

**INDIVIDUAL RULES – HONORABLE RICHARD J. MONTELIONE
 BROOKLYN CIVIL COURT (Eff. 12-2-2016)
 141 Livingston Street
 SUPREME COURT PART 99
 CIVIL COURT PART 75
 COURT ROOM NO. 806
 Brooklyn, NY 11201
 Chambers: 347- 404-9078**

Court Attorney: Ting Yan “Becky” Wu, Esq.

INTRODUCTION

Justice Montelione sits as a “hybrid” Acting Justice of the Supreme Court and presides over Supreme Court trials, Civil Court trials and in the Arraignment Part of Criminal Court for both Felonies and Misdemeanors. As such, these rules have been indexed for easy reference.

GENERAL RULES	Page No.
PREFACE.....	1
BE PROMPT AND PREPARED.....	1
COURT DECORUM.....	1
EX PARTE COMMUNICATIONS.....	1

SUPREME COURT

SUPREME COURT PART 99, located at 141 Livingston Street, Room 806, 141 Livingston Street, Brooklyn, NY 11201 (Chambers 347-404-9078; Court Room 347-404-9286).

PART 99 TRIAL RULES.....	1-2
--------------------------	-----

CIVIL COURT

CIVIL COURT TRIAL PART 75, located at 141 Livingston Street, Room 806, 141 Livingston Street, Brooklyn, NY 11201 (Chambers 347-404-9078; Court Room 347-404-9286)

PART 75 RULES.....	2
--------------------	---

CRIMINAL COURT

GENERAL INFORMATION.....	3
--------------------------	---

ARRAIGNMENTS-ORAL ARGUMENTS AT ARRAIGNMENTS REGARDING RELEASE ON OWN RECOGNIZANCE, RELEASE WITH CONDITIONS, SETTING BAIL AND/OR ALTERNATE BAIL, AND PRE-TRIAL SUPERVISED RELEASE.....3

BAIL OTHER THAN “CASH” OR “INSURANCE COMPANY BOND”5

COURT FORMS REGARDING SECURED AND PARTIALLY SECURED SURETY BONDS AND PERSONAL APPEARANCE BONDS.....6

PRE-TRIAL SUPERVISED RELEASE.....6

SPECIALIZED COURTS AND DIVERSION PARTS.....6

TEENAGE DEFENDANTS.....6

WHERE THERE IS A MENTAL HEALTH ISSUE, OR WHERE MEDICAL ATTENTION IS REQUIRED, THE COURT SHOULD BE INFORMED AND IF COUNSEL BELIEVES THE NATURE OF THE ISSUE TO BE DISCREET, A SIDE BAR SHOULD BE REQUESTED.....7

SENTENCING INVOLVING CONDITIONAL DISCHARGES.....7

MOTIONS.....7

“OPERATION SPOTLIGHT”8

RESOURCE CARDS.....9

ACDs AND EARLY SEALING.....9

GENDER IDENTIFICATION.....9

ADDENDUM-CRITERIA FOR PRE-TRIAL SUPERVISED RELEASE AND VARIOUS PROGRAMS, “OPERATION SPOTLIGHT,” FORMS.....10

PREFACE

All parties and counsel appearing before Justice Montelione should be familiar with these rules and procedures. It is expected that counsel extend professional courtesies to one another and stipulate to facts, evidence or procedure, where to do so will not compromise the role of an attorney as an advocate.

BE PROMPT AND PREPARED

It is fully expected that motions, hearings, and trials begin as scheduled. Cell phone numbers of respective counsel should be provided to opposing counsels and the court when there is a hearing or trial expected to proceed for more than one day. In the event of an unavoidable delay, it is expected that counsel contact opposing counsel and the court as soon as possible. Failure to appear on time, without good cause, will result in the consideration of sanctions. Simply stated: bench trials are usually “back to back” and jury trials involve the coordination of numerous witnesses and any unnecessary delays is inherently unfair to the jurors, litigants, counsel, other litigants awaiting trial, and the court.

COURT DECORUM

The pressures of the courtroom are well-known and will always be considered by the Court in the context of robust oral argument. However, all attorneys are expected to treat each other, the parties, court personnel and the court with civility and respect. Anything less will not be tolerated. Good advocacy is not incongruent with the highest aspirations of the profession and good manners. Attorneys are expected to dress appropriately.

EX PARTE COMMUNICATIONS

There are to be no *ex-parte* communications with the Court. If counsel needs to speak with chambers about a scheduling matter, he or she should first speak with his or her adversary and work out a proposal to present to the Court. Either party may contact the Court Attorney if the scheduling or another type of administrative matter has been worked out between counsel. If there is a disagreement, both parties may communicate with the court via a conference call and the court attorney will schedule a final conference call which may or may not be on the record.

SUPREME COURT-PART 99

1. If a trial is referred to the justice to commence on the same day, there will be a brief conference to discuss possible settlement, or if settlement discussions are unsuccessful, the plaintiff must provide the court with marked pleadings, a bill of particulars, and any depositions anticipated to be used at trial. Any application for in limine relief must be made immediately. The court will allow the parties to pre-mark the exhibits for identification. In anticipation of the charging conference, please provide the court with all requested PJI charges and a proposed interrogatory verdict sheet.
2. If a trial is referred to the justice to schedule a trial for a date certain, all counsel must be aware of the schedules of their respective witnesses. After a trial date is scheduled, a settlement date will be scheduled at least four weeks prior to trial and ALL PARTIES are required to attend the settlement conference. When applicable, counsel must either bring or have ready access to any insurance adjuster who must approve settlement. Respective counsel is encouraged to provide the court with cases determining relevant damages.

Counsel are encouraged to send proposed PJI charges and requested interrogatory verdict sheets four weeks prior to trial.

3. No speaking objections. If you raise an objection during the course of the trial, please use one word to describe the grounds for the objection. i.e. “objection-relevance,” “objection-hearsay,” “objection-no foundation.” If you need to make an objection that cannot be stated in one word, ask for a side bar and the court will determine whether or not a record needs to be made regarding the grounds for the objection.
4. Please avoid instructing the jurors on the law on opening or closing statements.
5. If a supreme court trial is scheduled more than 45 days from referral to the trial court, any motions in limine must be made at least 30 days before the trial date.
6. Summary Jury Trials. You can download these rules at the court’s following website: <https://www.nycourts.gov/COURTS/2jd/KINGS/Civil/summaryjurytrialrules.shtml>

CIVIL COURT TRIALS-PART 75

1. If a bench trial is referred to the judge from the TAP part, counsel will be directed by the TAP part Court Officer or Court Clerk as to where counsel is to appear. Counsel is expected to expeditiously go from the TAP part to the directed room.
2. Bench trials will proceed in the order they are referred to the court. If a party is not ready to proceed and a matter was marked “final,” the court will default the party unless good cause is shown.
3. All trials will be scheduled for a date certain. All counsel must be aware of the schedules of their respective witnesses. After a trial date is scheduled, a settlement date will be scheduled at least four weeks prior to trial and ALL PARTIES are required to attend the settlement conference. When applicable, counsel must either bring or have ready access to any insurance adjuster who must approve settlement. Respective counsel is encouraged to provide the court with cases determining relevant damages. Counsel are encouraged to send proposed PJI charges and requested interrogatory verdict sheets four weeks prior to trial.
4. No speaking objections. If you raise an objection during the course of the trial, please use one word to describe the grounds for the objection. i.e. “objection-relevance,” “objection-hearsay,” “objection-no foundation.” If you need to make an objection that cannot be stated in one word, ask for a side bar and the court will determine whether or not a record needs to be made regarding the grounds for the objection.

CRIMINAL CASES

GENERAL INFORMATION

When available, the Court has provided copies of documents/statutes and/or links to relevant PDFs of documents pertaining to criminal court, but counsel is expected to be familiar with the most recent updates to these documents, even if not available here.

1. After an arrest, all defendants have a right to be arraigned within 24 hours, and in other parts of the Criminal Court, to have their cases proceed expeditiously. Delays impact on a defendant's employment, education and family responsibilities and denies both defendant and the People of the State of New York of prompt justice. Day arraignment parts start at 9:00 AM sharp with the afternoon parts starting at 2:15PM unless told otherwise by Court personnel or the Court. Night arraignment parts start at 5:00 PM sharp. There is approximately a one-hour break about 9PM; please be back by 10:10PM unless told otherwise by Court personnel or the Court.

Regarding the arraignment parts, if you are an attorney with The Legal Aid Society or Brooklyn Defenders Service, and you are assigned to begin interviewing defendants at 8:00 AM or any earlier time, or in the afternoon for the evening arraignments, please make sure you are prompt. It is critical that client interviews be conducted on time to insure readiness with the start of the arraignment parts.

(AP Parts, DAT, and all Special Parts of the Court open at 9:30 AM).

CRIMINAL COURT ARRAIGNMENTS

ARRAIGNMENTS-ORAL ARGUMENTS AT ARRAIGNMENTS REGARDING RELEASE ON OWN RECOGNIZANCE, RELEASE WITH CONDITIONS, SETTING BAIL AND/OR ALTERNATE BAIL, AND PRE-TRIAL SUPERVISED RELEASE

2. All ADAs and defendants' Counsels are expected to be familiar with standards regarding Release on Recognizance ("ROR"), ROR with conditions of release, factors to consider regarding Bail and Pre-Trial Supervised Release (*see*, CPL 510 *et. seq.*; CPL 520.10 *et. seq.*; and Exhibit 1).
3. The Court expects that after all notices are served by the ADA, that the ADA either inform the Court that she/he consents to defendant's release, or consents with conditions, or recommends that bail be set and the amount to be set and the reasons for the recommendation. Defendant's counsel must be ready to argue for Release on Defendant's Own Recognizance ("ROR") or, where appropriate, the amount and form of bail. Where Counsel anticipates that bail may be set and desires to avail her/his client of Pre-Trial Supervised Release ("PTSR"), it is suggested that Counsel 1) contact the day or night representative for that program **before the arraignment**, or 2) if such person is unavailable, to determine whether her/his client is eligible for such PTSR (*see*, requirements and contact information, Exhibit 1).

4. If a representative from PTSR is not present, the Court may consider “ROR” with a condition that the Defendant appear in the PTSR Office on the next business day for consideration if the Criminal Justice Agency (“CJA”) confirms the defendant’s residence or defendant’s Counsel does so. If the Court RORs a defendant with a condition that the defendant appear in Court to meet with a representative of PTSR and the defendant fails to do so, a Bench Warrant will be issued.
5. For convenience, the following is the statutory language pertaining to forms of bail.

CPL § 520.10 Bail and bail bonds; fixing of bail and authorized forms thereof

1. The only authorized forms of bail are the following:

- (a) Cash bail.
- (b) An insurance company bail bond.
- (c) A secured surety bond.
- (d) A secured appearance bond.
- (e) A partially secured surety bond.
- (f) A partially secured appearance bond.
- (g) An unsecured surety bond.
- (h) An unsecured appearance bond.
- (i) Credit card or similar device; provided, however, that notwithstanding any other provision of law, any person posting bail by credit card or similar device also may be required to pay a reasonable administrative fee. The amount of such administrative fee and the time and manner of its payment shall be in accordance with the system established pursuant to subdivision four of section 150.30 of this chapter or paragraph (j) of subdivision two of section two hundred twelve of the judiciary law, as appropriate.

2. The methods of fixing bail are as follows:

- (a) A court may designate the amount of the bail without designating the form or forms in which it may be posted. In such case, the bail may be posted in either of the forms specified in paragraphs (g) and (h) of subdivision one;
- (b) The court may direct that the bail be posted in any one of two or more of the forms specified in subdivision one, designated in the alternative, and may designate different amounts varying with the forms.

BAIL OTHER THAN “CASH” OR “INSURANCE COMPANY BOND”

The Court will always consider a defendant’s ROR. However, when the Court is considering the amount of bail to be set, counsel should be familiar with the financial circumstances of her/his client and whether or not family members or friends of the defendant may be available to post bail for the defendant and the amount.

If counsel argues for forms of bail other than “cash” or “insurance company bond,” in addition to all other arguments concerning bail factors to be considered by the Court, it is helpful that counsel specify the type of bail recommended and specifically inform the Court of the following:

- 1) If suggesting a partially secured or unsecured surety bond, inform the court of the amount recommended, the financial status of the surety, the relationship of the surety to the defendant, and why the amount suggested is appropriate to insure the return of the defendant. Be aware that:
 - a. All sureties must have valid state or NYC identification;
 - b. All sureties must be allocated regarding the obligations they are undertaking;
 - c. Proof of employment (work ID, pay stub, tax returns, or any other evidence of employment) or other assets (deed, bank statements, etc.) will be considered.
 - d. Counsel is expected to fill out all paperwork related to secured and unsecured surety bonds (*see* Exhibit 2; Sample and blank forms for Secured or Partially Secured or Unsecured Bail Bond, Justifying Affidavit, and Undertaking to Answer; Surety and Appearance Bond Procedures).
 - e. If the surety is not immediately available, and Judge Montelione is not available, any other Judge may hear the application. If for any reason counsel has difficulty obtaining a review of the application, counsel may contact chambers and if no one is available leave a message including the name of the defendant, docket No., and counsel’s phone number. Ex parte communication is allowed for the sole purpose of scheduling an allocation concerning the bond, if the court determines on the papers that the surety appears to be a financially responsible person. A final determination is made after the allocation. If necessary, defendant’s counsel may advance the matter on the calendar for this purpose.
- 2) If counsel is recommending a partially secured or unsecured personal appearance bond, counsel is encouraged to refer to either employment verification through CJA or counsel’s own efforts to obtain

verification of employment. Counsel should indicate why the amount suggested for the partially secured or unsecured personal appearance bond is appropriate to insure her/his client's return. Please keep in mind that certain criminal charges may result in suspension of certain employment.

COURT FORMS REGARDING SECURED AND PARTIALLY SECURED SURETY BONDS AND PERSONAL APPEARANCE BONDS

6. Counsel are required to be familiar with the court system's forms for partially secured and unsecured surety bonds, and partially secured and unsecured appearance bonds, and to be able to complete them before the second call of the matter (*see*, Exhibit 2). After the forms are completed, counsel should provide the completed forms to the Court for review prior to the case being called again. Neither the surety nor the defendant should sign the forms before the surety and/or defendant is/are allocuted by the Clerk or the Court (*see*, allocution language, Exhibit 3).

PRE-TRIAL SUPERVISED RELEASE

7. Counsel are expected to be familiar with the standards for pretrial supervised release "PTSR"). If counsel believes that a defendant may be an appropriate referral to PTSR, he or she should contact the PTSR office before arraignment so that an interview can be arranged expeditiously (*see*, Exhibit 1).

SPECIALIZED COURTS AND DIVERSION PARTS

8. Counsel are expected to be familiar with the various alternative treatment courts and diversion programs, including the Adolescent Diversion Part (ADP) (*see*, Exhibit 4); the Brooklyn Felony DWI Part (APD) (*see*, Exhibit 5), the Misdemeanor Brooklyn Treatment Court (MBTC) (*see*, Exhibit 6), and the Screening & Treatment Enhancement Part (STEP) (*see*, Exhibit 7), and the Mental Court Health Advocacy Program (*see*, Exhibit 8). Where appropriate, counsel should be prepared to make a recommendation to the Court for transfer to one of these courts or diversion programs and to provide the Court with any necessary facts and supporting information from social workers or other professionals.

TEENAGE DEFENDANTS

9. Defendant's counsel is encouraged to contact defendant's parent or legal guardian to either secure the attendance of the parent or legal guardian or to provide the Court with information as to why the parent or guardian may not be available. Where a defendant is 16 or 17 years old and there is an issue regarding housing, the Court likewise encourages counsel to confirm alternate housing.

WHERE THERE IS A MENTAL HEALTH ISSUE, OR WHERE MEDICAL ATTENTION IS REQUIRED, THE COURT SHOULD BE INFORMED AND IF COUNSEL BELIEVES THE NATURE OF THE ISSUE TO BE DISCREET, A SIDE BAR SHOULD BE REQUESTED

10. Both the ADA and counsel are expected to be familiar with CPL 730 and where appropriate request either an “in” or “out” CPL 730 examination. Both the ADA and counsel should also be familiar with Mental Hygiene Law 9.43 and related sections of the law. If there exist a mental health issue that the ADA or counsel does not believe requires a CPL 730 examination, but nonetheless requires psychiatric intervention or evaluation, this should also be brought to the attention of the Court. If bail is being set and the ADA or counsel believes there exist any other medical issue that needs to be addressed while a defendant is incarcerated, a request should be made to the Court to “Mark the File” for such medical attention.

SENTENCING INVOLVING CONDITIONAL DISCHARGES

11. If counsel is recommending a conditional discharge upon completion of a substance abuse or alcohol program, or a course of psychiatric treatment, in lieu of jail time, it is suggested that counsel have a social worker interview the defendant ahead of the arraignment. If possible, it is suggested that the social worker be available and prepared to provide information regarding the suitability for the recommended program or treatment. In all such cases, the Court may take a plea but delay sentencing for compliance, and may impose an alternate jail sentence or probation in the event of non-compliance. Every defendant should be informed of the additional conditions that defendant must: FIRST, lead a law abiding life until defendant is ultimately sentenced on this case (no arrests, no summonses, no police contact whatsoever); SECOND, make all court dates at 9:30 in the morning until sentenced; and THIRD, that defendant needs to sign up, complete and show proof that she/he is in compliance and/or has successfully completed the designated program/alcohol /drug treatment program/etc.

MOTIONS

12. All motions should be supported by (i) a notice of motion, succinctly setting forth the relief requested; (ii) affidavits or affirmations providing the factual basis for the motion; and (iii) a memorandum of law containing legal argument in support of the motion. Opposition papers should include (i) affidavits or affirmations providing any additional facts believed necessary to determine the motion and (ii) a memorandum of law containing legal argument in opposition to the motion. In the ordinary course, no further briefing will be permitted. If for some reason, counsel believes oral argument or further briefing is warranted, he or she may request leave from the Court to do so, but only after consultation with his or her adversary. Any such request to the Court must include the results of that consultation.
13. All submissions on motions must include contact information for counsel, including mailing address, telephone number and email address.

14. Courtesy copies of all motion papers should be provided to chambers at the same time the original papers are filed with the clerk.

If motion papers include references or citations to unreported decisions, copies of such decisions should be provided to the Court.

“OPERATION SPOTLIGHT”

15. Counsel are expected to be familiar with “Operation Spotlight.” Both ADAs and counsel should make sure that any case with such a designation actually fits within the definition (*see*, Exhibit 9). If counsel makes a recommendation to the Court regarding sentencing for Operation Spotlight defendants, counsel should provide the Court with the basis for such recommendation, including any mitigating circumstances, the nature of the offense, and sentences of other courts concerning similar charges.

RESOURCE CARDS

16. The Court is making available to defendants “Resource Cards,” which contain information regarding telephone hot lines for alcohol and addiction services. The cards also describe how to access a publication of the New York Public Library on-line that provides information about many social services available to the formerly incarcerated (http://www.nypl.org/sites/default/files/12g-221_connections-final2.pdf).

The information on the website covers a multitude of services that can assist any defendant during and after the termination of criminal proceedings. Services include how to find a job, where to locate a local food pantry, literacy issues, obtaining a GED, taking a course on English as a second language, housing programs, issues of homelessness, temporary cash assistance, food stamps, mental health counseling and family services.

Counsel are encouraged to be familiar with the resources on these cards and to consider providing one to defendants, whether or not the Court specifically requests counsel to do so. No counsel is required to give a defendant a resource card and no defendant is required to take the card, and no adverse inferences will be drawn by either taking or not taking the card.

17. These resource cards are available in English, Spanish and Chinese. A sample of the English version follows:

Depression/Stress/Recovering from Mental Illness?

LifeNet (24-hr. confidential help): 800 LifeNet (800-543-3638)
Spanish LifeNet: 877-AYUDESE (877-298-3373)
Asian LifeNet (Mandarin, Cantonese and Korean): 877-990-8585

Finding a Job/Education/Housing/Legal Services/Financial Assistance/Counseling and Family Services/LGBT Resources?

For a Complete Guide for Services for those Formerly incarcerated, go to the nearest public library to access the following web site: http://www.nypl.org/sites/default/files/12g-221_connections-final2.pdf

NEED HELP BECAUSE OF ALCOHOL OR DRUGS?

Call the toll-free OASAS HOPEline at 1-877-846-7369 to speak with a trained medical professional. HOPEline staff can answer your questions and help you find treatment 24 hours a day, seven days a week. All calls are confidential

ACDs AND EARLY SEALING

18. If counsel moves for an Adjournment in Contemplation of Dismissal (“ACD”) with the consent of the ADA (or without consent under CPL 170.56), and seeks to have a matter dismissed earlier than the six months under CPL 170.55 or the one year under CPL 170.56, counsel must provide a reasonable basis for the request. A defendant is required to appear in court to receive an ACD unless there is good cause shown to waive a defendant’s appearance. If a defendant’s appearance is waived for good cause shown, counsel must either provide an affidavit from the defendant acknowledging that defendant is aware that he may not be arrested or have negative contacts with law enforcement for the duration of the ACD or the People may continue to prosecute. Alternatively, counsel may send a letter indicating such with a copy to be sent to the assigned ADA, and filed with the Court.

GENDER IDENTIFICATION

19. All court personnel, ADAs and counsel are expected to treat each other and defendants with the utmost respect. Counsel should notify the Court ahead of time if a defendant choses to be addressed by a male or female salutation which may be at variance with the designation that may be found on defendant’s screening sheet.

EXHIBITS

Exhibit No.	Description
1	Criteria for Pre-Trial Supervised Release.
2	Sample and blank forms for Secured or Partially Secured or Unsecured Bail Bond, Justifying Affidavit, and Undertaking to Answer; Surety and Appearance Bond Procedures.
3	Language regarding allocation of a Surety or Defendant regarding Secured or Partially Secured or Unsecured Bail Bond.
4	Adolescent Diversion Part (ADP) screening criteria.
5	The Brooklyn Felony DWI Part (APD) screening criteria.
6	The Misdemeanor Brooklyn Treatment Court (MBTC) screening criteria.
7	The Screening & Treatment Enhancement Part (STEP) screening criteria.
8	The Mental Court Health Advocacy Program.
9	“Operation Spotlight” criteria.

EXHIBITS

Exhibit No.	Description	Page(s)
1	Criteria for Pre-Trial Supervised Release.	2-6
2	Sample and blank forms for Secured or Partially Secured or Unsecured Bail Bond, Justifying Affidavit, and Undertaking to Answer; Surety and Appearance Bond Procedures.	7-12 13-36
3	Language regarding allocution of a Surety or Defendant regarding Secured or Partially Secured or Unsecured Bail Bond.	37-40
4	Adolescent Diversion Part (ADP) screening criteria.	41
5	Overview of Drug Screening The Brooklyn Felony DWI Part (APD) screening criteria.	42 43-44
6	The Misdemeanor Brooklyn Treatment Court (MBTC) screening criteria.	45-56
7	The Screening & Treatment Enhancement Part (STEP) screening criteria.	57-68
8	The Mental Court Health Advocacy Program.	69-70
9	“Operation Spotlight” criteria.	71

EXHIBIT 1

BROOKLYN
Pretrial Supervised Release Program
JUSTICE

Brooklyn Justice Initiatives' Pretrial Supervised Release Program seeks to provide **vigorous monitoring and voluntary linkages to community-based treatment providers for misdemeanor defendants at risk of having monetary bail set.** The Pretrial Supervised Release Program will provide on-going supervision and case management for eligible defendants until a disposition is reached.

Eligibility Criteria

Participants are screened for eligibility in the daytime arraignment parts, as well as on subsequent adjourn dates. The in-court eligibility screening includes the following criteria:

- Assessed by CJA as "Not Recommended for Release" or **where defense counsel recommends referral based on perceived likelihood of bail being set;**
- Misdemeanors only and no charges involving domestic violence;¹
- At least one prior arrest on a criminal charge;
- No more than six (6) misdemeanor convictions within the past 10 years and/or no more than one (1) felony conviction within the past 10 years;²
- No open arrest warrants (unless warrant is vacated at the time of arraignment); **CROSS CTY OPEN CASES ARE OK; JUST NO OPEN WARRANTS.**
- No active parole, immigration, or other holds; and
- Verified residential address (including temporary housing) and verified personal or professional contact, as derived from the CJA interview or obtained by program staff.

Following eligibility screening, program staff will reach out to defense counsel to gauge the likelihood that an eligible defendant will be unable to make bail and would be interested in supervised release. With defense counsel approval, program staff will quickly interview eligible defendants to explain the program, confirm interest and verify address and contact information, if necessary.

If you would like to make a referral to the Pretrial Supervised Release Program please contact Brooklyn Justice Initiatives staff to discuss program enrollment.

Contact: Jessica Myers, Court Liaison
Cell: 917.794.8743 (preferred)/Office: 347.404.9965
jemyers@courts.state.ny.us

Jessica Kay, Program Manager
Cell: 646.812.6215/Office: 347.404.9970
jkay@courts.stat.ny.us

¹ Defendants who are eligible for Brooklyn Misdemeanor Drug Treatment Court will be presumed ineligible at arraignment, but those who subsequently decline participation or are otherwise not enrolled could be considered for supervised release at a later court date.

² Program staff will consider defendants who fail to meet this criterion upon request by the court, prosecutor, and/or defense counsel.

Pretrial Supervised Release Supervision Framework

Intake

[Day of Release]

Immediately after arraignment, participants will be taken to the Supervised Release office for an intake session with a case manager.¹ During the intake session, the case manager will collect case, biographical, and contact information from the participant, including contact information for family, friends, employers, and other associates who may be able to help reach the participant. Case managers will also screen for needed social services and make community-based referrals as appropriate. On-going case management and referral to voluntary services are aimed at supporting participant engagement efforts throughout their involvement in the program.

Orientation

[2 Weeks]

For two weeks following the intake session, there will be an intensive orientation period consisting of two in-person check-ins at the Supervised Release office. The in-person check-ins will be scheduled at the following intervals: 5 days after release and 12 days after release. During this period, participants will also begin to receive weekly phone calls from program staff, made at random times, to check that the participant is responsive to staff outreach. Participant will have 24 hours to return these calls in order to remain in compliance with program conditions.

Tier Placement

[on-going]

Supervision will be provided at three levels:

- Tier 1: in-person reporting once a month
- Tier 2: in-person reporting every two weeks
- Tier 3: in-person reporting once a week

Upon successful compliance with the intensive orientation period, each participant will be assigned to a regular supervision schedule. Participants will be presumptively assigned to Tier 2 if they have been compliant with initial conditions. A participant will have the opportunity to be stepped down to Tier 1 upon demonstrated compliance with all program conditions between Intake and the first court date, including appearing at the first court date. This schedule is based on the average adjournment length of misdemeanor cases of approximately 6-8 weeks; defendants with shorter adjournment dates must maintain compliance for a minimum of six weeks to be considered for assignment to Tier 1. If a participant fails to comply with initial or subsequent conditions, he/she will be assigned to Tier 3. For participants who fail to comply with Tier 3 reporting or other program requirements, the court may impose additional

¹ In the event that the participant is released after 4pm, a brief intake will be conducted upon release and a more thorough intake session scheduled for the next day.

supervision conditions or set monetary bail. This process will ensure rigorous monitoring for all program participants until they demonstrate their ability to meet their court obligations.

If a participant fails to appear for an in-person check-in or fails to return a phone call within 24 hours without a documented reason for the failure, he/she will be moved up to a higher tier (increasing the frequency of in-person reporting) and the non-compliant behavior will be reported at the subsequent court appearance. Likewise, after the initial court appearance, participants can earn the opportunity to have reporting requirements decreased upon compliance with program requirements for four consecutive weeks.

Compliance with reporting requirements will be determined based on the following guidelines:

In-Person Reporting Protocol: Participants will be scheduled for a three-hour window on their reporting days. If a participant fails to show up, meaning that the participant fails to arrive within the three-hour appointment window, his/her case manager will try contacting him/her. If staff reach the participant, the check-in will be re-scheduled for the following morning. For participants who appear by noon the following day, they will be stepped up a supervision tier for failing to make the original appointment, but the court will not be notified.

If staff are unable to reach the participant, they will try contacting individuals on the participant's contact list, informing them that the participant must appear by noon the following day or the court will be notified. If the participant does not appear before noon the following day, staff will immediately notify the court, prosecutor, and defense attorney. Program staff will continue to make efforts to bring the participant back into compliance; if successful, an update will be provided to the court as soon as compliance is resumed.

Phone Call Reporting Protocol: Weekly phone calls will be made to participants at random times during normal business hours. If the participant does not answer the phone, then the Supervised Release case manager will leave a voice message, explaining that the participant *must* return the phone call within 24 hours. The participant may return the call at any time during that 24-hour period and leave a voice message if the case manager does not answer. If the participant fails to return the call within 24 hours, the participant will be automatically stepped up one tier. The case manager will try calling him/her again to inform the participant that he/she has been stepped-up and schedule a new in-person check-in based on his/her new tier assignment. Staff will also call all of the participant's points of contact, informing them that the participant must call his/her case manager before noon the following day or the court and assigned ADA will be alerted.

Participant Behavior: In addition to the above reporting requirements, participants will be required to exercise appropriate behavior when interacting with program staff and other participants. Staff may impose additional reporting requirements, report the misconduct to the court, and/or notify law enforcement in cases where participants fail to conduct themselves appropriately. Examples of unacceptable conduct include threatening or violent behavior, lewd or offensive language, and theft of or damage to program or court property.

In addition to increased reporting requirements, the court may require additional sanctions, as appropriate, including advancing the adjournment date to address issues of non-compliance and/or reconsidering bail.

Script for Pretrial Supervised Release

Mr./Ms _____, instead of the Court setting bail, the court will allow you to be released on your own recognizance with the following conditions for your release:

1. Immediately after arraignment, you must go to the Supervised Release office for an intake session with a case manager located on the third floor, Room 313.
2. You must cooperate with the case manager who will collect biographical and contact information, including contact information for family, friends, employers, and other associates who may be able to help reach you.
3. Case managers will also screen for needed social services and make community based referrals as appropriate.
4. There will be on-going case management and there may be a referral to voluntary services aimed at your particular needs and if so referred your participation may be required.
5. For two weeks following the intake session, there will be an intensive orientation period consisting of two in-person check-ins at the Supervised

Release office: approximately 5 days after release and 12 days after release.

6. You will receive weekly random phone calls in which you will be required to answer or call your case manager back within 24 hours.
7. You will be required to report to the Supervised Release office, once a week, which may then be changed to every two weeks and then once a month.
8. Failure to comply may result in additional conditions being placed upon you, or a BW being issued and bail being set.
9. Do you understand everything I have said? Do you have any questions for your lawyer?

~~XXXXXXXXXX~~

~~XXXXXXXXXX~~

The adjourned date is

**SAMPLE
EXHIBIT 2**



Criminal Court of the City of New York
County KINGS Part AR-#

BAIL BOND
CPL § 520.20

PEOPLE OF THE STATE OF NEW YORK
against
NAME, Defendant

State of New York)
County of KINGS) ss.:
DATE #
Docket Adjour Date Adjour Part

An accusatory instrument having been filed in this Court on DATE, 20 #
charging NAME OF A, the defendant herein,
with the offense of PL #, PL #
and bail having been fixed in the amount of (AM'T IN WORDS) (\$.00) Dollars:

- 1 (I) (We), (NAME OF A), the defendant herein,
residing at (ADDRESS OF A), by occupation a (JOB)
- 2 and, (NAME OF SURETY), the surety herein,
residing at (ADDRESS OF SURETY), by occupation a (JOB)

Hereby (jointly and severally) undertake that the above-named defendant shall appear in the above-entitled action whenever required and will at all times render himself amenable to the orders and processes of this Court, and that in the event that the defendant does not comply with any such requirement, order or process, (I) (we) will pay to the People of the State of New York the sum of (AM'T IN WORDS) (\$ -.00) Dollars.

- 3 To partially secure payment of which I, (NAME OF SURETY) the ~~(defendant)~~ (surety), herewith deposit the sum of (AM'T IN WORDS) (\$ -.00) Dollars.
- 4 To secure payment of which I, N/A*, the (defendant) (surety), herewith
- 5 deposit the following personal property: N/A
- 6 pledge the following real property: N/A

Recorded in the Office of the Register of the County of N/A; as follows:
Section _____, Liber _____, Page _____, Lot _____, Block _____, Recording Date _____.

(DATE)
Dated: City of New York

(SIGNATURE OF PRIN.)
Principal (Defendant)

(SIGNATURE OF SURETY)
Surety

Sworn to before me:

Judge/Justice

REAL
***IF APPLICABLE, PROPERTY MUST HAVE 2X VALUE OF BAIL WHICH IS SET**

SAMPLE



Criminal Court of the City of New York
County KINGS Part AR-#

JUSTIFYING AFFIDAVIT
Unsecured Bail Bond
Partially Secured Bail Bond
CPL § 520.20

PEOPLE OF THE STATE OF NEW YORK
against
(NAME OF A), Defendant

State of New York)
County of KINGS) ss.:
(INSERT DOCKET#)
Docket Number

NAME OF PARTY WHERE BOX IS CHECKED., being duly sworn, deposes and says: **CHECK APPROPRIATE BOX. SEPERATE AFFIDAVIT FOR EACH PARTY, BUT ONLY ONE BAIL BOND.**

That I am the surety one of the sureties the defendant named in the Bail Bond in the above-titled action.

That I reside at (INSERT ADDRESS)

That my occupation is (INSERT OCCUPATION)

That I am presently employed by (INSERT EMPLOYER)

located at (INSERT EMPLOYER'S ADDRESS)

and that I have been employed by said employer for a period of (- YRS. - MONTHS)

That I own my own business which is called (NAME BUSINESS OR N/A)

located at (ADDRESS OR N/A)

and that I have been engaged in said business for a period of - YERRS - MONTHS.

That my income for the past year was (AMT IN WORDS) (\$.00) Dollars.

* That my average income for the past five year was (AMT IN WORDS) - .00) Dollars.

*** ADD INCOME FOR LAST 5 YRS. & DIVIDE BY 5.**

That within one month prior hereto I did not, for another in more than two cases not arising out of the same transaction, deposit money or property as bail or execute as surety a bail bond in any Court having criminal jurisdiction or in any criminal action or proceeding.

That no previous application for this bail has been made **← ALWAYS CHECK IF APPLICABLE.**

A previous application for this bail was made to _____ and denied for the following reasons: _____ and except for such application no previous application has been made.

(INSERT DATE)

Dated: City of New York

Affiant

Sworn to before me:

Judge/Justice

ALWAYS CHECK ONE OR THE OTHER, WHICHEVER APPLIES, BUT NOT BOTH.

SAMPLE



Criminal Court of the City of New York
County KINGS Part AR#

UNDERTAKING TO ANSWER

PEOPLE OF THE STATE OF NEW YORK
against
(NAME OF A), Defendant

State of New York
County of KINGS
Docket Number INSERT DOCKET NO.

AN ORDER having been made on the INSERT DAY day of INSERT MONTH, 20 14, by Hon. (NAME OF JUDGE), a Judge of the Criminal Court of the City of New York, in the County of KINGS, that NAME OF A defendant, be held to answer upon a charge of PL -, PL -, ETC. upon which he/she has been duly admitted to bail in the sum of (AMT IN WORDS) dollars, 1 [] the surety 2 [] one of the sureties 3 [] the defendant INSERT NAME APPLICABLE, hereinafter referred to as affiant, residing at ADDRESS, County of CITY NAME, by occupation (INSERT JOB TITLE), hereby undertakes that the above mentioned defendant, residing at (ADDRESS OF A), County of (INSERT), by occupation, JOB TITLE OR N/A, shall appear and answer the above-mentioned charge, in whatever Court it may be prosecuted and shall at all times render himself/herself amenable to the orders and process of the Court and if convicted shall appear for judgment and render himself in execution thereof or if the defendant fails to perform any of these conditions then the affiant will pay to the People of the State of New York the sum of (AMT IN WORDS) dollars.

(AFFIANT TO SIGN)
Signature of Affiant
(PRINT NAME)
Print Name

State of New York
County of KINGS ss.:

On the (DAY) day of (MONTH) in the year 20 (YR), before me personally came (#) NAME OF 1, 2 OR 3, who being sworn did depose and say that he/she resides in STREET ADDRESS County of INSERT; that he/she is the affiant described in and who executed the above instrument; and that he/she signed as affiant.

Judge/Justice

The within bail is allowed.

(DATE)

Dated: City of New York

Judge/Justice



Criminal Court of the City of New York
County _____ Part _____

BAIL BOND
CPL § 520.20

PEOPLE OF THE STATE OF NEW YORK
against
_____, Defendant

State of New York)
) ss.:
County of _____)

_____ Docket _____ Adjourn Date _____ Adjourn Part _____

An accusatory instrument having been filed in this Court on _____, 20____
charging _____, the defendant herein,
with the offense of _____
and bail having been fixed in the amount of _____ (\$ _____) Dollars:

1 (I) (We), _____, the defendant herein,
residing at _____, by occupation a _____,

2 and, _____, the surety herein,
residing at _____, by occupation a _____,

Hereby (jointly and severally) undertake that the above-named defendant shall appear in the above-entitled action
whenever required and will at all times render himself amenable to the orders and processes of this Court, and that in the
event that the defendant does not comply with any such requirement, order or process, (I) (we) will pay to the People of
the State of New York the sum of _____ (\$ _____) Dollars.

3 To partially secure payment of which I, _____, the (defendant) (surety),
herewith deposit the sum of _____ (\$ _____) Dollars.

4 To secure payment of which I, _____, the (defendant) (surety), herewith

5 deposit the following personal property: _____.

6 pledge the following real property: _____.

Recorded in the Office of the Register of the County of _____; as follows:
Section _____, Liber _____, Page _____, Lot _____, Block _____, Recording Date _____.

Dated: City of New York

Principal (Defendant)

Surety

Sworn to before me:

Judge/Justice



Criminal Court of the City of New York
County _____ Part _____

UNDERTAKING TO ANSWER

PEOPLE OF THE STATE OF NEW YORK
against
_____, Defendant

State of New York)
County of _____) ss.:

Docket Number _____

AN ORDER having been made on the _____ day of _____, 20 ____, by Hon. _____, a Judge of the Criminal Court of the City of New York, in the County of _____, that _____ defendant, be held to answer upon a charge of _____ upon which he/she has been duly admitted to bail in the sum of _____ dollars, 1 the surety 2 one of the sureties 3 the defendant _____, hereinafter referred to as affiant, residing at _____, County of _____, by occupation _____, hereby undertakes that the above mentioned defendant, residing at _____, County of _____, by occupation, _____, shall appear and answer the above-mentioned charge, in whatever Court it may be prosecuted and shall at all times render himself/herself amenable to the orders and process of the Court and if convicted shall appear for judgment and render himself in execution thereof or if the defendant fails to perform any of these conditions then the affiant will pay to the People of the State of New York the sum of _____ dollars.

Signature of Affiant

Print Name

State of New York)
County of _____) ss.:

On the _____ day of _____ in the year 20 ____, before me personally came _____, who being sworn did depose and say that he/she resides in _____, County of _____; that he/she is the affiant described in and who executed the above instrument; and that he/she signed as affiant.

Judge/Justice

The within bail is allowed.

Dated: City of New York

Judge/Justice



OPERATIONAL DIRECTIVE

NUMBER: 2013-11

FROM: JUSTIN A. BARRY JB

EFFECTIVE DATE: DECEMBER 18, 2013

SUBJECT: SURETY AND APPEARANCE BOND PROCEDURES

Background

CPL § 520.10 (1) authorizes three basic categories of bail bonds – insurance company bail bonds, surety bonds and appearances bonds. This operational directive will explain the different types of surety and appearance bonds and outline a uniform procedure for their completion and processing.

Types of Bonds

CPL § 520.10 (1) authorizes three different types of bonds:

1. Insurance company bail bond – a surety bond in which the obligor¹/surety² is a corporation licensed by the superintendent of financial services in the business of executing bail bonds;
2. Appearance bond – bail bond in which the defendant is the obligor; and
3. Surety bond – a bail bond in which the obligor(s) consists of one or more sureties. One of the sureties may be the defendant.³

¹ Obligor is the person executing a bail bond on behalf of the defendant (or a material witness) and undertakes to insure the appearance of the defendant for all of his court appearances. The defendant may be the obligor, e.g. in an appearance bond.

² Surety is an obligor who is not the defendant.

³ Principal is a defendant, material witness or any other person who can be compelled to appear in court.

Subtypes of Surety and Appearance Bonds

CPL § 520.10 (1) authorizes three (3) different subtypes of surety and appearance bonds:

1. Secured – bail bond secured by personal or real property;
2. Partially secured – bail bond secured by a deposit of up to ten percent (10%) of the total amount of the bond; and
3. Unsecured – bail bond not secured by any cash or property (real or personal).

Bond Package

Once a judge fixes a surety or appearance bond, three (3) or five (5) completed forms (depending on the type of bond fixed) should be submitted to the judge for his/her signature in each bail bond package. All bond packages must include the bond, justifying affidavit and undertaking to answer. Secured bail bonds must also contain an affidavit of judgment of confession and judgment by confession.

The forms are listed below, along with the party that has primary responsibility for completing them.

1. Bail Bond (CRC 133) – **Defense Counsel**;
2. Justifying Affidavit (CRC 126 or CRC 126.1), along with required supporting materials – **Defense Counsel**;
3. Undertaking to Answer (CRC 3247) – **Defense Counsel**;
4. Affidavit of Confession of Judgment – **Prosecutor** (secured bond only); and
5. Judgment by Confession – **Prosecutor** (secured bond only);

Defense counsel should collect the required forms including, when appropriate, the judgment by confession and affidavit of confession of judgment and submit them to the part clerk for review.

Clerk Review

Before the clerk presents the package to the judge for approval and signature, he/she should do the following:

- Confirm bail amount and type;

- Review all forms and supporting materials for completeness;
- Confirm availability of obligor (defendant and/or surety(ies)) to apply on the record for the bond;
- Confirm identification of surety (see below);
- In the case of a secured or partially secured bond, ascertain that obligor can make payment or has required paperwork documenting value of property; and
- In the case of partially secured bond, take payment from obligor and issue receipt.

Confirming Obligor's Identification

In the event that the obligor is a surety, i.e., not the defendant, the clerk will confirm the identity of the surety by obtaining a valid (unexpired) government-issued photo identification, making a copy of the identification and attaching the copy to the justifying affidavit. Valid (unexpired) government-issued photo identification includes:

1. Driver license with photograph (from United States of America or any of its territories);
2. Non-driver identification card with photograph (from United States of America or any of its territories);
3. Learner permit with photograph (from United States of America or any of its territories);
4. Passport;
5. Active US Military Identification Card;
6. US Certificate of Naturalization;
7. US Alien Registration Card;
8. US Employment Authorization Card; and
9. NYS Benefit Identification Card with photograph

Court Appearance

Upon completion of review and only after clerk has determined that all of the necessary forms have been properly completed and payment, if appropriate, has been taken, the surety(ies) and/or defendant must appear before a judge to swear to or affirm the bond, justifying affidavit(s), and undertaking to answer. Clerk will use prepared script for swearing or affirming bail bonds and justifying affidavits (see Appendix A for unsecured or partially secured bonds and Appendix B for secured bonds).

While this affirmation may take place in an arraignment part, once bail has been set defendant will be committed to the custody of Department of Correction (DOC) until such time as the paperwork has been completed, payment (if appropriate) accepted and bond and affidavit(s) sworn and subscribed.

In the case of an appearance bond, it may be necessary to complete the process on a subsequent court appearance if any of the necessary steps cannot be completed before defendant is transported to a local jail.

In the case of a surety bond, the process may be completed when the surety or sureties are available, all forms have successfully passed the clerk review and a judge is available to formally complete the process.

Original Documents and Copies

The originals of each document will be included and maintained in the court file, except for the judgment by confession and the affidavit of confession of judgment. In the case of a secured bond, the original bond, justifying affidavit and undertaking to answer will maintained in the court file but the original judgment by confession and affidavit of confession of judgment will be returned to the prosecutor who will maintain the original copies of those documents. A copy of the judgment by confession and affidavit of confession of judgment will be maintained in the court file.

Copies of the bond and, when appropriate, the justifying affidavit and bail receipt will be given to each obligor. Upon request, copies of any document may be distributed to prosecutor or defense counsel.

Discharging Defendant

Upon the judge's signature on the bail bond, justifying affidavit(s) and undertaking(s) to answer and approval, if necessary, of the affidavit of confession of judgment and judgment by confession, the clerk will complete **CRC 147 – Discharge on Giving Bail (Cut Slip)**. Court personnel will serve the cut slip upon Department of Correction at the courthouse.

Forfeiture

Should the defendant fail to comply with his/her bail conditions and the Court orders forfeiture of the bond, the clerk will complete a **CRC 131A – Forfeiture** form. The clerk will transmit **CRC 131A** to the NYC Department of Finance on those cases in which the money was posted for cash bail or a partial security.

In matters where the forfeiture was of an unsecured or partially secured or secured bond, the clerk will complete **CRC 131A**; make a copy of all of the original bond paperwork; maintain a copy of all relevant bond and forfeiture paperwork in the court file; and send originals of all bail and forfeiture paperwork to the prosecutor's office through the same procedure used to transmit insurance company bond paperwork.

Filing with County Clerk

While a copy of the documents will be attached to the Criminal Court case file upon forfeiture, the original of all documents will be given to the prosecutor. The prosecutor will be responsible for filing appropriate documents with the appropriate County Clerk, if bail is forfeited.

Confession of Judgment

A judgment by confession and affidavit of confession of judgment will only be required on real property surety bonds. As indicated above, the original judgment by confession and affidavit of confession of judgment will be turned over to the prosecutor after the judge signs the document. The prosecutor will file these two documents in the county clerk's office where the defendant stated in the affidavit that he/she resided at the time that the affidavit was executed or, if the defendant was a non-resident at the time it was executed, with the county clerk's office designated in the affidavit.

When the case is completed and bail is exonerated the prosecutor will file a satisfaction of judgment.

Unsecured and Partially Secured Bonds

Upon an order of forfeiture of an unsecured or partially secured bond, the prosecutor will apply for an index number (fee waived) and file a Request to Enter Judgment with the appropriate County Clerk. The package of documents will include:

1. Request to Enter Judgment (drafted and signed by prosecutor's office);
2. Bail Bond (CRC 133);
3. Justifying Affidavit (CRC 126.1);
4. Undertaking to Answer (CRC 3247); and
5. Forfeiture (CRC 131A).

Secured Bonds

Upon forfeiture of a secured bond, the prosecutor will apply for an index number (fee waived) and file a Request to Enter Judgment with the appropriate County Clerk. The package of documents will include:

1. Request to Enter Judgment (drafted and signed by prosecutor's office);

2. Bail Bond (CRC 133);
3. Justifying Affidavit (CRC 126.1);
4. Undertaking to Answer (CRC 3247);
5. Forfeiture (CRC 131A);
6. Affidavit of Confession of Judgment; and
7. Judgment by Confession.

Completing Court Forms

Instructions are given below for filling out court forms.

Bail Bond - CRC 133

A single bail bond form will be completed, regardless of the number of sureties completing a justifying affidavit(s). There will be only one bail bond form completed for a particular case/docket number.

1. Form Header – Defendants name, county, docket number, adjourn date and adjourn part must be completed in header.
2. Body of Form – The date the complaint/information was filed, along with the charges contained in the accusatory instrument and the amount of bail set (both written in words and numerical format) must be entered.
3. Obligor Information – Depending on whether the judge has fixed an appearance or surety bond, the following steps will be taken to fill out Boxes 1 and/or 2.
 - a. Appearance Bond – If the defendant is the only obligor, Box 1 will be checked and this section will be completed by crossing out "(We)" and entering defendant's name, address and occupation.
 - b. Surety Bond – If one or more sureties are the obligor, Box 1 will be checked and this section will be completed by crossing out "(I)" entering defendant's name, address and occupation and Box 2 will be checked and this section completed entering the name, address and occupation of the each surety.

4. **Promise to Pay** – Depending on whether the judge has fixed an appearance or surety bond, the following steps will be taken to fill out this section.
 - a. **Appearance Bond** – If the defendant is the only obligor, this section will be completed by crossing out "(We)" and writing out the bail amount in words and numerical format.
 - b. **Surety Bond** – If one or more sureties are the obligor, this section will be completed by crossing out "(I)" and writing out the bail amount in words and numerical format.

5. **Partially Secured Bond** – If the judge has fixed a partially secured bond, Box 3 should be checked and this section completed by entering the amount of cash being posted (the judge may direct partial security of up to 10% of the full amount of the bond) and crossing out the individual not posting the cash (defendant) or (surety).
 - a. **Cash Bail Receipt** – The clerk will complete a cash bail receipt form, noting that it is to partially secure a bail bond in the two appropriate check box sections on form CRC 3018. Copies of receipt will be distributed per normal procedure, except that surety will not receive copy of receipt until bond is executed in courtroom. Procedure order follows:
 - i. Bond, justifying affidavit(s) and undertaking to answer prepared;
 - ii. Clerk review for completeness;
 - iii. Clerk accepts money and prepares receipt; and
 - iv. Bond is executed in courtroom and defendant or surety(ies) given copy of bail receipt.

6. **Secured Bond** – If the bond is to be secured by personal or real property, Box 4 will be checked and this section completed by entering the name and crossing out the appropriate individual.
 - a. **Personal Property** – if secured by personal property, Box 5 will be checked and description of personal property must be identical to that listed in justifying affidavit.
 - b. **Real Property** – if secured by real property, Box 6 will be checked and description of real property must be identical to that listed in justifying affidavit.

7. Swearing and Dating of Bond – As with justifying affidavits, the bond form should not be signed until the matter is heard in open Court and the parties sworn as to the contents of the bond.
 - a. If the defendant is to be an obligor, then the defendant's signature is required.
 - b. If the defendant is not an obligor, then only surety need sign.
 - c. If both are obligors, both will sign.
 - d. If two (2) sureties are involved other than the defendant, "Principal" and "Defendant" may be crossed out and Surety may be handwritten under the first signature line.
8. Release (Cut) Slip – CRC 3124 will be prepared whenever a surety or appearance bond form is prepared.

The clerk will prepare this form which will be signed by the judge simultaneously to the bond papers.

9. Copies – Upon signature of the bail bond by the judge, the bond and other forms will be distributed as follows:
 - a. Original – to court file
 - b. Copy – to each surety, along with a copy of their own justifying affidavit
 - c. Copy – Upon request a copy may be given to defense counsel

Justifying Affidavit – Unsecured/Partially Secured Bail Bond - CRC 126.1

The same justifying affidavit is used for both an unsecured and partially secured bail bond. A justifying affidavit must be completed for each surety (obligor), including the defendant (principal) if required.

1. Form Header – Defendants name, county and docket number must be completed in header.
2. Body of Form
 - a. Name – Name of obligor completing justifying affidavit will be written in first line

- b. Obligor Type – Box 1, 2 or 3 will be checked depending on whether obligor completing the form is a single surety, one of two or more sureties or the defendant, respectively.
 - c. Address – Address of obligor completing justifying affidavit should be written out.
 - d. Occupation – Occupation of obligor completing justifying affidavit should be written out. If the Obligor is unemployed or retired, this should be noted.
3. Employment Information – Depending on whether the obligor is employed by another person or company or is self-employed, the obligor completing the justifying affidavit will check either Box 4 or Box 5 and enter the appropriate information in that section. If the obligor is listed as unemployed or retired, neither of these sections will be filled out.
4. Income Information – Regardless of employment information entered, income information for the past year and average income for the past five (5) years will be entered. Dollar amount will be written in words and numerical format.
5. Prior Surety Posting – By signing and swearing to the contents of the justifying affidavit, the obligor affirms that he/she, within the last month, has not posted bail for another person in more than two cases in any court having criminal jurisdiction. If the obligor has, he/she is ineligible to post bail pursuant to CPL § 520.30 (1) (d).
6. Previous Bail Applications – The obligor must check either Box 6 or 7 affirming whether a bail application has been previously made on this case. If a previous bail application was made and denied, the name of the judge and the reason for denying the bail must be included in this section.
7. Swearing and Dating of Justifying Affidavit – The justifying affidavit should not be signed until the matter is heard in open Court and the parties sworn as to the contents of the bond and justifying affidavit. Once approved, the judge will sign the affidavit and it will be dated.
- a. Prosecutor has a right to be heard on application and may request a surety hearing pursuant to CPL § 520.30 (1).
8. Copies – Upon signature of the bail bond and each justifying affidavit by the judge, the bond and other forms will be distributed as follows:
- a. Original – to court file

- b. Copy – to each surety, along with a copy of bond
- c. Copy – Upon request a copy may be given to defense counsel

Justifying Affidavit – Secured Bail Bond - CRC 126

A justifying affidavit must be completed for each surety (obligor), including the defendant (principal) if the defendant is posting real or personal property, either alone or with other sureties. For example, if a husband and wife are pledging a house which is co-owned, both must complete a justifying affidavit, even though the information concerning the property will be identical on both affidavits

1. Form Header – Defendants name, county and docket number must be completed in header.
2. Body of Form
 - a. Name – Name of obligor completing justifying affidavit will be written in first line
 - b. Obligor Type – Box 1, 2 or 3 will be checked depending on whether obligor completing the form is a single surety, one of two or more sureties or the defendant, respectively.
 - c. Address – Address of obligor completing justifying affidavit should be written out.
 - d. Amount of Bail – Bail amount will be written out in words and numerical format
3. Description of Personal Property – Posting of personal property is discouraged, for a variety of security and administrative reasons. If, however, the judge permits posting of personal property to secure the bond, Box 4 will be checked and property will be described in detail.
 - a. Establishing Value of Personal Property – Value of the personal property must be stated in the appropriate section. Value must be equal to or greater than total amount of the bail amount fixed. All liens and encumbrances must be listed in this section.
4. Additional Items Required for Personal Property Pledge – When Box 4 is checked and personal property is pledged, the obligor must provide the following supporting materials with the justifying affidavit:

- a. An up-to-date appraisal of the property; and
 - b. A certified list of any liens and encumbrances against the personal property.
5. **Description of Real Property** – If real property is being pledged, Box 5 will be checked and the address of the property will be entered, along with the county where the deed is recorded. The section, liber, page, block number and date deed was recorded will be entered in the appropriate spaces. All liens and encumbrances must be listed in this section.
- a. **Establishing Value of Real Property** – Value of the real property must be stated in the appropriate section. Value must at least twice the total amount of the bail amount fixed. Value of the property may be established by one of two methods:
 - i. Dividing last assessed value of property by last equalization rate and deducting liens and other encumbrances; or
 - ii. Providing a certified appraisal report and deducting liens and encumbrances.
6. **Additional Items Required for Real Property Pledge** – When Box 5 is checked and real property is pledged, the obligor must provide the following supporting materials with the justifying affidavit:⁴
- a. A copy of the deed;
 - b. An up-to-date appraisal of the property; and
 - c. A copy of the listing of all liens and encumbrances against the property on file with the county clerk
7. **Prior Surety Posting** – By signing and swearing to the contents of the justifying affidavit, the obligor affirms that he/she, within the last month, has not posted bail for another person in more than two cases in any court having criminal jurisdiction. If the obligor has, he/she is ineligible to post bail pursuant to CPL § 520.30 (1) (d).

⁴ Value of real property may also be determined by dividing the last assessed value of the real property by the last given equalization rate or in a special assessing unit the appropriate class ratio of the assessing municipality where the property is situated and by deducting from the resulting figure the total amounts of the liens and other encumbrances on the property,

8. **Previous Bail Applications** – The obligor must check either Box 6 or 7 affirming whether a bail application has been previously made on this case. If a previous bail application was made and denied, the name of the judge and the reason for denying the bail must be included in this section.
9. **Swearing and Dating of Justifying Affidavit** – The justifying affidavit should not be signed until the matter is heard in open Court and the parties sworn as to the contents of the bond and justifying affidavit. Once approved, the judge will sign the affidavit and it will be dated.
 - a. Prosecutor has a right to be heard on application and may request a surety hearing pursuant to CPL § 520.30 (1).
10. **Copies** – Upon signature of the bail bond and each justifying affidavit by the judge, the bond and other forms will be distributed as follows:
 - a. **Original** – to court file
 - b. **Copy** – to each surety, along with a copy of bond
 - c. **Copy** – Upon request a copy may be given to defense counsel

Undertaking to Answer - CRC 3247

An Undertaking to Answer must be completed for each surety (obligor), including the defendant (principal) if required.

1. **Form Header** – County, part, Defendants name, county in which document is sworn and docket number.
2. **Body of Form**
 - a. **Case Information** - The date the bail was fixed, the judge who fixed the bail, the county in which the judge fixing the bail was presiding, the defendant's name, the charges contained in the accusatory instrument and the amount of bail set (written in words) must be entered.
 - b. **Obligor Type and Information** – Box 1, 2 or 3 will be checked depending on whether obligor completing the form is a single surety, one of two or more sureties or the defendant, respectively. Obligor's name, address, county of residence and occupation will be entered.
 - c. **Defendant Information** – Defendant's name, address, county of residence and occupation will be entered.

- d. Undertaking – Enter the full amount of the bond as undertaking for which affiant will answer should defendant fail to perform condition of bond.
3. Swearing and Dating of Bond – As with bond and justifying affidavits, the Undertaking to Answer should not be signed by affiant until the matter is heard in open Court and the affiant sworn as to the contents of the document.
4. Copies – Upon signature of the judge, form will be distributed as follows:
 - a. Original – to court file
 - b. Copy – to each surety, along with a copy of their own justifying affidavit
 - c. Copy – Upon request a copy may be given to defense counsel

Bail Forfeiture – CRC 131A

A Bail Forfeiture form will be completed by the clerk in every matter in which a judge orders bail forfeited.

1. Form Header – County, part and Defendants name.
2. Body of Form
 - a. Bail Information – The full amount of the cash bail or bond (regardless of amount or type of security required) will be entered.
 - b. Bail/Bond Type – Box 1, 2, 3 or 4 will be checked depending on type of bail/bond fixed.
3. Money Posted Information – Information identifying money posted will be entered as follows:
 - a. Defendant's Name;
 - b. Docket Number;
 - c. Obligor – name of person acting as surety;
 - d. Amount Posted – amount of money posted with clerk or cashier, if any, as cash bail or partial security;

- e. Date Deposited – date cash bail or partial security was deposited with clerk or cashier;
- f. Receipt Number – serially, pressed number from CRC 3018;
- g. Date Forfeited – date judge ordered bail forfeited;
- h. County – County in which judge who forfeited bail is sitting; and
- i. Part – Part in which judge who forfeited bail is sitting

Appendix A
Swearing to/Affirming Unsecured or Partially Secured Bail Bond
Clerk Script

Clerk: This is a recall of Docket # _____, (Defendant's Name).
This is an application for (state type of bail bond – "unsecured" or "partially secured") bail bond. Please state your name for the record.

Obligor: (States name)

(Clerk will read from affidavit and obligor should respond in the affirmative to each question).

Clerk: Do you reside at _____?

Obligor: Yes.

Clerk: Are you employed by _____, located at _____?

or

Do you own your own business, which is called _____,
located at _____?

Obligor: Yes.

Clerk: Have you been employed (or engaged in said business) for a period of _____?

Obligor: Yes.

Clerk: Was your income for the past year _____ dollars?

Obligor: Yes.

Clerk: Was your average income for the past five years _____ dollars?

Obligor: Yes.

Clerk: Do you understand ["that the defendant in this matter" or "you" – (depending on whether the obligor is a surety or defendant)] must make each and every scheduled court appearance as directed by the Court and that [he/she or you] must comply with any and all conditions placed upon

Appendix A
Swearing to/Affirming Unsecured or Partially Secured Bail Bond
Clerk Script

[him/her or you] by the Court? If ["the defendant" or "you"] fail to do so, a warrant will be issued for ["the defendant's" or "your"] arrest and a judgment will be filed against you in the amount of \$ _____ by the District Attorney at the _____ County Clerks Office.

Obligor: Yes.

Clerk: Please raise your right hand. Do you swear or affirm to the truth of the bail bond, affidavit and undertaking to answer which you are about to sign?

Obligor: Yes.

Clerk: Your honor, the obligor has signed the bail bond, justifying affidavit and undertaking to answer.

Appendix B
Swearing to/Affirming Secured Bail Bond
Clerk Script

Clerk: This is a recall of Docket # _____, (Defendant's Name).
This is an application for a secured bail bond. Please state your name for
the record.

Obligor: (States name)

(Clerk will read from affidavit and obligor should respond in the affirmative to each
question).

Clerk: Do you reside at _____?

Obligor: Yes.

Clerk: To secure payment on bail bond of _____ dollars, have you
pledged the following real property _____ the title of which
is of record in your name in the _____ County Office of the Register
and is recorded as follows: Section ____, Liber ____, Page ____, Lot ____,
Block ____, Recording Date _____?

Obligor: Yes.

Clerk: Is the value of the property _____ dollars?

Obligor: Yes.

Clerk: Do you understand ["that the defendant in this matter" or "you" –
(depending on whether the obligor is a surety or defendant)] must make
each and every scheduled court appearance as directed by the Court and
that [he/she or you] must comply with any and all conditions placed upon
[him/her or you] by the Court? If ["the defendant" or "you"] fail to do so, a
warrant will be issued for ["the defendant's" or "your"] arrest and a
judgment will be filed against you in the amount of \$ _____ by the
District Attorney at the _____ County Clerks Office.

Obligor: Yes.

Clerk: Please raise your right hand. Do you swear or affirm to the truth of the bail
bond, affidavit and undertaking to answer which you are about to sign?

**Appendix B
Swearing to/Affirming Secured Bail Bond
Clerk Script**

Obligor: Yes.

Clerk: Your honor, the obligor has signed the bail bond, justifying affidavit and undertaking to answer.



Criminal Court of the City of New York
County _____ Part _____

JUSTIFYING AFFIDAVIT
Unsecured Bail Bond
Partially Secured Bail Bond
CPL § 520.20

PEOPLE OF THE STATE OF NEW YORK
against
_____, Defendant

State of New York)
County of _____) ss.:

Docket Number

_____, being duly sworn, deposes and says:

That I am the surety one of the sureties the defendant named in the Bail Bond in the above-titled action.

That I reside at _____.

That my occupation is _____.

That I am presently employed by _____,

located at _____,

and that I have been employed by said employer for a period of _____.

That I own my own business which is called _____,

located at _____,

and that I have been engaged in said business for a period of _____.

That my income for the past year was _____ (\$ _____) Dollars.

That my average income for the past five year was _____ (\$ _____) Dollars.

That within one month prior hereto I did not, for another in more than two cases not arising out of the same transaction, deposit money or property as bail or execute as surety a bail bond in any Court having criminal jurisdiction or in any criminal action or proceeding.

That no previous application for this bail has been made

A previous application for this bail was made to _____ and denied for the following reasons: _____

and except for such application no previous application has been made.

Dated: City of New York _____

Affiant _____

Sworn to before me:

Judge/Justice



Criminal Court of the City of New York
County _____ Part _____

JUSTIFYING AFFIDAVIT
Secured Bail Bond
CPL § 520.20

PEOPLE OF THE STATE OF NEW YORK
against
_____, Defendant

State of New York)
County of _____) ss.:
Docket Number _____

_____, being duly sworn, deposes and says:

That I am 1 the surety 2 one of the sureties 3 the defendant named in the Bail Bond in the above-titled action.

That I reside at _____.

That to secure the payment of _____ (\$ _____) Dollars specified in the aforesaid bail bond

4 the following personal property not exempt from execution is deposited:

5 the following real property is pledged:

_____ the title of which is of record, in deponent's own name, in the Office of the Register of the County of _____: and is recorded therein as follows:

Section _____, Liber _____, Page _____, Lot _____, Block _____, Recording Date _____.

That the value of the above items is as follows:

That within one month prior hereto I did not, for another in more than two cases not arising out of the same transaction, deposit money or property as bail or execute as surety a bail bond in any Court having criminal jurisdiction or in any criminal action or proceeding.

6 That no previous application for this bail has been made

7 A previous application for this bail was made to _____ and denied for the following reasons: _____

and except for such application no previous application has been made.

Dated: City of New York _____

Affiant _____

Sworn to before me:

Judge/Justice _____



Criminal Court of the City of New York
County _____ Part _____

UNDERTAKING TO ANSWER

PEOPLE OF THE STATE OF NEW YORK
against
_____, Defendant

State of New York)
County of _____) ss.:

Docket Number _____

AN ORDER having been made on the _____ day of _____, 20 ____, by Hon. _____, a Judge of the Criminal Court of the City of New York, in the County of _____, that _____ defendant, be held to answer upon a charge of _____ upon which he/she has been duly admitted to bail in the sum of _____ dollars, 1 the surety 2 one of the sureties 3 the defendant _____, hereinafter referred to as affiant, residing at _____, County of _____, by occupation _____, hereby undertakes that the above mentioned defendant, residing at _____, County of _____, by occupation, _____, shall appear and answer the above-mentioned charge, in whatever Court it may be prosecuted and shall at all times render himself/herself amenable to the orders and process of the Court and if convicted shall appear for judgment and render himself in execution thereof or if the defendant fails to perform any of these conditions then the affiant will pay to the People of the State of New York the sum of _____ dollars.

Signature of Affiant

Print Name

State of New York)
County of _____) ss.:

On the _____ day of _____ in the year 20 ____, before me personally came _____, who being sworn did depose and say that he/she resides in _____, County of _____; that he/she is the affiant described in and who executed the above instrument; and that he/she signed as affiant.

Judge/Justice

The within bail is allowed.

Dated: City of New York

Judge/Justice



Criminal Court of the City of New York
County _____ Part _____

BAIL FORFEITURE
Cash Bail
Partially Secured Bail Bond
Unsecured Ball Bond
Secured Bail Bond

PEOPLE OF THE STATE OF NEW YORK
against
_____, Defendant

In the name of the People of the State of New York:

Bail in the amount of \$ _____, being having been fixed by a Judge for the liberty of the defendant named below, and

- 1 **Cash Bail** – a sum of money in the amount of bail fixed having been posted as cash bail and deposited with the finance administrator of the City of New York, and
- 2 **Partially Secured Bail Bond** – a sum of money in the amount designated below having been posted as partial security of a bail bond in the amount of bail fixed and deposited with the finance administrator of the City of New York, and
- 3 **Unsecured Bail Bond** – a bail bond, not secured by any deposit of or lien upon property, having been undertaken for the amount listed above, and
- 4 **Secured Bail Bond** – a bail bond, secured by real or personal property, having been undertaken for the amount listed above, and

The defendant named below having thereafter failed to appear as lawfully required, it is ORDERED that the Bail Bond, Cash Bail and/or the money posted as follows are hereby forfeited.

Defendant's Name: _____
 Docket Number: _____
 Obligor (Depositor): _____
 Amount Posted: _____
 Date Deposited: _____
 Receipt Number: _____
 Date Forfeited: _____
 County: _____
 Part: _____

By Order of the Court _____
Court Clerk (signature)

Dated: City of New York _____

CRIMINAL COURT OF THE CITY OF NEW YORK

Part, County of

To the COMMISSIONER OF CORRECTION of the City of New York:

who is detained by you on a Commitment to answer a charge for the crime of

..... having given sufficient bail to answer the same, you are
commanded forthwith to DISCHARGE the above named defendant from your custody.

Dated, 20

Judge.

CRC 147 (10/00)

Docket No

“DISCHARGE ON GIVING BAIL”

CRIMINAL COURT OF THE CITY OF NEW YORK

Part, County of

To the COMMISSIONER OF CORRECTION of the City of New York:

who is detained by you on a Commitment to answer a charge for the crime of

..... having given sufficient bail to answer the same, you are
commanded forthwith to DISCHARGE the above named defendant from your custody.

Dated, 20

Judge.

CRC 147 (10/00)

Docket No

“DISCHARGE ON GIVING BAIL”

CRIMINAL COURT OF THE CITY OF NEW YORK

Part, County of

To the COMMISSIONER OF CORRECTION of the City of New York:

who is detained by you on a Commitment to answer a charge for the crime of

..... having given sufficient bail to answer the same, you are
commanded forthwith to DISCHARGE the above named defendant from your custody.

Dated, 20

Judge.

CRC 147 (10/00)

Docket No

“DISCHARGE ON GIVING BAIL”

CRIMINAL COURT OF THE CITY OF NEW YORK

Part, County of

To the COMMISSIONER OF CORRECTION of the City of New York:

who is detained by you on a Commitment to answer a charge for the crime of

..... having given sufficient bail to answer the same, you are
commanded forthwith to DISCHARGE the above named defendant from your custody.

Dated, 20

Judge.

CRC 147 (10/00)

EXHIBIT 3

Appendix A
Swearing to/Affirming Unsecured or Partially Secured Bail Bond
Clerk Script

Clerk: This is a recall of Docket # _____, (Defendant's Name).
This is an application for (state type of bail bond – "unsecured" or "partially secured") bail bond. Please state your name for the record.

Obligor: (States name) **WHAT IS YOUR RELATIONSHIP TO DEFENDANT.**

(Clerk will read from affidavit and obligor should respond in the affirmative to each question).

Clerk: Do you reside at _____ ?

Obligor: Yes.

Clerk: Are you employed by _____, located at _____ ?

or

Do you own your own business, which is called _____,
located at _____ ?

Obligor: Yes.

Clerk: Have you been employed (or engaged in said business) for a period of _____ ?

Obligor: Yes.

Clerk: Was your income for the past year _____ dollars?

Obligor: Yes.

Clerk: Was your average income for the past five years _____ dollars?

Obligor: Yes.

Clerk: Do you understand ["that the defendant in this matter" or "you" – (depending on whether the obligor is a surety or defendant)] must make each and every scheduled court appearance as directed by the Court and that [he/she or you] must comply with any and all conditions placed upon

Appendix A
Swearing to/Affirming Unsecured or Partially Secured Bail Bond
Clerk Script

[him/her or you] by the Court? If ["the defendant" or "you"] fail to do so, a warrant will be issued for ["the defendant's" or "your"] arrest and a judgment will be filed against you in the amount of \$ _____ by the District Attorney at the _____ County Clerks Office.

Obligor: Yes.

Clerk: Please raise your right hand. Do you swear or affirm to the truth of the bail bond, affidavit and undertaking to answer which you are about to sign?

Obligor: Yes.

Clerk: Your honor, the obligor has signed the bail bond, justifying affidavit and undertaking to answer.

MATTER IS ADJOURNED TO _____ (DATE).

AP-_____

EXHIBT 3 CONTINUED ALTERNATE LANGUAGE

SCRIPT FOR AN UNSECURED BAIL BOND

THIS IS A RECALL OF DOCKET No.

NAME:

(clerk)

THIS IS AN APPLICATION FOR AN UNSECURED BAIL BOND.
PLEASE STATE YOUR NAME FOR THE RECORD.

(read from affidavit, def should respond-yes, to each question)

DO YOU RESIDE AT:

YOUR OCCUPATION IS:

ARE YOU EMPLOYED BY:

LOCATED AT:

YOU HAVE BEEN EMPLOYED FOR _____ (yrs/mths/days)

YOUR INCOME FOR THE PAST YEAR WAS:

YOUR AVERAGE INCOME FOR THE PAST 5 YEARS WAS:

MR./MRS.

DO YOU UNDERSTAND THAT YOU MUST MAKE EACH AND EVERY SCHEDULED COURT APPEARANCE AS DIRECTED BY THE COURT AND THAT YOU MUST COMPLY WITH ANY AND ALL CONDITIONS PLACED UPON YOU BY THE COURT, INCLUDING ANY ORDER OF PROTECTION ISSUED BY THE COURT? **IF YOU FAIL TO DO SO, A WARRANT WILL BE ISSUED FOR YOUR ARREST AND A JUDGMENT WILL BE FILED AGAINST YOU IN THE AMOUNT OF \$_____ BY THE DISTRICT ATTY AT THE KINGS COUNTY CLERK'S OFFICE.** (def.

responds yes).

PLEASE RAISE YOUR RIGHT HAND:

DO YOU SWEAR OR AFFIRM TO THE TRUTH OF THE AFFIDAVIT AND BAIL BOND WHICH YOU ARE ABOUT TO SIGN?

(def. says yes and signs the bond & affidavit)

YOUR HONOR THE DEFENDANT HAS SIGNED THE BAIL BOND AND AFFIDAVIT.

(give bond and affidavit to judge, tell defendant to step out and wait for the paperwork)

CHANGE RETURN DATE.

EXHIBIT 4

ADOLESCENT DIVERSION & BROOKLYN JUSTICE INITIATIVES

(Effective August 11, 2014)

IF DEFENDANT IS	AND IS	AND WAS ARRESTED IN	ADJOURN THE CASE TO
16-17 years old	IN	ANY BROOKLYN PCT.	AP-Y2 Next business day
16-17 years old	OUT	ANY BROOKLYN PCT.	AP-Y2 Tue. (LAS))/Wed.(BDS) at 2:00PM call 2-3 weeks
18-24 years old	IN	THE 72, 73, 75,76 OR 78 PCT.	AP-Y2 Next business day
18-24 years old	OUT	THE 73 OR 75 PCT.	AP-Y2 Tues.(LAS)/Wed.(BDS) 9:30AM call2-3 weeks
18-24 years old	OUT	THE 72, 76, OR 78 PCT.	*AP-Y1 – RED HOOK CJC Thurs. 2:00PM call 1-2 weeks
18-24 years old	IN OR OUT	ANY PCT. OTHER THAN THE 72, 73, 75, 76 OR 78 PCT.	REGULARLY ZONED PART

1. This chart refers only to **MISDEMEANOR CASES that DO NOT** involve intimate partner domestic violence. (Misdemeanor domestic violence cases for 16-18 year olds (any precinct) should be adjourned to **Part YO-DV (Thursdays at 2:00PM)** and for **19-21 year olds (any precinct)** should be adjourned to either DV-1 or DV-2.
2. Case gets adjourned out of arraignments according to this chart-**attorneys can opt out in AP-Y2 (or AP-Y1), but cannot opt out in arraignments.**
3. MBTC case gets adjourned to MBTC.

*If an AP-Y1-RED HOOK CJC eligible case is identified post-arraignment, the case will remain in the REGULARLY ZONED PART.

EXHIBITS 4-7

OVERVIEW OF SCREENING CRITERIA FOR KINGS COUNTY TREATMENT COURTS

To insure early identification of eligible drug offenders in Kings County, a paper screening is performed by the arraignment clerks at the time the case is docketed. Treatment eligible cases are stamped for referral to one of three drug courts: STEP, AP-D (BTC), or MBTC. **None of the treatment courts accepts defendants who are charged with a Class A-1 or A-2 drug charges or who have any prior violent felony, sex crime, or arson conviction.** The arraignment clerks screen rap sheets according to the following criteria:

STEP accepts the following:

- Felony drug offenders under 19 years old
- Male (non-violent) predicate felony drug offenders
- Female (non-violent) predicate felony drug offenders from the Red and Green Zones
- Any defendant charged with **non-violent**, non-drug felonies that are motivated by substance abuse, typically criminal mischief, grand larceny, theft offenses, non-violent robbery and burglary

AP-D / BTC accepts the following:

- First felony drug offenders 19 years or older
- Female (non-violent) predicate felony drug offenders from the Blue, Grey, and Orange Zones
- Veterans charged with drug felonies and/or non-violent felonies
- Felony DWIs not involving personal injury

MBTC (accepts the following):

- Defendant must **currently be charged** with a non-violent class A misdemeanor
- Defendant has 7 or more felony or misdemeanor convictions **or** is currently on probation or parole

Supreme Court
of the
State of New York



JUSTICES' CHAMBERS
320 JAY STREET
BROOKLYN, NEW YORK 11201
347-296-1052

HON. JO ANN FERDINAND
ACTING SUPREME COURT JUSTICE

TO: Judges and Justices of the NYC Criminal Court and Kings County
Supreme Court, Criminal Term

FROM: Judge Jo Ann Ferdinand

RE: Brooklyn Felony DWI Court

DATE: October 4, 2010

The Kings County Supreme Court will begin a DWI Court on October 12, 2010, as a separate track within the Brooklyn Treatment Court, to give alcohol or substance abusing defendants charged with a Felony DWI an opportunity to complete court supervised treatment and reduce criminal justice penalties.

The Court will accept Felony DWI charges where there is no serious physical injury or death, no children 15 years old or younger in the car, and where the defendant does not have a prior Felony DWI conviction. Eligible cases will be identified at the Arraignment in Brooklyn Criminal Court and defendants will be referred to Part APD, the Brooklyn Treatment Court. Upon agreement of the District Attorney and consent of the defendant, an evaluation will be ordered to determine whether an addiction exists that is appropriate for treatment. If both parties and the Judge agree, a felony plea will be entered with the sentence deferred to allow for participation in treatment and a favorable resolution of the charges upon the successful completion of the mandate.

To be eligible for the Brooklyn DWI Court a defendant must be 21 years old or older, charged with an E or D Felony DWI based on one or two prior misdemeanor DWI convictions within 10 years (Current Charge[s]: VTL §§ 1192.2; 1192.2-a[a]; 1192.3; 1192.4; 1192.4-a). The presence of other charges on the complaint or indictment will not act as a bar to the defendant's eligibility unless one or more of the following disqualifying factors exist: a child 15 years old or younger is in the car, the case alleges serious physical injury or death, the defendant has a prior conviction within the past 10 years for a Violent Felony or an A Felony, or the defendant has a pending Violent Felony or A Felony.

All potentially eligible cases will be identified at the Criminal Court Arraignment and stamped DWI COURT ELIGIBLE by Clerks unless the file has been marked INELIGIBLE FOR DWI COURT by the District Attorney's Office (if a child 15 years old or younger was in the car or the case involves serious physical injury or death).

Cases stamped DWI COURT ELIGIBLE should be adjourned to Part APD (the Brooklyn Treatment Court) for the next business day.

Arraignment judges should not order VTL § 1198 assessments or screenings for any cases adjourned to DWI COURT.

If you have any questions or would like a copy of the complete guidelines for the new part, please contact me by e-mail or in chambers at 347-296-1052.

NEW YORK CITY CRIMINAL COURT: DRUG COURT INITIATIVE

Misdemeanor Brooklyn Treatment Court (MBTC)

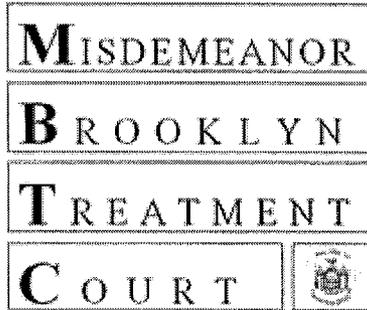


What is MBTC?

MBTC is a special courtroom in the Brooklyn Criminal Court. It is a program for first time non-felony offenders arrested in Brooklyn, who face non-felony drug charges and who also abuse drugs. Instead of jail or probation, MBTC will help you enter and stay in a drug or alcohol treatment program. The MBTC program includes regular court appearances and supervision by the MBTC judge.

The amount of time you spend in MBTC will depend on the crime you were originally charged with, your criminal history, your plea and your individual progress in treatment. Most people will spend anywhere from one to two years in the MBTC program.

Welcome to the Misdemeanor Brooklyn Treatment Court



Welcome to the Misdemeanor Brooklyn Treatment Court (MBTC). MBTC offers substance abuse treatment as an alternative to incarceration program for misdemeanor drug offenders arrested in Brooklyn, New York.

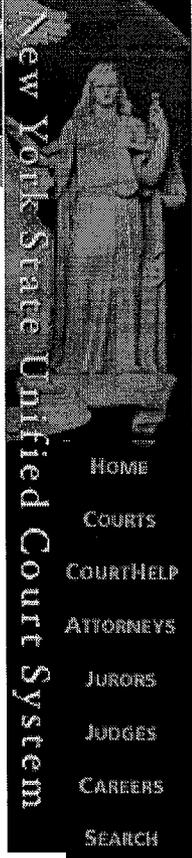
MBTC is a court program designed for those persons who chronically cycle in and out of the criminal justice system due to their drug dependence. Commonly, this population will return to the community after arrest and incarceration without any intervention to the source of the problem. MBTC strives to ensure its participants obtain individual-specific drug treatment services. In addition, MBTC attends to the social problems that often stem from long term drug addiction; such as the need for adequate medical care, housing, stable employment and reunification of family. It the rationale of MBTC that by addressing drug addiction and the related social problems, participants will have new opportunities to live healthy, productive and fulfilling lives.

Mia Santiago,
Project Director II,
STEP/MBTC

120 Schermerhorn Street, Brooklyn, NY 11201
P: 347.404.9616 . F: 718.643.6646
www.nycourts.gov/nycdrugcourt

- HOME
- CITY-WIDE INFO >>
- ESPAÑOL
- Brooklyn
- MISDEMEANOR (MBTC)

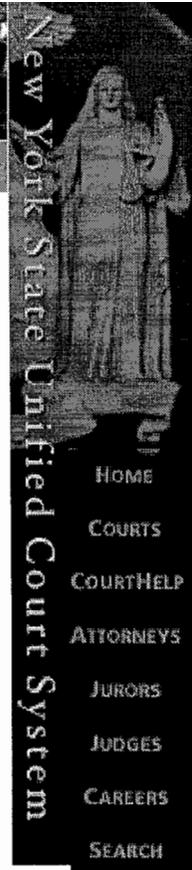
- Welcome
- Mission
- Location
- Judge
- Staff
- Publications
- Graduates
- FAQs



- HOME
- COURTS
- COURTHELP
- ATTORNEYS
- JURORS
- JUDGES
- CAREERS
- SEARCH

NEW YORK CITY CRIMINAL COURT: DRUG COURT INITIATIVE

Misdemeanor Brooklyn Treatment Court (MBTC)



[HOME](#)

[CITY-WIDE INFO >>](#)

[ESPAÑOL](#)

[Brooklyn](#)

[MISDEMEANOR \(MBTC\)](#)

[Welcome](#)

[Mission](#)

[Location](#)

[Judge](#)

[Staff](#)

[Publications](#)

[Graduates](#)

[FAQs](#)

MBTC Mission

The mission of the Misdemeanor Brooklyn Treatment Court is to break the cycle of drugs, crime and incarceration for substance-abusing repeat misdemeanor offenders, improving their quality of life and reducing the incidence of drug-related crime on the streets and homes of Brooklyn. The Misdemeanor Brooklyn Treatment Court will mandate offenders to appropriate treatment; employ intensive judicial supervision and rigorous case management; utilize a system of graduated sanctions and rewards; and assist with educational, vocational and medical needs. Through a partnership consisting of the judge, prosecutor, defense bar, clinical staff and community-based treatment providers, the Misdemeanor Brooklyn Treatment Court will use its authority to instill a respect for the law and community and help participants reestablish a life without drugs.

120 Schermerhorn Street, Brooklyn, NY 11201
P: 347.404.9616 . F: 718.643.6646
www.nycourts.gov/nycdrugcourt

[HOME](#)

[COURTS](#)

[COURTHELP](#)

[ATTORNEYS](#)

[JURORS](#)

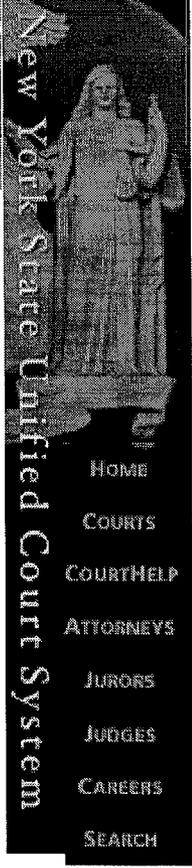
[JUDGES](#)

[CAREERS](#)

[SEARCH](#)

NEW YORK CITY CRIMINAL COURT: DRUG COURT INITIATIVE

Misdemeanor Brooklyn Treatment Court (MBTC)

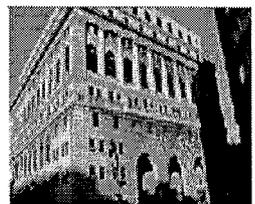


- HOME
- CITY-WIDE INFO >>
- ESPAÑOL
- Brooklyn
- MISDEMEANOR (MBTC)

MBTC Location

Location

The Screening and Treatment Enhancement Part is located at 120 Schermerhorn, 8th Floor, Brooklyn, New York 11201. (The cross streets are Adams Street and Smith Street.)



Directions

Public transportation: Take the N or R train to the Lawrence Street Station; the G train to the Hoyt Street and Schermerhorn Street Station; the A, F or C train to the Jay Street Station; the 2, 3, 4 or 5 trains to the Borough Hall Station. There are several bus lines nearby: the B67, B41 and B45 bus lines stop near Livingston Street and Smith Street; the B63 and the B65 bus lines stop near Atlantic Avenue and Smith Street. For more detailed information and directions call: The M.T.A. New York City Transit Information Line 718.330.1234.

MTA subway, bus, railroad maps and additional transit information, please click here:
MTA.INFO

Other Manhattan Criminal Court Information: NYC Criminal Court Information Line 212.374.5880.

Arraignments: Monday through Sunday: 9:00 a.m. to 1:00 a.m. Excluding Desk Appearance Tickets (DATs).

Desk Appearance Tickets (DATs): Monday through Friday: 9:00 a.m. to 5:00 p.m. Except Holidays.

All Other Parts: Monday through Friday: 9:00 a.m. to 5:00 p.m. Except Holidays

Clerk's Offices: Monday through Friday: 9:00 a.m. to 5:00 p.m. Except Holidays.

120 Schermerhorn Street, Brooklyn, NY 11201
P: 347.404.9616 .F: 718.643.6646
www.nycourts.gov/nycdrugcourt

- Welcome
- Mission
- Location
- Judge
- Staff
- Publications
- Graduates
- FAQs

- HOME
- COURTS
- COURTHELP
- ATTORNEYS
- JURORS
- JUDGES
- CAREERS
- SEARCH



- HOME
- CITY-WIDE INFO >>
- ESPAÑOL
- Brooklyn
- MISDEMEANOR (MBTC)

MBTC Staff



Mia Santiago
 Project Director II
 347.404.9550
mgsantia@courts.state.ny.us

Robert Rivera
 Case Manager II
 347.404.9549
areiff@courts.state.ny.us

Theresa Good
 Case Manager I
 347.404.9551
tgood@courts.state.ny.us

Lisa Kelly
 Case Manager I
 347.404.9555
lkelly@courts.state.ny.us

Melinda Pavia
 Case Manager I
 347.404.9557
mepavia@courts.state.ny.us

Lucy Perez
 Case Manager I
 347.404.9554
lperez@courts.state.ny.us

Miriam Fmania
 Vocational/Educational Case Manager
 347.404.9560
mfamania@courts.state.ny.us

Lyndon Harding
 Case Technician

While you are in a treatment program, the Judge, prosecutor, your lawyer and your case manager will monitor your progress in treatment. Your case manager will be in constant contact with your treatment program staff.

After you first meet, your Case Manager will develop a Treatment Plan. Your Treatment Plan will explain the following things:

Attendance at a substance abuse treatment program

Regular drug and alcohol testing Medical screening

Attendance at an educational/vocational program Participation in self-help groups

Your Case Manager will also help you with other areas of your life according to your individual needs.

- Welcome
- Mission
- Location
- Judge
- Staff
- Publications
- Graduates
- FAQs

- HOME
- COURTS
- COURTHELP
- ATTORNEYS
- JURORS
- JUDGES
- CAREERS
- SEARCH

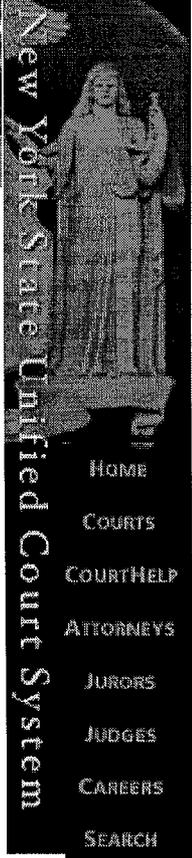
347.404.9619

Barbara Miles
Probation Officer
347.404.9559
bmiles@courts.state.ny.us

120 Schermerhorn Street, Brooklyn, NY 11201
P: 347.404.9616 .F: 718.643.6646
www.nycourts.gov/nycdrugcourt

NEW YORK CITY CRIMINAL COURT: DRUG COURT INITIATIVE

Misdemeanor Brooklyn Treatment Court (MBTC)



HOME

CITY-WIDE INFO >>

ESPAÑOL

Brooklyn

MISDEMEANOR (MBTC)

- Welcome
- Mission
- Location
- Judge
- Staff
- Publications
- Graduates
- FAQs

MBTC Publications

As a Misdemeanor Brooklyn Treatment Court (MBTC) participant, you must follow the instructions given in court by the Judge and the rules and treatment plan given to you by your Case Manager and Primary Treatment Provider. A handbook, the "MBTC Guidelines and Program Information for Participants Handbook", will be given to you that will explain what is expected of you. It will also provide general information about the MBTC program.

This handbook is designed to:

- Let you know what MBTC is all about
- Answer your questions
- Address your concerns

Topics of discussion:

- Welcome to MBTC
- What is MBTC?
- What's in it for me?
- MBTC Rules
- MBTC Phase Description and Sanction
- Schedule
- Graduation
- MBTC Expectations
- MBTC Support Services
- MBTC Team
- and Important Numbers

In the rest of this Handbook, you will find information on what you need to do and where you can turn for help. Remember - there are many people who make up the MBTC Team, and they all want to see you succeed. If you take the help that is offered, you will discover many ways to make a better life for yourself.

Handbooks

MBTC Guidelines and Program Information for Participants Handbook
ENGLISH



MBTC Guidelines and Program Information for Participants Handbook
SPANISH



MBTC Handbook Supplement
ENGLISH



Ask your Case Manager or Defense Attorney to explain to you anything in this handbook that you do not understand!



From a Grad's own words

[To Come]

Graduation Pictures



- HOME
- CITY-WIDE INFO >>
- ESPAÑOL
- Brooklyn
- MISDEMEANOR (MBTC)

MBTC Graduates

Congratulations on the successful completion of your mandate. This is just the beginning of your life long sobriety. Use the tools that you learned in treatment to help you maintain a positive direction in your life. Remember that we are always here to help you and feel free to come back and update us on your successful endeavors.

Mia Santiago,
Project Director II,
STEP/MBTC

CONGRATULATIONS!

- Welcome
- Mission
- Location
- Judge
- Staff
- Publications
- Graduates
- FAQs

- HOME
- COURTS
- COURTHELP
- ATTORNEYS
- JURORS
- JUDGES
- CAREERS
- SEARCH

NEW YORK CITY CRIMINAL COURT: DRUG COURT INITIATIVE

Misdemeanor Brooklyn Treatment Court (MBTC)



HOME
CITY-WIDE INFO >>
ESPAÑOL
Brooklyn
MISDEMEANOR (MBTC)

MBTC FAQ

Take a moment and answer these 26 question to find out whether or not you understand your treatment obligations. Then compare your answers to the correct answers at the end. If you don't understand a question or need more information, contact a case manager.

- Welcome
- Mission
- Location
- Judge
- Staff
- Publications
- Graduates
- FAQs

1. I am here at Drug Court because:

- A) My attorney said I had to.
- B) I have no choice.
- C) I chose to be here. I chose to sign the contract with Drug Court. I chose to take the plea and most importantly I made the choice to better my life and stay out of jail.
- D) Not sure.

2. Before I chose to sign the Drug Court contract, I was given the choice of joining Drug Court (taking the treatment offer) or the choice of having my case go through the regular court process:

- A) True.
- B) False.

3. If I do not complete the Drug Court mandate I will have to:

- A) Do nothing, I don't care.
- B) Face the reality of having to do my jail alternative that was stated to me when I took the plea in court.

4. All participants who begin Drug Court with outpatient treatment must attend:

- A) At the intensive level, which is 5x week but school/work and other personal matters must work around my outpatient treatment schedule.
- B) Only 1-2 days a week, that's what the Judge and attorney told me.
- C) Whatever I decide. I chose to be here, so I can choose the amount of days.
- D) Intensive outpatient treatment, which is 5x a week, but I have a job so I can just attend 2-3 days a week.

5. Every time I report to court I must

Court Terminology

Accused - The person against whom an accusation is made; one who is charged with a crime or traffic infraction.

Appeal - Taking a case which has been decided in a court of inferior jurisdiction to one of superior jurisdiction, for the purpose of obtaining a review.

Arraign - Arraignment of an accused consists of calling upon him by name, reading to him the charges in the arrest documents, demanding of him whether he pleads guilty or not guilty or, in misdemeanors, no lo contendere, and entering his plea. This hearing may be combined with right to counsel hearing.

Bail - The release of a person from legal custody by a written agreement that he shall appear at the time and place designated and submit himself to the jurisdiction of the court and observe the requirements set forth in the recognizance.

Bond - A certificate or evidence of a debt with a sum fixed as a penalty, which contains a written agreement binding the parties to pay the debt, conditioned, however, that the payment of the penalty may be avoided by the performance of certain acts by one or more of the parties.

Civil action - A case brought for determination enforcement or protection of a right, or redress; or prevention of a wrong; every action other than a criminal action.

Complaint - criminal - A charge brought before a judicial officer having jurisdiction, that a person named has committed a specified offense.

Court order - A command or mandatory direction of a judge which is made during a case.

New York State Unified Court System



- HOME
- COURTS
- COURTHELP
- ATTORNEYS
- JURORS
- JUDGES
- CAREERS
- SEARCH

always:

- A) Report directly to my Case Manager, speak with him/her and provide a toxicology test.
- B) Just go to the court room.
- C) Just sign in and leave.
- D) Not sure.

6. If I violate any of the Drug Court rules, the Judge CANNOT impose a sanction or punishment:

- A) True.
- B) False.

7. Some of the Judge's sanctions and/or punishments can include: a public reprimand, a jury box sanction, order more case management/court appearances, remand (incarcerate) me or even impose my jail alternative:

- A) True.
- B) False.

8. If I am a felony participant in Drug Court this means that:

- A) I am court mandated for a minimum of 1 year.
- B) I am court mandated for a minimum of 8 months.
- C) I am court mandated for a minimum of 6-8 months.
- D) Not sure.

9. If I am a misdemeanor participant in Drug Court this means that:

- A) I am court mandated for a minimum of 1 year.
- B) I am court mandated for a minimum of 8 months.
- C) I am court mandated for a minimum of 6-8 months.
- D) Not sure.

10. Felony participants in Drug Court must complete how many Drug Court phases?

- A) 1 phase.
- B) 2-3 phase.
- C) 3 phases.
- D) Not sure.

11. How long are the Felony Drug Court phases?

- A) Each phase is at least 4 months long.
- B) The first phase is at least 4 months long and the next two phases are at least 2 months long.
- C) Each phase is just 1 month long.
- D) Not sure.

12. Misdemeanor participants in Drug Court must complete how many phases?

Also includes a command of the judge which establishes courtroom or administrative procedures.

Crime - A positive or negative act in violation of penal law; an offense against the state classified either as a felony or misdemeanor.

Custody - The detainment of a person by virtue of lawful process or authority; actual imprisonment.

Defendant - The party against whom relief or recovery is sought in a court action or suit. Sometimes used to designate the accused in criminal or traffic cases.

Deposition - The testimony of a witness taken upon oral examination, after notice to the adverse party, not in open court, but in pursuance of a notice to take testimony issued by the party wanting the deposition. The adverse party has the right to attend and cross-examine. Testimony is reduced to writing and duly authenticated, and intended to be used in connection with the trial of an action in court. These are used in circuit court.

Detention - The holding of a person in custody or confinement.

Discovery - Procedures by which one party to a lawsuit may obtain information relevant to the case which is held or known by the other party.

Dismissal - An order disposing of an action, suit, etc., without trial.

Dismissed but not sealed - An order disposing of an action without trial but the file can be physically opened for review.

Disposition - Determination of the final arrangement or settlement of a case following judgment.

Docket - A record of all cases and actions scheduled to be heard in court, whether or not the matter is actually heard in a court on a particular day.

Evidence - All the means by which a matter of fact

- A) 1 phase.
- B) 2-3 phases.
- C) 3 phases.
- D) Not sure.

13. How long are the Misdemeanor Drug Court phases?

- A) Each phase is at least 4 months long.
- B) First phase is at least 4 months and the next two phases are at least 2 months longer.
- C) Each phase is just 1 month long.
- D) Not sure.

14. My court mandate time can be extended if I am noncompliant.

- A) True.
- B) False.

15. What can a participant do to ensure that they complete each phase in the minimum amount of time?

- A) Just show up. The Drug Court phases are only based on the length of time I am here and not on my participation and drug use. As long as I am here for 4 months, I will automatically move to phase II.
- B) That is up to me. Each time that I use drugs or the Judge sanctions me for negative behavior, I will have to begin my current phase all over again, causing me to remain in the program longer.
- C) Not sure.

16. While in Drug Court is it ok for me to use prescription drugs such as Tylenol 3 and Vicodin?

- A) Yes, as long as I have a doctor's prescription I can use any prescription drug I want.
- B) No, these drugs are narcotics and are highly addictive. I will be sanctioned anytime I use them. I should always check with my case manager first before using any prescription drugs.

17. Can I use alcohol while in Drug Court?

- A) Yes I can, alcohol is not a drug and it's no big deal.
- B) No I can't, alcohol is just as dangerous as any other illicit substance and I will be sanctioned anytime I use alcohol. I cannot use alcohol while under the Court mandate.

18. No alcohol, no big deal. I can still drink alcohol and just say I took cough medicine before the alcohol test.

- A) True.
- B) False.

19. I can test positive for cocaine from certain medications right?

the truth of which is submitted for investigation, is established or disproved.

Felony - A crime punishable by death or confinement in the penitentiary. See § 18.2-10 for classification of felonies and the punishment for each classification.

Finding - The result of the deliberations of a court.

Garnishment - A statutory post-judgment proceeding in which a third party who holds property, money or credits belonging to the judgment debtor is required to surrender such property, money or credits (to the extent of the judgment) to the court or sheriff for application against the judgment awarded against the judgment debtor.

Grand Jury - A special type of jury assembled to investigate whether criminal charges should be brought. Grand jury proceedings are supervised by circuit courts.

Guilty - Responsible for committing a criminal offense or a traffic infraction. The word used by an accused in pleading to the charges when he confesses to committing the crime of which he is charged. It is also used by the judge if he finds that the accused committed a criminal offense or a traffic infraction.

Indictment - A formal accusation by a grand jury that charges a person with a crime. Indictments are used to bring more serious charges and are used in circuit court only.

Juvenile - A person under the age of 18.

Legal Aid - Legal services are available in some areas to persons unable to afford an attorney. Legal aid offices handle only civil matters.

Minor - An infant or person who is under the age of legal competence. One under 18.

Misdemeanor - Offenses punishable by fine not exceeding \$2,500 or being jailed for a term

- A) Yes. I have to be careful regarding what medication I take.
B) No. The only thing that tests positive for cocaine is cocaine.

20. I was "on the block" last week and I was around a group of people smoking marijuana. Will I test positive for drugs?

- A) Yes, enough second hand smoke can cause a person to test positive.
B) No, if I test positive for marijuana it is only because I smoked. (Meaning I put the joint, blunt, bong, etc, to my mouth and took a hit.)
C) Not sure.

21. My current treatment plan is intensive outpatient, what will happen to my treatment plan if I continue to use/relapse with drugs and/or have poor attendance and participation in my outpatient program.

- A) Nothing. I was told that my treatment plan is outpatient and it cannot change.
B) I will be discharged from Drug Court and will have to do my jail alternative.
C) A change in my treatment plan. I may be referred to an inpatient program for a higher level of care.
D) Not sure.

22. Is it expected that I wear "suitable" attire when I appear in front of the Judge?

- A) Yes, I should treat all court appearances as if it was a job interview.
B) No, I can just wear shorts and a T-shirt if I want to.

23. I should inform my case manager of any contacts with the police and/or re-arrest.

- A) True.
B) False.

24. If I attend school, all attendance and participation at school directly affects my compliance status in court.

- A) True.
B) False.

25. If I do not complete Drug Court successfully my case will be dismissed.

- A) True.
B) False.

26. When I fill out job applications, can I say yes I don't have any convictions?

- A) Yes because the employer has no way of finding out.
B) No because it doesn't really matter.
C) You can answer yes to not having any convictions, but if the question ask have you

not exceeding 12 months or a combination of fine and jail within these limits.

Mistrial - A trial that is cut short and does not result in a verdict due to a procedural error or other problem. The trial must then start over from the beginning.

Motion - A request made to the judge by a litigant or other person connected with the case for a ruling or order.

Notice - Formal notification of a legal proceeding or determination.

Parole - In criminal law, a conditional release. If prisoner makes good, he will receive an absolute discharge from balance of sentence, but, if he does not, he will be returned to serve unexpired time.

Petition - A formal request to a court to take a certain action on a matter.

Plaintiff - A person who brings an action; the party who complains or sues in a personal action and is so named on the record.

Plea - Statement made by the defendant either as to his guilt or innocence to the charge made against him.

Probation - In modern criminal administration, allowing a person convicted of some offense to remain free under a suspension of a jail sentence during good behavior and generally

under the supervision or guardianship of probation officer together with other restrictions as the court may impose.

Remand - Sending a case back to the same court out of which it came for purpose of having some action taken on it there.

Sealed - A file that is physically closed from review.

Search warrant - An order in writing, issued by a judicial officer, in the name of the state, directed to a sheriff, or other officer commanding him to conduct a search to aid an official investigation.

ever been arrested you must also say yes and then go on to explain the charges against you were dismissed.

1.C, 2.A, 3.B, 4.A, 5.A, 6.B, 7.A, 8.A, 9.C, 10.C, 11.A, 12.C, 13.B, 14.A, 15.B, 16.B, 17.B, 18.B, 19.A, 20.B, 21.C, 22.A, 23.A, 24.A, 25.B, 26.C

If there are any other question that you would like answered, please contact your Case Manager or at drugcourtinfo@nycdrugcourt

120 Schermerhorn Street, Brooklyn, NY 11201
P: 347.404.9616 .F: 718.643.6646
www.nycourts.gov/nycdrugcourt

Seizure - To take into possession forcibly.

Sentence - The judgment formally pronounced by the judge upon the defendant after his conviction in a criminal prosecution, setting the punishment for the offense.

Subpoena - A process to cause a witness to appear and give testimony, commanding him to appear before a court therein named at a time therein mentioned to testify for the party named under a penalty therein mentioned.

Warrant of Arrest - A written order issued and signed by a judicial officer directed to a law enforcement officer or some other person specially named and commanding him to arrest the body of a person named in it who is accused of an offense.

NEW YORK CITY CRIMINAL COURT: DRUG COURT INITIATIVE

Screening & Treatment Enhancement Part (STEP) - Brooklyn

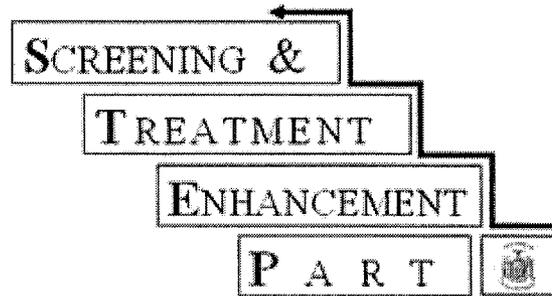


What is STEP?

STEP is a special courtroom in the Brooklyn Criminal Court. It is a program for first time felony offenders arrested in Brooklyn, who face felony drug charges and who also abuse drugs. Instead of jail or probation, STEP will help you enter and stay in a drug or alcohol treatment program. The STEP program includes regular court appearances and supervision by the STEP judge.

The amount of time you spend in STEP will depend on the crime you were originally charged with, your criminal history, your plea and your individual progress in treatment. Most people will spend anywhere from one to two years in the STEP program.

Welcome to the Screening & Treatment Enhancement Part (Felony)



Welcome to the Screening and Treatment Enhancement Part (STEP). STEP offers substance abuse treatment as an alternative to incarceration for nonviolent felony drug offenders arrested in Brooklyn, New York. By offering court monitored treatment, STEP strives to break the damaging and costly cycle of addiction, crime and incarceration.

The STEP Part is unique due to its specialized screening process which affords a greater number of people the opportunity to receive drug treatment services through the criminal justice system. In addition, our enhanced screening process has sparked specialized programming for the adolescent population. Our case managers ensure that all participants, particularly our adolescents, receive the appropriate treatment services that are matched to both age and specific developmental treatment needs.

Mia Santiago,
Project Director II,
STEP/MBTC

120 Schermerhorn Street, Brooklyn, NY 11201
P: 347.404.9616 .F: 718.643.6646
www.nycourts.gov/nycdrugcourt

- HOME
- CITY-WIDE INFO >>
- ESPAÑOL
- Brooklyn
- FELONY (STEP)

- Welcome
- Mission
- Location
- Judge
- Staff
- Publications
- Graduates
- FAQs

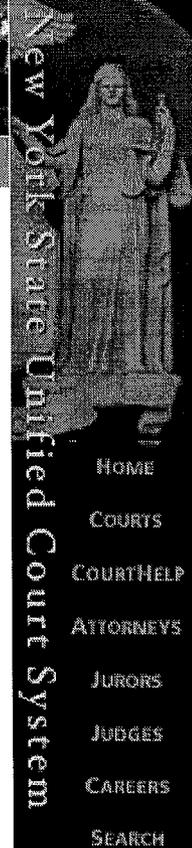
New York State Unified Court System



- HOME
- COURTS
- COURTHELP
- ATTORNEYS
- JURORS
- JUDGES
- CAREERS
- SEARCH

NEW YORK CITY CRIMINAL COURT: DRUG COURT INITIATIVE

Screening & Treatment Enhancement Part (STEP) - Brooklyn



- HOME
- CITY-WIDE INFO >>
- ESPAÑOL
- Brooklyn
- FELONY (STEP)

STEP Mission

The Screening & Treatment Enhancement Part Young Adult Program seeks to promote public safety and reduce substance abuse among non-violent felony offenders, especially those aged 16 - 18, by providing cost effective judicially monitored treatment intervention that capitalizes on the participants' strengths and enlists community and family support to achieve treatment, educational and vocational goals.

Enhanced Drug Screening Project

The Enhanced Drug Screening Project is a centralized screening process that incorporates early identification of eligible offenders in need of substance abuse treatment with referral to community based treatment and frequent judicial monitoring of their progress.

120 Schermerhorn Street, Brooklyn, NY 11201
P: 347.404.9616 F: 718.643.6646
www.nycourts.gov/nycdrugcourt

Welcome

Mission

Location

Judge

Staff

Publications

Graduates

FAQs

HOME

COURTS

COURTHELP

ATTORNEYS

JURORS

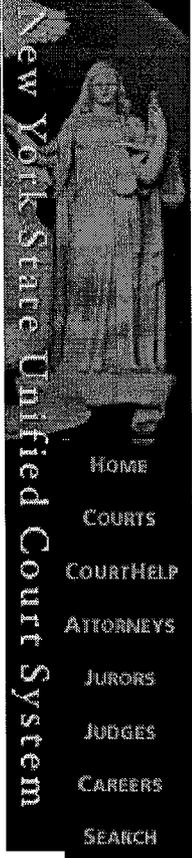
JUDGES

CAREERS

SEARCH

NEW YORK CITY CRIMINAL COURT: DRUG COURT INITIATIVE

Screening & Treatment Enhancement Part (STEP) - Brooklyn

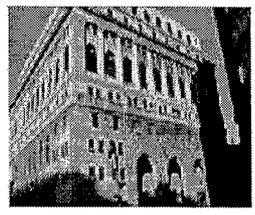


- HOME
- CITY-WIDE INFO >>
- ESPAÑOL
- Brooklyn
- FELONY (STEP)

STEP Location

Location

The Screening and Treatment Enhancement Part is located at 120 Schermerhorn, 8th Floor, Brooklyn, New York 11201. (The cross streets are Adams Street and Smith Street.)



MTA subway, bus, railroad maps and additional transit information, please click here: MTA.INFO

Directions

Public transportation: Take the N or R train to the Lawrence Street Station; the G train to the Hoyt Street and Schermerhorn Street Station; the A, F or C train to the Jay Street Station; the 2, 3, 4 or 5 trains to the Borough Hall Station. There are several bus lines nearby: the B67, B41 and B45 bus lines stop near Livingston Street and Smith Street; the B63 and the B65 bus lines stop near Atlantic Avenue and Smith Street.

For more detailed information and directions call: The M.T.A. New York City Transit Information Line 718.330.1234.

Other Manhattan Criminal Court Information: NYC Criminal Court Information Line 212.374.5880.

Arraignments: Monday through Sunday: 9:00 a.m. to 1:00 a.m. Excluding Desk Appearance Tickets (DATs). On Monday through Wednesday, the arraignment part begins at 8:00 a.m.

Desk Appearance Tickets (DATs): Monday through Friday: 9:00 a.m. to 5:00 p.m. Except Holidays.

All Other Parts: Monday through Friday: 9:00 a.m. to 5:00 p.m. Except Holidays

Clerk's Offices: Monday through Friday: 9:00 a.m. to 5:00 p.m. Except Holidays.

120 Schermerhorn Street, Brooklyn, NY 11201
P: 347.404.9616 .F: 718.643.6646
www.nycourts.gov/nycdrugcourt

- Welcome
- Mission
- Location
- Judge
- Staff
- Publications
- Graduates
- FAQs

- HOME
- COURTS
- COURTHELP
- ATTORNEYS
- JURORS
- JUDGES
- CAREERS
- SEARCH

NEW YORK CITY CRIMINAL COURT: DRUG COURT INITIATIVE

Screening & Treatment Enhancement Part (STEP) - Brooklyn



HOME

CITY-WIDE INFO >>

ESPAÑOL

Brooklyn

FELONY
(STEP)

Welcome

Mission

Location

Judge

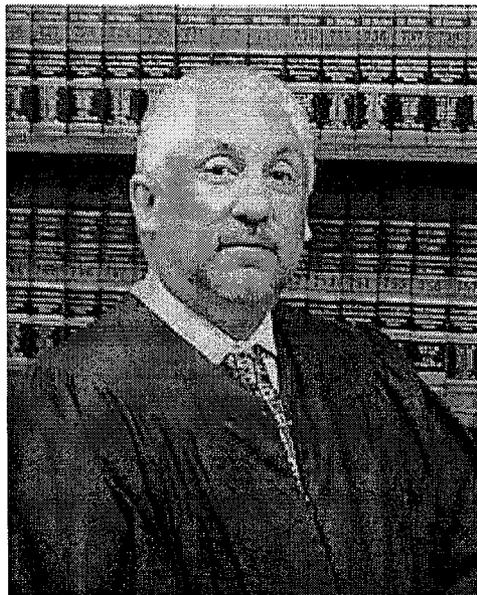
Staff

Publications

Graduates

FAQs

STEP Judge



Honorable Frederick C. Arriaga

After your arrest you were given a choice between joining STEP and having your case go through the regular court process. If you abuse drugs and are eligible for the STEP program, your Case Manager will work with you to build a treatment plan. While you are in treatment, the Judge will closely watch your progress.

If the Judge says you can no longer participate or you ask to stop participating, the Judge will sentence you to the jail time you and your lawyer agreed to when you pled guilty.

Judicial Offices

- Judge, Civil Court of the City of New York, Kings County, Elected, 2008 to 2017

Other Professional Experience

- Counsel to the Brooklyn Borough President, 2004 to 2007
- South Brooklyn Legal Services, Senior Attorney, 1997 to 2004
- The Legal Aid Society, Brooklyn Office for the Aging, Senior Attorney, 1996 to 1997
- South Brooklyn Legal Services, Senior Attorney, 1992 to 1996

Admission to the Bar

- NYS, Appellate Division, Second Department, 1993
- United States District Court, Eastern District of

Education

- J.D., Brooklyn Law School, 1992
- B.S., University of Florida, 1983

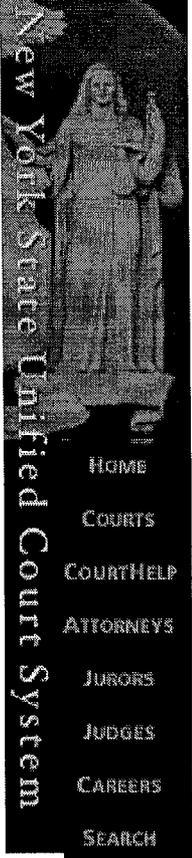
Professional & Civic Activities

- Member, Brooklyn Bar Association
- Member, Brooklyn Women's Bar Association
- Member, Puerto Rican Bar Association
- Board Member, Association of Judges Hispanic Heritage

120 Schermerhorn Street, Brooklyn, NY 11201
P: 347.404.9616.F: 718.643.6646
www.nycourts.gov/nycdrugcourt

NEW YORK CITY CRIMINAL COURT: DRUG COURT INITIATIVE

Screening & Treatment Enhancement Part (STEP) - Brooklyn



HOME
CITY-WIDE INFO >>
ESPAÑOL
Brooklyn
FELONY (STEP)

STEP Staff

Mia Santiago
Project Director II
347.404.9550
mgsantia@courts.state.ny.us

Robert Rivera
Case Manager II
347.404.9549
rrivera@courts.state.ny.us

Theresa Good
Case Manager I
347.404.9551
tgood@courts.state.ny.us

Lisa Kelly
Case Manager I
347.404.9555
lkelly@courts.state.ny.us

Melinda Pavia
Case Manager I
347.404.9557
mepavia@courts.state.ny.us

Lucy Perez
Case Manager I
347.404.9554
lperez@courts.state.ny.us

Miriam Fmania
Vocational/Educational Case Manager
347.404.9560
mfmania@courts.state.ny.us

Lyndon Harding
Case Technician
347.404.9616

Barbara Miles
Probation Officer
347.404.9559
bmiles@courts.state.ny.us

While you are in a treatment program, the Judge, prosecutor, your lawyer and your case manager will monitor your progress in treatment. Your case manager will be in constant contact with your treatment program staff.

After you first meet, your Case Manager will develop a Treatment Plan. Your Treatment Plan will explain the following things:

Attendance at a substance abuse treatment program

Regular drug and alcohol testing
Medical screening

Attendance at an educational/vocational program
Participation in self-help groups

Your Case Manager will also help you with other areas of your life according to your individual needs.

Welcome

Mission

Location

Judge

Staff

Publications

Graduates

FAQs

HOME

COURTS

COURTHELP

ATTORNEYS

JURORS

JUDGES

CAREERS

SEARCH

NEW YORK CITY CRIMINAL COURT: DRUG COURT INITIATIVE

Screening & Treatment Enhancement Part (STEP) - Brooklyn



Handbooks

STEP Guidelines and Program Information for Participants Handbook **ENGLISH**



Guidelines and Program Information for Participants Handbook

STEP Guidelines and Program Information for Participants Handbook **SPANISH**



Guidelines and Program Information for Participants Handbook

STEP Handbook Supplement **ENGLISH**



Ask your Case Manager or Defense Attorney to explain to you anything in this handbook that you do not understand!

STEP Publications

As a Screening and Treatment Enhancement Part (STEP) participant, you must follow the instructions given in court by the Judge and the rules and treatment plan given to you by your Case Manager and Primary Treatment Provider. A handbook, the "STEP Guidelines and Program Information for Participants Handbook", will be given to you that will explain what is expected of you. It will also provide general information about the STEP program.

This handbook is designed to:

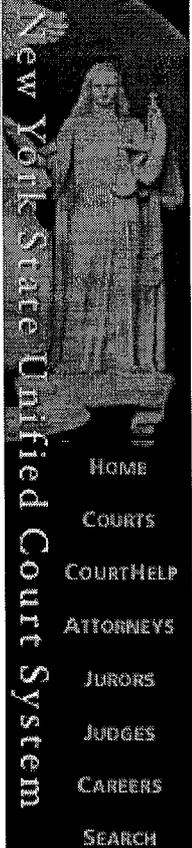
- Let you know what STEP is all about
- Answer your questions
- Address your concerns

Topics of discussion:

- Welcome to STEP
- What is STEP?
- What's in it for me?
- STEP Rules
- MTC Phase Description and Sanction
- Schedule
- Graduation
- STEP Expectations
- STEP Support Services
- STEP Team
- and Important Numbers

In the rest of this Handbook, you will find information on what you need to do and where you can turn for help. Remember - there are many people who make up the STEP Team, and they all want to see you succeed. If you take the help that is offered, you will discover many ways to make a better life for yourself.

120 Schermerhorn Street, Brooklyn, NY 11201
P: 347.404.9616 . F: 718.643.6646
www.nycourts.gov/nycdrugcourt



HOME

CITY-WIDE INFO >>

ESPAÑOL

Brooklyn

FELONY (STEP)

- Welcome
- Mission
- Location
- Judge
- Staff
- Publications
- Graduates
- FAQs

- HOME
- COURTS
- COURTHELP
- ATTORNEYS
- JURORS
- JUDGES
- CAREERS
- SEARCH



- HOME
- CITY-WIDE INFO >>
- ESPAÑOL
- Brooklyn
- FELONY (STEP)

- Welcome
- Mission
- Location
- Judge
- Staff
- Publications
- Graduates
- FAQs

STEP Graduates

Congratulations on the successful completion of your mandate. This is just the beginning of your life long sobriety. Use the tools that you learned in treatment to help you maintain a positive direction in your life. Remember that we are always here to help you and feel free to come back and update us on your successful endeavors.

Mia Santiago,
Project Director II

A Teenager Reconnects with Something Positive

I first met Robby D. when he appeared in my courtroom, the Brooklyn Screening Treatment and Enhancement Part (STEP), in June 2005, charged with selling crack-cocaine to an undercover police officer. He was a 16-year-old marijuana-dependent high school drop-out and the middle child of a family of seven children, living in a single-person household with his mother. He sold the drugs for money to buy stylish clothing, to fit in. He had no financial resources and no job. His friends were involved in drug dealing and he joined. He presented a case similar to many of the nearly 300 young men in the STEP program, leading a lifestyle with little accountability.

During the following 18 months, and more than 30 court appearances, I saw him achieve abstinence from marijuana dependency. I saw him obtain his FEG and secure gainful employment. I saw him grow into a more mature, and more responsible young man who began to discover his true self, that of a thoughtful, caring and decent individual. I saw him comply with the treatment mandate and earn the dismissal of the pending felony charges that could have burdened him for the rest of his life. Upon graduation from the STEP program, he walked out of the courtroom with a clean record and the hope of a brighter future.

Robby wrote, "Before entering STEP I was a

A Graduate's Oration

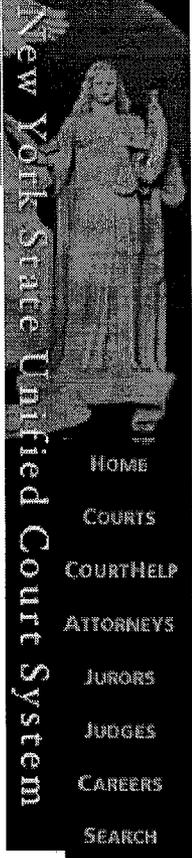
Good day ladies and gentlemen and my fellow graduates.

It is my pleasure to congratulate you all on completing the program. As for me completing the program helped me to become a better individual, where I am able to focus on the positive things my family, which I missed very much because of my addiction. What I have learned from the program, I am able to share it with other who may need it. I now realize that it is easier to get into trouble, but hard to get out. I feel better about who I am today because of what I have experienced in the program. It allowed me to focus on my work and my own issues, along with helping my peers.

Being clean and sober allows me to better deal with my problems and situations when they arise. I now can share my feelings and emotions with my peers before making any wrong decisions today. Now I have new knowledge and insight which gives me the opportunity to choose a strong network of my peers who can help me remain on the right path. With my higher power in sight, my faith will be even stronger to endure the trials of this life. I need all these tools to help me not repeat the same mistakes I made in the past.

I wish you all the best on your endeavors in this life living clean and sober. Stay encouraged and always be ready to share with others the exact nature of your problems whatever they may be. There will be better and brighter day ahead of us all and being clean we will be able to see them. Good luck and stay focused.

God bless.



- HOME
- COURTS
- COURTHELP
- ATTORNEYS
- JURORS
- JUDGES
- CAREERS
- SEARCH

nobody. In my time in STEP I have learned that I am more than what I was before. I learned that I am a smart young man that could go places, far places, and I could do anything I put my mind to. I learned that life is beautiful and I should not be waiting it, I should be cherishing it. "Eighteen months earlier, however, this new beginning was not certain.

Graduation Pictures



In April 2005, Robby was arrested for misdemeanor drug possession, which was adjourned in contemplation of dismissal. Two months later, only on block from his Brooklyn home, Robby, along with his friend, sold three bags of crack-cocaine to an undercover police officer. He was arrested and the following day arraigned in Kings County Criminal Court on felony charges carrying penalties of up to nine years in state prison. The case was adjourned to STEP for assessments.

The Kings County District Attorney's Office reviewed the case and determined that a treatment offer was appropriate. Assessment revealed that Robby's drug of choice was marijuana, which he had begun smoking when he was 14. He dropped out of high school credits, it was unlikely that he would ever graduate.

The goal of the treatment mandate was to eliminate Robby's dependency on marijuana and to provide him with an opportunity to pursue his education and vocational goals. Given his relatively stable home life and moderate drug dependency, an outpatient treatment plan was recommended, which mandated daily drug treatment and general education classes.

With his attorney and mother present, a felony guilty plea was entered, He was placed on "interim probation" whereby his case manager would be probation officer assigned to STEP on a full-time basis. (The New York Department of Probation has assigned two probation officers on a full-time basis to act as case managers for STEP participants who are currently sentenced to probation or young persons in need of greater supervision.) Robby and I signed a contract stating that if he complied with the treatment mandate, the case would be dismissed, but if he failed, he would go to jail for one year.

At the time of plea, a curfew was imposed requiring him to be home overnight no later than 9:00 p.m. (The court has since changed its policy for younger participants, imposing a curfew of 6:30 p.m. Sunday through Thursday, and 9:00 p.m. Friday and Saturday.) His mother supported the imposition of the curfew, and, indeed, supported each of the court's decision throughout the mandate. She was an active participant throughout the recovery process, and Robby's ultimate success, I believe, was in

large measure attributable to her commitment and support.

Through intensive judicial monitoring and a system of sanctions and rewards, the court sought to instill a new sense of accountability and responsibility while building self-esteem and self-confidence. No conduct, positive or negative, was overlooked, and since court appearances were frequent—every two to three weeks—there was little delay in the court's response. (In the event of serious acts of non-compliance, cases are advanced from the calendar for immediate court intervention. This was never necessary in Robby's case.)

When he did well, the court was enthusiastic in its approval, particularly when Robby passed each of the mandate's phases and when he obtained his GED. (The STEP court mandate is divided into three phases of four months each. In the event of non-compliance, phase time is stopped. In the event of a relapse, phase time starts over, beginning at the point of the first negative drug test.) When he was non-compliant, sanctions were imposed, including, in Robby's case, verbal admonishment, time in the jury box, and two separate essays. During the course of the 18-month mandate, there were two marijuana relapses, missed sessions with treatment provider, and failure to report to STEP treatment center as directed. For these reasons, what would ordinarily have been a 12-month mandate was extended to 18 months.

The second essay sanction was prompted when Robby lied about why he missed a treatment appointment. He claimed he was shopping for a prom suit with his mother. St STEP probation officer/case manager contacted his mother, who disavowed this and expressed her concerns about her son's dishonesty. The topic of the essay sanction was, "Why is Honesty the Most Important Principle in Life." On the following court date, Robby submitted a thoughtful and responsive essay. Along with news that he had gotten a job as a file clerk, he showed his STEP case manager photographs of his high school prom.

The last sanction was imposed in June 2006. After that, he remained fully compliant until the conclusion of the mandate that December. With the assistance of STEP's New York City Department of Education liaison, Robby attended an orientation at Kingsborough Community College and was scheduled to start classes in January 2007 to obtain a degree in business administration, with goal of one day establishing his own business. (The New York City Department of Education has assigned one of its employees to STEP on a full-time basis to place young participants in either public high school or equivalency programs, to monitor attendance, and to provide general education

guidance.)

A number of factors contributed to Robby's success: the involvement and support of his mother and Robby's own willingness to recognize the need for dramatic behavioral change and the will to affect it. Robby's own words reveal optimism as well as an understanding of the challenges ahead: "The STEP experience has shown me that society can be corrupt with society. My community is a positive place with positive things around it, but it has negative people that do negative things. Our community is a place where we should be able to have a happy life."

By Joseph E. Gubbay,
Judge of the Criminal Court
of the City of New York

CONGRATULATIONS!

How can the Mental Health Court Advocacy Program help you?

We are open to working with individuals on a court-mandated or volunteer basis following their appearance in Arraignment Court.

Please call 1-800-322-3284



Dr. J. Buzz Von Ornsteiner, Ph.D.

Project Director
Licensed Psychologist
(718) 975-0180 x340

Danielle Patterson, B.S.

Coordinator
(718) 975-0180 x307

Our team consists of:

a licensed psychologist, a coordinator and forensic case managers. Our goal is to secure for our clients mental health and/or psychiatric intervention, medical services, entitlement benefits, substance abuse services and referrals to long-term case management services.

Mental Health Court Advocacy Program

The main objective of this program is to divert mentally ill & cognitively impaired offenders (often dually diagnosed with drug and alcohol abuse) from further adjudication and confinement. We believe that identifying these individuals early leads to potentially successful treatment and, as a result, decreased recidivism rather than punishment.

Our staff appears in arraignment court from 9:00 AM until 9:00 PM.

Our program offers services for individuals that:

- Require short-term intensive case management services (anywhere from 1 to a maximum 90 days) or require continued long-term case management services through Adult-LINK
- Are mandated by the Court to comply with our case management services.
- Have not taken a plea, but had their cases adjourned with the court's recommendation that they work with the Mental Health Court Advocacy Program
- Are willing to work comply with the program on a voluntary basis.

We offer a **SAFE PLACE** where individuals with **special needs** can have individual one-on-one contact.

We have excellent referrals for:

- psychiatric assessments
- medical care
- benefits
- in-patient
- out-patient
- vocational services

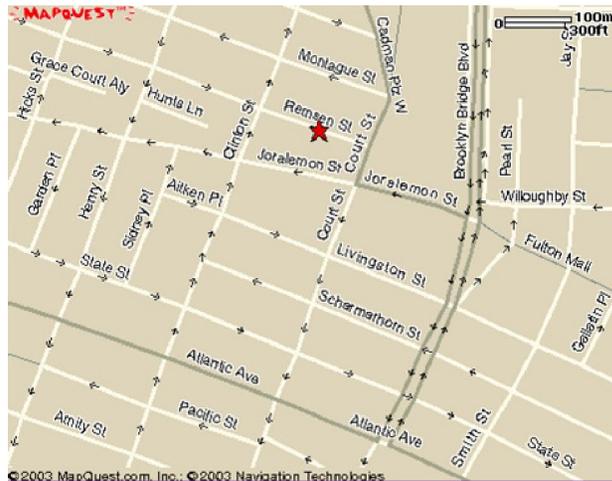


EXHIBIT 8

Mental Health Court Advocacy

Our office is located at:
175 Remsen Street, Suite 500
Brooklyn, NY 11201
Phone: (718) 975-0180
Fax: (718) 975-1190
1-800-322-3284

We are conveniently located in:
Downtown Brooklyn
Court Street (2, 3, 4 and 5 & M, R trains)
Borough Hall (2, 3, 4 and 5 trains)
Jay Street Station (A, C and F trains)
One block north of Joralemon
between Clinton & Court Streets.
Across the street from St. Francis College



Mental Health Court Advocacy



This program is funded by the New York City
Department of Mental Health.



EAC Network is a not-for-profit human service agency with 70 programs throughout Long Island and the New York metro area and has been providing human service programs in the fields of aging, youth, families, education, and criminal justice since 1969. Last year EAC Network helped over 57,400 people.

Lance W. Elder
President & CEO

Rebecca Bell
Executive Vice President & COO

Tania Peterson Chandler, Esq.
Regional Director

Dr. J. Buzz Von Ornsteiner
Project Director

Administrative Office:
50 Clinton Street, Suite 107
Hempstead, NY 11550
(516) 539-0150

www.eacinc.org



Mental Health Court Advocacy



Providing one-on-one services for
mentally ill or cognitively impaired
offenders with special needs.

Mental Health Court Advocacy Program

175 Remsen Street, 5th Floor
Brooklyn, New York 11201

Phone: (718) 975-0180
Fax: (718) 975-1190
1-800-322-3284

www.eacinc.org

EXHIBIT 9

OPERATION SPOTLIGHT

The definition of “Operation Spotlight” is taken from page 1 of the preface of CJA NEW YORK CITY CRIMINAL JUSTICE AGENCY NEW YORK CITY CRIMINAL JUSTICE AGENCY- OPERATION SPOTLIGHT: YEAR FOUR PROGRAM REPORT, Project Director, Freda F. Solomon, Ph.D., Senior Research Fellow, FINAL REPORT, November 2007,

Operation Spotlight In June 2002, New York City announced a new initiative called Operation Spotlight designed to target active persistent misdemeanants prior to their arraignment in the criminal courts. **TO RECEIVE THIS DESIGNATION A DEFENDANT ARRESTED IN NEW YORK CITY FOR A MISDEMEANOR CRIME MUST HAVE AN ADULT CRIMINAL RECORD WITH TWO OR MORE PROSECUTED ARRESTS WITHIN TWELVE MONTHS OF A TARGETED ARREST, AT LEAST ONE OF WHICH MUST HAVE HAD A TOP ARREST CHARGE OF MISDEMEANOR SEVERITY. IN ADDITION, THE DEFENDANT MUST PREVIOUSLY HAVE BEEN CONVICTED OF MISDEMEANOR CRIMES AT LEAST TWICE, AND AT LEAST ONE OF THESE CONVICTIONS MUST HAVE BEEN WITHIN TWELVE MONTHS OF THE CURRENT ARREST.** In addition, once identified as a Spotlight offender, the defendant retains the designation for any new misdemeanor arrest unless or until a full year (plus post-conviction jail time) has passed without a new qualifying arrest.

In Summary, the following is the criteria for “Operation Spotlight:”

- 1) CURRENT ARREST AND 2 OTHER ARRESTS WITHIN THE LAST 12 MONTHS.
- 2) THE TOP CHARGE OF ONE OF THE PRIOR ARREST IS A MISDEMEANOR.
- 3) 2 MISDEMEANOR CONVICTIONS AT LEAST ONE OF WHICH WAS WITHIN 12 MONTHS OF THE CURRENT ARREST.