



New York County District Attorney's Office
Written Testimony of Karen Friedman-Agnifilo, Chief Assistant District Attorney

New York City Council Committee on the Justice System
"Cost of Justice"
September 27, 2018

I thank the Committee on the Justice System for the opportunity to submit written testimony regarding the "Cost of Justice," a topic of critical importance to promoting fairness in the criminal justice system. As you know, the surcharges and fines that are imposed on defendants by the court system are promulgated in statute, and this Office has no ability to waive monetary requirements mandated by law.

As outlined in New York State Penal Law § 60.35, defendants who enter a guilty plea must pay a mandatory surcharge and crime victim assistance fee, which can range from \$120 for violations and infractions, to \$200 for misdemeanors, and \$325 for felonies. When defendants cannot afford these fees, their attorneys can enter a judgement with the court on their behalf.

To put these costs into context, in 2017, this Office disposed of 72,196 cases. 40,357 of these cases resulted in a guilty plea or trial conviction, and therefore included a mandatory surcharge for defendants. Approximately a quarter of those who entered a guilty plea (10,614 individuals) pled to Disorderly Conduct (PL §240.20). An additional 19,337 cases were disposed of with an Adjournment in Contemplation of Dismissal (ACD), which does not require a surcharge or a crime victim assistance fee.

In addition to surcharges, New York law requires defendants convicted of certain offenses to pay a fine, including all New York State Vehicular Traffic Law (VTL) offenses. In 2017, 6,926 VTL cases were disposed of by either a guilty plea or trial conviction.

With regard to program-based dispositions, this Office strongly supports the use of diversion programs and is in favor of New York State reducing overly burdensome programming fees for individuals who are indigent and unable to pay. Although the majority of court-imposed programs are funded through State, City and private sources, some defendants are referred to programs that require an additional fee, which is not statutorily required. For example, the PAC Batterers Intervention Program and STOP DWI require participants to pay a fee.

As a part of my Office's Criminal Justice Investment Initiative, we have already invested \$19 million in programs such as [Project Reset and Manhattan HOPE](#), and others that will start in early 2019, including an Abusive Partner Intervention Program for domestic violence offenders and the Manhattan Criminal Court Resource Center, a sentencing alternative targeting misdemeanor defendants who present with underlying and unmet needs. All programs funded through the Criminal Justice Investment Initiative are free of charge to participants and help address the criminogenic needs of justice involved individuals to promote safer communities.

In addition to these initiatives, we created the capacity within our Office to assess the collateral consequences of a criminal conviction on a case-by-case basis. The newly created Collateral Consequences Counsel, a first-of-its-kind for a prosecutor's office, helps ensure that our staff are consistently factoring in collateral consequences into their decision-making when handling any case that may result in a criminal conviction.

Thank you for the opportunity to submit this testimony.