

# The Drug Court – A Client’s Experience

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## Background

Drug courts have become a feature in the rise of ‘therapeutic jurisprudence’, whereby the law is considered a therapeutic agent. On 8 February 1999 the first Australian drug court commenced in Parramatta (NSW). The NSW drug court operates within an array of legislative and procedural requirements. Referrals to the program must comply with various criteria, including demonstrable drug dependence, a guilty plea and the exclusion of those persons charged with an offence involving violent conduct. If the relevant criteria are met, a preliminary health assessment is conducted and a detoxification period (bail is often refused for this period) is completed. Following detailed assessment, a treatment plan is then developed. The treatment plan can include regular reporting to the court, participation in specific programs, urinalysis, counselling and regular contact with a case manager.

The following provides an insight into the Drug Court program through the use of an individual case study.

## The Client - Henry

Henry is 38 year-old male. He is currently using methamphetamine (‘ice’) and has had a history of depression, for which he is currently prescribed the antidepressant ‘Avanza’.

On the 9th and 10th of January, Henry committed various larceny offences - he broke into parked cars and stole available property. The value of items stolen ranged from \$15 to \$2500. He received an 18-month sentence, which was suspended under section 7A(5) of the *Drug Court Act 1998* (NSW).

As there is no legal synthetic substitute available for methamphetamine, Henry will have no medical assistance to deal with the withdrawals and cravings associated with using. He is required to remain abstinent whilst in the community. He must reside at his father’s house, or if his father is not home he must stay with his mother. It is important that he is not home alone. For the time being, he must remain in his home from 7 pm to 7 am. Henry must attend court twice a week and undertake urinalysis three times a week at a designated clinic. He is also required to attend counselling once a week with a counsellor appointed by the Court.

## The Drug Court Program

The following provides a chronological overview of some of Henry’s experiences during the drug court program.

Date	Event	Intervention
8 May	Henry is released from custody where he undertook detoxification for two weeks and the program begins. His first urinalysis is clean.	
11 May	He admits to using ice this week. He says that he really struggled being sober around people and places where he would normally use. Corrective Services report that during an unscheduled home visit, a curfew check was conducted at 7:15pm and Henry wasn’t there.	Two sanctions imposed. Section 16 of the <i>Drug Court Act 1998</i> gives the court powers to impose sanctions for non-compliance.
15 May	Henry admits to again using ice on the 12 May. <b>Judge</b> – What happened? Why did you feel the need to use? <b>Henry</b> – I don’t know, I am just finding it very difficult to stop. All my friends use. <b>Judge</b> – We know it’s hard to stop. I think your friends should be more sympathetic to your situation. You need to say that you are on the Drug Court program and you are not to use. You need to be firm with them. <b>Henry</b> – I will try.	To promote honesty, participants are protected from prosecution in respect to disclosures regarding their drug use under section 11 of the Drug Court Act 1998. This encourages them to engage in dialogue with the Court despite any setbacks.  One sanction is imposed.
18 May	Henry again admits to having used ice twice yesterday. <b>Judge</b> – You need to take your prescription medication daily. This is really important for your mental health. Go speak to one of the nurses. <b>Henry</b> – Ok. Henry has been prescribed Avanza for depression, but he is not taking it as prescribed.	Two sanctions imposed.
22 May	Urinalyses on three separate occasions identify the presence of methamphetamine. Henry admits to using ice.	One sanction is imposed.

## Exercise:

1. Do you think that the court is being too lenient with Henry? Explain your answer.
2. What are some of the challenges that Henry faces in completing the program?

3. The Drug Court Program involves the work of various agencies, including corrections, health, legal services, the police and others. How might the Drug Court Program and the involvement of these services differ from traditional criminal courts?

Date	Event	Intervention
25 May	<p>The Health Service reports that Henry has used methamphetamine. Henry admits to further using and mentions that it has been discussed in counselling. Urinalysis detects methamphetamine usage and a home visit on 22 May reveals that Henry was not at home at 7:15pm.</p> <p><b>Judge</b> – Why weren't you at home when your officer came to visit you?  <b>Henry</b> – I was out drinking with my father.  <b>Judge</b> – Drinking alcohol?  <b>Henry</b> – Yes.  <b>Judge</b> – You know you are not supposed to be drinking any alcohol when you are on phase one.  <b>Henry</b> – Oh I didn't know that.</p>	<p>Three sanctions imposed.</p> <p>Section 12 of the <i>Drug Court Act 1998</i> prohibits participants consuming alcohol or other drugs on phase one. Phase one is the consolidation phase which is a crucial time for participants to learn how to abstain from drugs. Even if alcohol is not a drug of concern for participants, it must be avoided. This is because alcohol intoxication can lead to impaired judgement and impulsive behaviour. This makes it a significant risk factor for drug relapse.</p>
26 May	<p><b>Henry</b> – No uses. I didn't go to counselling today because I was late; I rebooked it to a later date.  <b>Judge</b> – that is very disappointing.</p>	<p>It is crucial that the participant attends regular counselling. Drug use is a common coping mechanism for external stressors in life. Counselling provides an opportunity to manage stress in alternative ways.</p> <p>It is also common for participants to not have many healthy support systems in place. They may have friends or family but often they too are engaged in drug use. Seeing a counsellor regularly provides a positive supportive relationship.</p>
30 May	<p>Health Services report that he has been attending all of his appointments. Henry reports that he is feeling more motivated and he is taking his prescription medication the same time every day. Community corrections report that there is a scheduled home visit this week. The participant reported no uses. He stated that he feels like he is settling into the program.</p> <p><b>Henry</b> – No uses.  <b>Judge</b> – You have done everything right this week. Well done. Keep it up. Today will be report back one. If you keep this up we will start taking off some sanctions next week.  <b>Henry</b> – Thank you. I feel better on the days that I go to sleep earlier.</p>	<p>Courtroom applauds.</p> <p>When a participant does everything their program requires in a given week, their hard work and commitment is acknowledged by the Drug Court team.</p>
2 June	<p><b>Henry</b> – No uses.  <b>Judge</b> – We are happy that you have decided to really knuckle down and engage with your program. Today I will take one sanction off. Keep going.  <b>Henry</b> – I would like to start football training next week.  <b>Judge</b> – That is a good idea, exercise is a lot better than doing drugs. As long as it doesn't interfere with your program, we are more than happy for you to pursue that.</p>	<p>Courtroom applauds.</p> <p>One sanction waived.</p> <p>Rewards for healthy behaviours are a helpful way to encourage a particular behaviour. This is why section 16 of the <i>Drug Court Act 1998</i> also includes rewards to promote progress in the program.</p>
10 June	<p><b>Henry</b> – No uses.  Health Services report a positive urinalysis – methamphetamine.  <b>Judge</b> - You are using drugs and not telling us. You need to tell us every time you use. This is a system built on trust. Honesty is important.  <b>Henry</b> – I forgot.  <b>Judge</b> – Well that is not good enough. When are you going to stop? I am not impressed. I am putting you on next to serve. If you use again you will have to go into custody for 14 days.</p>	<p>Three sanctions imposed and the participant is placed on a 'next to serve' clause. The rationale behind this is to force the offender to recognise the immediate consequence of their actions.</p> <p>Dishonesty in the Drug Court is a significant barrier to its success. If a drug shows up in the urinalysis and the participant gives no mention of this, the Judge automatically imposes three times the sanctions than normal. In this case, dishonesty has been met with a disapproval from the Court, with the intention of invoking remorse from the participant.</p>

### Exercise:

1. As depicted from this case study, the Drug Court operates on sanctions and rewards. Do you think that these sanctions/rewards are likely to be effective? Why?
2. What are your views about coerced or mandatory treatment for offenders with alcohol or other drug using histories?
3. How would you measure the success of the Drug Court Program?
4. What is your prognosis for this participant – will he succeed or fail?

### Postscript

The participant managed to complete 43 days on the program. Given that his initial sentence was for 18 months and his early termination, he will serve a substantial amount of his sentence in custody.

### Resources

There are numerous Drug Court resources. Some that relate to the NSW experience can be found at:

Description of the drug court:

- [http://www.drugcourt.justice.nsw.gov.au/drgcrt/dc\\_index.html](http://www.drugcourt.justice.nsw.gov.au/drgcrt/dc_index.html)

Drug court legislation:

- [http://www.austlii.edu.au/au/legis/nsw/consol\\_act/dca1998139/](http://www.austlii.edu.au/au/legis/nsw/consol_act/dca1998139/)

ABC Radio National series on the drug court:

- <http://www.abc.net.au/radionational/programs/earshot/inside-the-drug-court-episode-1-the-last-chance/6066788>

Drug court evaluations:

- BOCSAR process evaluation - <http://www.bocsar.nsw.gov.au/agdbasev7wr/bocsar/documents/pdf/113.pdf>
- BOCSAR re-evaluation of effectiveness – <http://www.bocsar.nsw.gov.au/agdbasev7wr/bocsar/documents/pdf/cjb121.pdf>