashing in the fire hydrant water, I don’t sense a risk. But if there’s no one outside the Polo Grounds housing project, I know something’s really wrong. A PO from upstate might not know this.”

Helping clients define the New Now, the agency tries to cement the partnership between the client pilot and departmental co-pilots, “We’re all in this together” apparently Yvette’s mantra (an update of a PO’s lecture from

another time and place in the quasi-memoir, *Close But No Cigar*: “We are all in the same boat, but you are not running the boat; you will be rowing the boat. The judge is running things and will be guiding the boat, not you. If you don’t row, the judge will have you thrown out of the boat and into the water.” Old probation, as DOP calls it.)

POs do go to bat for their clients who get it done, an employment offer or college acceptance letter particularly helpful in convincing judges to issue an early discharge from probation (a key demand of probation reformers, already instituted in many states). A city teacher guiding probationers to a high school equivalent degree wound up recognized by NYC in 2016 as one its best educators, and the agency placed first in the city for landing summer jobs for clients in 2018. Probation officers have on occasion even rushed clients from the office to the hospital to give birth.

The Receiving End: Clients Testify

Clients and their families have many times over the years expressed appreciation for their rehabilitation or simply the way DOP treated them (right and following.) One single mother of a client, far behind in paying her rent, found herself summoned to housing court in 2018 for eviction proceedings. DOP’s parent coach got involved, while the PO submitted an emergency assistance request to Good Shepherd Services (the NYC community counseling and education provider where several NeON photographers worked or studied). The outfit wound up covering a substantial share of the bill. “You saved us from becoming homeless,” the mother thanked the probation officer. “Your assistance has taken a major stressor off both of our lives, and I feel my son has a fresh start with you while on probation.”

Procedural Justice

This kind of customer appreciation reflects the commitment of Commissioner Bermúdez personally to procedural justice, one of the solutions proposed to the phenomenon of *Misdemeanorland* as applied to the city’s courts. “Imagine if this was your child,” she asks. “How would you want her treated if she wound up a DOP client?” And so the agency pays attention to how it treats those under its care, who began to be referred to as clients only under her watch, the staff instructed to show empathy, care, and respect, reminding their charges that they are more than their worst mistake—their neighborhoods, as she advised the city council, more than their worst statistics.

As the Commissioner told the author of *To Be Fair: Conversations About Procedural Justice*, “We are trying to train our officers to relate differently to people coming in to probation, training them to ask, ‘What happened?’ and ‘Are you okay?’ first, before asking them to reflect and commit to an improvement plan. Not ‘What’s wrong with you?’ Not ‘I’m going to file a violation if you don’t do x or y.’” (And especially not, the thought occurs, “Feel lucky, punk?”) Only then should the message get more directed, what a *The New York Times* piece once characterized as “nagging as a force for good.” Probation would become a turning point in the clients’ lives, mirroring the transformation recently achieved by the agency itself.

Similarly, Ana Bermúdez practices transparency managing DOP personnel, her senior leadership meetings held in a circle of chairs (copied by our own photography workshops) rather than along a conference table—or worse, in an intimidating boardroom setting. And so the 4-star ratings by current and former staff on Glassdoor and Indeed might indeed set a high bar for a low-paying, still low-prestige job with a city agency. (The probation officers’ union sued the city in 2018 to obtain salary data from the Department of Correction and the Administration for Children’s Services to support its claim of racial bias in compensation.) More than anything, these evaluations reveal how some individuals feel blessed, viewing their employment here as a calling, others driven to the edge of madness, not cut out for this kind of work, the PO nightmare of a client going bad and they themselves in the crosshairs weighing heavily.

Not limited to agency relations with clients and staff, procedural justice at DOP also applies to physical space. Under the previous commissioner, the locales for reporting in and supervision—as well as waiting rooms in family court—were transformed into welcoming environments, thanks in part to the efforts of the clients themselves.

CUSTOMER SERVICE: PART I

July 26, 2018

Good evening Officer Fisher,

My name is [REDACTED]. I was recently convicted of a felony DUI in Queens Superior Court. I attempted to leave you a voicemail this morning, but I'm sure it wasn't audible through my tears. Which flow freely and often. As this is my first, last and only criminal offense I had no idea what to expect. I wasn't prepared in any way for the process from the arrest all the way through sentencing. It wasn't easy, not that it's meant to be; but the humiliating, dehumanizing (at times), toll-taking experience left me broken and vulnerable. And yet, I am grateful for blessings I've received that I wouldn't know if I hadn't gone through this life-changing experience.

The first blessing is as of today I am 464 days sober; the second was P.O. L.T. Williams.

I was assigned to Officer Williams, who was professional, intimidating (don't think she ever came close to smiling) and the first person in the criminal process that treated me like a person, not a number, a case or 'another felon'. She said something I will never forget.

"This does not define you."

She helped me with the process of state transfer and followed up when the receiving state had incorrect information. I've told PO Williams thank you every time and every time she said: "it's my job." There is no way this is part of anyone's job.

People make mistakes and she's right it doesn't, or shouldn't define us.

Thank you and please thank her. Even if it is her job, I felt encouraged that there was a light in my future because of her.

Best,

[REDACTED]

CUSTOMER SERVICE: PART II

November 1, 2018

Dear Assistant Commissioner Levy,

My name is [REDACTED] I am a professional musician living in Manhattan. I am also a former probationer and very grateful to have recently made it to the end of my three-year probation term. This gratitude is what has led me to write to you today because I want you to know just how much my probation officers and their supervisor have contributed to my successful completion.

I am a transfer from Stamford Connecticut and during the period of my court case, I was told in no uncertain terms by more than one lawyer that the probation period would be one of the most devastating experiences for me and my wife to go through. One lawyer gave examples of what I could soon experience and I was emotionally shaken by the time our conversation had ended.

Fortunately for me, this was not my experience in the NYC Department of Probation under Supervisor Ebron.

I still recall my first meeting with her and being quite surprised and relieved at her demeanor towards me. I had been made to feel and called "scum of the earth" by others who knew of my conviction but here was the very person I expected to be harshest on me, treating me like a fellow human being.

She made a genuine effort to connect with me, and that gave me hope. I am sure you can understand the power and importance of hope for me at that point in my life.

I recall nevertheless being pessimistic about receiving the same treatment from any of the officers in the department, but I was wrong about that. Obviously, Supervisor Ebron has been a great example to the officers under her supervision.

Officer Millwood, my probation officer for the first year of my term, carried out her duties with consistent professionalism. I was a bit nervous when learning that I was to be shifted to another officer, but Officer Bah made the transition seamless and continued to show me clearly that they were there to help me make the most use of this second chance I had been given. It meant a lot to me that I was transferred to an officer who had already connected with me through home visits with Officer Millwood.

Officer Bah showed genuine interest in me and my family while we were going through the grieving process after my step-mother passed away unexpectedly. His thoughtful questions and sincere advice showed me this. In many ways, he became somewhat of a mentor even though we were only seeing each other once a month.

I want to thank you and the New York City Department of Probation for the work you are doing there. I believe that it has played a major role in my progress these past three years and for that I will be eternally grateful.

Sincerely,
[REDACTED] DMA]

Manhattan Adult Services: Yvette R. Testifies

The quarters of the Manhattan adult services office sit on the upper floors of the criminal court building at 100 Centre Street. A renovation begun in 2013 remains a work in progress, capital funds no more forthcoming to the probation function from New York City than to its counterparts from their city governments elsewhere in the country. Records Management Officer Yvette Rivera can handle a lot but finds the occasional screams of prisoners hurtling on the elevator between the detention center on a floor above and the arraignment courtroom in the lobby particularly unnerving, some clients spooked as well.



Yvette Rivera: "You can tell from the stopped clock when the renovation began."



Elevator shaft in the Centre Street DOP adult operations office.



Renovation in progress, 2018.



Former waiting bench for clients, Manhattan Adult Services.



Record room, Manhattan Adult Services.

With two decades under her belt like so many current DOP staff, having signed up for volunteer work in the late 1990s while pregnant with her first child and then rising through the ranks, Yvette maintains a family atmosphere in her Centre Street bailiwick. Medium height, hair, a ball of energy, the youthful-looking grandmother bursts into one office after another, hailing each occupant in Spanish or English, lighting up their faces.

“How are you, Maria? Hey, you can’t hide from me. Nobody can!”

“I’m good, Yvette.”

“How about you, Joe? “¿Està bien?”

“¡Bueno!”

The fate of her clients has not stopped disturbing her, but she’s taken to heart a respected judge’s advice that the end of such feelings would signal the hour to pack it all in. Still, Yvette remains shocked that some of her charges have been placed on probation in the first place, as opposed to earning diversion or having their case dismissed. “What were they thinking?” she wonders in frustration, referring to the judge and prosecutor. Still, reviewing PSI reports from early days characterizing an offender’s homosexuality as sexual deviance, Yvette expresses no ambivalence about the march of societal progress since then. “You can’t deny it,” she declares, her dark eyes sparkling. “Things are way better now!”

Yvette recalls her days at the Harlem NeON, where she took inspiration from one PO who never asked his clients if they were hungry. “They would have said no.” He simply handed out food.

Manhattan Juvenile Services: Joan and Yvonne Testify

Juvenile offenders in Manhattan undergo first processing after their arrest at family court on Lafayette Street, a modern facility quite unlike the ancient and forbidding criminal court at 100 Centre Street, a stone’s throw away. Probation represents the gatekeeper in juvenile justice in New York City as indeed generally in the country. Joan Gardner, thirty-something, composed professional manner, supervises the intake of juveniles into the court system and their subsequent steps, her essential decision whether to adjust the case, handling it outside of court, or to send the offender off to see the Family Court’s law department, whose decision it will be to file a petition or not, and so in turn either dispatch the offender off for a date with the judge or send her or him home.

Joan normally take sixty days to adjust cases. “But,” she allows, “I will take one hundred twenty with the judge’s permission.” She’ll use the time to assess the youth’s risks and needs similar to way POs evaluate actual DOP clients of this age group. Case adjustment often involves drug treatment or therapy. Joan tasks some offenders with writing an essay about their offense. In keeping with standard practice, she doesn’t ask for the why. Some blow off the assignment, but others produce lengthy pieces on their home computer. The agency has been known to buy such diligent youths a backpack full of school supplies.

For cases winding up in court—the offender accepting responsibility from the get-go or the judge ruling that he or she committed the acts charged—Joan will handle the investigation & report to aid in sentencing, the corollary to the pre-sentence investigation in criminal court. Her people will interview the parents, teachers, and anyone else of significance in the juvenile’s life so as to describe her or his life at home, in school, and in the community. If the judge decides on probation, the offender will become a DOP client.

But whichever their ultimate destination, most of Joan’s clients have suffered some trauma to bring them to this point in their lives.

Some cases stick in her memory. “I had one mother become seriously involved after her son, supervised by us, was moved from a low-risk category into high-risk,” she begins, leaning forward. “He had been found guilty of robbery, grand larceny, and gun possession—all gang-related—and was in danger of failing to stay the course. She arranged for his probation in Virginia, to get him away from the New York gangs and into a new environment. He later

graduated from prep school.” And now? “He’s attending Morehouse College,” Joan declares, a note of victory in her voice.

One of her POs had a client who had been bullied by his classmates. He loved baseball, and so the officer worked with him constantly to improve his skills, all the while helping him with his college essays. The lad graduated high school, his PO attending the ceremony. Now he’s a sophomore at Alfred E. Smith College upstate. “We kept his case here in the city,” Joan adds, “trusting him to call and then come in on visits back to New York.”

Her colleague Yvonne Hernandez, a bit heavysset, black-haired, bubbles over with enthusiasm for her job, no matter what offenses reach her ears. This morning in September two youths, ten and eleven, had arrived downstairs from the local precinct, apparently having set fire to the city’s environmental protection trucks. The juveniles have already agreed to receive coaching from the fire department.

But word of a different newbie buzzes more loudly around the office. “A kid stole a CitiBike last night. Usually, they don’t prosecute, but he had an open attempted murder case.” It’s unclear why he remained at liberty.

Yvonne recalls a couple of cases best.

“One young man accosted a blind guy in the subway mezzanine, pretending to be a cop. He asked the individual for his wallet, removed the MetroCard, and swiped it, so the man could get on the train—but then kept the wallet. For good measure, he helped himself to the wallet of a female bystander.”

Only in New York.

Another time, two guards escorted a young teenager in. Her school had spotted a classmate’s gift card in her locker, which she claimed she had simply found lying around.

“We adjusted her case. The girl’s family was homeless—but she proved remarkably resilient, obeying all the rules, attending as many programs as she could. Now she’s enrolled at Columbia,” Yvonne finishes.

The strangest thing Yvonne deals with, she offers, “are the parents who don’t even get that their child was arrested.”

Bronx Adult Services: The Courtroom

Timothy Salyer knows just how unknowable his clients are, once certain that one of a pair of brothers would fail, only to find that he would stay the course while the other went off the rails.

The Bronx division, based in a modern supreme court building near Yankee Stadium, sometimes finds itself correcting the court’s tendency to give out an illegal sentence or charge for the wrong offense—one of Tim’s staff confiding that defense attorneys, prosecutors, even judges seem unfamiliar with the latest statutes. Meanwhile, as in Manhattan, Bronx investigators now anticipate their next high-profile case, here the Trinitarios who macheted the wrong youth a month earlier.

One summer morning in 2018, one of Tim’s legal staff finds himself behind schedule, scurrying like the white rabbit down to the court part in the basement hearing the cases of probationers themselves very late, falling behind on restitution payments including fines to the state—the courtroom functioning essentially as a collection agency. Tall, bald, middle-aged, Pedro Luncheon represents DOP during the proceedings. And well he does, because today, all the other court actors are new to the role, making it up as they go along subject to his coaching, a retired judge nominally in charge.

The setting seems surprisingly modern and clean in this South Bronx facility—Scandinavian furniture, recessed ceiling lights. Neither imposing nor graffiti-scarred like 100 Centre Street downtown.

Some delinquent payments, Pedro confides, can reach \$20,000, dating back ten years, but none of this magnitude mark today’s proceedings. At least the offenders know the drill, one after another acknowledging the missed payments, handing over one now to show good faith, listening respectfully or not as the judge schedules a follow-up

meeting to monitor continued progress. Young and old, male and female, all assume the defendant position of hands clasped behind their back—some ashamed, others insouciant, a few argumentative. Each departs as the next case is called—some sauntering out, others trudging, one breaking into a trot. All New Yorkers of color. But in this court, so is the judge.

One fellow getting on in years, leaning on a cane, not only delinquent but violated for testing positive, raises his voice in protest.

“Judge, I’ve got roommate issues. And it don’t help none when Probation comes to the door without no warning.”

“Come on, Mr. Giles, get with the program.” In other words, don’t make me do what I don’t want to do. The judge’s eyes seem kindly behind his horn-rimmed glasses, a study in reason throughout.

“Your honor, my client is a great guy, and he’s been tested negative lately.” This plaintive wail from the defense lawyer, a bit long in the tooth himself, short and schlumpy—the three-card straight apparently the standard appearance for this line of work in Gotham. (ADAs in New York by contrast boast all ethnic backgrounds and genders, seemingly too young for their Armani suits and high heels.) The judge cuts Giles some slack.

One young woman shows up overburdened with her toddler, prompting the judge to wonder aloud if Children’s Protective Services—the city agency reportedly minding kids in these situations—has gone out of business. But he hears her out.

Pedro thinks the proceedings went well, all things considered.

Bronx Juvenile Services: The Collaborative

On a fall afternoon later that year, in a classroom off the large space of the gaily decorated, heavily trafficked NeON center, impossible to tell the probationers without a scorecard, Bronx Juvenile’s branch chief of client development, Gail Jones, takes her place along the exterior of one long side of a table shaped like a hollow rectangle. Now in session, the Bronx Collaborative also fields representatives of NYPD, the Bronx DA’s office, the federal DA’s office, NYC parole, and various community groups arranged to her left and right. A lone young woman edges in from the bustle, closing the door behind her, finding a seat along the exterior of the other long side facing the officials.

Then the door opens and four young men stroll in, leaving a chair open next to the young woman, taking their places in other seats on this side. As so often the case in criminal justice, everyone apart from the police chief and the two ADAs a New Yorker of color. The young woman wears her hair in a bob. Two of the lads sport baseball caps and another a ski cap, while the eyes of the fourth peak out from under a hoodie.

The Collaborative had been meeting periodically for some time, but the moderator from the Bronx DA’s office points out this is the first combining juvenile clients of probation (today, the young woman) and parole (today, the quartet of young men). The officials realized that the same challenges confront both populations.

The blonde Bronx ADA, evidently a graduate of the Set Large Goals school of management, announces the aim of the meeting—the ending of violence in the Bronx, gun violence in particular. The five offenders would need to take a plan with them back to their neighborhoods.

The tall, lean uniformed police chief—in charge of violent crime in the Bronx—speaks first, observing that that NYPD had blanketed the borough, determined to tamp down the mayhem. “It’s all they want to know about downtown,” he pointedly remarks, referring to NYPD headquarters at One Police Plaza. The five juveniles regard him with mild interest as if he were a caged lion, unable to do them any harm in this place at this time.

Then comes the Recovery Task Force of the Bronx DA’s Office, its earnest, horn-rimmed young spokesperson telling the five offenders of his team’s desire to protect them and the community. “This is an opportunity for you to change.” The male offenders shift in their seats.

The aging, weather-beaten parole bureau chief then takes up the baton, informing his quartet of clients but also the young woman that parole had changed. “We’re not in the fail mode anymore. We’re not looking to re-incarcerate you for one dirty urine test. Get into a program,” he pleads. “We here to help you help yourself. And even if you do get arrested, come talk to your parole officer.”

Then it’s Gail’s turn, yet another firm but friendly DOP staffer with a couple of decades under her belt. “Good for you,” she congratulates her client and the four young men. “You’ve already made a good choice by not blowing off this meeting.

“The choices in front of you now,” she goes on, eyeing each in turn, “will make your world larger or smaller. You are the power and protection of your family and your neighborhood. Prison is no place for you. Youthful offenders don’t wind up with a criminal record, so now is the time to change. I’ve had people in my office cry because when they were locked up, they couldn’t protect their little brother or attend their grandmother’s funeral.”

The blonde moderator asks all five to open the envelopes they had been given before the meeting. “You see your arrest photo. Then you see a number. It’s the minimum sentence you will receive if you pick up a loaded gun in New York State. The courtroom is not the time to find this out. The number is yours, based on your own situation. At a minimum, you’ll get three-and-a-half years in prison, even if the gun is in your pocket.”

Then the hammer. “You can get more, up to life, depending on previous convictions.”

She has most of their attention.

The Southern District of New York now has the chair, determined to up the ante further. “We feds bring to the table very powerful gun laws, tied to crimes. If you’re caught dealing drugs and even if it’s your accomplice with the gun, you’ll get five years. Seven if the gun was pointed; ten, if fired in the air.” The ADA of ample build looks at each of the juveniles to drive home the point. “The judge has no discretion to lower this five-seven-ten.”

And what if it’s your second offense? “Then you’ll get not five, but twenty-five.”

She reminds the juveniles that they won’t beat a federal rap. Echoing what Paul observed about federal cases in his court, she reports that her office enjoys a 95% conviction rate. “We have all the resources of the US government at our disposal. There are more lenient rules of evidence than in state court. The gun doesn’t even have to be loaded for an offense to be committed. And when convicted, you can be sent anywhere in the country.”

The gulps almost audible, but the lads try to hold onto their bravado all the same.

And now comes the turn of credible messengers.

The representative of Community Services, maybe fifty, grey hair, a shade on the heavy side, points out that Buffalo, Poughkeepsie, and the Bronx suffer from the highest OD rates in the state. And so that’s why he’s here today.

He tells the juveniles that he served twenty-two years in prison, finally returning home in 2009. “I was in Riker’s when it was a gladiator’s school.” He spent quality time in Clinton and Elmira.

Now the male faces lose the last trace of a sneer. He’s got them, all five.

“When I got out, I had a great parole officer. And then I got different friends. I got my GED. My bachelor’s. My master’s.

“I’m running a twenty-eight-million-dollar project now. And nobody is chasing me.”

His parting words of advice: “Saying sorry doesn’t cut it. Not doing the next bad thing is the way to express sorrow. Today can be a turning point!”

Then it's Lead by Example's turn. The grizzled representative takes a somewhat different tack.

"Tell me who your best friends are and I'll tell you who you are: wolves or eagles. Don't be around those who choke your dreams. I've also lived it, in Comstock, among people who movies glorify. That's false!"

He recalls for the five youths the case of a young mother watching over her three children in a Bronx housing project playground in 2016 when she got in the way of a stray bullet. Her brother had been killed in the same project in 2012 by a gang that also shot his 5-year-old son. "Who does that?"

"It's time for us to be men!" he implores. "Make the right decisions!"

"Listen to 'Beat It,'" he pleads, referencing the 1983 monster hit aimed at dissuading youth from gang activity, the title echoing a line from—naturally enough—*West Side Story*.

This meeting itself is the first time he's ever seen young people officially warned about crime's consequences. He's plainly thrilled.

"Get a job so you'll have food, clothing, and shelter," he concludes. "You won't be thinking about robbing or hurting no one."

It's now the turn of The Fortune Society's spokesperson, a different character altogether, middle-aged, light horn rims, gentle-voiced. But what comes out of mouth surprises.

"I picked up my first gun at age eleven. I was incarcerated for forty years!"

Today, he's connected to his community and a law-abiding citizen.

"Sometimes, you need to remove yourself from people and places that lead you in a wrong direction." His PO didn't put him back in jail, he put himself back in.

His parting advice: "Find your greatness."

And with that the meeting ends. The five seem shaken, touched to their core, but for how long remains the question. Even if viewed skeptically by his audience, the NYPD officer had to be part of this.

Told by an observer that the adults in the room seemed to have reached the youths, the moderator replies, "I hope so! Even one would be worth it."

The Senior Leadership Meeting

At the end of August 2018, the senior leadership of DOP gathers in the largest room of its downtown headquarters for one of its monthly meetings, which often include a review of completed cases audited by the agency's quality assurance function (perhaps inspired by the mortality and morbidity reviews following adverse outcomes in the practice of medicine—which the harrowing podcast series *In the Dark Season One* noted have shockingly failed to influence law enforcement generally). The review aims not at pinpointing individual mistakes but identifying systemic deficiencies. One wonders if the next step might be so-called "premortems" or even the military standby of red teams. This month it's the turn of Queens, with testimony led by borough chief Karen Armstrong (Tim Salyer's peer), along with a report on the annual metrics sent up to the mayor, and a briefing on this very project by two of the forthcoming book's co-editors.

Encountered earlier in her Kew Gardens office, Karen—a Ph.D. in social work—had shared her own shock at the age of juveniles dragooned into probation now, compared with earlier days.

Two dozen top officials sit in chairs arranged in a circle, the Commissioner in charge, if not signified by the placement of her perch.

A very warm bunch, the women like social workers on steroids, the men either coddling like Vinnie Carrique, the Quality Assurance director armed with Comstat-like data, or the opposite, the atmosphere informal, a bit chaotic. Karen and her two staff occupy a table set up inside the ring of chairs, speaking to the imagery projected onto the screen up front.

(As the retiring head of Oneida County probation recently observed, “Every probation officer—if you look at a scale, at one end is a police officer, at the other end is a social worker. And my staff, they all find a little different spot on the continuum.”)

The first Queens case, picked at random by QA, concerns a client whom we’ll call Michael, apparently of Irish-Italian extraction. No relationship with his biological father, his mother an addict. Michael had one of his rare encounters with Dad at Mom’s funeral, she an overdose victim.

Michael’s offenses included burglary and property damage. When he came on probation, his nonchalance set off alarm bells, apparently indifferent to the possibility of a return to the placement from which he had been sprung. Then his step-father died, driving him to an even higher level of risk. Photographs from this period show despair all over Michael’s face.

Fast-forward to today, a photo reveals a youth of sixteen mature beyond his years. A DOP music program instructing him how to make the beats driving so much of modern pop and rap had turned him around. “Many juveniles are creative,” the Commissioner points out, “but their creativity has not been tapped.” She then uses his story to clarify the Individual Action Plan process. Vinnie agrees Michael’s case was handled correctly, yielding a surprising success story—although the PO evaluating him could have focused more on his companions, who had sucked him into criminal behavior in the first place.

Vinnie picked the second Queens case for its completely opposite outcome. Sometimes bad results follow from good practices, but not the case here.

The facts are stark. Both parents of the 22-year-old we’ll call Laquan were violent offenders, the lad raised in foster care. An eighth-grade dropout. Bipolar, with a history of self-harm, including a suicide attempt. Criminal peers. He violated his first two terms of probation by reoffending. Failed his third probation term spectacularly: petty larceny, theft, domestic violence, robbery in the second degree. (The supervisory PO now testifying acknowledges he might have fallen through the cracks in transitioning from one case officer to another.) Unrealistic goals, like somehow landing a job, despite his schooling and mental health issues. Could not think more than one step ahead.

Delve into almost any offender’s background and trauma inevitably rears its head. An analyst of depression observed in a book review for *The New York Times*, “Over the past decade, the words ‘trauma’ and ‘traumatic’ have been used so profligately and have entered our cultural discourse to such an extent that they have almost lost their depth-charge, the reactive explosion of psychic damage to which they were originally meant to refer. Everyone in this era is traumatized by everything.” And then a case like Laquan comes into focus, showing how real trauma can get.

Laquan’s last PO relied on his self-reporting, testifies her supervisor shamefully. Ouch. Did she not understand the process, or had she just blown it off? The evaluation form incomplete, but just a glance at his record would have shown the officer Laquan’s fate without a massive intervention. A train wreck waiting to happen (although none in DOP would ever use such a term).

All this makes one wonder if the glorification of Evidence-Based Practices at times robs probation officers of their common sense. Supervision, after all, remains scientific only to a degree.

“Laquan clearly needed wraparound services,” the Commissioner points out, “including mental health treatment. Certainly not incarceration, which he might not even survive.” She observes that you can’t medicalize his bad feelings about Mom bringing the wrong people into the house.

In any event, a surprise visit by agency field staff to Laquan’s residence seems to have uncovered enough drugs to overdose Omaha, along with an armory to take out the city afterwards. It’s a wonder he hasn’t shot anyone yet.

Vinnie offers that mental health remains tricky to define, existing along a continuum; no one in the room could escape an assessment with a score of zero. The attendees exchange bemused glances.

The Commissioner remarks that anger varies with intensity as well as frequency, relating the joke shared among psychiatrists about one doctor bragging that his patient had experienced only one episode that week.

“Really? What happened?”

“Oh, he shot someone.”

Appreciative snorts.

The supervisor reports that she did wind up contracting the caseload of Laquan’s PO, who had complained of overwork, from eighty to forty. But the stallion had left this particular stable long ago.

And so the meeting now focuses on the third case, another failure selected on purpose by the audit, but where DOP can find little wrong in how it handled Ali, except perhaps for not tracking his access to guns. The young man had adhered to the stipulations completely, the Koran apparently helping. He had reported to this case officer twice since his re-arrest on a murder charge, without revealing anything untoward. All anyone knows is that his sister’s boyfriend said something that made him snap.

So many pained faces around the circle, the leadership struggling to figure out how this looming dub (short for “Double-u,” as youth these days term a Win) tragically, suddenly, at the crack of a bullet, turned into an L. They wonder how to get to the bottom of this.

The major lesson learned thus far seems to be that stipulation #28, consent to a search, should be added to the list of probation conditions for every serious offense. Maybe the gun would have turned up.

The meeting then takes up the performance indicators the agency had just sent up the chain to the mayor. The session ends with a briefing on this project.

Quality: Vinnie C. Testifies

Sometime after the meeting, an opportunity arises for Vinnie to share his experiences and insights.

What were the offenses of DOP’s current client roster?

“All kinds of misdemeanors, whether the more serious or even lesser ones if a recidivist, as well as any type of felony. The most serious one I’ve seen here started out as manslaughter but turned into negligent homicide. The offender told the police that he thought the victims were coming to attack his girlfriend, so he hit them with a bat. He did call an ambulance afterwards. He got six months’ jail and five years’ probation. The mildest cases involved criminal contempt, say for violating an order of protection, especially arising out of a domestic violence situation. The judge puts you on probation so someone can watch you. Or criminal trespass or jumping a turnstile, if repeated. The judge might say, ‘Somebody needs to see they keep going in the right direction.’” (We’ve heard something like this from Paul.)

Of course, 95% of the cases DOP receives stem from plea deals, not trials. DOP can elect not to recommend probation even when part of the agreement, but the judge makes the final call.

Was DOP prepared to handle the shift in cases from adult to juvenile associated with the state’s initiative to Raise the Age of adulthood in terms of criminal justice from sixteen to eighteen?

“Yes, we’re always moving personnel around to match the workload. And we constantly recruit, but staffing remains a challenge because eighty percent of our staff are veterans with over twenty years in, and many are leaving. We’d also like to get the caseload down to what all the evidence suggests is the best number: twenty-five or thirty. But the

pay offered by the city is not that competitive. If DOP puts forty on the table but another outfit is dangling sixty, what choice do job-seekers have?"

How do you see your clients achieving desistance from criminal behavior?

"Desistance can occur naturally, flowing from stable employment and the feeling that comes from having money in your pocket. It can also come from a social relationship. Some guys meet a wonderful girl they don't want to lose. Then there's growing out of crime. And fourthly, there's the lightbulb effect, which can happen at any age. 'This is crazy. I can't keep doing this.' (As NeON photographer Jesus put it, "You get to a point in your life when you have to choose a different path, so you do your best and stay calm. I have chosen the good path. I stay away from trouble and further my education.")

And then beyond all that there's what we do here, like trying to build intrinsic motivation, having our clients realize the benefit of social activities, encouraging them to see drug use as a negative. They may have never experienced prosocial people. They live in small neighborhoods, and the neighborhoods within themselves are also small. So we take them to baseball games, to museums, get them involved in gardening and the arts. They were never exposed to that." Vinnie's response neatly encapsulates the latest thinking in the industry.

Are the electives offered now similar to those available to clients before probation turned punitive?

"We may have offered programs before the crime wave, before the 'Nothing Works' era, but now the probation officer is the change agent rather than just pointing the client towards a program. Yet the client still must be willing to change; he must take charge of his own treatment. We want him in the driver's seat, not riding shotgun. Participatory probation, in a sense—which may help account for the appeal of the photography program for DOP clients.

What is the biggest advantage of probation vs. incarceration?

Vinnie pauses a moment to reflect. "I've thought about this for my whole life. All those incarcerated—unless it's a life term without parole—eventually are let out. And if there hasn't been intervention using Evidence-Based Practices to have them intrinsically change, they're the same knuckleheads as when they went in." Well, some may have aged out. Hopefully.

Have female POs ever been abused by a client?

"Rarely. One guy got a little nasty with one of my officers when I was a supervisor on Staten Island. 'This guy, he's hitting on me in a not-so-nice way, not like asking me out on a date.' So we went and talked to him. 'You respect us, we'll respect you.' We came to a mutual agreement."

Have male POs ever abused a client?

"One case made the newspaper."

Here, Vinnie is referring to a 2017 instance of a veteran PO of fifty on Staten Island charged with first-degree sex abuse for ordering a 28-year-old client to perform certain acts, a classic #MeToo moment, the unspoken threat of violation, revocation, and prison ranking pretty high up on the list as threats go (even with an agency follow-through no slam dunk as in the punitive era).



Community Service: Stephen Testifies

DOP incorporates the supervision of community service if ordered by the judge. Originating in Alameda County in California in 1966, the practice gradually expanded through probation generally, even coming to constitute a judicial sanction in and of itself, spreading in each format across the globe, its purpose a trifecta of punishment, rehabilitation, and community assistance. Steve Cacace runs the function at DOP.

“I started back in 1991, with a program called Juvenile Intensive Supervision, for which I ran community service. We would do work on an ad hoc basis, like painting the community pool in Williamsburg. Then I wound up on the adult side handling the same function.

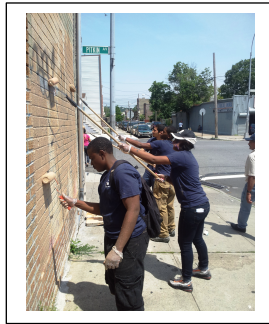
Judges were big believers in community service back then, and so we had fifteen-passenger vans going around the city to transport our clients to the work sites. We got waivers from stores to paint their gates. We painted fire hydrants and mailboxes. Anything that had graffiti on it, we removed. It was a seven day a week job for seven years. My wife never saw me but my paychecks on Direct Deposit kept her happy.

“We formed a Rat Patrol to help out NYCHA. Lazy residents would toss their garbage out the window in those days.” (Sadly, this still happens.) “So we got on the grounds with rakes, shovels, and bags and cleared it out. We also cleaned vacant lots for Sanitation.”

Steve explains, “DOP had nothing to do with whether clients were given this requirement or not. It was generally part of the plea agreement. And we’re seeing a lot less of it now; I’m not sure why.



Gang signs on Shepherd Avenue.



Brooklyn, before graffiti cleanup, 2013.

“In 2015, we began to see many clients coming in for appointments and treatment so hungry the officers would give them their own lunches. That’s what led us to set up the Nutrition Kitchens in the first place, to help feed them and their community generally. What made it possible was the ability to have clients fulfill their community service requirement staffing these food banks. In 2018, we served eighty-six thousand people!

“We get calls from outfits around the city looking for the occasional help. Churches, synagogues, other food banks. Maybe at holiday time someone looking to plant fifty Christmas trees will need assistance and put out a request.”

Queens Adult Services: Marjorie, Tracy, and Jocelyn Testify



(L to R) PO Tracy Dancy, PO Jocelyn Jordan, and Supervisory PO Marjorie Fisher. They report up to Karen Armstrong.

The waiting area in the Kew Gardens adult services office, a few miles from the more welcoming Jamaica NeON center, sits cramped and decrepitly in the basement of the county criminal court building. This where Marjorie Fisher’s clients undergo their intake into probation, the standard “sign in at reception and wait your turn in a drab office” approach contrasted by Justice Reinvestment: Winding Back Imprisonment with the comforting space of NeONs.

A supervisory PO who had previously served in the juvenile section of DOP, friendly and outgoing, Marjorie finds some cases intensely rewarding, her clients going on to graduate with honors and receive multiple job offers, a few rising above their backgrounds in ways that astonish her. “They have led such deprived lives,” she relates with wonder in her voice. “Crack-smoking parent. Sexual abuse. Neglect. Even homelessness. My office is like a palace to them. I often find myself counting my blessings after we meet. What kind of troubles or disappointments can I have by comparison?”

Her staff officer Tracy Dancy, with a background in social work and more reserved, conducts pre-sentence investigations, bringing her into contact with some of the worst New York City has to offer. “One case was back in 2007. A twenty-three-year-old Columbia coed had been raped and tortured for nineteen hours by someone with mental health issues but who proved able to manipulate the mental health system.” Tracy also handled the PSI for the Manhattan Manny two years later, who had sexually abused many boys for whom he babysat, sharing with her how he ensnared them by getting them pizza. Of course, she recommended neither for probation.

Like Jane, Yvette, and George, Tracy also shied away from the evening news when crime was more prevalent than today. But unlike them, not supervising clients herself, she would always be wondering, “Is it my case? Will I be getting this case?” Tracy didn’t want to begin thinking about an investigation until assigned to her.

Conducting pre-sentence investigations over a number of years has provided some officers with a ringside seat on the societal forces leading so many down the path to criminal behavior. Bronwen Job, a DOP bureau chief in headquarters with hundreds of PSIs under her belt, recalls, “I began to hear from many offenders in the 1970s who had toiled in the city’s industrial sector that their work had relocated to New Jersey. Then to the South. Then to China.”

In the past so personalized and exhaustive the report took on the air of a novel, produced by DOP’s elite, PSIs had been condensed in 1992, allowing the overburdened department to shorten the time entailed in putting it out from three weeks to ten days. The crime description in particular was slashed almost to the point of a haiku, most actors in criminal justice believing the basic facts of a case already widely known. The reports have only grown shorter since, today’s generation inclined to read not nearly as much as earlier cohorts of Americans (corresponding reports in Britain likewise shrinking and even reduced to oral versions, to save time and money).

Another Queens staff officer, Jocelyn Jordan, handles the intake into probation of adult offenders. One fall morning in 2018, a 45-year-old slim, short man with a shaved head almost matching Jordan’s tight curls, pale skin, a strong New York accent with a confident, street-smart manner—whom we’ll call Frank—saunters into her office, among the many in the warren of the courthouse basement. Jocelyn methodically goes down a laundry list of apparently standard questions on her computer, some directed at determining any chemical dependency.

“Is it important that you get into a drug program?”

“Sure.”

“Why?”

“Because it’s important to DOP,” Frank jokes. “It’s not important to me.”

Jocelyn takes it in stride.

Her fingers quickly tapping the keyboard and moving the mouse, she eventually reaches questions about his offenses. Frank begins his tale by relating how his wife and he had been pulled off a New Jersey Transit train back in January, seeming to match the description of a couple who had just held up a local Walgreens. While the police soon enough recognized that Frank and his wife had been in NYC at the time, the cops in the meantime found marijuana on his person. And he was on a five-year probation term at the time.

Ultimately receiving a conditional discharge for the dope, he escaped being violated. Now the remainder of his probation term is to be served in Queens, where he has come to reside. And so Jocelyn starts to process the intrastate transfer.

Only now does it become apparent who we’re dealing with. That five-year probation term? Frank had copped a plea to a counterfeiting charge, his second one such in three years—the arrangement resulting in a conviction for selling heroin, apparently another pastime.

But counterfeiting?

It turns out that consumer printers (including the laser jet model found in his possession) have gotten to the point where this old standby has life in in yet.

And Frank appears to have played the game very well, Jocelyn later sharing that he had arrived at the courthouse by chauffeured limo.

But is he employed now, she wants to know?

“Yup, been working at a pizza parlor for two years now.”

So he knows how to play the probation game as well. And he offers up his own redemption story.

“We have a five-month-old. She’s turned my life around.”

But his parting promise, “I’ll be back!” gives Jocelyn pause. He’s not supposed to report here anymore. She looks at him over the top of her glasses, eyebrows arched, lips pursed.

“Really?”

Queens Adult Services: The Courtroom

Judge Douglas Wong hears probation violation cases in the city’s largest borough, the fourth justice to perform the function. The jurist enjoys a fearsome reputation among defendants and many of their defense attorneys, rumored (although childless) to have sentenced his own son, said not to have had a good word for another human since the moon landing—but a rap at least partly balanced by the appreciation of some who appeared before him.

In The Robing Room chat room (“Where Judges Are Judged”) one finds this typical evaluation: “This guy has no sympathy whatsoever. If you are in his courtroom, you are considered a die-hard criminal, even if you just simply missed a probation appointment.”

On the other hand, tough love has its fans: “I can agree with everyone that Wong is not playing with defendants. He does what he wants. I had charges that could have gotten me 15-25 years, but he approved something that allowed me to avoid jail....You are human and will make mistakes but having defendants afraid to be in your court keeps future crime from happening. I stayed out of trouble because I knew if I came in your court again you would read my file and give me 10 years for jaywalking. Wong saved my life.”

A tiny, low-ceilinged affair, an office still labelled TYPING nearby, Judge Wong’s workplace presents a strong contrast to the grand courtrooms in the Kew Gardens facility. A tall brown-haired court officer indicates we’re in for a treat with this character on the bench. But the justice—sixty-something, heavysset, thinning black hair, peering myopically at documents held an inch from his nose—seems perfectly composed, businesslike, and sympathetic as the situation warrants. (The uncertainty principle at work?)

Raven-haired, fortyish, medium build, eyes betraying intense caring, PO Marla Morales serves Judge Wong’s courtroom (and who, with a 16-year-old son at home, like Jane foregoes the optional gun), advising that critics who complain about the jurist’s theatrics miss the point. What the judge does do is hold defendants fully accountable: ninety-five percent compliance doesn’t cut it. And so the accused violators, who have never in their lives been held to a strict standard, scream or curse or cry as they receive their just desserts. On her part, Marla wouldn’t dream of shaking off Judge Wong’s signals, this venue far removed from the Northern District of New York’s house of comedy.

In this courtroom, some 90 percent of DOP violations stem from re-arrests—thereby failing the one substantive stipulation of probation—absconding a distant second.

In this morning’s first case, a defense lawyer appears on behalf of a distressed young man who we’ll call Tony, a petit larceny convict; although guilty of a misdemeanor, he had been given neither an ACD nor a conditional dismissal but rather probation, from which he eventually absconded. DOP tried its best to locate him, a notification mailed to his residence of record returned addressee unknown, resorting when all else failed to having the court issue a warrant for his arrest. The law’s pursuit proceeded slowly, only coming to a head when Tony upped the ante by re-offending, endangering the life of a child—a felony yet, triggering another violation. He might have been liable for both restitution and an order of protection, the eJustice computer application making Queens aware of the matter. And so here we are in Judge Wong’s court.

The other judge eventually dismissed the felony charge, although even if convicted, Tony would serve the sentence simultaneously with the new one for violating probation. With the dismissal, that violation charge also goes away. But there remains the matter of absconding from probation.

Tony's defense lawyer points out the mental issues afoot here, seeming to sway the judge, who orders an evaluation—what's called in the state a 730 exam (after the article number in the criminal code). If as anticipated Tony turns out unfit to stand trial, he will wind up in Mid-Hudson Regional Hospital upstate for a stretch, then placed on probation again upon his return. To bring the curtain down on the matter, Marla on behalf of DOP consents to the termination of the violation for the re-arrest.

At this point, another young man wanders into the proceedings in a daze, claiming someone told him to report. An examination of his papers reveals his date with justice still a week off. So off he goes.

Another case involving mental health issues. Judge Wong calmly terminates the offender's misdemeanor and violation, referring this young man to the custody of Mental Hygiene.

Now comes the turn of a male who we'll call Richard, about twenty, average height, with light facial hair, whose original offense involved drug possession—for which he was treated, evidently unsuccessfully, on an out-patient basis—and who then caught a charge of gun possession, violating his probation. After reviewing the PSI, Wong offers six months on the violation concurrent with whatever gun charge sentence or a year of in-patient treatment for his heroin addiction (which would allow him to leave during the day and work). Seems like a perfectly rational choice of penalties, especially as the defendant could receive a year on the violation. After initially listening to his lawyer (who had pointed out to the judge his steady employment) and opting for treatment, he changes his mind.

His eyes full of tears, he declares, "I'll take the six months in Riker's."

Drug treatment can be so brutal (or so uncertain of success, as Marla views Richard's fear) that jail seems preferable to some. Wong frowns in disappointment, pointing out the program could get the defendant off drugs. But it's done. Marla opines he'll do four months.

The judge disappears while court officers escort Richard to the holding cell, as their departure leaves insufficient protection of the jurist in the courtroom. Eventually, they return and so does Judge Wong.

A formally dressed middle-aged couple at the back of the courtroom on bended knees now murmur a prayer, it not apparent on whose behalf they beseech the Almighty.

While awaiting the next defendant, Marla confides that the violated often feign ignorance of the reason they now find themselves in Judge Wong's court—even after a re-arrest, non-compliance with mandated drug treatment, or exhaling alcohol into the auto interlock breathalyzer installed following a DUI conviction.

Now yet another young man, whom we'll call David, walks to the defense table, assuming the position. Drug abuse had landed him on probation, he too failing to stay the course. A clearly changed man, David attends the Striver House residential program, remaining sober as well as drug-free along while completing OCHA training, now even employed.

"That is just great!" the judge exclaims, counting David as a success story. Still, the defendant will need to report back every six months until his original probation term finishes.

Finally, the morning's hard case walks in, yet another young male, who we'll call Jack.

A re-arrest for burglary and a gun charge after missing nine meetings with your PO?" Incredulous, the judge quickly scans the PSI. "Work is no excuse for missing probation," he informs Jack. "If I had sent you to jail, you wouldn't be working at all."

A furious Judge Wong sets Jack's bail at \$2,400. "If you manage to post it, meet your PO within twenty-four hours or else."

Marla then goes off to assist in the courtroom of Marcia Hirsch, who enjoys a national reputation for promoting treatment of a wide range of offenders—not only violators of probation with mental health and/or drug issues. Ricocheting between the two courtrooms during her weekly tour of duty lets Marla aid two very different approaches to criminal justice in Queens.

Queens Neighborhood Opportunity Network

A visit to the NeON center in Jamaica reveals a warm and supportive environment.

The Nutrition Kitchen boasts shelves overflowing with everything from cans of vegetables and sardines to bags of rice, beans and pasta; from boxes of dry cereal to bottles of fruit juice; from rolls of toilet paper to jars of peanut butter and applesauce. The freezer holds frozen meat and poultry of every variety. Two DOP clients perform their community service requirement staffing the area, stocking the items, and distributing them to community residents, probationers, and even staff on demand. Of all, it's clients who appreciate the gifts of commodities the most, returning home as heroes and heroines to their families after stocking up.

Supervisory PO Sharon Schinnery, forty-something, medium height, solidly-built, another warm DOP personality with a heart of gold, has been known to cook up hot meals by request, apparently wielding a mean spatula. Local media has taken note of these efforts, headlining its coverage of a client running another nutrition kitchen as "Bronx man gets 2nd chance through Dept. of Probation program."

Across the corridor from the food bank, the Clothing Closet—a large room of racked apparel—stands ready to deck out clients for formal occasions like job interviews.

Down the hallway, a bank of kiosks allows low-risk clients in Jamaica to key in their answers to questions without leaving their neighborhood for the Kew Gardens adult operational center.

In the fall of 2018, this NeON hosted a chopped food competition between teams composed of both clients and staff, along with the fifth annual Free Verse Italian Night, artists from Italy translating poems by DOP clients and performing them together with the poets.

After a staff suicide at the Brooklyn NeON where she had worked previously—another victim of a probation officer's at times overwhelmingly stressful duties—Sharon vowed never to let it happen again on her watch. And so here in Jamaica, she manages by walking around, kibitzing with all and sundry, setting up disco nights, trying anything and everything to maintain high spirits. Her contribution to Free Verse was one word: "Yesterday." About serving a probation term, "It can happen to anybody." When a visitor nods, confiding, "You don't want to know about my past," she retorts, "Or you mine."

Meanwhile, upstairs in her modest office, Tyra, an eight-year veteran, a background in education, counsels Edward at their monthly meeting, one of her at-risk juveniles. Short, black hair, with an engaging, low-key manner, he's serving five years' probation following a 2016 drug offense. But like other officers, Tyra goes to bat for her clients. "I'll try for an Early Release, Edward, if you keep it up," she promises.

He's now been drug-free for sixty days, Edward beaming at Tyra's report of the accomplishment. And that's only his latest.

"Tell him, Edward."

"Well, I got my GED."

"Tell him what else, Edward."

"I'm in college."

“And what else?”

“I’m working for a French restaurant, making crates. And I’m also sending out resumes. And I’m doing YouthWrap.” That’s like a community service requirement, only with pay. Judge Wong had placed him on the program.

Edward stutters with fright simply speaking the man’s name but seems reassured when informed the jurist likes nothing better than offenders pulling a one-eighty.

DOP POs like Tyra occasionally show up on their clients’ doorsteps, unannounced (unless previous attempts found nobody home). The officer looks to build on rapport already established, by meeting the family or seeing who else the client resides with, but watchful for any sign of criminal activity or other forms of noncompliance with stipulations. POs visit more frequently the homes of those clients convicted of robbery, assault, or a weapons charge—the so-called RAW cases—especially clients in the 16-24 age range. POs always take a partner on these excursions, arming optional; some clients welcome a visit, others, not so much. If the PO senses through a visit or other means something not quite kosher, the Intel branch of DOP takes charge.

The Field: Melissa Testifies

Solidly built like so many women in probation practice, dark-haired and medium-complexioned, firm yet friendly—her talent for instant rapport honed by years serving in Family Court—Melissa Martinez runs the home visit function within Intel, two supervisors and nine POs under her command. The function’s modern offices lie in the operational center in the financial district the community had tried in vain to stop from setting up shop.

When she knocks on a client’s door, three officers accompany her, all carrying. If clients may not welcome their own PO coming to call, they might react with even less equanimity to a quartet of strangers suddenly appearing.

While not uniformed per se, their agency badges and windbreakers lend these Intel officers an intimidating NYPD look. Possibly also helping, Melissa had once left DOP for six months to attend police cadet school. Washing out two days before graduation when she failed her timed run, Melissa returned to probation work. “It must have been meant to be.” No complaints, she loves her job, a twelve-year veteran by now.

Melissa’s ability to quickly calm almost anyone proves invaluable time after time. She’s never had to use her gun. “Thankfully.” (None of the agency’s POs have ever been killed in the line of duty.) It surprises even her that if she’s done her job, clients can peacefully accept an Intel visit 95% of the time.

Beyond investigating a home situation, Intel might show up to serve a warrant. “It’s important for the client to know that even if arrested, he continues on probation in the meantime.” The days are gone when any re-arrest automatically triggers a violation. Melissa uses the same tactics as in supervision, reassuring the client it is never too late to make changes in his or her life.

Her team has just embarked on an evening shift for the first time, and at least in cold weather, she’s more likely now to find the client at home. Melissa looks forward to the summer evening NYC stoop culture, her excitement not completely masking a touch of apprehension.

More on “So You Want To Be on Probation: A Friendly Guide

Vito knows how new all this is for you. “You’ve never had an opportunity to think about who you are. To decide what you’re ready to change. These are things you can write down.”

Where is Vito going with this?

But first Vito will want to fill in any gaps in the record, or at least hear about the record from your own perspective. “Hey, just give me a little background. Have you ever been arrested? Was there any time when you were placed in handcuffs?”

This is not a prompt to bring up your sexual practices.

She'll continue, "Were you ever taken to a precinct where Mom or Dad picked you up?"

You'll be tempted to counter, "What about the time I picked them up at a precinct?" Don't.

Following standard DOP protocol, she won't ask you why you offended, but rather what was in your mind at the time. "What were you thinking when he asked you to carry his package in your backpack when the train crossed the border?"

You'll mutter something unintelligible, but Vito will get that you weren't thrilled. And that you also wondered if that hot red-headed Australian backpacker you shared a compartment with the night before would deign to visit you in a Yugoslav prison.

Vito won't miss a thing; when you brag that you had figured out a way to avoid drug and beer parties in college, she'll wonder why you couldn't say no to something far riskier on that train. And she'll relate that to your current predicament, a conviction for money laundering, also not profiting but simply unwilling to say no to a requested favor.

Moving on, the probation officer will ask in apparent innocence, "Have you been able to take a look again at the conditions of probation, the do's and don'ts, everything you have signed that says 'I will certainly follow these rules'? I know it's quite lengthy and a lot of us get anxious, and when we're about to walk out that courtroom, we don't read it and go home and just put it somewhere and forget about it." Your stomach might begin to tighten at this point, but you'll try to ignore it.

"Did you actually get to read it? We went over it, but is there something that makes you think, 'I don't know if this is going to be possible for me?' Or does it seem that probation is going to be a smooth ride?"

"Uh, sure, I read it," you'll reply. You might try to prove the point. "I noticed the judge didn't write in a community service requirement. That was a relief! But staying off drugs, not abusing alcohol, reporting to you, avoiding criminals...I'm down with all that. Game on!" A thought will hit you. "How often do I have to come in here?"

"The reporting can be a little intrusive, a little overwhelming, because it is weekly. The reason it's weekly is because at this point we are establishing a relationship. You need to get to know me as well as I know you. Once I've been able to confirm your employment, once you're reporting as you're supposed to, when I've been out to your home a few more times, I don't have a problem with moving you to biweekly."

Wait, what did she say? "You're going to contact my boss?"

Not commenting on the sudden pallor of your complexion, Vito will hasten to reassure you. "I would never interfere to that extent. Just provide your pay stubs. I don't want other employees looking at you funny or to jeopardize your job. That's not what I'm here for. I'm just here to make sure you stay on the right path, to avoid another incident where you can't say no. And we have to work on this, because it's come up twice and will come up again. I always tell my people, look at me as the bad guy, put me in your head and say 'No, my probation officer won't allow it.'"

Whew.

But it's not quite over.

You'll vaguely recall a YouTube video, something about a first contact and probation stipulations. You did scan that list of conditions. But you forgot about this one. Many do.

Vito winds up having to remind gang members to stay away from disreputable places—and people smoking, if a marijuana offense originally, or those hustling stolen or fake credit cards, if probation resulted from scamming.

Each of these crimes pervades Brooklyn, scammers for their part having studied sentencing and realizing the sanctions are way less than in drug cases, credit-card shenanigans considered by judges almost a white-collar crime. These clients confide in her, "You get caught the first time, you're walking out of it. The second time, you walk. The third time, you might get a sentence, but nothing major." Just probation, nothing major?

Vito gets a faraway look in her eyes. "I had a young man in college. His Mom, a single parent, had helped put him there, but he also won a basketball scholarship.

“He tells me, ‘I would play basketball in the local park while I was in high school. The friends I played with, they weren’t really my friends, just guys I went to school with and who grew up in the neighborhood. They always told me that if I ever needed something, they got me.’”

She explains, “When someone says, ‘I got you,’ that means ‘I know how to help you make money.’”

So was that the meaning of “*I Got You Babe*”? you’ll wonder.

Vito continues, “One day he found himself stuck. His mom couldn’t get him what he wanted. He’s going to college and needs to look fresh to death. There’s so many girls—and because he’s a jock, he has an image to protect. He goes to one of the guys and says, ‘About that. Yeah, I think I’m ready.’ The guy gave him the information. ‘All you have to get this credit card, order these items, and sell it.’

This is beginning to sound to you a lot like Roy Wood, Jr.’s offense, but unlikely to seed a comedy series.

“He was new to the game. He didn’t know how to do it well. He didn’t ask questions. He ordered the items to his dorm room, and it so happened that he purchased the items from an undercover. So, when there was a knock on his door and he thought it was his package, it turned out to be the cops.

“So, he got caught up. He lost his scholarship. Kicked out of school. Just like that, he lost everything he had worked so hard towards. He was nineteen at the time, an adult, so he has a criminal record. He’s forced to work at a factory now until school takes him back. It’s going to be hard, because he had wanted to be a basketball player and had so many recruiters after him, but now he’s lost his focus.”