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FACT SHEET

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Changing Behavior: Incentives and Sanctions in Juvenile Dependency Drug Court

The California Supreme Court, in *In re Nolan W.* (2009) 45 Cal.4th 1217, declared that contempt of court and jail are not permissible sanctions in the context of juvenile dependency proceedings, ruling that the juvenile dependency court may not use incarceration or fines to enforce a reunification order. This fact sheet presents information on the sanctions and incentives that are still available to the court following *Nolan W.*

Background

The *Nolan W.* case started in San Diego, where the Substance Abuse Recovery Management System (SARMS) has been in place for over 10 years. In the *Nolan W.* case the mother entered SARMS and did not follow through with the treatment plan. She came before the judge, who held her in contempt of court (60 counts, including multiple incidents of not testing, not attending meetings, and missing visitation), sentenced her to 300 days in jail, and suspended the sentence. When the mother continued to miss testing, meetings, and visitation, the judge imposed the sentence. The mother appealed, arguing that the sentence was excessive and the court did not have statutory authority to sentence her to jail in a dependency proceeding.

Incentives and Sanctions in Dependency Drug Courts Permissible Under *Nolan W.*

Both incentives and sanctions are used to encourage participation in Dependency Drug Court to change behavior. *Nolan W.* changes the options for some sanctions, but not all. Many commonly used sanctions can be continued. Incentives can be as powerful a motivator for change, if not more so, as are sanctions. Some commonly

used incentives and sanctions that are still permissible under *Nolan W.* are listed below.¹

Incentives

- Praise from the judge.
- Gift certificates (for example, a salon gift certificate for the parent to give to a childcare support person such as a neighbor, mother, etc.).
- Disposable camera for the parent to use during visitation; the court then provides the parent with prints of the pictures (and a second set for the child).
- Toiletries or cosmetics.
- Affirmation books.
- Movie or sports tickets.
- Having the case heard first by the court, so the parent doesn't spend a lot of time in court waiting.
- The option to skip a week of court.
- Age-appropriate books that the parent can read to the child at visitation.
- Gas cards or a gift certificate for a grocery store.

Sanctions

- Time spent in the jury box observing a criminal court proceeding, followed by writing an essay on the impact of good/bad decisions.
- Writing an essay on a topic related to the parent's noncompliance, such as "contingency planning," "avoiding triggers," or "what I can do differently next time."
- Researching a subject related to the parent's noncompliance, such as "the negative effects of marijuana," and writing a paper.
- Increased curfew.
- Delayed phase advancement.

Additional Resources/Research on Incentives and Sanctions

Marlowe, D. B., and Kirby K. C. (1999). Effective use of sanctions in drug courts:

Lessons from behavioral research. *National Drug Court Institute Review*, 2(1), 11-29, http://www.ndci.org/sites/default/files/ndci/NDCIR.II1_0.pdf

Meyer, W. (2005). *Ten science-based principles of changing behavior through the use of reinforcement and punishment*. National Drug Court Institute.

¹ The listed incentives or sanctions that require the ability to read or write are appropriate only if the court has determined that the parent has the requisite skills.

National Drug Court Institute. (2008). *Quality improvement for drug courts: Evidence-based practices*. Monograph Series 9,
<http://www.ndci.org/sites/default/files/ndci/Mono9.QualityImprovement.pdf>

National Judicial College. (2004). *Effective judging for busy judges*,
http://www.judges.org/pdf/effectivejudging_book.pdf

Pach, N. M. (2008). An overview of operational family dependency treatment courts. *National Drug Court Review*, VI(1), 67-121,
<http://www.ndci.org/sites/default/files/ndci/DCRV11%5B1%5D.pdf>

U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance; U.S. Department of Health and Human Services, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration. (2004). *Family dependency treatment courts: Addressing child abuse and neglect cases using the drug court model*, <http://www.ncjrs.gov/pdffiles1/bja/206809.pdf>

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