

# Truth or Consequences

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Standard 4:

Incentives, Sanctions, and Therapeutic Adjustments

# The Bottom Line

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Consequences for participants' behavior are predictable, fair, consistent, and administered in accordance with evidence – based principles of effective behavior modification.



# The Background

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- Based on scientific theories and research that dates back to the beginning of the 20<sup>th</sup> century
- Behavior Modification via Operant Conditioning
- Our response (or lack of response) to participant behavior will make the behavior more or less likely to reoccur
- Contemporary studies applying behavioral learning science to criminal justice populations, including Drug Courts, have led to researched-based principles for success

# The Basics



## Drug Court Practitioner **Fact Sheet**

September, 2012

### **Behavior Modification 101 for Drug Courts: Making the Most of Incentives and Sanctions**

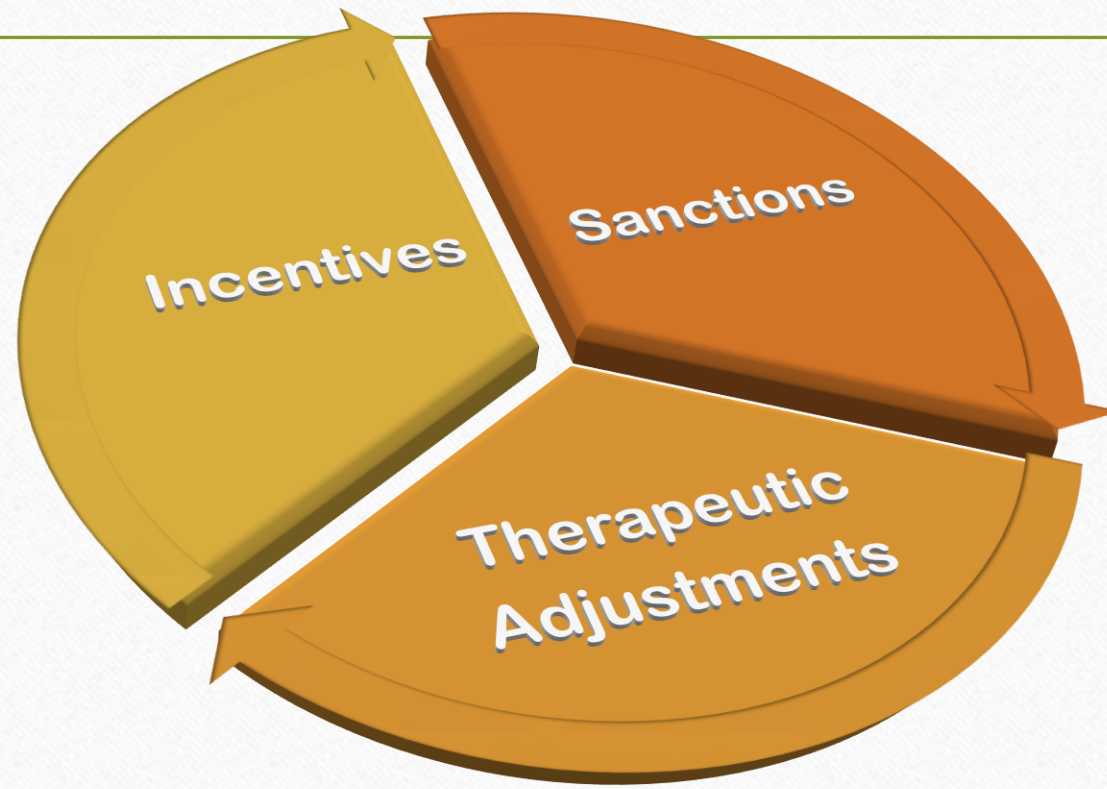
*By Douglas B. Marlowe, JD, PhD  
Chief of Science, Policy & Law, National Association of Drug Court Professionals*

**D**rug Courts improve outcomes for drug-abusing offenders by combining evidence-based substance abuse treatment with strict behavioral accountability. Participants are carefully monitored for substance use and related behaviors and receive escalating



# The Response Categories

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# Two Ways to Reward, Punish, or Treat

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# Incentives

**Positive Reinforcement**

**Negative Reinforcement**



# Sanctions

**Punishment**

**Response Cost**



# Therapeutic Adjustments

**Enhancements**

**Reductions**



# Rewarding Behavior

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## Positive Reinforcement

- Verbal Praise
- Applause
- Tokens
- Gift Certificates
- Fish Bowl Drawings

## Negative Reinforcement

- Later Curfew
- Waiving Fees
- Reduced Court Appearances (as part of phase advancement)



# Punishing Behavior

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## Punishment

- Verbal Reprimand
- Early Curfew
- Community Service
- Jury Box
- Flash Incarceration

## Response Cost

- Collecting fines (removing money)
- Losing Points
- Return to More Frequent Court Appearances
- Replacing a Late Curfew with an Earlier Curfew

# Treating Behavior

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## Enhancements

- New Assessment
- Adding Trauma Groups
- Additional Treatment Groups
- Additional AA Meetings
- Moving from Intensive Outpatient to Residential Treatment

## Reductions

- Moving from Intensive Outpatient to Outpatient
- Fewer Treatment Groups
- Replacing Treatment Groups with Job Training



# Essential Elements

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- Certainty
- Reliable Detection
- Associated with Behavior
  - Immediacy

# The Standard

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Adult Drug Court Best Practice Standards Volume I:  
*Incentives, Sanctions, and Therapeutic Adjustments*

[www.ndcrc.org](http://www.ndcrc.org)

Search: Standards



# The Standard

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- Advance Notice
- Opportunity to be Heard
- Equivalent Consequences
- Professional Demeanor
- Progressive Sanctions
- Licit Addictive or Intoxicating Substances
- Therapeutic Adjustments
- Incentivizing Productivity
- Phase Promotion
- Jail Sanctions
- Termination
- Consequences of Graduation & Termination

# Advance Notice

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- Provide to participants and team members written policies and procedures regarding program response strategy.
- Include range of possible responses for various behaviors, not precise response for each infraction.
- Allow reasonable degree of discretion to modify usual response due to unique circumstances.



# Opportunity to be Heard

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- Provide participant opportunity to explain their perspective regarding factual controversies and program responses.
- Explain to participants the justification for why a particular response is or is not imposed.

# Equivalent Consequences

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- Participants with similar risk/need levels, phase, etc. receive consequences that are equivalent to those received by others who are engaged in comparable conduct.
- Equivalent does not necessarily mean identical.
- Equivalent means similar value, severity, magnitude, or intensity.



# Professional Demeanor

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- Sanctions are delivered without expressing anger or ridicule.
- Participants are not shamed or subject to foul or abusive language.

# Progressive Sanctions

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- Drug Courts have a range of sanctions of varying magnitudes that may be administered in response to infractions.
- For goals that are especially difficult for participants to accomplish (i.e., distal goals), sanctions increase gradually and progressively in magnitude.
- For goals that are somewhat easier to achieve (i.e., proximal goals), higher magnitude sanctions may be administered after only a few infractions.



# Magnitude: Staying Centered

Utilize Wide Array of Intermediate Magnitude Sanctions

EFFECTIVENESS

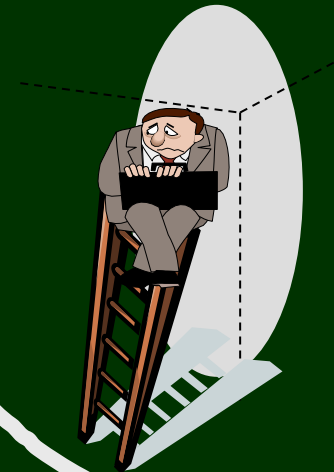
Habituation  
Effects



Effective  
Zone



Ceiling  
Effects



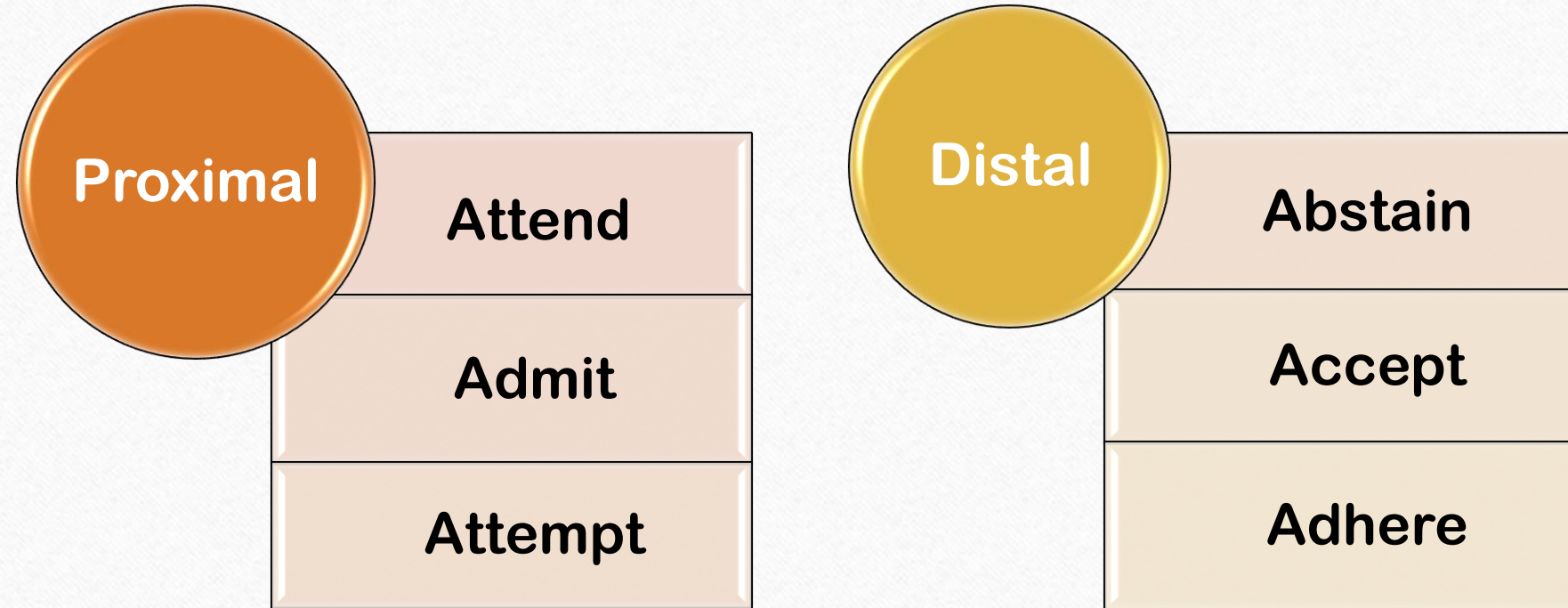
LOW

MODERATE

High

MAGNITUDE OF SANCTION

# Expectations



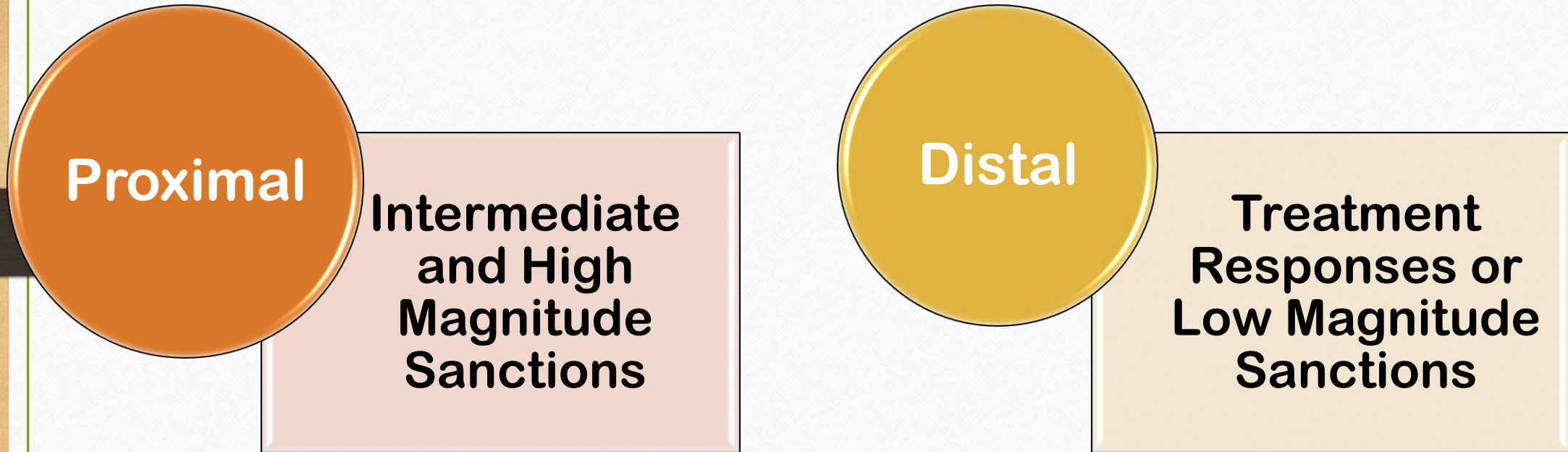
# Infraction Response Magnitude

## Considerations in Responding to Participant Behavior

- 1) WHO are they in terms of risk and need?
- 2) WHERE are they in the program (i.e., what phase)?
- 3) WHICH behaviors are we responding to (i.e., are they proximal or distal)?
- 4) WHAT is the response choice magnitude?
- 5) HOW to deliver and explain the response?



# Infraction Response Magnitude



# Licit Addictive or Intoxicating Substances

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- Sanction the unauthorized, non-medically indicated use of intoxicating and addictive substances even if legal.
- Use of potentially intoxicating or addicting medications should only be authorized if prescribed by a physician who concludes there are no safe and effective alternative treatments.
- Encourage participants to utilized physicians knowledgeable in addiction medicine.



# Therapeutic Adjustments

- Recommended and delivered by treatment professionals.
- For the drug addicted individual, respond with adjustments to treatment requirements and sometimes with lower magnitude sanctions in response to unauthorized drug use in the early phases of program.
- Sanction participants who willfully fail to comply with treatment attendance and participation requirements.
- Do not give augmented sentences, or otherwise punish participants who have to be discharged because adequate treatment is not available and accessible to them.



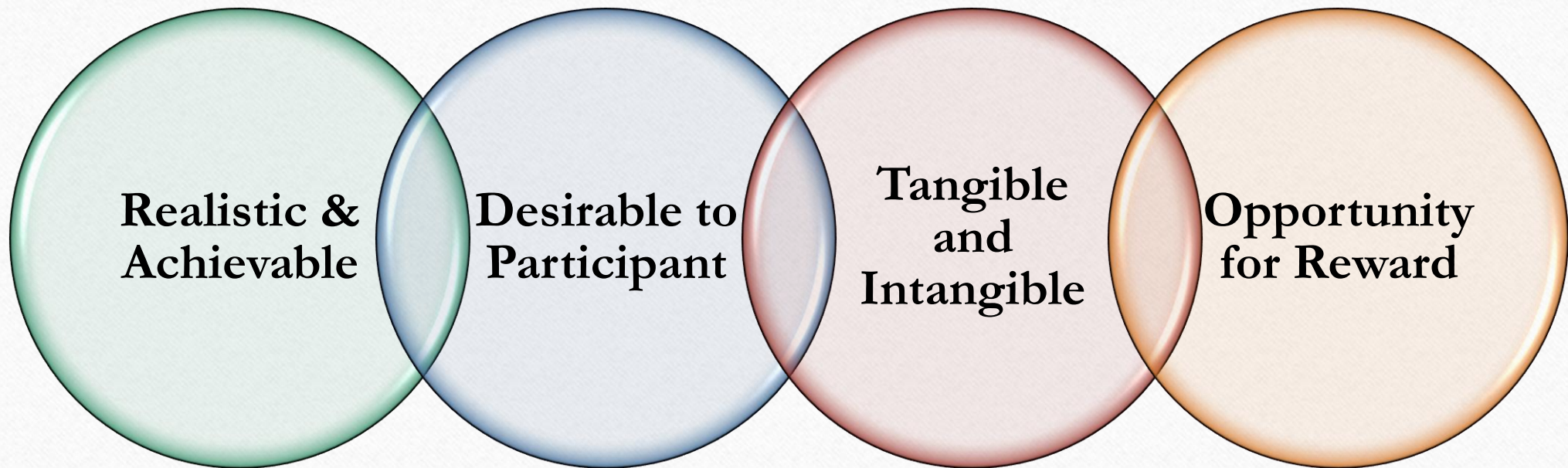
# Incentivizing Productivity

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- Place as much emphasis on incentivizing productive behaviors as on responding to infractions.
- Criteria for phase progression and graduation should include evidence that participant is engaged in productive activities likely to support recovery and reduce recidivism.

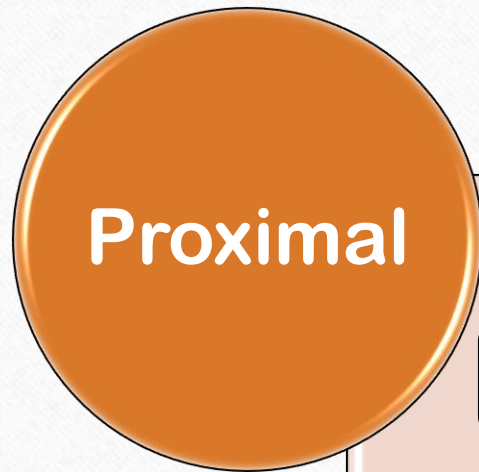
# Incentivizing Productivity

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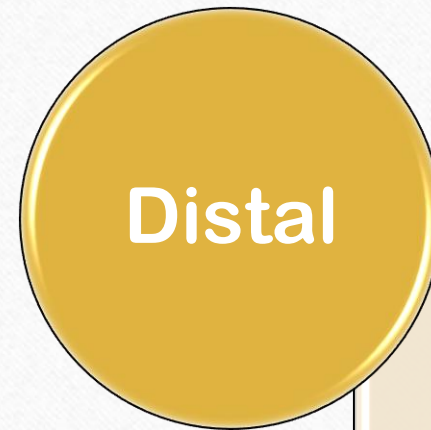




# Incentives Magnitude



**Lower**



**Higher**



# Phase Promotion

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- Predicated on achievement of defined behavioral objectives.
- Sanctions for infraction for behavior previously deemed to be distal may become more stringent.
- Incentives for positive behavior may decrease.
- Treatment, supervision, and court requirements may decrease.
- Drug testing frequency remains constant until the final phase and only after all other requirements have decreased and team determines that those reductions have not triggered relapse.

# Jail Sanctions

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- Are imposed judiciously and sparingly.
- Are used only after numerous lesser sanctions have been attempted and failed, unless an immediate risk to public safety exists.
- Are definite in duration and typically last no more than 3 to 5 days.
- Participants have access to counsel and a hearing when facing jail.

# Terminations

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- Participants are terminated if they can no longer be managed safely in community; or if they repeatedly fail to comply with treatment or supervision requirements.
- Participants are not terminated for continued use if they are otherwise compliant with treatment and supervision.
- Participants terminated because adequate treatment is not available (through no fault of their own), do not receive augmented sentence or disposition for failing to complete program.



# Consequences of Graduation & Termination

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- Graduates avoid criminal record, avoid incarceration, or receive reduced sentence or disposition as an incentive for completion.
- Participants who are terminated unfavorably receive a sentence or disposition for the underlying offense.
- Participant and program outcomes are poor if minimal consequences are imposed for withdrawing from or failing to complete program.
- Participants are informed in advance of the circumstances which may lead to their receiving an augmented sentence for failing to complete Drug Court.

# Examples of I/S



[www.NDCRC.org](http://www.NDCRC.org)



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