

# THE BROOKLYN TREATMENT COURT

## INTRODUCTION

In response to the overwhelming problem of drug-related crime committed by nonviolent, drug-abusing defendants, the Brooklyn Treatment Court opened in the Kings County Supreme Court on June 6, 1996. The Court is grounded on the premise that an arrest is a significant triggering event providing an opportunity to influence an addict to pursue treatment. Early assessment and drug testing is relied upon to identify and treat substance-abusing defendants and break the damaging cycle of drug addiction and crime. The evaluation and referral process is streamlined by the presence of clinical staff inside the courthouse.

Case managers at the Brooklyn Treatment Court evaluate each eligible defendant's need for treatment, determine the appropriate treatment modality (e.g., outpatient or residential), and find a suitable community-based treatment provider. When indicated, case managers can also requisition medical tests and/or psychological evaluations, and assist defendants in obtaining insurance coverage for their treatment.

The New York State Unified Court System and the Center for Court Innovation of the Fund for the City of New York coordinated the establishment of the Brooklyn Treatment Court, which is operated under the aegis of the Chief Judge of the State of New York and the Administrative Judge of the Second Judicial District. Its development was made possible through collaboration with the New York City Criminal Justice Coordinator, the Fund for the City of New York, the Brooklyn District Attorney's Office, the Legal Aid Society of New York, and the New York City Department of Corrections.

Principal federal funding was received from the Department of Justice through a grant to the United Court System, and from the Center for Substance Abuse Treatment through a grant to the Office of Alcohol and Substance Abuse Services. Special project funding was also received from the State Justice Institute.

Funding for the development of the Uniform Treatment Application, an automated data collection system, was received through the New York State Office of Court Administration. New York State and New York City made further in-kind and indirect contributions toward the administrative costs of program facilities.

# THE BROOKLYN TREATMENT COURT

## MISSION STATEMENT

The Brooklyn Treatment Court offers substance abuse treatment as an alternative to incarceration for drug-addicted individuals arrested in Brooklyn and charged with felony possession or sale of a controlled substance. The Court emerged out of the realization that a substantial number of these individuals engaged in criminal behavior as a result of their need to support a drug addiction rather than from deep-seated criminality. By offering court-monitored treatment, the Court aims to decrease the prevalence of drug addiction and drug-related crime in Brooklyn by breaking the damaging and costly cycle of addiction, crime, and incarceration.

The Brooklyn Treatment Court aims to accomplish its mission by:

- ▶ Mandating drug-addicted offenders to judicially supervised treatment as an alternative to incarceration;
- ▶ Educating substance-abusing offenders about the hazards of substance abuse;
- ▶ Providing rigorous case management to ensure that each participant complies with the treatment mandate;
- ▶ Helping all participants learn how to control their addictions so that they can maintain long-term recovery and sobriety;
- ▶ Utilizing health education to reduce high-risk behaviors among offenders;
  - ▶ Identifying and treating the health problems of high-risk offenders; and
- ▶ Assisting participants with their vocational, educational, and/or employment needs.

**THE BROOKLYN TREATMENT COURT**  
**ELIGIBILITY STANDARDS**

**Minimum Eligibility Criteria:**

1. The defendant must be charged with felony possession or sale of a controlled substance in Kings County. Individuals charged with A-I or A-II felonies are ineligible.
2. The defendant cannot be charged with or have a prior conviction for any violent crime, as that term is defined by the 1994 Crime Control Act. In New York State, a defendant charged with or convicted of any of the following offenses will be deemed ineligible:

All felony sections of the following Penal Law articles:

120	Assault and Related Offenses
125	Homicide and Related Offenses
130	Sex Offenses
135	Kidnapping and Related Offenses
150	Arson
160	Robbery
215	Offenses relating to Judicial Proceedings
240	Offenses Against Public Order
265	Firearms and other Dangerous Weapons

The following sections of Penal Law Article 140:

140.25	Burglary in the second degree
140.30	Burglary in the first degree

3. The defendant must be a substance-abuser based upon an assessment performed by the Brooklyn Treatment Court clinical staff.
4. The defendant must be at least 19 years of age at the time of arrest.

**Other Eligibility Factors:**

- ▶ Male offenders with a prior conviction for a violent felony are screened in a different court part to determine their eligibility for the Drug Treatment Alternative to Prison (DTAP) program offered by the Kings County District Attorney's Office. Female offenders with a prior felony conviction are screened in the Brooklyn Treatment Court for both DTAP and Brooklyn Treatment Court eligibility.
- ▶ The District Attorney's Office will not consent to a treatment disposition in certain types of drug cases, namely those involving search warrants, drug sales during school hours near school property, drug sales inside a location, and drug sales occurring through the use of a beeper.

# THE BROOKLYN TREATMENT COURT

## TEAM MEMBERS

### **JUDGE**

The Presiding Judge of the Brooklyn Treatment Court heads a collaborative treatment team composed of herself, the prosecutor, the defense attorney, and the clinical staff. In this capacity, the Judge regularly reviews case status reports detailing each participant's compliance with the treatment mandate, drug test results, cooperation with the treatment provider, and progress toward abstinence and law-abiding behavior. During regular court appearances (approximately one per month), the Judge administers a system of graduated sanctions and rewards to increase each participant's accountability and to enhance the likelihood of recovery.

As a result of their frequent interactions during court appearances, participants develop a strong rapport with the Judge, who speaks directly to them, asks about their progress, exhorts them to try harder, and applauds their accomplishments. At the same time, she is sure to remind them of their continuing obligation to remain drug-free, often acknowledging improvements in their hygiene and physical appearance resulting from the cessation of drug use. Conversely, participants appreciate the Judge's recognition of their diligent efforts toward recovery.

Most important, the Judge ultimately decides whether participants have earned the right to graduate and have the charges against them dismissed, or whether the jail alternative should be imposed for failure to successfully complete the treatment mandate.

### **PROJECT DIRECTOR**

The Project Director manages all aspects of the Brooklyn Treatment Court. He is responsible for the oversight of all personnel matters. He interfaces with governmental agencies, criminal justice agencies, and community-based organizations, and is accountable for preparing and submitting monthly, quarterly, and annual reports, including the preparation and modification of program budgets. He develops and supervises special projects, technology and program enhancements, which enhance services for special needs populations, including those with mental illness, women and children, those with health care issues, and those with vocational/educational needs. Lastly, he frequently participates in state and national drug court training activities.

### **DISTRICT ATTORNEY**

The role of the District Attorney in a drug court is radically different. Typically, prosecutors and defense attorneys are adversarial. However, in the Brooklyn Treatment Court, all parties share the common goal of helping participants successfully complete their mandates. The prosecutor reviews new cases, determines which are appropriate, and creates plea offers, which all include a jail alternative for a defendant's failure to comply with the treatment mandate. As part of a collaborative team with the Judge, defense attorney, and clinical staff, the prosecutor monitors participant progress and can make recommendations regarding sanctions and ultimate treatment outcomes. Also, if a participant is re-arrested, the prosecutor investigates the new case and assesses the appropriateness of continued participation.

### **DEFENSE ATTORNEY**

The defense attorney represents and counsels the defendant in all court proceedings. In the Brooklyn Treatment Court, while the protection of all defendants' constitutional rights is always the primary concern, the defense attorney is also interested in promoting their health and well-being.

### **CLINICAL DIRECTOR**

The Clinical Director oversees the case management team and the Resource Coordinators, conducts regular supervision with all case managers, and maintains an open-door policy for impromptu meetings and problem solving. He also manages the daily clinical operations, including case flow, treatment planning, referrals to suitable treatment providers, and participant progress. He helps oversee the Court's network of community-based treatment programs by maintaining contact with providers, attending meetings, coordinating clinical presentations during site visits, and troubleshooting problems. Lastly, he is responsible for policy creation and implementation regarding clinical issues.

### **COURTROOM RESOURCE COORDINATOR**

The Courtroom Resource Coordinator serves as the primary liaison between the courtroom and the clinical staff. In this capacity, she oversees the communication of treatment-related information to the Court, keeps the clinical staff informed of relevant courtroom news, electronically updates the status of all cases, and ensures the flow of cases during court proceedings. She also acts as the clinical staff representative during collaborative decision-making in the courtroom.

### **ASSISTANT COURTROOM RESOURCE COORDINATOR**

The Assistant Courtroom Resource Coordinator assists in coordinating information of participants' compliance and progress on the date of their court appearance. He does this by monitoring arrival times, reviewing program attendance, tracking urine analysis results, and updating information in the Treatment Application. In addition, he conducts client preparation sessions for phase advancement, and maintains records for the dissemination of journals and other rewards. Lastly, he manages the Community Service component of the program, including the oversight of community service participation by clients and maintenance of copious records of this participation.

### **EDUCATIONAL AND VOCATIONAL RESOURCE COORDINATOR**

The Educational and Vocational Resource Coordinator at the Brooklyn Treatment Court develops and implements comprehensive educational and vocational rehabilitation services for the substance abuse offender population. She conducts educational and vocational assessments on all clients and participates in case conferences for each client with the case management unit. She provides and coordinates educational and vocational activities within the Court and the community. These activities assist clients in achieving educational and vocational rehabilitation goals needed function successfully in the competitive workplace. This Coordinator also provides post placement support services to graduates that include referrals to vocational and educational service providers in the community. Lastly, she enters and maintains concise and accurate records on the court's management information system of each client's vocational status and progress.

### **ASSISTANT EDUCATIONAL AND VOCATIONAL RESOURCE COORDINATOR**

The Assistant Educational and Vocational Resource Coordinator conducts educational and vocational assessments on all clients and participates in conferences with the case management unit regarding these assessments. She also helps clients to achieve their educational and vocational rehabilitation goals so that they can function successfully in the competitive workplace. Lastly, she enters and maintains concise and accurate records of the vocational status and progress of all clients on the court's management information system.

### **COMMUNITY RESOURCE COORDINATOR**

The Community Resource Coordinator develops new relationships and funding sources in the community to address the treatment and supportive service needs of clients. He assists in the management of the Universal Screening Project and in the development and implementation of new program initiatives, including the drafting of grant applications, monitoring of outcomes, and reporting to funding sources. He assists in overseeing the Brooklyn Treatment Court's established network of substance abuse treatment providers and helps resolve service provision issues by addressing linkage problems and court reporting issues, and conducting treatment outcome reporting through regular monitoring and site visits. He manages access to and data entry into the Uniform Treatment Application, which includes linking treatment providers, managing reporting issues, and generating regular statistical reports for outcome analysis and program development. He schedules, organizes, and conducts site visits to the Brooklyn Treatment Court, and assists with presentations to agency representatives, court visitors, project providers, and community partners. Lastly, he assists in the development, revision, production, printing, and distribution of Brooklyn Treatment Court publications and marketing materials, and participates in the development of the Court's website and educational videos.

### **CASE MANAGERS**

Case managers assess, monitor, and report on a caseload of Brooklyn Treatment Court participants. They conduct psycho-social assessments of new cases, prepare treatment plans, coordinate and facilitate each participant's entry into treatment, intensively monitor participant progress through exhaustive communication with treatment programs, maintain compliance-related information using the Court's computer system, and provide updated clinical information to the Court for each scheduled court appearance.

### **CERTIFIED LAB TECHNICIAN**

The Certified Lab Technician is responsible for the overall operation of the urinalysis-testing component of the Brooklyn Treatment Court. This responsibility includes not only the operation of the testing instruments, but she must also escort and observe participants as they provide urine samples. She also tracks specimens for each client by assigning and writing a specimen number on the sample cup, entering the name of each client and the specimen number into the testing data management system, and then entering the testing results into the Uniform Treatment Application according to the client's name and ID number. She is also responsible for keeping an inventory of urinalysis testing equipment and ordering all testing supplies as need. Lastly, she coordinates technical assistance with testing vendors.

### **INTAKE COORDINATOR**

The intake coordinator is responsible for the flow of new cases through the Brooklyn Treatment Court waiting area. He monitors new cases, conducts an orientation, and observes participants as they provide urine samples. He also provides administrative assistance to the treatment staff, monitors and issues office supplies, and maintains intake statistics.

### **TREATMENT PROVIDERS**

The Brooklyn Treatment Court works with an extensive network of community-based substance abuse treatment providers. Their services include hospital-based detoxification, short-term (30-day) residential treatment, long-term residential treatment, outpatient treatment, and intensive outpatient treatment. The clinical staff refers participants to specific programs based on their clinical need, the program's ability to comply with the Court's reporting requirements, and the program's capacity to meet any special needs that may exist (e.g., mental/physical health, language barriers, etc.). Also, in the case of outpatient services, the clinical staff will attempt to refer participants to a provider located near their community. The clinical staff maintains close communication with treatment providers by conducting visits and holding regular meetings of the Clinical Advisory Board.

## **THE BROOKLYN TREATMENT COURT**

### **SCHEDULING CONCERNS FOR THE DEFENSE PRACTITIONER**

The Brooklyn Treatment Court is aware that its non-traditional form of case processing may present scheduling concerns for defense attorneys. The following information is designed to address these concerns.

All new cases referred to the Brooklyn Treatment Court that are deemed ineligible due to a mistake in the Criminal Court screening process or a lack of District Attorney consent will be called as early in the morning as possible and adjourned back to AP1. After ineligible cases, the Court will hear the progress reports of active participants. Depending on the size of the calendar, these cases may not be completed during the morning session. Finally, after the completion of a psycho-social assessment and the development of a treatment recommendation, the Court will hear the cases of those individuals who are eligible to participate. Bear in mind that these are scheduling guidelines and cannot always be followed exactly.

Based on the foregoing, defense attorneys are advised to check with the Court first thing in the morning to ascertain whether or not their client's case will be adjourned back to AP1. If the case is not being adjourned, defense attorneys should return to the Court in the afternoon. At that time, they will be advised of the treatment recommendation and plea offer. Defense attorneys may also telephone the Court to check on the status of a case or of a defendant.

Defense attorneys are advised to check the Court papers before interviewing a client at Criminal Court Arraignments to determine if the case is stamped for adjournment to the Brooklyn Treatment Court. If the papers are so marked, the defendant should be advised what he/she can expect the following day, especially regarding the interview that will be conducted by the case managers.

# THE BROOKLYN TREATMENT COURT

## CASE PROCESSING

Initially, all cases are screened in Criminal Court prior to arraignment to determine whether a defendant's record and the current charges against him indicate preliminary eligibility for the Brooklyn Treatment Court. If so, the case is adjourned to the Brooklyn Treatment Court for the next business day.

The first time defendants appear in the Brooklyn Treatment Court, the Court, the prosecutor reviews their cases and determines whether they are legally eligible to participate (see Eligibility Standards, supra). Cases deemed ineligible will be called in the morning and adjourned back to Criminal Court.

Those defendants who are determined to be legally eligible will have a psycho-social assessment performed by an on-site case manager from the clinical staff. Those defendants who have no discernible addiction will have their cases adjourned back to Criminal Court. If the results of the assessment indicate a defendant is a substance-abuser in need of treatment, a treatment recommendation will be made to the Court based on the severity of addiction, the defendant's community ties, and the defendant's criminal justice history. The Court's staff will find an appropriate treatment provider and help the defendant obtain any necessary identification and entitlements. Those defendants who decline to be interviewed by the clinical staff or refuse the recommended treatment will have their cases processed in the Brooklyn Treatment Court until the hearing or trial stage when it will be transferred. Those defendants who were interviewed retain the option, up until the point of hearing or trial, to accept treatment. However, the longer defendants wait to accept the treatment offer, the greater the jail alternative will be if they fail to comply with the Court's treatment mandate.

Eligible defendants are offered the opportunity to plead guilty to either a felony or a misdemeanor, depending upon the facts specific to their respective cases, with the promise that the sentence will be deferred to allow them to participate in treatment. Those defendants who comply with the court-mandated treatment will have their guilty pleas vacated and the charges against them dismissed. Those defendants who fail to comply with the Court mandate will receive a sentence of incarceration. At the time of the plea, the Judge and the defendant sign a contract affirming this agreement.

### **DEFENDANTS WHO OPT FOR TREATMENT**

Defendants who opt for treatment will report back to the Court at regularly scheduled intervals for progress reports. Depending on their progress, the Court will reward or sanction them accordingly. One of the goals of the Brooklyn Treatment Court is to treat addiction realistically. Thus, rewards and sanctions are progressive and it is understood that relapses frequently are a part of the recovery process.

New arrests, which do not involve violence, are sanctioned but will not necessarily result in the termination of treatment. However, new arrests involving allegations of violence often results in the termination of treatment and imposition of the jail sentence on the Brooklyn Treatment Court case.

**CONFIDENTIALITY**

The Brooklyn Treatment Court is governed by Federal laws of confidentiality, which are very protective of patients' rights. Disclosure of information received in the course of treatment is strictly prohibited unless a court order "for good cause" is obtained. Thus far, the Courts have placed a heavy burden on any party seeking disclosure under this statute. Specifically, the psycho-social assessment, which is conducted upon referral of the case to the Brooklyn Treatment Court, falls within the scope of the federal statute as will any information obtained from the client during the course of treatment.

As part of their participation in the Brooklyn Treatment Court, defendants authorize the disclosure to the Court of information regarding their "diagnosis, attendance, scope of treatment, treatment progress and quality of participation, dates and results of urine testing and termination or completion of treatment" (see appendix B). In essence, they authorize the release of information relating to their compliance with the treatment mandate.

**THE BROOKLYN TREATMENT COURT**

**PLEA CONTRACT**

**Dkt/SCI/Ind. No.** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Defendant: By entering this plea of guilty, I understand and agree to the following:**

1. I acknowledge that I have a substance abuse problem and recognize that I need help to treat this disease.
2. I have reviewed the Brooklyn Treatment Court Manual and will follow the rules and procedures set forth therein.
3. I will enter and remain in a drug treatment program designated by the Court and will lead a law-abiding life until the successful completion of my Brooklyn Treatment Court Mandate.
4. I understand that failure to comply with the rules of the Court and treatment program will result in the imposition of sanctions, which may include incarceration and a change in my treatment plan.
5. I understand that if I fail to complete my Court Mandate I will be sentenced to a term of imprisonment of \_\_\_\_\_.
6. I understand that any new arrest may result in the immediate termination of my participation in the Brooklyn Treatment Court and the imposition of a prison sentence of up to \_\_\_\_\_.

\_\_\_\_\_  
**Brooklyn Treatment Court Client**

**Judge: By accepting your plea of guilty and your promise to enter a drug treatment program, the Brooklyn Treatment Court agrees to the following:**

1. The Brooklyn Treatment Court will assist you in overcoming your addiction.
2. A Case Manager will assess your treatment needs, refer you to an appropriate provider, and meet with you regularly to discuss your recovery.
3. The Clinical Staff will provide mental and physical health services at the Court's on-site clinic.
4. The Brooklyn Treatment Court will hold you accountable for your actions. Sanctions, including jail time, will be imposed for failure to comply with the Court's rules and directions as outlined in the Brooklyn Treatment Court Manual. Achievements in recovery will be rewarded and acknowledged throughout the different phases of treatment.
5. The Court will impose the agreed upon sentence of imprisonment if you fail to complete the mandate.
6. The Brooklyn Treatment Court will dismiss these charges and seal the record upon your successful completion of the Court Mandate.

\_\_\_\_\_  
**Judge, Brooklyn Treatment Court**

**THE BROOKLYN TREATMENT COURT**  
**PROCEDURE FOR PRE-PLACEMENT**

Participants may not be eligible to enter a substance abuse treatment program immediately. It may be necessary to obtain documentation or apply for Medicaid or public assistance before a referral is possible.

Early engagement, particularly within the first 30 days impacts participant retention in treatment and ultimately contributes to successful completion of the court mandate. To engage participants early in the process, they are required to attend onsite pre-placement groups. The goal of these groups is to introduce participants to substance abuse treatment, and to familiarize them to the rules, regulations, and expectations of the program.

The format for these groups includes Topic Meetings and open discussion. The intake coordinator facilitates the groups Monday through Friday.

Participants who have been mandated to treatment by the court, but have not yet entered a treatment program in the community will be required to appear at all scheduled appointments with the Human Resources Administration or other agencies.

In addition, participants must do the following:

- ▶ Appear in Court at least Every Two Weeks
- ▶ Appear in the BTC Treatment Center (Room 105) for Case Management and Urine Testing Twice a Week
- ▶ Attend Self Help meetings in the community according to the following schedule:  
Band 6 or 5:           5 meetings a Week  
Band 4 or below:     3 Meetings a Week
- ▶ Provide the Brooklyn Treatment Court with documentation of Self Help meetings at every court appearance or case management session. Valid documentation must include the date and time of every meeting and a signature verifying the participant's attendance at every meeting.

Any missed appointments or failure to bring in documentation of Self Help attendance will result in a C level infraction and possible sanction by the Court.

# THE BROOKLYN TREATMENT COURT

## TREATMENT BANDS

Treatment Bands are the primary mechanism by which participants in the Brooklyn Treatment Court are mandated to and monitored in treatment. All participants are designated to a "Band" of "treatment supervision" based upon the severity of their addiction and their criminal history. Consideration is also given to a participant's community ties and supports. The Treatment Bands, which are increased or decreased according to the participant's performance, indicate the frequency with which the participant must:

- ▶ Submit to Urine Testing
- ▶ Attend a Treatment Program
- ▶ Meet with their Brooklyn Treatment Court Case Manager
- ▶ Appear before the Brooklyn Treatment Court Judge (During the first thirty days of participation, all clients, regardless of their Band designation, will appear in the Brooklyn Treatment Court at least every two weeks. After thirty days, the frequency of Court appearances will be based upon the participant's Band assignment unless more frequent appearances are deemed necessary.)

### **BAND 6 (RESIDENTIAL)**

<b>Urine Testing</b>	<b>Treatment Program</b>	<b>Court Appearances</b>	<b>Case Manager</b>
Random/upon suspicion	7x/week	1x/month	1x/month

### **BAND 5 (DAY TREATMENT)**

<b>Urine Testing</b>	<b>Treatment Program</b>	<b>Court Appearances</b>	<b>Case Manager</b>
2x / week	5x / week	1x / month	1x / 2 weeks

### **BAND 4 (OUTPATIENT 3)**

<b>Urine Testing</b>	<b>Treatment Program</b>	<b>Court Appearances</b>	<b>Case Manager</b>
2x / week	3x / week	1x / month	1x / 2 weeks

### **BAND 3 (OUTPATIENT 2)**

<b>Urine Testing</b>	<b>Treatment Program</b>	<b>Court Appearances</b>	<b>Case Manager</b>
2x / week	2x / week	1x / month	1x / 2 weeks

### **BAND 2 (OUTPATIENT 1)**

<b>Urine Testing</b>	<b>Treatment Program</b>	<b>Court Appearances</b>	<b>Case Manager</b>
1x / week	1x / week	1x / month	1x / month

### **BAND 1 (OUTPATIENT)**

<b>Urine Testing</b>	<b>Treatment Program</b>	<b>Court Appearances</b>	<b>Case Manager</b>
Random	1x / week	1x / 6 weeks	1x / month

### **BAND M (METHADONE to ABSTINENCE)**

<b>Urine Testing</b>	<b>Treatment Program</b>	<b>Court Appearances</b>	<b>Case Manager</b>
2x / week	5x / week	1x / month	1x / week

**THE BROOKLYN TREATMENT COURT**  
**PROGRESSING THROUGH TREATMENT**

**PHASES**

In addition to the Treatment Band scheme, which sets the parameters for the case management of clients, a system of phases structure the progress a client makes in the Treatment Court and helps to define successful completion.

In general, there are three phases of treatment through which all participants must progress. The duration of these phases and the milestones for advancement differ based upon whether the participant has a prior felony conviction, and whether the participant has entered a plea of guilty in Brooklyn Treatment Court to a misdemeanor, felony, or multiple felonies.

***\*\* Note: The following Phases are for clients who immediately enter drug-free treatment. Please see separate Phase scheme for clients who are on methadone at BTC intake\*\****

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**PHASE I** **CHOICE**

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All clients enter the treatment court program in Phase I.

- ▶ The focus of this phase is to encourage clients to work towards a drug-free life and establish a foundation of abstinence.
- ▶ Specific objectives include the acquisition of entitlements and health care, detoxification and abstinence, placement in community based treatment, and early recovery work.

**REQUIREMENTS FOR ADVANCEMENT TO PHASE II (CHANGE)**

All cases:      4 consecutive months drug-free and sanction-free  
                         Ability to set forth one's achievements in Phase I and goals for Phase II

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**PHASE II** **CHANGE**

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- ▶ The focus of this phase is to stabilize the individual in treatment, help him to confront the underlying issues surrounding his addiction, and change his behavior.
- ▶ Specific objectives include progression through individual program levels, goal setting for education and employment, identification of community supports, re-connection with family, and progress in identified areas of need such as parenting skills, anger management, domestic violence, etc.

## **REQUIREMENTS FOR ADVANCEMENT TO PHASE III (CHANGE)**

- All cases: Ability to set forth achievements in Phase II and goals for Phase III.  
Participation in parenting skills, educational, domestic violence, and/or other workshops as directed by BTC.
- Misdemeanors: Phase I plus 2 additional consecutive drug-free and sanction-free months
- Single Felonies: Phase I plus 4 additional consecutive drug-free and sanction-free months
- Multiple Felonies/  
Predicates: Phase I plus 8 additional consecutive drug-free and sanction-free months

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### **PHASE III**

### **CHALLENGE**

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- ▶ The focus of this phase is to promote continued challenges towards self-sufficiency while reconnecting with the community at large.
- ▶ Specific objectives include the internalization of recovery tools, vocational training and employment, educational pursuits, continued development of daily coping and parenting skills, and re-integration into the community.
- ▶ Some portion of time in Phase III may include monitoring by case management with less structured treatment obligations.
- ▶ Once all of the necessary requirements are completed/achieved in Phase III, a client graduates from the Brooklyn Treatment Court.

## **REQUIREMENTS TO GRADUATE FROM THE BROOKLYN TREATMENT COURT**

- All Cases: Completion of Treatment Program and/or Program's Approval for Graduation  
Significant Progress Towards Independent Life Goals  
High School Diploma or GED, Employment, and Housing  
Submission of Written Graduation Application, setting forth accomplishments and goals in the following areas: Treatment; Treatment Court experience, including sanctions; Education or Job Training; Housing; Vocation and Employment; Family; and, Drug use and recovery
- Misdemeanors: Phase II plus 2 more consecutive drug-free and sanction-free months  
Participation in 2 Community Service Events
- Single Felonies: Phase II plus 4 more consecutive drug-free and sanction-free months  
Participation in 3 Community Service Events
- Multiple Felonies/  
Predicates: Phase II plus 6 more consecutive drug-free and sanction-free months  
Participation in 3 Community Service Events

# THE BROOKLYN TREATMENT COURT

## MOVING BETWEEN BANDS AND PHASES

### INFRACTIONS AND GRADUATED SANCTIONS

The Brooklyn Treatment Court will respond on two levels to problems in treatment, by case management and/or program level responses and by Court imposed sanctions.

### CASE MANAGEMENT RESPONSES

For individual infractions, such as a dirty urine or missed appointments, the case manager or program will respond immediately by imposing changes in the treatment plan. If enrolled in a residential program, the program may respond by placing the client “on contract,” that is restricting privileges or increasing chores. The Brooklyn Treatment Court Case managers can respond by increasing BTC visits or urine test frequency. Case managers may also refer clients to detox and/or rehab with the expectation that the Band will remain the same following completion. However, once participants commit three low-level infractions in a thirty-day period, they become subject to a Court sanction, which results in the loss of accumulated Phase time.

### COURT IMPOSED SANCTIONS

As described above, once a client commits three lower level infractions in a thirty-day period, the Court will step in and impose a court-based sanction. However, more serious infractions, such as a new arrest, return on a warrant, and urine sample tampering, are immediately sanctionable by the Court.

When a court-based sanction is imposed, the client loses all sanction-less time accumulated from the beginning of the Phase. For instance, if a client is sanctioned in his third month of Phase II, he will lose those three months of Phase II time and go back to the beginning of Phase II. He must begin again to accumulate the consecutive sanction-less time required for advancement to Phase III. In certain instances, particularly when a participant has a new arrest or is absent for a period of time and returned on a warrant, the Court may require that participant to go back a phase. For example, if a client is in Phase III and gets rearrested he may be placed at the beginning of Phase II.

**Note: The following tables are a framework for the imposition of sanctions, not a formula. The Judge maintains complete discretion in the imposition of all sanctions.**

<b>Infraction</b>	<b>Court Imposed Sanction</b>	<b>Action</b>
New Arrest	<p style="text-align: center;"><b>JAIL</b></p> <ul style="list-style-type: none"> <li>● Number of Days at Judge's Discretion</li> <li>● Possible Termination from Program</li> </ul>	<ul style="list-style-type: none"> <li>● Full Band Review</li> <li>● Possible Loss of Current Phase</li> </ul>

<b>Infraction</b>	<b>Court Imposed Sanction</b>	<b>Action</b>
<p>The following infraction will immediately result in a Court Imposed Sanction:</p> <ul style="list-style-type: none"> <li>● Absconding or Being Terminated from Program and Involuntary Return to Court</li> </ul>	<p style="text-align: center;"><b>1<sup>st</sup> Sanction:</b> 1-14 Days Jail</p> <p style="text-align: center;"><b>2<sup>nd</sup> Sanction:</b> 15-28 Days Jail</p> <p style="text-align: center;"><b>3<sup>rd</sup> Occurrence:</b> Participation Ends Jail Sentence Imposed</p>	<ul style="list-style-type: none"> <li>● Full Band Review</li> <li>● Return to Beginning of Phase</li> <li>● If absent for 60 days or more, loss of current phase: At Judge's Discretion</li> </ul>
<p>The following infractions will immediately result in a Court Imposed Sanction:</p> <ul style="list-style-type: none"> <li>● Absconding or Being Terminated from Program and Voluntary Return to Court</li> <li>● Substituted or Tampered Urine</li> <li>● Pattern of Lateness</li> </ul> <p><b>Three</b> of the following infractions within a 30-day period will result in a Court Imposed Sanction:</p> <ul style="list-style-type: none"> <li>● Dirty/Missed Urine</li> <li>● Missed Appointment</li> <li>● Rule Breaking at Program</li> </ul>	<ul style="list-style-type: none"> <li>● 2 days in Penalty Box</li> <li>● Essay Writing</li> <li>● Detox/Rehab</li> <li>● Workshop</li> <li>● Increased Meetings with Case Manager</li> <li>● Increased Court Appearances</li> <li>● 1-7 Days Jail</li> </ul> <p style="text-align: center;"><b>2<sup>nd</sup> Sanction:</b> 1-14 Days Jail</p> <p style="text-align: center;"><b>3<sup>rd</sup> Sanction:</b> 8-14 Days Jail</p> <p style="text-align: center;"><b>4<sup>th</sup> Sanction:</b> 15-28 Days Jail</p> <p style="text-align: center;"><b>5<sup>th</sup> Occurrence:</b> Participation Ends Jail Sentence Imposed</p>	<ul style="list-style-type: none"> <li>● Full Band Review</li> <li>● Return to Beginning of Phase</li> </ul>

**The following infractions and subsequent sanctions apply to each phase individually:**

<b>Phase I</b>	<b>Phase II</b>	<b>Phase III</b>
Five Dirty/Missed Urines within a 90-day period, for which the Court has not previously imposed a sanction, will result in a Court Imposed Sanction	Two Dirty/Missed Urines in a 30-day period will result in a Court Imposed Sanction	One Dirty/Missed Urine in a 30-day period will result in a Court Imposed Sanction
	Three Dirty/Missed Urines within a 90-day period, for which the Court has not previously imposed a sanction, will result in a Court Imposed Sanction	

### **ACHIEVEMENTS AND REWARDS**

Rewards can be recommended by treatment staff and are granted at the Judge's discretion for particular accomplishments in treatment. The reward system is intrinsic to the Court operation. Whenever the opportunity arises, the Court will seek to support treatment through positive reinforcement. Some methods are built into the process and are not event driven, (e.g., in-court acknowledgment, early calendaring, etc.). Other, more specific, "rewards" are given less frequently when a participant has reached a treatment milestone.

<b>Positive Reinforcements (at every opportunity)</b>
<ul style="list-style-type: none"> <li>● In Court Acknowledgment and Encouragement               <ul style="list-style-type: none"> <li>● Good News on Court Monitors</li> </ul> </li> <li>● Posting of Honor Roll in Treatment Center               <ul style="list-style-type: none"> <li>● Applause in the Courtroom</li> <li>● Early Calendaring</li> </ul> </li> </ul>

Achievement	Rewards	Mandatory Actions
<ul style="list-style-type: none"> <li>● 90 Consecutive Days Drug-free and Sanctionless</li> </ul> <p><i>Note: Methadone clients receive their "90 day" reward after having detoxed completely from methadone</i></p> <p style="text-align: center;">-And-</p> <ul style="list-style-type: none"> <li>● 4 Consecutive Months Drug-free and Sanctionless</li> </ul>	<ul style="list-style-type: none"> <li>● Journal</li> <li>● Phase Advancement Certificate</li> <li>● Become a member of the Speaker Bureau</li> <li>● Reduction of specific Band requirement</li> <li>● Band change if consistent with TX</li> </ul>	<p>Advancement to Phase II</p>
<p>Phase II plus:</p> <p>Misdemeanors,</p> <ul style="list-style-type: none"> <li>● 2 more consecutive drug-free and sanctionless months</li> </ul> <p>Single Felony</p> <ul style="list-style-type: none"> <li>● 4 more consecutive drug-free and sanctionless months</li> </ul> <p>Multiple Felonies/Predicates</p> <ul style="list-style-type: none"> <li>● 8 more consecutive drug-free and sanctionless months</li> </ul>	<ul style="list-style-type: none"> <li>● Phase Advancement Certificate</li> <li>● Band change if consistent with TX</li> <li>● Reduction of specific band requirement</li> <li>● Become a member of the Speaker's Bureau</li> <li>● Opportunity to participate in a BTC recreational event</li> </ul>	<p>Advancement to Phase III</p>

## **THE BROOKLYN TREATMENT COURT**

### **MOVING OUT OF RESIDENTIAL PROGRAM**

BTC participants assigned to a residential program are expected to remain in the program until they have successfully completed their court mandate. If the court mandate is satisfied before the residential program has been completed, participants are encouraged to remain in the residential facility until they have successfully met the requirements to graduate from the treatment program.

The Court will consider a participant's request to move out of a residential program prior to the successful completion of the Court mandate when a participant reaches Phase III, has been sufficiently compliant with the treatment plan, and has met the following requirements:

- Secured a stable place to live
- Obtained employment and/or is participating in a vocational or educational program
- Attends a community-based substance abuse treatment program

The Court will neither consider nor approve a participant's request to move out until the BTC case manager and the counselor at the residential program conference the matter. If a participant's request to move out is denied by the Court, he is expected to remain at the residential treatment program until it is successfully completed.

# THE BROOKLYN TREATMENT COURT

## GRADUATION REQUIREMENTS

MISDEMEANORS	SINGLE FELONY	MULTIPLE FELONIES PREDICATES
<ul style="list-style-type: none"> <li>● 8 total months of drug-free and sanctionless participation (Completion of Phases I, II, and III)</li> <li>● Graduation from Treatment Program or program's approval for BTC graduation</li> <li>● Participation in 2 community service events</li> <li>● Significant progress towards independent drug-free living, including HS diploma or GED and/or employment</li> <li>● Submission of graduation application</li> </ul>	<ul style="list-style-type: none"> <li>● 12 total months of drug-free and sanctionless participation (Completion of Phases I, II, and III)</li> <li>● Graduation from Treatment Program or program's approval for BTC graduation</li> <li>● Participation in 3 community service events</li> <li>● Significant progress towards independent drug-free living, including HS Diploma or GED and /or employment</li> <li>● Submission of graduation application</li> </ul>	<ul style="list-style-type: none"> <li>● 18 total months of drug-free and sanctionless participation (Completion of Phases I, II, and III)</li> <li>● Graduation from Treatment Program or program's approval for BTC graduation</li> <li>● Participation in 3 community service events</li> <li>● Significant progress towards independent drug-free living, including HS Diploma or GED and /or employment</li> <li>● Submission of graduation application</li> </ul>

### IMPOSITION OF A JAIL/PRISON SENTENCE

The following circumstances will result in a participant's failure of the Brooklyn Treatment Court Mandate.

- ▶ Being arrested for any violent offense, including Robbery, Assault, or Criminal Possession of a Weapon
- ▶ Being arrested for a new felony that the District Attorney deems ineligible for continued treatment participation
- ▶ Refusing to enter and remain in the Court Mandated Treatment Program

Upon a participant's failure, the Court will impose the alternative jail/prison sentence.

*\*Note: After Being Returned Once to Court by the Police to Vacate a Warrant or Being Sanctioned to Jail Twice, Participants Will Be Given One Additional Opportunity to Be Successful in Treatment. Should They Fail Again, the Alternative Jail/Prison Sentence Will Be Imposed.*

# THE BROOKLYN TREATMENT COURT

## METHADONE SCREENING

Eligible defendants, who are already in a methadone program upon intake at the Brooklyn Treatment Court, must agree to move from maintenance to abstinence in order to participate. Overall participation requirements, as well as phase movement, are somewhat different for methadone participants. Specifically, they must (1) provide their Brooklyn Treatment Court Case Manager with the name and telephone number of their methadone program, physician and counselor upon intake; (2) adhere to “pick-up” schedules set by their methadone programs; and (3) submit to weekly urine tests at the Brooklyn Treatment Court as well as all other urine tests performed by their program. At assessment, methadone users will fall into one of the four following categories with the resulting eligibility status.

### GROUP I

- ▶ Intake Status: Methadone users enrolled in a methadone program upon arrest, making regular appointments at that program, using no other substance. and who do not wish to detox from methadone (regardless of dosage).
- ▶ Eligibility Status: Not Otherwise Eligible
- ▶ Reason: The described individual does not appear to have an addiction other than methadone and does not agree to detox.

### GROUP II

- ▶ Intake Status: Methadone users receiving dosages of over 80 milligrams (regardless of other substances used or willingness to detox).
  - ▶ Eligibility Status: Not Otherwise Eligible
- ▶ Reason: The described individual appears to have an addiction, but receives such high dosages that the detoxification period alone could take longer than the standard period of participation at the Brooklyn Treatment Court. Accordingly, this person’s Court Mandate period could conceivably be twice as long as that of non-methadone clients.

### GROUP III

- ▶ A. Intake Status: Methadone users receiving dosages of 60 - 80 milligrams, agree to detox completely, and who may or may not have medical issues;  
-OR-
- ▶ B. Intake Status: Methadone users receiving any dosage under 80 milligrams, agree to detox completely, and who have any medical or mental health conditions or issues;  
-OR-
- ▶ C. Intake Status: Methadone users receiving any dosage under 80 milligrams who are also predicates (regardless of dosage or intent to detox).
- ▶ Eligibility Status: Treatment Evaluation
  - ▶ Reason: A & B: Despite their desire to detox, these individuals may have issues that could delay or prevent ultimate detoxification from methadone. The BTC clinical staff

needs 10-14 days to determine the appropriateness and estimated length of complete detoxification. C: Although all predicates are required to be in residential treatment, methadone users are not eligible for immediate residential placement. An evaluation period is necessary to determine eligibility.

#### **GROUP IV**

- ▶ Intake Status: Methadone users receiving any dosage under 60 milligrams, agree to detox completely, and who have no medical or mental health issues.
- ▶ Eligibility Status: Pre-Treatment Mandate
  - ▶ Reason: These individuals have no apparent obstacles to a methadone-to-abstinence protocol and total detoxification.

#### **METHADONE TO ABSTINENCE PHASES**

##### **PHASE I - CHOICE**

During Phase I, clients must establish abstinence from all other substances and must actively work to reduce their methadone dosage by half.

##### **REQUIREMENTS FOR ADVANCEMENT TO PHASE II (CHALLENGE)**

All cases: Dosage must be cut in half  
Drug-free (other than methadone) and Sanctionless Participation for 4 months

##### **PHASE II - CHANGE**

During Phase II, clients must detox completely from methadone and continue total abstinence from all other substances. In addition, once detoxed, clients must accumulate drug-free time before advancing to Phase III.

##### **REQUIREMENTS FOR ADVANCEMENT TO PHASE III (CHALLENGE)**

Misdemeanors: Total Detox plus an additional 2 months drug-free and sanctionless

Single Felonies: Total Detox plus an additional 4 months drug-free and sanctionless

Multiple Felonies/  
Predicates: Total Detox plus an additional 8 months drug-free and sanctionless

*\*Note: "90 Day" Rewards will be given to methadone participants once they have entered Phase II and have detoxed completely. (At that point, methadone participants will have accumulated 4 months of abstinence from all other substances in addition to complete detoxification from methadone.)*

##### **PHASE III - CHALLENGE**

The Phase III and graduation requirements for methadone participants are the same as the requirements for all other clients.

## THE BROOKLYN TREATMENT COURT

### YOUNG ADULT POLICY

The Brooklyn Treatment Court accepts 19 to 24-year-old chronic marijuana users for program participation. This population is defined as individuals who regularly use marijuana or marijuana mixed with PCP or cocaine. As a result of chronic use, this population experiences significant psychological, learning, and behavioral problems that impact their ability to effectively fulfill their daily life obligations at school, work, or home. Further, chronic use of marijuana results in social and interpersonal problems that may lead to legal problems.

To clearly identify these issues, the BTC clinical staff will complete a full psycho-social assessment along with a vocational and educational evaluation. Eligible participants will be matched to appropriate services and a comprehensive treatment plan will be developed.

To effectively engage this population and to ensure treatment compliance, the treatment plan will entail intensive monitoring by the assigned case managers, including: regular case manager visits, court appearances, and participation in onsite groups; drug testing with immediate responses to noncompliance; participation in an outpatient substance abuse group and individual counseling sessions; and, job readiness training, placements, and follow-up.

The objectives are as follows:

- To have a significant impact on the reduction of drug use, crime, and recidivism rates among this population;
- To prepare this population with the skills and tools needed to overcome their addiction and compete in today's competitive workforce;
- To work collaboratively with treatment providers and community based vocational and educational agencies by offering comprehensive and effective tools for monitoring compliance among this population.

# THE BROOKLYN TREATMENT COURT

## SECOND CHANCE PROGRAM

All cases involving a former BTC graduate will be reviewed by the clinical director after a psycho-social assessment is completed by a case manager. To determine eligibility for the BTC Second Chance Program, the clinical director will meet with the graduate and conduct a full case review of prior program participation, including attendance in treatment and urinalysis test results. The clinical director will then make a recommendation to the Court as to whether the graduate should participate in the Second Chance Program.

In reaching a decision regarding participation, the Judge will take into consideration the length of time between graduation and relapse as well as the nature of the new arrest. Greater consideration will be given to potential Second Chance participants whose original BTC case was a misdemeanor.

Second Chance participants are on zero tolerance throughout Phase I of program participation. Failure to follow the treatment plan will result in the imposition of the alternative jail/prison sentence. Upon advancement to Phase II, the customary BTC sanction scheme will be imposed.

If a Second Chance participant is charged with a misdemeanor offense, she will be required to complete a minimum of 12 to 18 months of treatment and 18 to 24 months of treatment if the charge is a felony offense.

# THE BROOKLYN TREATMENT COURT

## THE A,B,C.' S OF DRUG TESTING

Brooklyn Treatment Court participants are expected to be drug and alcohol free. The Court monitors compliance with the mandate through case management visits, drug testing, and court appearances. Case managers and a drug-testing laboratory are located in the Treatment Center, Room 14.85 of the Kings County Supreme Court Building at 320 Jay Street.

### **WHY TEST FOR DRUGS?**

There are several purposes for drug testing. Drug tests help to identify those persons who are addicts and the drugs to which they are addicted. Knowing the particular drug addiction aids case managers in developing an appropriate treatment plan that meets the needs of the individual. Drug tests also confirm when someone is clean, demonstrating compliance with the court mandate. The desire to be acknowledged by the Court for progress in recovery is a powerful incentive to alter behavior.

By detecting the presence of drugs, drug tests reveal the effectiveness of a particular course of treatment and can disclose the need for a more structured level of care. A positive test can be an opportunity for an addict to learn what triggers a relapse and to take responsibility for the choice to use drugs.

### **FREQUENCY AND MANNER OF TESTING**

Brooklyn Treatment Court participants are tested prior to each court appearance, each time they visit their case manager, and during visits to their treatment provider. Ideally, drug tests should be random to avoid a participant's planning of drug use around testing. However, frequent testing can substitute for the inability to test randomly. All collections of urine must be observed by a same sex collector in order to ensure that the donor is not attempting to substitute or adulterate the specimen. The BTC Band System details how often a participant is required to be tested. Reducing the frequency of testing can be a valuable reward.

### **REFUSAL OR FAILURE TO REPORT FOR TESTING**

Whenever a BTC participant enters the Treatment Center, for any reason, he or she is required to submit to a drug test. Each person is expected to be ready to submit a urine sample for testing within an hour and a half of arrival. Anytime a BTC participant refuses to be tested or cannot give a urine sample during a BTC visit, it is considered to be a positive test result. Participant who are unable to submit a urine sample during a court appearance must return to the Treatment Center after their case is called to submit a sample. If a sample is not submitted, it is considered to be a positive test result. A participant who tests positive or fails to submit a sample for testing must return to BTC the next day for a new test.

### **DRUG RETENTION TIMES**

To understand how recently a participant used drugs, it is necessary to know a drug's retention time. The retention time, or the length of time a drug is in an individual's system and able to be detected, varies based on the drug used, the individual's metabolism and physical condition, the

frequency of drug use, and the amount of drug consumed. Following is a list of the retention times of the most commonly used drugs.

- Cocaine, Heroin (opiates), Benzodiazepine are generally excreted within 3 days or 72 hours after ingestion (A positive test for heroin or cocaine two days in a row counts as single positive test).
- Amphetamines are generally excreted within 2 days or 48 hours after ingestion.
- Ethyl Alcohol (Alcohol) is detectable in urine 1 to 24 hours after consumption.
- Marijuana (THC/Cannabinoids) excretion times vary depending on many factors, such as metabolic rate, physical condition, frequency of urination, fluid intake, as well as frequency and duration of prior use. Variations occur exclusively with marijuana and not other drugs because the body stores THC in adipose (fat) tissue and slowly releases it back into the bloodstream. It is possible to test negative one day and positive a day or two later without having used the substance. All participants who test positive for THC at their assessment are initially allowed a one-time 30-day period to completely excrete the THC. The average amount of time prior a person may test positive after the cessation of marijuana use is as follows:

Occasional smoker (1x week):	3 - 5 days
Moderate smoker: (4x a week):	5 - 10 days
Heavy smoker (daily):	10 - 15 days
Chronic (daily use over several months):	20 - 25 days

### **TESTING TECHNOLOGY**

The Brooklyn Treatment Court tests urine samples using the ETS Plus EMIT Immunoassay Analyzer, which is a screening test to detect the presence of a drug, not the amount of drug present. A positive test is simply a confirmation that the drug (or its by-product) is present in the urine sample. It does not indicate the participant's level of impairment, how recent the use was, or the amount of drug consumed. To test for the presence of drugs, immunoassays use antibodies that specifically bind to drugs and their metabolites (the chemical compounds that result after the body has metabolized a drug) in urine and other fluids.

The instrument is set at specific cutoff levels, which are quantitative values regarding the amount of drug present in a specimen, above which the test reads positive and the particular drug is presumed present. Cutoff concentration values have been developed by professionals in forensic toxicology. The cutoff value for workplace testing is usually different from that for testing of defendants for criminal justice. BTC also tests for creatinine, pH balance, and nitrates in the urine to insure the validity of the samples collected. If a urine sample tests positive, the sample is tested again to confirm the results.

### **LEGAL AUTHORITY**

The highest court of the State of New York has held that positive EMIT test results, when confirmed by a second EMIT test or its equivalent, are sufficiently reliable to constitute substantial evidence to support a determination of drug use (see Matter of Lahey v. Kelly, 71 NY2d 135).

### **RELIABILITY**

The reliability of drug tests is in large part a function of the integrity and accuracy of the testing procedures. All urine samples are taken under the observation of a Brooklyn Treatment Court staff member, which significantly reduces the opportunity for tampering. Additionally, the testing machine is calibrated daily and all maintenance protocols are followed.

### **CHALLENGES TO ACCURACY OF TEST RESULTS**

Under no circumstance will a participant be allowed to submit a “new” specimen on a claim of lab error. If a participant wishes to challenge the accuracy of the test, the challenge must be made within 24 hours of the submission of the sample. All positive samples are maintained in the BTC laboratory for a period of 24 hours after which they are discarded. Participants must immediately contact their attorneys to discuss a challenge to the test results.

### **CROSS REACTIVITY**

Some medications with similar chemical structures may produce positive results. For instance, Tylenol with Codeine will produce a positive result for opiates (codeine is a morphine derivative). Behring has provided Brooklyn Treatment Court with a cross reactivity guide and 24-hour technical assistance. If a client provides a prescription or verifiable proof of a medical treatment involving medication that has the potential to produce a positive result, the test will be recorded as compliant.

### **SECOND HAND SMOKE**

A positive test result due to the passive inhalation of second-hand marijuana smoke is not feasible given the conditions necessary to produce the 50 ng/ml level at which Brooklyn Treatment Court tests. In various studies on passive inhalation, positive results have occurred where individuals were exposed to the smoke of 4 to 16 marijuana cigarettes in an extremely small, sealed, unventilated area for one hour a day over the course of several days. The conditions were extremely uncomfortable, causing watering of the eyes and irritation to the mucous membrane of the nose and throat. The few positive results were detected at the 20 ng/ml level, which is the most sensitive testing level. The only study where results were detectable at the 50 or 100 ng/ml level were a product of hour long exposure in the above sealed conditions to 16 cigarettes over 6 consecutive days. According to most studies, all positive test results are the result of extreme situations. It is highly unlikely that the extreme conditions necessary to produce ANY positive test (even at the lowest testing cutoff level of 20 ng/ml) could be encountered in a real-life situation without, at least, the tacit consent of the person. Accordingly, in the unlikely event that such extreme circumstances could occur, it is the participant’s responsibility to remove him or herself from that situation.

### **POPPY SEEDS**

It is possible to test positive for opiates after having consumed poppy seeds. Poppy seeds contain trace amounts of opium, which, like heroin, is derived from the poppy plant. Research measuring the amount of seeds necessary to produce a positive result is varied.

To resolve the issue, participants must avoid consuming poppy seeds. If a participant insists a positive result is due to poppy seeds, that person will be asked to produce another urine sample the next day.

### **TAMPERING: SUBSTITUTION, DILUTION, ADULTERATION**

A “substituted” specimen is when something other than the participant’s urine has been submitted as the collected sample or a liquid is added to the collected specimen. A “diluted” specimen is when an individual has intentionally ingested high levels of liquid in order to decrease the concentration and make it difficult for the lab to identify any drugs that might be present. An “adulterated” specimen is when an individual has introduced a foreign substance into the collected sample to intentionally disguise drugs in the urine. All collections of urine at Brooklyn Treatment Court are carefully observed by a same sex collector in order to reduce the possibility of tampering. Tampering is detectable by observing the color and odor of the sample, and by measuring its temperature, pH balance, specific gravity, and creatinine.

If a participant is caught tampering with the test by substituting something for the sample or adulterating the sample, he or she will be required to report immediately to the courtroom to see the Judge. Tampering with a drug test is a sanctionable offense.

If a participant is believed to have diluted the sample by water loading, a one-time warning will be given to avoid drinking excessive quantities of water prior to reporting to BTC. The participant will be required to return the next day for a new test. Any subsequent dilutions will be deemed tampering and treated as a sanctionable offense.

## THE BROOKLYN TREATMENT COURT

### DRUG TESTING REGULATIONS

1. Each time a BTC participant enters the Treatment Center, he or she is required to submit a urine sample for testing within an hour and a half of arrival.
2. Any participant who tests positive or fails to submit a sample for testing must return to BTC within three days to be tested.
3. If a participant wishes to challenge the accuracy of a test result, the challenge must be made with 24 hours of the submission of the sample. All positive samples are maintained in the BTC laboratory for 24 hours. Participants must immediately contact their attorneys to discuss a challenge to the test results.
4. If a client tests positive and maintains that the result is caused by prescribed medicine, he or she must provide a prescription or verifiable proof of medical treatment involving a medication that has the potential to produce a positive result.
5. Given that only extreme situations of second-hand smoke produce a positive result for THC, a positive test resulting from passive inhalation is not realistic without awareness by the client. It is the client's responsibility to remove him or herself from that situation.
6. Participants must avoid poppy seeds. If a person insists a positive result is due to poppy seeds, that person will be given a one-time warning and asked to produce another urine sample the next day.
7. If a participant is caught tampering with the test by substituting something for the sample or adulterating the sample, he or she will be required to report immediately to the Court. Tampering with a drug test is a sanctionable offense.
8. If a participant is believed to have diluted the sample by water loading, a one-time warning will be given to avoid drinking excessive quantities of water prior to reporting to BTC. The participant will be required to return the next day for a new test. Any subsequent dilution will be deemed tampering and treated as a sanctionable offense.

# THE BROOKLYN TREATMENT COURT

## TOXICOLOGY PROTOCOL

Drug testing should not be viewed solely as a punitive measure, but also as an incentive and as a means of supporting our clients.

It is important that every participant wash his or her hands before providing a urine sample. This practice will eliminate the potential for objects to be hidden under fingernails that could contaminate the urine sample.

To ensure that the treatment staff is able to observe participants without distraction as they provide urine samples, they will be taken into a bathroom one at a time. There will be no talking while urine collection is in progress.

**Observing Males** – The aim of direct observation is to visualize the penis producing urine into the cup.

**Observing Females** – For females suspected of hiding urine containers in bodily orifices, we will require them to stop their urine flow mid-stream and then begin urinating again.

While still in the restroom and after the participant has provided the sample, a temperature reading will be obtained for all samples.

# **THE BROOKLYN TREATMENT COURT**

## **METROCARD POLICY**

BTC does not regularly provide metrocards for clients to appear in Court, the Treatment Center, or to attend a community-based treatment program.

Metrocards are only provided when a client has been incarcerated overnight and has been mandated to treatment through the Brooklyn Treatment Court.

Case managers record the name of the client, treatment case ID number, and metrocard value on a log. Clients receiving metrocards must sign the log and the case manager must initial it.

# THE BROOKLYN TREATMENT COURT

## TECHNOLOGY

One notable aspect of the Brooklyn Treatment Court and its efficient management is the quick and accurate dissemination of information. The Court has innovated several ways of collecting and distributing information.

### **UNIFORM TREATMENT APPLICATION**

The Uniform Treatment Application is an in-house computer database that was created and designed exclusively for the Brooklyn Treatment Court and has since been modified to serve all drug treatment courts in the State of New York. This specialized application enables the Judge, Resource Coordinator, Assistant District Attorney, and defense counsels to view comprehensive information about all defendants in treatment. This application contains criminal histories generated electronically from the State Division of Criminal Justice Services, case manager's assessment, attendance records, all urinalysis and progress reports, and a log of all infractions or achievements and the corresponding response of the Court.

### **VIDEO LINK**

Through collaboration with the New York City Department of Corrections and the New York State Office of Court Administration, the Brooklyn Treatment Court became the first court in New York to employ a fiber optic link to conduct video conferences. This link provides television quality transmissions and allows the Brooklyn Treatment Court case managers and treatment providers at the courthouse to conduct face-to-face interviews with defendants who are incarcerated at Rikers Island. Thus, case managers can assess the defendant's treatment status and plan a discharge and referral strategy without requiring the defendant's production in court. Similarly, treatment providers within the Brooklyn Treatment Court's network can also use the video link to decide the suitability for placement of incarcerated defendants.

### **COURTROOM MONITOR**

Members of the audience in the Brooklyn Treatment Court are informed of upcoming events, such as community service happenings and family meetings, via a large screen television monitor. The monitor also displays the names of defendants who are recipients of rewards for excellent progress and phase advancement.