

Substance Use, Overdose Prevention, and the Courts

A Citywide Collaboration

September 19, 2023

RxStat

Reducing overdose deaths in NYC
through cross-agency collaboration

**Center
for
Justice
Innovation**

Overview

On September 19, 2023, RxStat members, together with other stakeholders in the criminal justice and court systems, clinicians, and public health experts, will convene at New York Law School to discuss the treatment of drug use and prevention of fatal overdoses in the context of the criminal justice system, as well as the integration of harm reduction principles into these and related programs.

This document describes many of the court-based problem substance use interventions currently utilized across New York City to set the stage for the discussion on September 19th. We anticipate a rich conversation that will expand our knowledge and enable us to further develop the information provided here.

Many of these models were developed to prevent further criminal justice involvement and provide alternatives to jail or prison, but they can also be understood to play a distinct role in the City's broader effort to support the treatment of problem substance use and

prevent fatal overdoses. We have divided these initiatives into four stages within the timeline of a criminal case: pre-arraignment, arraignment, pre-plea, and post-plea. This categorization is intended to highlight the distinct role that each stage plays within the larger system of treatment and prevention.

The information in this document highlights the ways in which the courts and criminal legal system have developed responses to an unavoidable issue that many view primarily as a public health crisis and is meant to serve as a starting point for discussions between clinicians, public health experts, and court stakeholders on how to further incorporate clinical knowledge and expertise into our public safety response to problem drug use. Accordingly, the list below is non-exhaustive, and the descriptions do not illuminate every aspect of the treatment models, which depend greatly on the individual behaviors and responses of stakeholders who participate in their administration.

Thank you to all of those who contributed with the information represented in this document.

For More Information

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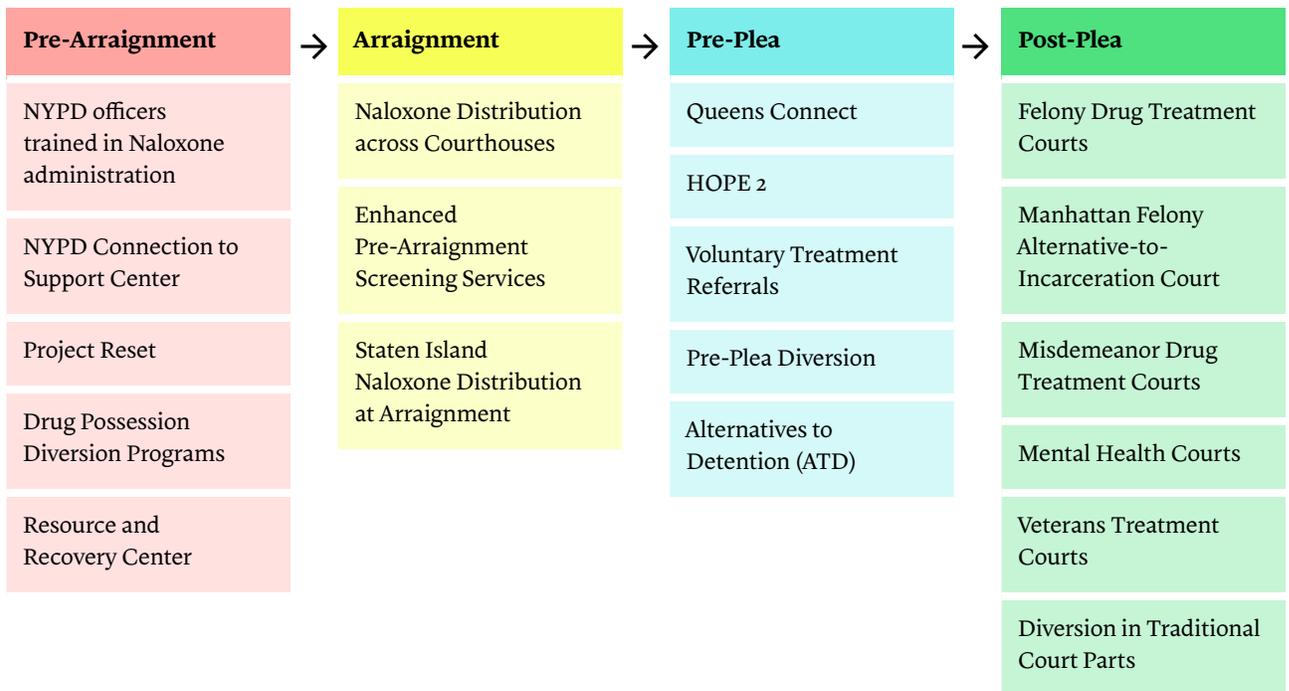
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Substance Use Treatment Interventions and Initiatives in New York City Courts



Pre-Arraignment

Pre-arraignment interventions provide immediate support to individuals prior to their court system involvement and divert individuals into community-based programming in lieu of criminal prosecution.

NYPD Connection to Support Centers

The New York City Police Department collaborates with the Mayor’s Office of Community Mental Health and the Department of Health & Mental Hygiene on two Support and Connection Centers, which provide an alternative to avoidable emergency room visits or criminal justice interventions for individuals with non-emergency mental health issues and/or substance misuse. Police officers who encounter an individual with mental health or substance use needs may refer the individual to one of the Centers where they can be connected to community-based and person-centered engagement, stabilization as well as non-clinical services. The Centers offer mental health services, substance use counseling, peer support groups, occupational therapy, and medical management. The Support and Connection Centers are staffed by physicians, psychiatrists, licensed social workers, registered nurses, peer supporters, and credentialed alcoholism/substance abuse counselors. There are currently two Centers located throughout the City, one in East Harlem and the other in the Bronx. Both Centers are open 24 hours a day, seven days a week.

NYPD officers trained in Naloxone administration

Uniformed Members of Service (UMOS) are trained on how to administer Narcan/Naloxone while in the Police Academy during first aid training. UMOS are given a Naloxone kit during this training or when they arrive at their assigned command.

Project Reset

Project Reset operates in all five boroughs and gives individuals 18 years and older who are issued a Desk Appearance Ticket (DAT)—individuals are given a future court date rather than held overnight and brought directly to court following arrest—the option to avoid criminal prosecution by completing one or two community-based programming sessions prior to their DAT court date. Eligible charges include low level nonviolent offenses such as shoplifting, trespassing, and criminal mischief (damage to property). Following an arrest, the NYPD refers eligible individuals to a non-profit organization that offers group workshops and individual counseling sessions. All participants are offered voluntary referrals to community-based social services such as counseling, job training, and

Pre-Arrest



Arrest



Pre-Plea



Post-Plea

treatment for substance use disorders. After successful completion of Project Reset, the district attorney formally declines to prosecute the case, and the arrest record is sealed.

Drug Possession Diversion Programs

These programs redirect individuals who receive a DAT for low-level, drug-related offenses to community-based treatment services. Eligible offenses can include Criminal Possession of a Controlled Substance in the Seventh Degree and Petit Larceny. In counties in which Project Reset and drug diversion programs are available, individuals with a documented history of substance use will generally be referred by NYPD to a drug diversion program instead of Project Reset. These programs include the following:

Collaborative Legal Engagement Assistance Response (CLEAR) Brooklyn

NYPD contacts a peer mentor from a community-based treatment provider, who refers the individual to a CLEAR case manager within seven days of arrest. Once the participant is assessed by a case manager, the District Attorney will delay the initial court appearance by 30 days. The case manager provides the participant with an array of treatment options, which can include access to Naloxone kits, detox, rehab, and/or drug treatment. If the participant engages in the recommended treatment services, the District Attorney will decline to prosecute, and the arrest is sealed.

Heroin Overdose and Prevention Education (HOPE)

- **Bronx**

NYPD makes referrals through the HOPE program hotline phone number. A peer mentor meets with the individual at the precinct to complete an assessment and connects the individual to services, including substance use treatment, mental health treatment or employment services, depending on the individual's needs. The individual is then scheduled to meet with a case manager who will further assess the participant and make necessary referrals to community-based treatment. Once a participant "meaningfully engages" with Project HOPE, the Bronx District Attorney's Office declines to prosecute the case. Individuals who have open warrants or additional non-drug charges are not eligible.

- **Staten Island**

Immediately following the issuance of a DAT, NYPD contacts the Richmond County District Attorney's Office HOPE Director, who sends a peer mentor to meet with the individual immediately upon release from custody. The mentor describes the HOPE program, provides a Naloxone kit and training on how to use it, and encourages the individual to visit a community-based Resource and Recovery Center (see below). The Legal Aid Society, HOPE Director, and peer mentor contact the individual within seven days after arrest. If the individual is assessed at the Resource and Recovery Center, they do not have to appear in court and their case will be adjourned for an additional 30 days. If the participant



continues to meaningfully engage in treatment services for the next 30 days, the Richmond County District Attorney’s Office declines to prosecute their case.

- **Manhattan**

The HOPE program is not currently available in Manhattan. The HOPE contract in Manhattan ended in June 2022, and the Manhattan District Attorney’s Office anticipates releasing an RFP for Manhattan-wide HOPE services again soon.

- **Resource and Recovery Center (Staten Island)**

Counselors assess individuals for substance use disorder and other needs, enroll them in the HOPE program, and develop individualized care plans. In addition, the Center offers a needle exchange, housing assistance, food stamps, clothing, and referrals to long term treatment.

Arraignment

Arraignment is a defendant's first court appearance following arrest and is thus the first touch point for individuals entering the court system.

Naloxone Distribution across Courthouses

Court officers, who are present in every courtroom throughout New York City, including at arraignments, are trained to administer Naloxone.

Enhanced Pre-Arraignment Screening Services (EPASS)

NYC Health and Hospitals/Correctional Health Services screens individuals for medical and behavioral health needs prior to arraignment; provides onsite acute medical treatment as appropriate to reduce hospital runs; refers those in need of emergency care to hospitals for stabilization; and provides information to support diversion to behavioral health services, in lieu of incarceration, for individuals with mental health and/or substance use conditions. EPASS operates 24 hours a day, seven days a week in all five boroughs.

Staten Island Naloxone Distribution at Arraignment

Peer advocates from the Richmond County District Attorney's Office provide Naloxone training and kits to anyone who requests one, including individuals released from custody in the courthouse, defendants appearing on a desk appearance ticket, or family members of overdose survivors. This effort is in partnership with a local community-based organization that provides the kits obtained from the Department of Health.

Pre-Plea

Pre-Plea treatment programs are available to individuals on a voluntary basis, do not require a guilty plea, and may or may not serve as the basis for a resolution of the criminal case.

Queens Connect

This is a program in the Queens Misdemeanor Treatment Court that provides participants with a variety of services, including an introduction to substance use and alcohol addiction treatment. When appropriate, rapid opioid intervention can be offered, such as connection to Naloxone or medically assisted treatment. Through a series of case management and clinical sessions, participants are exposed to resources available in their community to support their desire for treatment.

HOPE 2 (Staten Island)

HOPE 2 is a 90-day post arraignment pre-plea initiative for individuals with several prior criminal convictions arrested on misdemeanor charges. Cases are screened on a case-by-case basis, and if eligible and interested in services, the individual is connected to a community-based treatment provider. If the individual demonstrates meaningful engagement, as determined by the provider, the case is dismissed and sealed.

Voluntary Treatment Referrals

Individuals are often referred by defense attorneys and social workers to an array of community-based treatment programs that are available within NYC and operate independently of the court system. These referrals are often intended not only to provide needed services but also to encourage both defendants and district attorneys to consider a negotiated disposition based on continued successful participation in a treatment program. In all five counties, justice involved individuals are often referred to voluntary treatment.

Pre-Plea Diversion

In certain circumstances, courts will allow a defendant to pursue treatment as a resolution of a criminal case without a guilty plea, most commonly where there are immigration consequences as the result of a felony guilty plea, which may result in deportation proceedings for non-citizens.



Alternatives to Detention (ATD)

While less common than alternatives to incarceration (see page 10), courts, at their discretion, and in each borough, occasionally release incarcerated defendants from pretrial detention on the condition that they participate in specific treatment. Cases are determined to be appropriate for pretrial release on a case-by-case basis.

Post-Plea

Post-Plea diversion—often referred to as alternatives to incarceration (ATI)—requires an individual to plead guilty to a negotiated charge prior to engaging in treatment with a community-based outpatient or residential treatment provider. The conditions of the plea agreement are clearly stated at the time of the plea, though mandated time of participation in the program may change depending on the individual’s participation, continued substance use, behavior in the program, and arrests while in treatment. Individuals who successfully complete the treatment mandate benefit from reduced or dismissed charges. Individuals who violate the terms of their plea agreement, as determined by the judge, may be sentenced to a jail or prison alternative that is established at the time of the plea.

Felony Drug Treatment Courts

Article 216 of the New York State Criminal Procedure Law (CPL) authorizes a court to divert eligible felony offenders into substance use treatment programs. Statutorily eligible charges include Controlled Substances offenses as well as Burglary, Grand Larceny, Criminal Possession of Stolen Property, and Forgery offenses, among others. Defendants with recent or multiple prior violent felony convictions and class A felony-controlled substance convictions are not eligible unless the District Attorney consents to diversion. Participants must meet the criteria for a substance use disorder as defined by the current Diagnostic and Statistical Manual of Mental Disorders (DSM-5). Successful completion of a residential and/or outpatient drug treatment program can result in

dismissal of the criminal charges, a reduced conviction charge, or a reduced sentence. While medically assisted treatment is generally supported, participants are required to maintain abstinence for the duration of their court mandate.

Manhattan Drug Court (MDC)/Judicial Diversion Part (JDT)

Eligibility is generally limited to CPL Article 216 criteria. Participants must also have a diagnosed substance use disorder, including participants with co-occurring needs. The typical mandate length is between 12-24 months. If a participant wants to explore and use medically assisted treatment, they are supported in doing so. To graduate from Judicial Diversion/Drug Court, participants must also complete a few hours of community service, which can include Narcan training.



Bronx Drug Treatment Court

Also referred to as JDT, this part includes cases governed by CPL Article 216, but there are no charge exclusions, and cases are screened by both the District Attorney's Office and the Judge to determine eligibility. Primarily the court works with individuals who have a substance use need or co-occurring needs. The typical mandate length is 12-18 months.

Queens Drug Diversion Court

This diversion court is also governed by CPL Article 216; eligible charges are non-violent felonies and certain violent felonies as determined on a case-by-case basis. Typical mandate length is 18 months.

Brooklyn Treatment Court (BTC)

Eligibility tracks CPL Article 216 criteria, but the district attorney reviews individuals with prior violent felony convictions and may consent to treatment on a case-by-case basis. Typical mandates range between 12-18 months.

Staten Island Treatment Court (SITC)

Most cases in this court are negotiated with the District Attorney. Community based organizations offer programming based on clinical need, and after successful completion, individuals generally receive a lower charge or reduced sentence such as probation. A small number of cases are handled through the traditional Article 216 drug court model, in which cases are dismissed after successful completion. Typical mandate length is a year to 18 months.

Manhattan Felony Alternative-to-Incarceration Court

This court expands on the principles of specialized drug and mental health courts to create alternatives to incarceration for all types of felony cases, including violent offenses. The court does not have strict eligibility requirements or explicit charge exclusions. Participation requires the consent of the District Attorney's office, and participants are generally required to plead guilty prior to engaging in court-mandated treatment. Staff from an independent non-profit agency conduct independent assessments of the court's prospective participants and develop individualized plans for services to address mental health and substance use issues, as well as education, housing, and employment needs. Social workers connect individuals to an extensive network of service providers across New York City, including those who specialize in the needs of young adults. If a participant wants to explore and use medically assisted treatment, they are supported in doing so. Additionally, most community providers who work with felony ATI participants offer testing strips for fentanyl and xylazine and Naloxone training.



Misdemeanor Drug Treatment Courts

Manhattan Misdemeanor Drug Treatment Court

Operating out of the Manhattan Judicial Diversion part, this part works with individuals charged with an array of misdemeanor charges. The mandate length ranges from 1-2 sessions up to a year of programming based on clinical need and recommendation. Upon successful completion of treatment, cases are generally dismissed.

Bronx Treatment Intervention Court (BTIC)

Any misdemeanor charges are eligible, including but not limited to criminal possession, petit larceny, and assault in the third degree. Cases are assessed on a case-by-case basis by both the District Attorney's Office and the Judge. BTIC works with anyone who has a mental health need, substance use need, or co-occurring needs. Typical mandate lengths are between three sessions and three months.

Misdemeanor Brooklyn Treatment Court (MBTC)

Eligible individuals are those charged with a misdemeanor charge related to drug offenses and petit larceny. Pleas are only required in very limited circumstances. The District Attorney's Office generally offers individuals either the non-plea Resource Engagement Program, which is a six-module harm reduction program, or the opportunity to be assessed by court clinicians for needed

services. Based on the assessment, treatment recommendations are provided to the individual and they are encouraged by the court clinician to voluntarily engage in the recommended treatment. The offer is based upon the defendant's prior history with the court and arrest frequency. Successful completion results in a dismissal except in cases that include an order of protection.

Brooklyn Screening and Treatment Enhancement Part (STEP)

Eligible participants are first time non-violent felony offenders who are charged with non-drug offenses such as burglary and grand larceny and who need drug treatment. Participants in these types of cases are assessed and placed into appropriate treatment by court clinicians and monitored by the court. In addition, individuals with prior felony convictions for drug offenses or cases involving theft (burglary, grand larceny, or robbery) are also provided treatment opportunities. The District Attorney screens these predicate cases (both pre- and post-indictment) for individuals who need drug treatment. These cases are case managed by EAC-TASC. For both the first-time offenders and predicates, treatment is post-plea and ranges between 12 and 18 months.

Queens Misdemeanor Treatment Court

Open to misdemeanor charges on a case-by-case basis. Each case is reviewed by a senior ADA present in the part. Mandate lengths are up to nine months in certain situations. Upon successful completion, most cases will have the plea vacated and the case dismissed. However, if an order of protection is



necessary, the final disposition might be an ACD or a violation.

Queens Treatment Court

First time offenders with a substance use disorder. Cases are determined on a case-by-case basis. Typical mandate length is one year. Upon successful completion, most cases will have the plea vacated and replaced with an A misdemeanor or a dismissal.

Mental Health Courts

Mental Health Courts serve defendants living with a mental illness that is related to their current criminal justice involvement as well as individuals with co-occurring mental illness and substance use disorders.

Manhattan Misdemeanor Mental Health Court

Any misdemeanor case is eligible. Each case is reviewed by the District Attorney’s Office, considering a number of factors including criminal history, the victim’s position on diversion, and the number of open cases. The typical mandate length is between one and ten sessions. Harm reduction interventions such as NARCAN and fentanyl strips are offered when clinically indicated.

Manhattan Mental Health Court

No charge exclusions or charge eligibility criteria. Open to participants with a serious mental health diagnosis. Cases are screened on a case-by-case basis by the District Attorney’s Office and the presiding judge. There

is no typical mandate length. If participants want to explore and use medically assisted treatment, they are supported in doing so.

Brooklyn Misdemeanor Mental Health Court

Open to anyone who has been charged with a misdemeanor and has a mental illness diagnosis or a pattern or history of mental health challenges, including anyone who is dually diagnosed. The mandate length ranges from three to six months or longer based on the District Attorney’s recommendation.

Brooklyn Mental Health Court

Participants must have either a diagnosed serious mental illness and/or a neurodevelopmental disorder. The District Attorney’s Office screens all cases to determine eligibility. Mandate length ranges from 12-18 months for most participants, and 18-24 months for certain individuals with recent prior felony convictions.

Bronx Mental Health Court

Also referred to as JDT, this part has no charge exclusions-cases are screened by both the District Attorney’s Office and the Judge to determine eligibility. Participants must have a behavioral health need, which can include needs based on an intellectual disability. Typical mandate lengths are 18-24 months.

Staten Island Mental Health Court

Serves participants with severe mental illness. Both misdemeanor and felony cases are screened by the District Attorney’s Office



and eligibility is determined on a case-by-case basis. After successful completion, individuals generally receive a lower charge or reduced sentence. The typical mandate length for misdemeanor cases is six months to a year and 12-18 months for felony cases.

Queens Mental Health Court

Serves participants with severe mental illness. Eligibility is determined on a case-by-case basis. The typical mandate length is one year.

Veterans Treatment Courts

Veterans Treatment Courts (VTC) offer a solution by connecting justice-involved veterans to appropriate services in a court setting, surrounded by an interdisciplinary team including the judge, court staff, prosecutors, treatment/service providers, defense attorneys, probation, law enforcement, volunteer veteran peer mentors, and representatives from the U.S. Department of Veterans Services, all of whom work collaboratively to help veterans.

Queens Misdemeanor Veterans Treatment Court

Open to misdemeanor charges on a case-by-case basis. Each case is reviewed by a senior ADA present in the part. Mandate length ranges but can be up to nine months in certain situations.

Queens Veterans Court

Handles felony cases involving veterans, which are reviewed on a case-by-case basis. Post-plea treatment can include substance

misuse treatment and/or mental health treatment. Mandates are typically 12 months.

Brooklyn Veterans Treatment Court

Eligibility criteria and outcomes follow criteria for Brooklyn Treatment Court; cases are screened by the District Attorney's Office. Programming tracks the Brooklyn Treatment Court model however participants receive additional VA resources as well as a mentor.

Brooklyn Misdemeanor Veterans Treatment Court (BMVTC)

All misdemeanor charges are eligible upon the approval of the District Attorney's Office and Court. Programming tracks the Misdemeanor Brooklyn Treatment Court model; however, participants receive additional Veterans Affairs resources as well as a mentor.

Bronx Veterans Court

Also referred to as JDT. Participants must have veteran status, with any behavioral health needs. There are no charge exclusions; cases are screened by both the District Attorney's Office and the presiding judge to determine eligibility. Typical mandate lengths range anywhere from 18-24 months.

Staten Island Veterans Court

Eligible cases include most misdemeanor and felony charges; cases are screened by the District Attorney's Office. Treatment is provided through Veterans Affairs. Participants work with a Peer Mentor through the Retired Senior Volunteer program (RSVP). Typical mandate lengths are about one year for both misdemeanor and felony cases.



Manhattan Veterans Court

No charge exclusions or charge eligibility criteria. Open to participants who have veteran status and any behavioral health need. Cases are screened by the District Attorney’s Office and the presiding judge. The typical mandate length is 12 months. If participants want to explore and use medically assisted treatment, they are supported in doing so.

Diversion in Traditional Court Parts

Community-based providers serve clients with cases pending in non-specialized court parts. Judges who preside over a wide range of case types, most of which do not involve treatment alternatives, will accept treatment dispositions. Upon the request of the Defense Attorney, Judge, or District Attorney, community-based providers—many of whom also serve specialty and problem-solving courts—assess individuals seeking an alternative disposition and make treatment recommendations to the court parties.

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