



# Shaping Behavior



Incentives and Sanctions

# The Challenge





## Legal People

-  Reward offenders for what they are legally required to do!
-  Treatment and avoiding charges are reward and incentive

## Treatment providers

-  Not comfortable with “punishing” clients
-  Supposed to be safe, non-judgmental environment



# The Result

-  Heavy reliance on incentives and sanctions
-  Improper balance
-  Risk: Habituation
-  Risk: Ceiling Effect

# The Ideal

- Rewards to increase desirable behavior
- Sanctions to decrease undesired behavior
- Used together – produce better outcomes
- Rule of Thumb: equal opportunity to earn a reward or incur a sanction
- If one can be punished for not doing something (missing treatment) they should also be able to attend a reward for compliance

# Behavior Modification Factors

-  Certainty and consistency – certain and consistent application of incentives and sanctions leads to more effective court
-  Supervision – to apply incentives and sanctions consistently – monitoring behavior is crucial



# Risk Principle

- Intensive Drug Court programs produce greatest benefits for offenders with anti-social backgrounds and are resistant to treatment
- Require more concentrated and sustained intervention
- Consideration of risk is necessary
  - Drug Court offers small benefits at a high cost for low risk offenders
  - Risk of learned anti-social behaviors from high-risk offenders

# Risk Comparison

## High-Risk

- Likelihood that an offender will not success on standard supervision; and
- Continue to engage in same behaviors that led to trouble
- Not risk of violence or dangerousness

## Low-Risk

- Predisposed to modify behavior with minimal legal intervention

# Criminogenic Need

- 🌐 Clinical disorders or impairments that, if treated reduce likelihood of continued criminal activity
- 🌐 Examples
  - 🌐 Substance dependence (addiction)
  - 🌐 Major psychiatric disorders
  - 🌐 Brain injury
  - 🌐 Lack of basic employment/living skills



# Assessment is Critical

- Common deficiency: assessment of the clinical diagnosis
- Use brief screening instrument to determine abuse or dependence
  - Wide net
  - Identify a number of false positives
- Individuals who are substance USERS are grouped with those who are substance DEPENDENT

# Recommendations:

- Screening tools indicating dependence should be followed by in-depth clinical evaluation
- Structured or semi-structured interview
- Use criteria in the Diagnostic and Statistical Manual of Mental Disorders (DSM)
- Properly trained evaluators
- Complete the assessment of risk and need **BEFORE** individual requirements established

# Marlowe's Risk/Need Matrix

High

Low

High  
(Substance  
Dependent)

Standard Drug Court

Status calendar  
Substance abuse treatment  
Pro-social habilitation  
Adaptive habilitation  
Focus consequences on  
treatment & supervision  
Medication

Treatment Emphasis

Noncompliance calendar  
Substance abuse treatment  
Adaptive habilitation  
Focus consequences on treatment  
Medication

Low  
(Substance  
Abuse)

Accountability Emphasis

Status calendar  
Prevention services  
Pro-social habilitation  
Focus consequences on  
abstinence and supervision

Diversion Emphasis

Noncompliance calendar  
Prevention services  
Focus consequences on  
abstinence

# Shaping

## Proximal Goals

- Behavior participant is capable of performing and are necessary for long-term objectives
- Attending court
- Attending counseling

## Distal Goals

- Behaviors that are ultimately desired but will take time to accomplish
- Employment
- Effective parenting



# Shaping Behavior – HR/HN

- 🌐 Focus consequences on treatment and supervision
- 🌐 Compliance with treatment and supervision conditions are a proximal goal
- 🌐 Failure to complete proximal goals should result in higher magnitude sanctions
- 🌐 Abstinence is a distal goal
- 🌐 Use should result in lower magnitude treatment oriented responses



# Shaping Behavior

## LR/HN

- 🌐 Focus consequences on treatment
- 🌐 Treatment attendance is proximal goal
- 🌐 Failing to attend treatment
  - 🌐 Non-compliance hearing
  - 🌐 Substantial sanction
- 🌐 Abstinence is a distal goal
- 🌐 Use should result in treatment oriented response

# Shaping Behavior – HR/LN

- 🌐 Focus consequences on abstinence and supervision
- 🌐 Compliance with abstinence and supervision are proximal goals
- 🌐 Failure to comply should result in higher magnitude sanctions

# Shaping Behavior – LR/LN

- 🌐 Focus consequences on abstinence
- 🌐 Abstinence is a proximal goal

# Supervision

- Drug Testing
  - Minimum 2x per week
  - Nights, weekends and holidays
  - Random
  - Last supervisory burden to be reduced or lifted
- Law Enforcement and Community Corrections Officer Supervision leads to better outcomes
  - Witnessing participants in their natural environments

# Timing of Incentives and Sanctions

- Window of opportunity begins to close within a few hours or days of behavior
- Longer interval between behavior and imposition of incentive or sanction reduces effectiveness
- Magnitude of incentive or sanction is critical
  - Avoid coddling
  - Avoid the “I have a hammer so everything looks like a nail” syndrome
- Not just looking for negative behavior – catch a participant doing something right



# The Startling Truth

- Sanctions and incentives are not the most effective at high magnitudes
- Incentives at low to moderate magnitudes are effective
- Sanctions that are in the intermediate range are the most effective
  - Weak sanctions = Habituation = stagnant outcomes
  - Harsh sanctions = Ceiling Effect = resentment and avoidance
- Do not limit your ability to ratchet sanctions up or down as necessary



# Sanctions

- 🌐 Due Process and Procedural Fairness
- 🌐 Sanctions will be received better
  - 🌐 Fair procedures were followed
  - 🌐 Participant given reasonable opportunity to explain
  - 🌐 Treated like similar people in similar circumstances
  - 🌐 Treated with respect and dignity
  - 🌐 Clear explanation for how and why a decision was reached

# Incentives

- Small or Non-Tangible
- Tangible
  - Fishbowl Procedure
    - Comparable or better outcomes than rewarding every positive behavior
    - Possibility of winning an award compensates for the reduced chances of success
    - Entertainment
    - No evidence of gambling trigger
- Impactful for HR/HN – habituated to punishment and not used to receiving positive reinforcement

# Responding to a Positive Drug Test

-  Jimmy is in the first phase of your Wellness Court. He has 10 days of sobriety. During a recent field visit by probation, Jimmy tested positive for amphetamines. This information was brought before the Wellness Court Team for consideration.
-  Do you recommend a punitive sanction or an adjustment to his treatment plan?



# It Depends!

## Substance Dependent




- Substance dependent require time and effort to achieve sobriety
  - High magnitude sanction = ceiling effect
  - Run out of options
- Response to early use may result in enhanced treatment. Substance use later in treatment may result in increased sanctions

## Substance Abuse

- Use is voluntary and under their control
- Increased treatment may not be logical
- Escalating sanctions may permit them to continue to use until sanction reaches threshold of attention
- Apply higher magnitude sanction



# Assessments Matter

-  Substance dependent users and substance abusers should receive different consequences for use early in treatment
-  Separate them into different groups to avoid perceptions of unfairness
-  Changes in treatment plans should be recommended by a trained clinician

# Shaping through Sanctions and Incentives

## Sanctions

- Failure to meet proximal goals/expectations
  - Sanction high to avoid habituation
- Failure to meet distal goals/expectations
  - Sanction low to avoid the ceiling effect




## Incentives

- Meeting proximal expectations
  - Reward with lower-magnitude incentive
- Meeting distal behaviors
  - Reward with higher-magnitude rewards

# Shaping and Phase Advancement

- Distal goals should become proximal goals
- When distal behavior (abstinence at Phase I) becomes proximate behavior (abstinence at Phase IV)
  - Failure of proximal goal = higher magnitude sanctions
  - Achievement proximal goal = lower magnitude incentive
- Phase Advancement should advise participant about expected changes in proximal and distal goals and behaviors

# Possible Sanctions and Incentives

-  [www.ndcrc.org](http://www.ndcrc.org)
-  12 pages of low, moderate and high incentives and sanctions
-  Lists from other jurisdictions

# Further Information



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



Marlow, D.B. *Behavior Modification 101 for Drug Courts: Making the Most of Incentives and Sanctions*, NDCI Drug Court Practitioner Fact Sheet, September 2012



# We all...

Should take a leap of faith

Struggle

Need a little help



And can to do together what we cannot do alone!

